



## GPS Manufacturing Quarterly

# China's Environmental Regulatory Tightening

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## Overview

Environmental challenges have become a top concern among Chinese government and legislative organizations. Since the new China Environment Protection Law (EPL) came into effect on January 1<sup>st</sup>, 2015, the Ministry of Environment Protection (MEP), recently renamed the Ministry of Ecology and Environment (MEE), has taken measures to uphold the EPL's basic principles of ensuring public health and enforcing information disclosure. Local governments have followed suit by formulating or updating their own environmental regulations.

The first round of tougher enforcement supervision of the EPL has taken place over the past 2-3 years and has begun to remove local administrative and protective boundaries. The second round of EPL enforcement supervision is set to begin in 2018. The central government has mandated that enforcement supervision 'sinks down' to cover provincial and local levels of government during this new stage.

## Latest Developments

Some major developments occurred between late 2017 and early 2018:

- The Pollution Discharge Permit (PDP) has superseded the Environment Impact Assessment (EIA) as the core rule of environmental protection.
- More legal responsibilities and liabilities are now on the shoulders of enterprises. One of the most significant changes is the removal of the Completion Acceptance Inspection (CAI) for construction projects, which was previously regarded as official recognition of a project's completion and the start of normal operation. Now, project owners must conduct self-inspection, sampling and monitoring, and review and assessment to ensure their projects meet necessary requirements. If so, they must provide proof of self-completion according to the



previously approved EIA. The whole process must be disclosed online to both government and the public.

- Air pollution control has been identified as the key performance indicator until 2020, when the 13<sup>th</sup> Five-Year Plan targets are set to be achieved. More stringent controls on dust, PM 2.5 and volatile organic chemicals (VOCs) will be carried out, and new monitoring elements will be added in future technical regulations, such as Ozone (O<sub>3</sub>), etc.
- Soil contamination is a high-priority concern for both government and enterprises. By the end of 2017, all provincial level environment protection bureaus published local key contamination enterprise lists covering air, water, noise and soil pollution. In 2018, enterprises listed are required to conduct public information disclosure, including pollution monitoring results. Soil contamination, site investigation, sampling and monitoring will become mandatory for listed companies. These activities will now come under both government and public supervision.
- On April 1<sup>st</sup>, German chemical company BASF became the first enterprise to pay the new Environmental Protection Tax (EPT) in Shanghai, which went into effective on January 1<sup>st</sup>, 2018. The new tax replaces the original Pollution Discharge Fee (PDF). Under the EPT, tax payers must now include all enterprises discharging pollutants into the environment. Tax bureaus are currently focused on providing support services and are implementing a new online system to ensure the smooth transfer from PDF to EPT.

## Impact on Companies

Companies have experienced firsthand the steady tightening of environmental regulatory requirements over the past 3-5 years. This is expected to last until 2020 to ensure the 13<sup>th</sup> Five-Year Plan targets are met. To remain compliant, companies should upgrade their environmental systems accordingly. Companies with professional environmental management systems, teams and resources will more easily adapt and cope with regulatory changes as well as win future projects.

Under the previous regulatory system, the EIA, together with trial operation approval, CAI approval, pollution declaration and PDF submission, represented the government's decisive role in dealing with enterprises and their environmental impact. Companies were accustomed to seeking government approval, which ultimately determined whether they could continue operating. Under the new system, companies must cultivate a self-management approach to meet compliance requirements with minimal government instruction. The government's role has shifted from approval to monitoring, with greater responsibility and risk now resting on the shoulders of enterprises.



## What Comes Next?

Based on communication with MEP and EPB at different levels and in multiple provinces (especially in the Beijing-Tianjin-Hebei and Yangtze River Delta areas), the following developments and regulatory changes are expected over the next three years:

- In 2018, the second round of the national pollution survey will be conducted throughout China. The survey team will visit each pollution site and record the details of production and pollution activities.
- From 2018 to 2020, chemical companies outside regulated chemical industry parks and non-regulated industry parks will be cleaned up (i.e. relocation, shutdown or implementing changes in corporate policy). Regulated parks are those registered and approved by central or local governments, with an approved Planning EIA for the entire park area. Companies located in non-regulated parks without an approved Planning EIA will likely encounter EIA approval restrictions.
- Four more industries are listed to apply for the national level PDP in 2018, including the chemical industry. Each company must check the national catalogue for PDP application(s) and confirm the timetable for each of its manufacturing sites.

## Compliance Advice

Multinationals place a relatively high emphasis on environmental compliance, especially compliance with local regulations. But recently, even companies with strong internal environment compliance audit mechanisms are encountering regulatory problems. Companies in heavy polluting industries are under even greater scrutiny.

The changing regulatory environment and level of enforcement has resulted in previously compliant companies now being vulnerable to punishment. Existing corporate policies are no longer consistent with the latest policies and regulations. The following is advice for companies who are now subject to greater regulatory scrutiny:

- Senior corporate management must recognize that environmental policies are changing rapidly and enforcement is expected to increase.
- For EIA and its approval process, companies should take increased precautionary measures, as these standards can be more stringent than the discharge standard.



- For PDP, companies should seek to provide pollution information that is as accurate as possible, while also making technical and legal preparations for negotiation in cases of unclear information during the EIA and its approval process.
- For environmental information disclosure, companies should establish a comprehensive internal system to predict, prepare, and insulate against any potential penalties.
- For air pollution, fugitive emissions must be collected and treated before discharge; otherwise daily punishment may apply, especially in Shanghai.
- For potential soil and groundwater contamination, companies should conduct baseline investigations as soon as possible to allow time for subsequent risk assessment and implementation strategy.

## About the Author

Shanghai Greenment Environmental Information Technology (GEIT) provides environmental, health and safety consulting and technology services to a wide range of clients including state-owned enterprises, multinationals, private enterprises and government organizations. GEIT specializes in corporate environment, health and safety (EHS) information management, and leverages its extensive experience and expertise to consult organizations on China's constantly changing EHS regulatory environment. Learn more about GEIT at [www.greenment.cn](http://www.greenment.cn), follow us on Wechat at "greenmentgroup", or contact [shelley.wei@greenment.cn](mailto:shelley.wei@greenment.cn) for inquiries regarding GEIT's services,

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AmCham Shanghai's Government Policy Support (GPS) Program is dedicated to helping members navigate the impact of industrial policy on business. Drawing from the knowledge of industry experts in business, academia, and government, GPS provides members with the latest policy developments and valuable insights into how these translate into commercial opportunities and challenges for companies.

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