

# The Impact of China's New Air Pollution Regulation on American Direct Investment

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*Every year, China's air quality is reaching hazardous level. Accordingly, China is adapting stringent environmental regulations under the new 13th Five Year Plan. The noticeable developments in the new air pollution regulations include: (1) mandatory air pollutant disclosure requirement; (2) shift towards non-compliance liability rule; and (3) increased penalty for transgression against wider range of industries. This paper first explains that these developments will induce American investments in China to carefully draft investment contracts, particularly confidentiality and limited liability clauses to minimize the risk of harsher penalties. The paper then argues that China's stringent pollution regulations will not negatively affect American investment trend in China, mainly because most American investments already adhere to the OECD standard, and disclosing environmental information will enhance entity's good reputation and attract investors.*

**Keywords:** Airmaggedon, China, Air Pollution, American Direct Investment, 13th Five-Year Plan, Environmental Regulation, APPCL, EPL

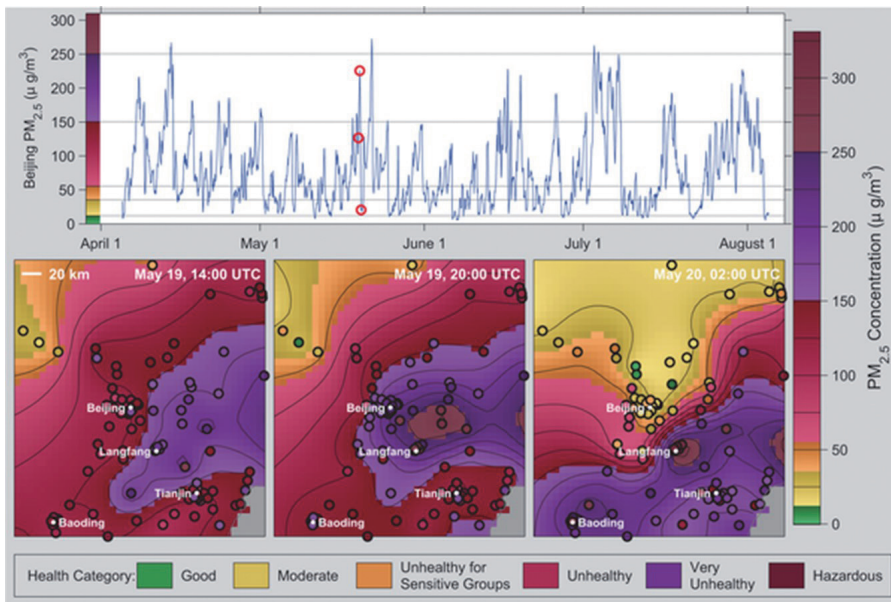
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# 1. Introduction

The ‘Airmageddon’ is a rising new term in China’s twitter, Weibo, which describes the severe air pollution in the country. Remaining true to its original meaning, in January 2013, China’s air pollution was described to reach the level of ‘post-apocalyptic,’ and ‘beyond belief.’<sup>1</sup> In December 2015, Beijing closed all schools, as well as outdoor constructions under the red alert, the highest possible warning level for air smog.<sup>2</sup> Even in 2016, air pollution level in China’s main cities remained higher than the World Health Organization’s upper safety limit, despite the slight improvement of air quality in Beijing since the first quarter of 2014.<sup>3</sup> The following data (Figure 1) shows the serious situation of air pollution in China.

Figure 1: (Top) Time Series of PM2.5 Concentration at Beijing Extracted from the Interpolated Field. (Bottom) Maps of Interpolated PM2.5 Concentration during a Period of High Pollution.<sup>4</sup>



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One of the major causes of China’s air pollution is yellow dust. Measured by Environmental Protection Agency (“EPA”) standard of Particulate Matter (“PM”)