

汉德环境观察

HD Environment Observation

The Road to Rule of Law in Environmental Protection
A Study Report on the Thoughts of Revision of the Environmental Law of PRC

通向环境法治的道路

《环境保护法》修改思路研究报告

杨朝飞 主编



中国环境出版社



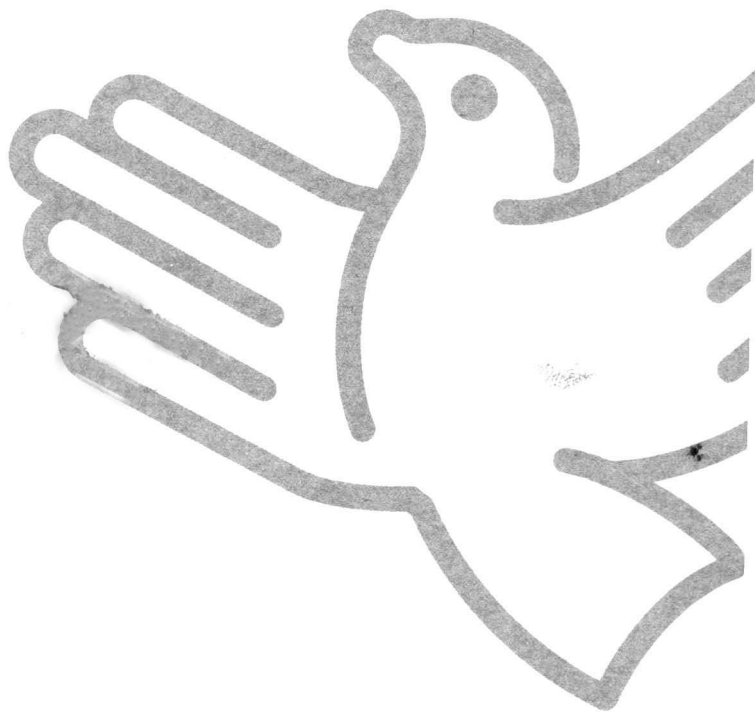
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《环境保护法》修改思路研讨 项目简介

《中华人民共和国环境保护法》(以下简称《环保法》)历经 1979 年、1989 年两次修订,至今已 23 年。2002 年以来,修法呼声越来越高,全国人大已经连续 7 年,每年都有代表建议修改《环保法》。2004 年至今,修法建议和提案已近百件。2012 年 8 月全国人大常委会审议了《环保法》的修订草案,与会代表认为全国人大常委会环资委向会议提供的现草案很不成熟,既造成了与现行法律法规的重复和矛盾,又脱离了环境保护的主战场,应当进一步研讨。为了进一步理清《环保法》的修改思路,提高修法质量,推动修法进程,中关村汉德环境观察研究所(以下简称汉德研究所)组织召开了系列研讨会,收集学术界、NGO 和相关机构、组织的建议,计划形成综合报告并提交决策者。能源基金会为本项目提供了资金支持。

汉德研究所分别于2012年12月20日、2013年1月15日组织召开了《环保法》修改思路专家研讨会和《环保法》修改思路社会组织建言会。会议由中国环境科学学会副理事长杨朝飞主持,环境保护部政策法规司司长李庆瑞、副司长别涛、副巡视员韩敏及上海交通大学教授王曦、北京大学教授汪劲、中国政法大学教授王灿发、中国环境资源法研究会副会长孙佑海、中国人民大学教授李艳芳、武汉大学教授李启家、武汉大学副教授柯坚、中国政法大学副教授胡静、全国工商联环境服务业商会监事长许国栋、中华环保联合会环境法律中心督查诉讼部部长马勇、美国环保协会中国项目负责人张建宇、全球环境研究所执行主任金嘉满、公众与环境研究中心副主任王晶晶、中外对话北京办公室副总编辑徐楠、阿拉善基金会资助项目官员王小颖、汉德研究所特约研究员李伟和环境法研究中心主管王社坤等近40位专家参加了研讨。与会专家围绕《中华人民共和国环境保护法》和2012年《中华人民共和国环境保护法修正案(草案)》,就“有关环境的政府行为和政府责任、污染者责任、监管体制、环境权益、信息公开、公众参与、公益诉讼、民事赔偿、司法保障”等议题展开了讨论并提出了修法建议。



2012 年 12 月 20 日《环境保护法》修改思路专家研讨会开会场景



2012 年 12 月 20 日《环境保护法》修改思路专家研讨会合影



2013 年 1 月 15 日《环境保护法》修改思路社会组织建言会开会场景



2013 年 1 月 15 日《环境保护法》修改思路社会组织建言会合影



Report of Research Program on the Thoughts of Revision of the Environmental Protection Law of PRC

A Brief Introduction of the Research Program _____

The current Environmental Protection Law of PRC, which was formulated in 1979 and amended in 1989, has been effective for 24 years. Since 2002, there have been increasing voices suggesting a revision to the law. During the recent 7 years, the representatives of the National People's Congress ("NPC") have submitted motions for revision to the law every year and there are nearly one hundred motions since 2004. In August 2012, the NPC Standing Committee reviewed the revised draft of the Environmental Protection Law put forward by the Environment Protection and Resources Conservation Committee ("EPRCC") of the NPC Standing Committee. The attending delegates hold the view that the draft was quite premature. It would cause unnecessary duplication and contradiction to the current law and was not with the right focuses of environmental protection work. Therefore, a further discussion should be carried out. In order to clarify the thoughts, improve the revision quality

and promote the revision process, HD Institute of Environment Observation ("HD Institute") organized a series of seminars to collect suggestions from the academia, NGOs and relevant organizations to formulate a comprehensive report to be put forward to the decision-makers. This research program is sponsored by the Energy Foundation.

An expert seminar and a social organization meeting on thoughts of the revision of the Environmental Protection Law were organized by HD Institute separately on December 20th, 2012 and January 15th, 2013. These meetings were presided over by Yang Chaofer, the Deputy Chairman of Chinese Society For Environmental Sciences and nearly 40 experts attended the discussions including the following:

Li Qingrui, Director, Department of Policies, Laws and Regulations of the Ministry of Environmental Protection,

Bie Tao, Vice Director, Department of Policies, Laws and Regulations of the Ministry of Environmental Protection,

Han Min, Deputy Inspector, Department of Policies, Laws and Regulations of the Ministry of Environmental Protection,

Wang Xi, Professor, Shanghai Jiao Tong University,

Wang Jin, Professor, Peking University,

Wang Canfa, Professor, China University of Political Science and Law,

Sun Youhai, Vice chairman, Chinese Society for Environmental and Resources Protection Law,

Li Yanfang, Professor, Renmin University of China,

Li Qijia, Professor, Wuhan University,

Ke Jian, Associate Professor, Wuhan University,

Hu Jing, Associate Professor, China University of Political Science and Law,
Xu Guodong, Chief supervisor, China Environment Chamber of Commerce of
All-China Federation of Industry and Commerce,

Ma Yong, Director, Department of Inspection and litigation of Environmental
Law Center of All-China Environment Federation,

Zhang Jianyu, Project leader, China Project of Environmental Defense Fund,

Jin Jiaman, Executive Director, Global Environmental Institute,

Wang Jingjing, Deputy Director, Institute of Public and Environmental Affairs,

Xu Nan, Deputy Editor-in-chief, Beijing Office of the China Dialogue,

Wang Xiaoying, Funding Project official, SEE Foundation,

Li Wei, Guest Researcher, HD Institute of Environment Observation,

Wang Shekun, Supervisor, Environmental Law Research Center of HD
Institute of Environment Observation.

The experts discussed on the current Environmental Protection Law and the 2012 revised draft of the Law regarding the topics of “Government’s Action and Responsibility of Environmental Protection, Polluters’ liability, Supervision and Regulation Mechanism, Environmental rights, Information Disclosure, Public Participation, Public Interest Litigation, Civil Compensation, Judicial Indemnification, etc”. Experts put forward their proposals and suggestions of the revision to the law.



Seminar on Thoughts of Revision of the Environmental Protection Law on December 20th, 2012.



A Group Photo of Experts Attending the Seminar on Thoughts of Revision of the Environmental Protection Law on December 20th, 2012



The Social Organization Meeting on Thoughts of Revision of the Environmental Protection Law on January 15th, 2012



A Group Photo of the Social Organization Meeting on Thoughts of Revision of the Environmental Protection law on January 15th, 2012



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