
ENFORCEMENT OF POLLUTANT DISCHARGE FEE IN CHINA

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SUMMARY

The environmental legislation has witnessed rapid development since the early 1970s in China. On the basis of its successful experience in the field of environmental management, China has formulated and implemented many laws and regulations relating to environmental protection. The system of pollution charges now under operation nation-wide is one of its efforts in the aspects of environmental legislation and enforcement and offers a successful example in improving environments by using economic and legal means.

1 CONCEPT

The system of levying fees for pollutant discharge means: the enterprises and institutions discharging pollutants or discharging pollutants in excess of the prescribed discharge standards shall pay an amount of fees according to state laws, regulations and discharge standards for eliminating and controlling the pollution.

2 PURPOSE

The system is aimed to encourage enterprises and institutions to enhance management, comprehensively use resources, prevent and control pollution and improve the environment. Combining with actual conditions in China, it is designed according to the policy principle "polluter assumes responsibility for eliminating and controlling the pollution" and also the theories concerning environmental value and environmental economy.

3 CHARACTERISTICS

3.1 The pollution charges are levied compulsorily. A pollutant discharger shall pay the fee within a prescribed period; if not, it shall pay additional 1 per thousand of the amount a day as arrearage; if it fails to pay the fee for discharge of pollutants, the competent department of environmental protection administration may impose a fine and apply to the people's court for compulsory enforcement.

3.2 The payment shall not exempt a pollutant discharger from responsibility for eliminating and controlling the pollution and compensating for the damage incurred and also other liabilities provided by laws.

3.3 For those new incurred or severe pollution cases, the charging standards shall be higher than ordinary ones. This involves the newly-built enterprises since September 13, 1979 when the Environmental Protection Law (for Trial Implementation) was promulgated which discharge pollutants in excess of the prescribed standards; enterprises that dismantle installations for the prevention and control of pollution or leave them idle without authorization and thereby discharge

excessive pollutants; and those enterprises and institutions which didn't complete the pollution control projects within a certain period of time. Their fees for excessive discharge shall be doubled. If an enterprise or institution has paid the fee but retains its excessive pollutant discharge, the fee levied upon it shall be raised by 5 percent annually beginning from the third year since the first imposition.

3.4 Both preferential and punitive policies are pursued. The preferential policies adopted to encourage enterprises prevent and control pollution include: the fee levied for pollutant discharge may enter the production costs, the subsidies will be allocated to those key pollutant-discharging enterprises for their pollution control, and the special funds for pollution control will be offered at low interest rate or free conditionally. The defined arrearage, the additional charges, the doubled payment and fines, however, as punitive measures, shall not enter the production costs.

3.5 The special funds shall be used for certain purposes and shall be paid. The income derived from fees for pollutant discharge shall be put into budgets and shall be used as special subsidy for controlling major pollutant sources and comprehensive contamination. The special funds supplied for pollutant source control shall be paid by the person receiving a loan.

4 EFFECTS

4.1 The system helps to coordinate economic development with environmental protection by using economic means. As the pollution pre-control is related to the economic interests of enterprises, it has played a role in balancing environmental, social and economic efficiencies.

4.2 Through the practice, relevant enterprises have enhanced their capacity and quicken their steps on pollution control. The fees levied for the discharge or excessive discharge of pollutants are used as subsidies for key pollutant source control and overall pollution control, opening up a new fund-raising channel and arousing the enthusiasm of enterprises in controlling pollutant discharges. As a result, their capacity of pollution control has been enhanced.

4.3 The practice exerts pressure upon pollutant dischargers and thereby urges them upgrade management. To seek economic interests, they have to improve management so as to reduce pollutant discharges.

4.4 The practice urges those discharging enterprises to carry on technological transformation and raise the rate of utilization of resources and materials. The only way out to reduce and eliminate discharge of pollutants for enterprises is to innovate their technologies and give up backward techniques and equipment, fully use and save on resources and energy and reduce the waste so as to raise the rate of utilization of resources and energy, promote technological progress and cut down the production cost. Only by doing so can they raise both economic and environmental efficiency.

4.5 The system helps pollutant dischargers raise their sense of responsibility for environmental protection and urges them take measures to protect and improve environments.

Figure 1. Provisions Concerning the Pollution Charges System Laws**Laws**

- 1) **The Environmental Protection Law: Article 28 and Article 35, Section 3 (1989)**
- 2) **The Law on the Prevention and Control of Atmospheric Pollution: Article 11, Section 1 and Article 31, Section 5 (1987)**
- 3) **The Law on the Prevention and Control of Water Pollution: Article 15 and Article 37, Section 1 (1984)**
- 4) **The Law on the Prevention and Control of Environmental Pollution Caused by Solid Waste: Article 34, Article 48 and Article 59, Section 1 and Section 2 (1985)**

Administrative Regulations

- 1) **The Regulations for the Enforcement of Law on the Prevention and Control of Atmospheric Pollution: Article 25, Section 5 and Article 30 (1991)**
- 2) **The Regulations for the Enforcement of Law on the Prevention and Control of Water Pollution: Article 31, Section 5 and Article 36 (1989)**
- 3) **The Regulations on Noise Pollution Control: Article 13 and Article 37 (1989)**
- 4) **The Management Regulations on Environmental Protection in the Exploration and Exploitation of Marine Petroleum: Article 26 (1983)**
- 5) **The Management Regulations on Controlling Marine Pollution Caused by Terigenous Pollutants: Article 7, Article 29 and Article 32 (1990)**
- 6) **The Provisional Methods on Levying Pollution Charges (1982)**
- 7) **The Provisional Methods on the Non-Gratuitous Use of Special Funds for Pollutant Source Control (1988)**
- 8) **The Regulations of the State Council on Strengthening Environmental Management of Village-Run, Township and Neighborhood Enterprises: Article 1, Section 3 (1984)**
- 9) **The Decision of the State Council on Environmental Protection Work: Article 5, Section 5 (1984)**
- 10) **The Temporary Provisions Concerning Environmental Management in the Opening Economic Zones: Article 9, Section 2 (1986)**

Ministerial Regulations

- 1) **Methods on Financial Management and Accounting Calculation on Collecting Fees for Over-Standard Pollutant Discharge (1984)**
- 2) **The Announcement on Setting An Additional Budgetary Account "Fee for Pollutant Discharge" (1982)**
- 3) **The Regulations on Strengthening Management of Subsidies for Environmental Protection (1990)**
- 4) **The Announcement on Regulations Concerning Funds Channels for Environmental Protection: Article 4 (1984)**
- 5) **The Methods on Radioactive Environment Management: Article 21 (1980)**

5 LEGAL PROVISIONS

The Environmental Protection Law stipulates in Article 28: Enterprises and institutions discharging pollutants in excess of the prescribed national or local discharge standards shall pay a fee for excessive discharge according to state provisions and shall assume responsibility for eliminating and controlling the pollution. The income derived from the fee levied for the excessive discharge of pollutants must be used for the prevention and control of pollution and shall not be appropriated for other purposes. The Law provides in Article 35: Any violator of this Law shall be warned or fined for ... failing to pay, as provided for by the state, the fee for the excessive discharge of pollutants.

The Law on the Prevention and Control of Atmospheric Pollution, the Law on the Prevention and Control of Water Pollution, the Law on the Prevention and Control of Environmental Pollution Caused by Solid Waste, and the Regulations on Noise Pollution Control all include similar provisions. In accordance with these laws, the fee-payers refer to those enterprises which discharge pollutants into the air; enterprises and individuals that emit noises into the surroundings; and the enterprises and institutions which discharge pollutants into the water. As a special case, whether enterprises discharge pollutants into the water in excess of discharge standards or not, they shall pay fees, as provided for by the state. This decision is made in consideration of the shortage of water resources and the seriousness of water pollution in China.

In order to guarantee the operation of the system levying fees for pollutant discharge, the State Council has formulated and issued the Provisional Methods on Levying Pollution Charges, the Provisional Methods on the Non-Gratuitous Use of Special Funds for Pollutant Source Control and other administrative regulations. Also, other statutes concerning environmental protection include a lot of relevant stipulations in this regard.

6 IMPLEMENTATION

Up to now, China has established a complete set of laws, regulations, standards, financial systems and working procedures in levying fees for discharge of pollutants. And they have played an important role in controlling pollution and improving environments and encouraging enterprises upgrade management and fully use resources and energy, thereby furthering the environmental protection cause. Statistics show that more than 300,000 enterprises and institutions now pay fees for their discharge of pollutants and that the accumulated income derived from these fees

| Year | Payers (thousands) | Collection Amount | Use Amount | Use for Source Control | Use for Area Control | Control Projects Finished |
|--------------|--------------------|-------------------|-------------|------------------------|----------------------|---------------------------|
| 1990 | 186 | 1.75 | 1.48 | 0.92 | 0.08 | 16,516 |
| 1991 | 207 | 2.01 | 1.52 | 0.94 | 0.07 | 17,706 |
| 1992 | 217 | 2.36 | 1.95 | 1.18 | 0.10 | 18,977 |
| 1993 | 251 | 2.66 | 2.13 | 1.21 | 0.07 | 17,990 |
| 1994 | 301 | 3.10 | 2.39 | 1.15 | 0.08 | 17,282 |
| Total | | 11.88 | 9.47 | 5.40 | 0.40 | 88,471 |

has amounted to 24 billion yuan since 1979, 80 percent of which, equal to 15 percent of the total amount of funds allocated to controlling industrial pollution, were used as subsidies to controlling key pollutant sources, with the rest 20 percent used in general environmental protection projects, such as purchasing instruments for environmental monitor, strengthening environmental education and developing studies on pollution control.

Over the past 15 years, China has invested these funds into 220,000 pollution control projects, with 210,000 having been completed. All these projects have a capacity of treating waste water 16 billion tons and waste gas 4,000 billion cubic meters a year, handling and reusing solid waste 70 million tons and controlling 19,000 noise sources. As efforts have been extended to encourage enterprises to improve management, save on and fully use resources and control pollution, the enterprises have earned economic returns nearly 9.5 billion yuan.

7 CHARGING METHODS

7.1 Basis for levying the fee for discharge of pollutants

The pollutant discharger shall report to and register with the local environmental protection agency about the variety, quantity and density of discharged pollutants, which, subject to check by the environmental protection agency or other monitor agency it assigned, will be the basis for levying the fee.

7.2 Standards for levying the fee

The existing standards are provided for in the relevant document issued by the State Council. According to the document, some large and medium-sized cities with concentrated industrial enterprises and suffering severe pollution (subject to the approval of competent department of environmental protection administration under the State Council) may raise the charging standards in a bid to urge enterprises gradually reduce its discharge of pollutants through technological transformation. As to the pollutants excluded in the document, the provincial governments may work out local standards.

7.3 Increase and decrease of the fee

If an enterprise remains to discharge pollutants in excess of discharge standards after paying the fee, from the third year after the first payment, its fee shall increase by 5 percent annually. If an enterprise has accorded with the discharge standards or reduced its discharge of pollutants through control measures, it may apply to local environmental protection agency for re-monitor; if so as proved, it may stop paying the fee or reduce the payment amount.

8 MANAGEMENT AND USE OF THE POLLUTION FEES

The fees levied shall be included in budgets as a special item, the environmental protection subsidy under joint management of environmental protection agency and financial department. They shall be used for special purposes with regard to pollution control and shall not be overspent or even appropriated for other purposes. The surplus may be used in next year. The environmental protection subsidies shall be applied in controlling major pollutant sources and comprehensively improving environments. The pollutant control program put forward by enterprise shall be examined by competent departments and the funds needed shall be raised

mainly by itself. If it is really hard to raise funds, the enterprise may apply to local environmental protection agency and financial department for subsidy, but the amount of subsidy shall not exceed 80 percent of the total fees it has paid.

9 SPECIAL FUNDS FOR POLLUTANT SOURCE CONTROL

Problems still exist in using the funds derived from fees levied for discharge of pollutants. On the one hand, the funds used for controlling pollution are in short supply, on the other hand, a part of these funds were overstocked or even appropriated for other purposes, effecting a low utilization ratio. An important reason is that the funds were allocated to various enterprises that paid the fee and thus were used in a scattered manner and at a low efficiency. To settle the problems, in July 1988 the State Council issued the Provisional Methods on the Non-Gratuitous Use of Special Funds for Pollutant Source Control, which stipulates to set up the Special Funds for Pollutant Source Control. According to the document, the Funds shall be established and managed in an independent accounting by the environmental protection agencies at provincial, city and county levels, and they shall be allocated as loans by local banks and shall be paid back by enterprises.

The funds are raised from the fees levied upon major enterprises discharging excessive pollutants. As subsidies, they are used in focus of following projects:

- key projects for pollutant source control;
- projects for comprehensive utilization of waste gas, waste water and industrial residues;
- model projects on pollutant source control; and
- the installations for the prevention and control of pollutant sources in those enterprises which are newly merged, shift to produce new products, or are moved into new places.

The prospective borrowers are those enterprises which have paid the fee for discharge of pollutants. The enterprises shall apply for the funds in conformity with the prescribed conditions. The priority is given to the enterprises which are required to control pollution within a definite time, which cause serious pollution cases urgent to be under control, and which have raised over 60 percent of investment themselves. The Special Funds are under unified management and distribution of environmental protection agencies in coordination with financial departments. The length of maturity is less than three years and the interest rate retains a low level. Up to now, the competent departments have offered this kind of loans about 3.2 billion yuan.

The procedures have been proved effective to raise the utilization rate of funds and speed up the pollution control process.

10 CONCLUSIONS

10.1 Impact

Generally speaking, the pollution charge system has, with resort to both legal and economic means, played a positive role in encouraging pollutant dischargers eliminate and control pollution and improve the environments. However, because the fee is allowed to enter the production cost, the pollutant dischargers do not take entire responsibilities for their action. In fact, they shift the spending on to consumers, who will suffer from the increase of price. Also, the aforesaid preferential policies play the positive but also the negative role, for they mean that the state recognizes the enterprises have the right to discharge pollutants. This, of course, contradicts

with the principle of protecting environments and the original intention of encouraging them reduce pollutant discharge. Moreover, a question is also raised on how to conduct a fair distribution of the subsidies among pollution control projects. It is practical to concentrate financial and material resources on key projects in the field of the prevention and control of pollution, but all enterprises having paid the fee apply for a share of funds. Therefore, how to avoid decentralized use of the special funds while guaranteeing the fairness now challenges the competent departments.

10.2 Scope

The existing discharge standards have some shortcomings still and some pollutants have not been covered by the system. First, the fee levied for excessive discharge of pollutants is lower than the cost of building and operating pollution control installations, so some enterprises would rather pay the fee than control pollution or utilize those facilities. Second, some enterprises discharge over two kinds of pollutants through a blow-off pipe, but it is provided now that only the pollutant of the most excessive discharge shall be levied the fee. This is certainly unreasonable and could not reflect real situation of pollution. Third, the environmental protection departments have not made charging standards on some pollutants, the sulphur dioxide that results in acid rain, for example, is still free from being levied the fee nationwide. Also, many tertiary industrial sectors which produce severe pollution and disturb the daily life of local residents are still exempted from pollution charges. Therefore, while readjusting the charging standards on excessive discharge of pollutants, attention should be paid to raising the fee for excessive discharge to a level higher than the spending for pollution control, levying the fee upon all kinds of pollutants discharged, and increasing the charging items relating to other pollutants. And fourth, the management of the funds is unsuited to the demand of market economy now. Specifically, the special funds for pollution control account for a small proportion and the interest rate of special loans keeps at a low level. They should also be readjusted in a timely manner.

10.3 Implementation

In practice, some factors still hinder the system from being fully implemented. For instance, some local enterprises intend to evade paying the fee, and some state-owned enterprises fail to strictly follow relevant provisions when they drop in business slump. The personnel on environmental supervision and law-enforcement at the basic level are understaffed, as a result, the environmental management has not yet meet the needs of environmental protection undertakings.