

中国《能源法》起草情况介绍
**Introduction to the Drafting of
China's *Energy Law***

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1. 中国现行能源法规 体系框架

Framework of China's current energy laws and regulatory system

1. 现行能源法律法规框架的构成

Makeup of the current energy laws and legislative framework

- 能源法律和行政法规
- 涉及能源规定的相关法律
- 能源行业的部门规章和规范性文件
- 能源各产业部门政策性文件
- Energy laws and administrative legislation.
- Relevant laws concerning energy provision.
- Departmental rules concerning the energy industry
- Policy documents made by various energy industry departments

1. 现行能源法律法规框架的构成 Makeup of the current energy laws and legislative framework

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| <ul style="list-style-type: none"> ▪ 能源法律和行政法规: • 自然资源法律(7件) • 煤炭法律法规(11件) • 电力法律法规(12件) • 石油、天然气法律法规(4件) • 核电法律法规(5件) • 节能和可再生能源法律法规(2件) • 环境保护法律(7件) | <ul style="list-style-type: none"> ▪ Energy laws and administrative legislation: • Natural resources laws (7) • Coal laws and regulations (11) • Electricity power laws and regulations (12) • Oil and natural gas laws and regulations (4) • Nuclear power laws and regulations (5) • Laws and regulations on energy conservation and renewable energy (2) • Environmental protection laws (7) |
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1. 现行能源法律法规框架的构成 Makeup of the current energy laws and legislative framework

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| <ul style="list-style-type: none"> ▪ 涉及能源规定的相关法律(16件): <p>《民法通则》、《全民所有制工业企业法》、《公司法》、《外商投资企业和外国企业所得税法》、《税收征收管理法》、《统计法》、《标准化法》、《产品质量法》、《国家安全法》、《科学技术进步法》、《建筑法》、《价格法》、《招标投标法》、《清洁生产促进法》、《安全生产法》、《行政许可法》</p> | <ul style="list-style-type: none"> ▪ Relevant laws concerning the provision of energy (16): <p>The General Principles of the Civil Law, the Law on Industrial Enterprises Owned by the People, the Company Law, the Income Tax Law on Enterprises with Foreign Investment and Foreign Enterprises, the Law on the Administration of Tax Collection, the Statistics Law, the Standardization Law, the Product Quality Law, the National Security Law, the Science and Technology Advancement Law, the Construction Law, the Price Law, the Law on Tendering and Bidding, the Promotion of Clean Production Law, the Safe Production Law, and the Administrative Permit Law.</p> |
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1. 现行能源法律法规框架的构成 Makeup of the current energy laws and legislative framework

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| <ul style="list-style-type: none">▪ 能源行业的部门规章和规范性文件：<ul style="list-style-type: none">• 规划计划类(3件)• 资源管理及利用类(31件)• 投资管理类(22件)• 工程建设类(20件)• 节约能源类(18件)• 环境保护类(22件)• 标准规范类(19件)• 价格税费类：价格类(14件)、税类(13件)、费类(8件)、基金类(7件)、其他类(10件)。 | <ul style="list-style-type: none">▪ Departmental rules and documents concerning the energy industry:<ul style="list-style-type: none">• Project planning (3)• Resources management and utilization (31)• Investment management (22)• Project construction (20)• Energy conservation (18)• Environmental protection (22)• Standards and specifications (19)• Price and tax: price (14), tax (13), fee (8), fund (7), other (10) |
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1. 现行能源法律法规框架的构成 Makeup of the current energy laws and legislative framework

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| <ul style="list-style-type: none">▪ 能源各产业部门政策性文件：<ul style="list-style-type: none">• 煤炭政策性文件148件• 电力政策性文件180件• 石油天然气政策性文件83件• 农村能源、可再生能源和新能源政策性文件48件 | <ul style="list-style-type: none">▪ Policy documents from various energy industry departments:<ul style="list-style-type: none">• Coal policy (148)• Electric power policy (180)• Oil and natural gas policy (83)• Policy documents on rural energy, renewable energy, and new energies (48) |
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2. 现行能源立法存在的问题

Existing problems in current energy legislation

- 能源法律体系不健全。
- 能源法律之间及其与相关法之间不协调。
- 能源法律、行政法规与部门规章之间不配套。
- 能源法规内容不全面。
- 能源法律与能源政策不尽协调。
- The energy law system is not robust.
- There are inconsistencies between energy laws themselves, and between energy laws and other laws.
- Energy laws, administrative regulations and department rules are not properly coordinated.
- Energy laws and regulations need to be more comprehensive.
- There are discrepancies between energy laws and energy policies.

2. 起草《能源法》的基本思路

Basic analytical approaches to drafting the *Energy Law*

1. 中国制定《能源法》的目的 China's objectives in drawing up the *Energy Law*

- 将中国能源发展战略和一些综合性、长效性能源政策上升为可操作的法律制度，以国家强制力作保障，为实施能源发展战略提供稳定的行为机制，为政府制定和实施具体的能源政策提供法律依据。
- Devise an operable legal system for China's energy development strategies and long-term energy policies; use the nation's power to enforce guarantees to provide stability to energy strategy implementation, and to provide a legal basis for the government to formulate and implement specific energy policies.
- 解决能源单行法之间以及能源单行法与其他法律之间的不协调问题。
- Eliminate inconsistencies between individual energy laws, and between individual energy laws and other laws.
- 依法建立健全中国的能源安全和应急体系，如能源储备制度、能源应急制度等，保证能源稳定供应，保障国家经济安全。
- Legally establish and improve China's energy security and emergency systems, such as the energy reserve system and energy emergency system, to ensure a stable energy supply and to safeguard national economic security.

2. 制定《能源法》的指导思想 Guiding concepts on drawing up the *Energy Law*

- 按照以科学发展观统领经济社会发展全局，切实把经济社会发展转入全面协调可持续发展轨道的总要求，围绕调整经济结构、转变经济增长方式和建设资源节约型、环境友好型社会的需要，为实现节约优先、立足国内、煤为基础、多元发展，构建稳定、经济、清洁的能源供应体系提供制度和机制保障。
- Shape the greater social and economic conditions to follow a scientific view of development;

Bring social and economic development into a comprehensive, coordinated and sustainable course, centered around the needs of adjusting the economic structure, changing the economic growth pattern and creating a resource-saving and environment-friendly society;

Create an administrative system and mechanisms to ensure the realization of diversified development with priority to energy savings, using domestic coal production as a basis for building a stable, economical and clean energy supply system.

3. 《能源法》的基本定位

Fundamental position of the *Energy Law*

- 中国能源领域的基础性法律，突出战略性、全局性、原则性以及对各具体能源领域法律制度的协调性，涵盖能源资源勘探、研究开发、生产运输、贸易与消费、利用与节约、对外合作及能源安全与监管等诸多环节。
- The basic law in China's energy sector:
 - Emphasizes the strategic, fundamental, and coordinating laws in specific energy fields.
 - Connects energy resources exploration, R&D, production and transportation, trade and consumption, utilization and conservation, foreign cooperation, and energy security and supervision.

4. 通过制定《能源法》应当重点解决的问题

Key issues that need to be addressed by the *Energy Law*

- 明确中国总体能源发展战略，确立能源开发利用的战略思想、方针、目标和措施。
 - 确立能源行业各单行法律的立法指导思想 and 基本原则，协调各单行能源立法。
 - 确定《能源中长期规划》的法律地位，为实现能源发展目标提供法律保障。
 - 建立能源综合利用和提高能源效率的法律规范，切实有效地推动技术创新和产业结构调整，促进循环经济发展，形成能源资源节约型的经济增长方式。
- The *Energy Law* needs to:
- Specify China's overall energy development strategy, and establish strategic policies, goals, and measures for energy development and utilization.
 - Establish guiding concepts and basic principles for the legislation of individual laws in the energy sector, and coordinate the legislation of individual laws.
 - Specify the legal basis of the Mid- and Long-Term Energy Plan, and provide legal guarantees for fulfilling energy development goals.
 - Draw up laws and specifications for comprehensive energy utilization and energy efficiency improvement, effectively promote technological innovation and industry structure reforms, promote the development of a recycling economy, and form energy resource-saving modes of economic growth.

4. 通过制定《能源法》应当重点解决的问题

(IV) Key issues (cont.)

- 明确有关能源政策制度。对能源的资源勘探、市场准入、管理体制、价格制度、储备制度、投资制度、税费制度、统计制度和审计制度等各项政策制度，以法律规范的形式予以规定或确认。
- 建立保障能源安全和能源应急体系的法律制度。
- 规范能源国际合作与交流，积极应对气候变化对中国和世界产生的巨大影响。
- 实现保障能源供给，促进能源开发，优化能源结构，维护能源安全，规范能源利用，加强能源合作的目标。
- Specify relevant energy policy systems and give legal specifications for energy resources exploration, market access, administrative management, pricing, reserves, investment, tax, statistics, and auditing.
- Establish a legal system that guarantees an energy security and energy emergency system.
- Make specific provisions for international energy cooperation and exchange.
- Guarantee China's energy supply, promote energy development, optimize the structure of the energy industry, safeguard energy security, optimize energy utilization and strengthen cooperation in the energy industry.

3. 起草《能源法》的工作进程

Drafting Process for the *Energy Law*

《能源法》起草工作的初步设想 Initial drafting plan of the *Energy Law*

- 工作启动
 - 2006年年初全面启动
- 分阶段工作
 - 第一阶段—调研和课题研究阶段，时间约6--9个月；
 - 第二阶段—《能源法》文件起草阶段，时间约6--8个月；
 - 第三阶段—论证修改阶段，时间约4--6个月
- 工作目标
 - 争取两年时间内基本完成《能源法》起草工作。
- Start-up
 - Fully initiated at the beginning of 2006
- Stages
 - 1st: survey and research of various issues (6 to 9 months);
 - 2nd: drafting the documents (6 to 8 months)
 - 3rd: verification and revision (4 to 6 months)
- Goals
 - Aim to essentially complete drafting within 2 years.

已完成的《能源法》起草工作 Already completed drafting work

- 1、成立《能源法》起草组，下设秘书处和专家组，为起草工作提供组织和机构保障。
An *Energy Law* Drafting Group has been set up, which includes a secretariat and an expert panel to provide an organizational and institutional guarantee for drafting work.



已完成的《能源法》起草工作

Drafting Progress to date

- 2、开展与起草工作密切相关的重大课题研究、专题调研和座谈研讨活动。
- 3、建立与有关政府部门、能源行业协会、能源企业集团及社会研究机构等工作联系制度。
- 4、开展调查问卷征求意见活动。
- 5、着手研究、论证和草拟《能源法》大纲。
- 6、办理有关人大议案和建议案。
- 7、通过新闻媒体宣传能源立法工作。
- 2、 Research on issues related to drafting, surveys, and research on special topics, informal discussions, and workshops.
- 3、 Est. of a system of working relationships with government departments, energy industry associations, energy enterprise groups, and public research institutions.
- 4、 Distribution of survey questionnaires and soliciting of opinions.
- 5、 Initiation of research, verification, and drafting of an outline of the *Energy Law*.
- 6、 Relevant bills and motions of the National People's Congress have been handled.
- 7、 Media publicity of work on energy legislation

正在或即将开展的《能源法》起草工作

Ongoing and upcoming work

- 就《能源法》大纲方案征求意见，进行专家论证；
- 召开国内、国际研讨会，更广泛听取各方面对《能源法》立法意见；
- 深入调研，听取地方和企业意见；
- 对《能源法》调查问卷反馈的信息进行定期整理，并通过新闻媒体向公众公布。
- Solicit opinions on the *Energy Law* outline;
- Conduct verification: hold domestic and international workshops to gather diverse opinions from varied sources on *Energy Law* legislation;
- Collect feedback (surveys, research) from various localities and enterprises;
- Regularly assess and make public (through the media) survey feedback on the *Energy Law*.

4. 中国《能源法》的立法目标

Legislative goals of China's *Energy Law*

《能源法》的立法目标

Legislative goals of China's *Energy Law*

- 1、保障能源战略实施。
- 2、保障国家能源和经济安全。
- 3、构建资源节约型、环境友好型社会。
- 4、提高能源安全生产水平。
- 5、完善能源管理体制和机制，规范市场主体行为。
- 6、推动能源科技自主创新。
- 7、健全中国能源法律体系，促进依法行政。
- 8、积极应对气候变化的巨大挑战。
- 1、 To guarantee the implementation of energy strategies.
- 2、 To guarantee national energy and economic security.
- 3、 To create a resource-saving and environmentally-friendly society.
- 4、 To improve energy production safety.
- 5、 To perfect the energy regulatory systems and mechanisms, and standardize the actions of market entities.
- 6、 To promote independent energy science and technology innovation.
- 7、 To improve China's energy law system and promote administration according to law.
- 8、 To actively cope with the enormous challenge of climate change.

谢 谢!
Thank you!