



Legal Practice and Future Prospects of Marine Plastic Debris Management in China

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CONTENTS



- Legal measures to counter marine plastic debris
- Prospects of Countering Marine Plastic Debris



Legal Measures to Counter Marine Plastic Debris



Extended Producer Responsibility (EPR)

- In 2011, China formally introduced the concept of EPR into environmental protection
- The **National Environmental Protection Plan** for the Twelfth Five-Year Plan: “implement an extended producer responsibility system, regulate the recycling of waste electrical and electronic equipment, build recycling systems and centralized processing and treatment parks for waste and old items, and promote the comprehensive utilization of resources”



Extended Producer Responsibility (EPR)

- In 2016, the state council of China promulgated the implementation plan for EPR
- The Chinese government has established four types of environmental responsibilities that producers should bear, namely, **eco-design, use of renewable raw materials, regulation of recycling** and enhanced **information disclosure**



Extended Producer Responsibility (EPR)

- By 2025, the proportion of recycled raw materials used in key products will reach 20%, and the recovery and recycling rate of waste products will reach 50% on average



Marine Sanitation System

- ◆ The relevant government agency assumes the underwriting responsibility for marine environmental protection, and in special cases, such as when the liable person cannot be identified, the **government agency** shall organize the salvage and removal of **orphaned marine debris**



Marine Sanitation System

- The Regulation of Dalian Municipality on Marine Environmental Protection
 - Article 37 provides the establishment of seafront rural domestic waste management, the promotion of waste classification and resource utilization
 - Article 39, the government shall **organize professional task force to establish a marine sanitation system...**



Marine Sanitation System

- Article 56 stipulates that when **the ownership** of marine litter or the source of an oil spill at sea **cannot be identified**, it **shall be disposed by the government**
- Article 58, construction authorities **shall establish** a mechanism for **marine sanitation** to regularly clean up and salvage orphaned marine litter. Incentives may also be provided for the harvesting of orphan solid waste



Marine Sanitation System

- Work Program for the Establishment of a Marine Sanitation System in Hainan Province (on a trial basis)
 - In 2020, Haikou, Sanya, Yangpu Economic Development Zone as a pilot to **fully launch the marine sanitation system**, to achieve full coverage of beaches and offshore marine litter management



Marine Sanitation System

- 2021, pilot areas of marine sanitation shall build a complete collection, salvage, transport, treatment system, other coastal cities (counties) fully launch the work of marine sanitation
- By 2023, the province's maritime sanitation work shall achieve normalization and standardization of management



Environmental Substantive Fulfillment

- ◆ The “substantive fulfillment” refers to a system of enforcement in which the court may **entrust a third party** to perform **on behalf of the person** subject to enforcement (“the person”) when the person fails to comply with the obligations established in the referral document, with **the costs** of such fulfillment **to be borne by the person**



Environmental Substantive Fulfillment

- The Administrative Compulsion Law
 - Article 50, where an administrative organ makes an administrative decision to **require the party concerned to perform an obligation** such as removal of obstruction or restitution, if the party concerned **fails to perform** it within the prescribed time limit, still fails to do so after being prompted and the consequences of it have endangered or will endanger the



Environmental Substantive Fulfillment

traffic safety, have caused or will **cause environmental pollution** or have damaged or will **damage natural resources**, the **administrative organ** may **perform the obligation on behalf of the party** concerned or authorize a third party which is not a party of interest to perform the obligation on behalf of the party concerned



Environmental Substantive Fulfillment

- The Regulation on Marine Environmental Protection of Shandong Province
- Article 33, if a user refuses to remove garbage or waste from the sea, or abandoning production or domestic waste in the sea, the competent ecological and **environmental authorities shall designate the relevant unit to remove it**, and the cost shall be borne by the user



Environmental Substantive Fulfillment

- The Measures for the Implementation of China's Marine Environmental Law in Guangdong Province
- Article 33, units and individuals using the sea should promptly remove domestic garbage and debris within the sea area they use; in case of refusal, the competent marine administrative authorities shall compel them to do so. The required **costs are borne by the entity or individual** using the sea area



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- In early 2020, China’s NDRC issued the “**Opinions on Further Strengthening the Management of Plastic Pollution**”:
 - China will ban the production and sale of disposable foamed plastic tableware, disposable plastic cotton swabs; ban the production of daily chemical products containing plastic microbeads; by the end of 2022, ban the sale of daily chemical products containing plastic microbeads



Prospects of Countering Marine Plastic Debris



Technological Innovation

- Strengthen intellectual property rights protection
- Patent Law of China (2020 Amendment) lists 29 changes, among which legislative measures such as improving the design system, establishing the **patent open license** system and **increasing infringement compensation** are crucial to the development and protection of marine plastic debris management technology



Technological Innovation

- “Promotional” laws provide comprehensive and effective incentives for marine environmental protection technology
- This type of promotional law is mainly concerned with weak areas of social development and aims to promote the development of **public goods**, such as scientific and technological innovation, ecological and environmental protection, etc. Promotional law has a unique advantage in



Technological Innovation

regulating and balancing economic and social development and facilitating the social ecological welfare

- ❑ Regulatory law emphasizes strong **administrative intervention** by the state in economic and industrial development, and is often used in cases of **excessive competition and market monopoly**;
- ❑ promotional law is usually aimed at those areas where the production technology **has not been well developed** and the



Technological Innovation

market has not yet been formed but it is urgent to encourage the formation of market size

- Cleaner Production Law
- The Law on Scientific and Technological Progress



THANKS FOR WATCHING !