

# Overview of China Energy Law for Public Comments

The National Energy Administration (NEA) published the *China Energy Law* (hereafter referred to as 'the Law') for public comments on 10 April 2020.<sup>6</sup> This is the second round of public consultation although the first draft was issued 13 years ago in 2007. The Law will provide legal regulations covering energy exploitation, utilization, monitoring and management processes in order to ensure energy security, optimize energy mix, improve energy efficiency and facilitate high-quality energy development. 9 May 2020 is the deadline for receiving comments.

## Definition of energy

Resources that can produce heat, mechanical, electric, nuclear or chemical energy. It consists of coal, oil, gas (incl. shale gas, coal-bed methane, biogas), nuclear, **hydrogen**, wind, solar, hydro, biomass, geothermal, marine, electricity, heat and other resources that can produce usable energy through processing or conversion process. This is the first time that hydrogen has been listed as a type of energy in a national law.

## Timeline<sup>7</sup>

- 1979: proposed the idea of energy law legislation
- 2006: kicked off the drafting process
- 2007: published the Law (for public comments) the first time
- 2008: reported the Law (for approval) to the State Council
- 2010: organized the expert verification meeting of the Law (for approval)
- 2015: the State Council required National Development and Reform Commission (NDRC) and National Energy Administration (NEA) to further amend the Law (for approval)
- 2017: amendment of the Law (for approval) complete
- 2020: published the Law (for public comments) the second time

## Legislative purpose

China has established a Five-Year-Plan planning system for energy development and issued 14 energy-specific plans since 2006. However, the fundamental legislation has long been absent. Based on the energy security strategy of "Four Revolutions and One Cooperation"<sup>8</sup> and the strategy to build a clean, low-carbon, safe and efficient energy system, China is eager to promote high-quality energy development and modernize managing systems and capabilities. As the legal document, *China Energy Law* aims at clarifying the targets and top-layer design for the energy revolution, which will guarantee the consistency of future developing direction and the fundamental supporting mechanisms.



## Legal mechanisms to be established<sup>9</sup>

1. Energy utilization strategies and plans
2. Energy exploitation activities and infrastructure construction
3. Affordable and equal energy service system
4. Energy technological innovation and standardization
5. Liberalization of the energy system
6. Energy reserve system
7. Energy monitoring and management system



<sup>6</sup> "国家能源局关于《中华人民共和国能源法（征求意见稿）》公开征求意见的公告," National Energy Administration, 10 April 2020, accessed at [http://www.nea.gov.cn/2020-04/10/c\\_138963212.htm](http://www.nea.gov.cn/2020-04/10/c_138963212.htm).

<sup>7</sup> "三位专家深入解读新《能源法》," China Wind Energy Association, 24 April 2020, accessed at <https://www.in-en.com/article/html/energy-2290299.shtml>.

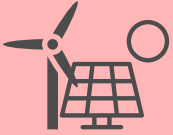
<sup>8</sup> Energy consumption, supply, technological and institutional revolutions and international cooperation.

<sup>9</sup> "重磅 | 《能源法（征求意见稿）》发布," China Energy Daily, 10 April 2020, accessed at [https://www.sohu.com/a/386845244\\_468637](https://www.sohu.com/a/386845244_468637).

## About energy transition



The government aims to optimize the structure of the energy system and energy consumption mix by prioritizing renewable energy development, developing high-efficient nuclear power, increasing the share of non-fossil fuel and facilitating low-carbon transition and efficient use of fossil fuels. Utility-scale and distributed energy resources exploitation should be carried out in parallel.



The State Council should evaluate the non-fossil share in primary energy consumption annually and the government aims to set up mid-to-long-term quantitative targets for renewable resources exploitation and penetration in primary energy consumption. These targets will be included into the *National Economic and Social Development Plan* and divided into annual provincial binding targets. The law draft specifically mention four renewable energy supporting measures: the mandatory renewable consumption mechanism, incentive policies, prior grid access and minimum hours of non-hydro renewable power guaranteed by grid operators.

## Comments and suggestions by experts

China Wind Energy Association (CWEA) organized an online webinar on 23 April 2020.<sup>10</sup> It invited three experts to interpret the *China Energy Law* (for public comments), of which two guests participated directly in the legislative process. They are Professor Li Yanfang – the Director of Energy Law Centre, Renmin University of China Law School, and Doctor Sun Youhai – the former Director of the Law Division, Environment and Resources Protection Commission in National People's Congress. The third expert is Professor Xia Qing, the Director of Energy Internet Strategy and Operation Research Centre, Energy Internet Research Institute of Tsinghua University.

### Comments



- The *Law* seems to provide stronger policy signals rather than showing legally binding features. However, it will effectively change public minds and behaviours to make things happen.
- The content of renewable energy shows consistency and upgrades of the *Renewable Energy Law*. Market is the guidance, tax policies are the incentive and consumption requirements are the constraint.
- Power grids and oil and gas pipelines are natural monopoly industries that especially require monitoring with standards.
- There are three specific mechanisms to interpret low-carbon development, energy relevant taxes, eco-compensation of energy resource exploitation, and effective use of coal with low carbon emissions.

### Amendment suggestions



- The legislative strategies could be more focused on solving the major problems in energy resource exploitation rather than aiming to cover all perspectives.
- It would be effective to set up quantitative targets in the *Law* to achieve the legal targets. It could be followed by making a list of supporting laws and regulations and propose a timeline for the drafting process.
- The subject of law enforcement is absent. The *Law* adopts the word “country” as the subject in numbers of sections, which is not clear about which level of government it refers to and which authority it should be.
- Market tools are not suitable for all the cases. It is necessary to have a basic agreement on when to allow market access, when to encourage competition, and when to carry out anti-monopoly measures.