

The following document is a translation of the recently released Measures on Public Participation in Environmental Protection (Trial Implementation) (Draft for Comment) Public Notice issued by the Ministry of Environmental Protection on April 10, 2015. This translation was prepared for clients of Latham & Watkins for informational purposes only, and should not be relied upon as an official translation or interpretation of Chinese law.

**Measures on Public Participation in Environmental Protection (Trial Implementation)
(Draft for Comment) Public Notice**

In order to implement the provisions of the newly revised "Environmental Protection Law" on information disclosure and public participation, and promote orderly public participation in its development, the Ministry of Environmental Protection has compiled these "Measures on Public Participation in Environmental Protection (Trial Implementation)" (Draft for Comment). This document is now open for public comment, and agencies, organizations, enterprises and individuals may now submit comments and suggestions to the department. The deadline for comments is April 20, 2015.

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**Measures on Public Participation in Environmental Protection (Trial
Implementation) (Draft for Comment)**

Chapter 1: General Provisions

Article 1 - The purpose of these measures is to ensure the rights of citizens, legal persons and other organizations to access environmental information, participate in and supervise environmental protection, to smooth channels for participation and to promote the healthy development of public participation in environmental protection in accordance with the "Environmental Protection Law" and other relevant laws and regulations.

Article 2 - As used in these measures, the term "public participation" means the involvement of citizens, legal persons and other organizations in the development of environmental policy, environmental decision-making, environmental law enforcement, compliance with environmental law and other environmental protection-related public affairs activities.

Article 3 – The scope of public participation in environmental protection includes:

- (1) the development or modification of environmental laws, regulations, normative documents, policies, programs and standards;
- (2) the preparation of planning (zoning) or construction project Environmental Impact Assessments;
- (3) the investigation and handling of major environmental pollution and ecological damage incidents that have the potential to seriously harm public health or environmental interests;
- (4) the supervision of key pollution entities, as well as the construction and operation of pollution control facilities;
- (5) environmental education and outreach, social practice, volunteer services and related activities; and
- (6) other matters as specified by applicable laws, regulations or rules.

Article 4 - Public participation shall be orderly and in accordance with the law and the principles of voluntary charity and open interaction.

Article 5 – Environmental Protection Bureaus shall disclose environmental information, solicit public opinion, provide timely responses and feedback to public comments, suggestions and reports, and provide service and support for public participation and supervision of environmental protection efforts.

Article 6 – The public shall have access to environmental information and the right to participate in and supervise environmental protection. If the public believes their environmental rights have been violated, they shall have the opportunity to seek administrative or judicial remedies through channels provided by law.

Chapter 2: Public Participation

Article 7 - Environmental Protection Bureaus may solicit public comment and suggestions on related matters and activities through public requests for comment, surveys, forums, debates, hearings and other methods; the public may submit feedback and suggestions by phone, mail, internet, social media, and other methods.

Article 8 – Prior to soliciting public comment, Environmental Protection Bureaus should provide relevant environmental information except for state secrets, confidential business information, and private personal information through public channels such as official websites, media and other public platforms.

If the public believes the information provided by the Environmental Protection Bureaus to be incomplete, they may apply to have the relevant information released according to applicable information disclosure regulations.

Article 9 – When soliciting public comment, Environmental Protection Bureaus shall focus on the views of stakeholders and prioritize the views of professionals while taking into account the views of the public. Stakeholders include work units and individuals directly affected by the subject matter and activities specified in Article 3, and work units and individuals directly affected by the environmental quality of neighboring regions. Professionals include independent scientific, technological, economic, social and legal experts, as well as environmental protection supervisors hired by an Environmental Protection Bureau at any level.

Article 10 – When soliciting public comment, Environmental Protection Bureaus shall make publicly available background information on the necessity, feasibility, and potential environmental impact of the relevant matter, the start- and end-times of the public comment period, the methods of submitting public comments and contact information for the appropriate department. Public comments shall be submitted in writing within the specified time by letter, fax, e-mail, or other means.

Article 11 – When planning to organize surveys, Environmental Protection Bureaus shall introduce background information regarding environmental impacts related to the matter using a simple and clear format that is easy to understand. The number of individuals involved and scope of the investigation shall take into account the degree and scale of the environmental impact, the degree of social concern, the manpower and material resources required to organize public participation and other relevant factors.

Article 12 – When planning to convene a forum for soliciting comments, Environmental Protection Bureaus shall notify all participants of, and if necessary, publicly announce, the time, venue, subject matter, agenda and other relevant information relating to the forum. The primary content of the forum should include the effects of the matter or activity in question on the environment and the public’s environmental rights, as well as the mitigating measures planned by the applicable government departments. Forum invitations should give priority to stakeholders, and relevant professionals should also be invited.

Article 13 - When planning to convene a forum for soliciting comments and discussing core issues, Environmental Protection Bureaus shall prioritize participants who are experts in the social, economic, legal and other related fields, representatives of research institutions and social organizations engaged in environmental protection, while also inviting representatives of directly affected work units and the public.

Article 14 – In the following circumstances, Environmental Protection Bureaus shall hold a hearing to receive public comment:

- (1) the laws, rules or regulations in question merit a public hearing;
- (2) a hearing has been requested by a higher-level government agency; and
- (3) other cases in which the applicable Environmental Protection Bureau believes a hearing should be held.

Hearings shall be held in public, except with regard to state secrets, confidential business information and private personal information. Official representatives applying to attend the

hearing shall be selected at random, and the list of attendees shall be publicly posted. Hearings shall follow the principles of openness, fairness, impartiality and convenience.

Article 15 – An Environmental Protection Bureau which receives public comments or suggestions clearly requesting a response or explanation should return such response within 15 business days.

Environmental Protection Bureaus should give priority to collecting, classifying and analyzing public comments and suggestions, publicly release and respond to such comments and suggestions in an appropriate manner, and use lawful and effective suggestions as an important basis for policy decisions.

Chapter 3: Public Oversight

Article 16 – Environmental Protection Bureaus shall hire experts, NPC deputies and CPPCC members, individuals belonging to democratic parties and without party affiliation, representatives of environmental social organizations and environmental volunteers to serve as environmental protection supervisors for the Environmental Protection Bureau and lower-level environmental protection agencies.

Article 17 - Environmental Protection Bureaus shall hire representatives of environmental social organizations and environmental volunteers to serve as environmental protection monitors to oversee the environmental impact of enterprises, institutions and other manufacturers, as well as the environmental impact of construction projects.

Article 18 – Environmental Protection Bureaus shall support public opinion and societal oversight of environmental protection work.

Article 19 – If the public believes that a government agency, enterprise or other manufacturer has violated environmental laws, rules or regulations, they may report such violation to the Environmental Protection Bureau or other relevant authority by letter, fax, e-mail, 12369 environmental hotline, official websites, or the Environmental Protection Bureau's official WeChat reporting platform.

Article 20 – Environmental Protection Bureaus receiving whistleblower reports must keep information about the whistleblower and the content of the report strictly confidential. The Environmental Protection Bureau shall investigate and verify the allegations made in accordance with applicable laws, rules and regulations, and inform the whistleblower of the results of the investigations and the steps taken as a result. When required, the results of the investigation and actions taken shall be made public.

Article 21 – Qualified Environmental Protection Bureaus are encouraged to establish special funds for rewarding whistleblowers. Whistleblowers whose reports are verified may receive a reward.

Article 22 – Environmental social organizations meeting the applicable legal requirements may bring environmental public interest lawsuits in the People’s Court against conduct that pollutes the environment, causes ecological damage or harms the public interest.

Chapter 4: Safeguards

Article 23 – Environmental Protection Bureaus should strengthen education and public outreach efforts within their jurisdiction, popularize scientific environmental knowledge and strengthen public awareness of environmental protection, ecological awareness, conservation awareness, the conscious practice of green living, green consumption, the formation of carbon savings and the social practice of environmental protection.

Article 24 – Environmental Protection Bureaus shall establish robust mechanisms for public participation and conduct regular monitoring and appraisal of public participation. Such mechanisms may offer rewards to individuals and work units that achieve outstanding results so as to create an atmosphere of positive, rational and orderly participation in environmental affairs.

Article 25 – Environmental Protection Bureaus shall nurture and guide environmental social organizations in participating in activities and matters that promote public participation in environmental protection.

Article 26 – In the process of bringing environmental public interest lawsuits, environmental social organizations meeting the applicable legal requirements may apply to the applicable Environmental Protection Bureau with responsibility for supervising the defendant for assistance, and such Environmental Protection Bureau shall facilitate the disclosure of information within the scope of the government’s disclosure obligations.

Chapter 5 - Supplementary Provisions

Article 27 - The laws and regulations promulgated by the Ministry of Environmental Protection, and regulations promulgated by regulatory agencies established by the Ministry of Environmental Protection shall prevail over other regulations with respect to public participation in environmental protection.

Article 28 – These measures shall be implemented on a trial basis starting [●], 2015.

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