

The government rule of law optimization path of motor vehicle carbon emission pollution prevention and control

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Abstract: As the provider, representative and protector of social public interests, the government takes the leading responsibility in the prevention and control of motor vehicle carbon emission pollution. At present, our country has not issued the basic law of the prevention and control of motor vehicle pollution, the control of motor vehicle pollution law is based on the constitution, with the environmental protection law "law on the prevention and control of atmospheric pollution" as the core, with the opinions about further play good pollution control battle "green traffic" difference "development plan" and other normative documents of the legal system. Due to the lack of the basic Law, the provisions of laws and regulations, the responsibility provisions of governments at all levels are not clear.

Keywords: Local government; automobile pollution prevention and control; Rule of law path

1. Introduction

Road transport, as the largest carbon emission part in the field of transport, accounts for 71.65% of the total transport emissions, among which the carbon emissions of motor vehicles account for more than 90% of the carbon emissions of road transport. The pollutants emitted by motor vehicles mainly include carbon monoxide, hydrocarbons, nitrogen oxides and particulate matter, with a total emission of 2022 reaching 22.512 million tons. These pollutants not only harm the human blood circulation system, respiratory system and thus cause various diseases, but also cause haze, acid rain and other bad weather. Therefore, it is imperative for local governments at all levels to solve the vehicle carbon emissions with high quality. Strengthening the prevention and control of motor vehicle pollution, institutional guarantee, and solving the bottleneck of law enforcement in pollution prevention and control have become the key to solve the dilemma of carbon emission pollution prevention and control.

2. Manuscript Preparation

2.1. Practical dilemma of motor vehicle carbon emission pollution prevention and control

In order to achieve both the symptoms and root causes of motor vehicle pollution, the effective implementation of the comprehensive control idea of "car, oil and road should be promoted". However, there are still the following problems in the implementation of local governments at all levels:

2.1.1. Promote new energy, there is a short-sighted behavior

As an important link in the prevention and control of motor vehicle carbon emission pollution, "car" refers to the promotion of the application of new energy vehicles and the realization of clean vehicles. On the basis of the 14th Five-Year Development Plan for Green Transportation, various localities have vigorously promoted various new energy vehicle projects and proposed to replace the new bus indicators with new energy vehicles. However, the promotion of new energy vehicles in some areas does not meet the objective conditions and foundation, and there are blind investment and repeated construction. We have a vast territory, the environment and climate differences in different regions, do not have the conditions and foundation for development, to promote the development of new energy vehicles through blind investment, not only affect people's travel, but also waste a lot of manpower, material resources and financial resources.

2.1.2. Lack of coordination in oil product supervision links

As the basic link of the prevention and control of automobile pollution, "oil" refers to improving the quality and strengthening the supervision of oil products. Oil quality is an important factor to determine whether the automobile pollution emission is serious or not. Fighting the phenomenon of "arteresis" is an important measure to solve the prevention and control of motor vehicle pollution in various places. Although the Environmental Protection Law, the Air Pollution Prevention and Control Law and other relevant laws provide a legal basis for the implementation of oil quality supervision and law enforcement, all functional departments have a negative mentality and "co-governance" in their practical work. For example, black refueling stations are still widespread in towns, and the relevant departments fail not supervise long-term illegal business activities. For example, "dirty" black" centralized rectification of special classes to crack down on illegal business behavior effect is not significant, the functional departments negative response, shirking each other.

2.1.3. The adjustment of transport structure is slow

As a key link in the prevention and control of motor vehicle carbon emission pollution, the "road" refers to improving the urban transportation system, promoting multimodal transportation, and realizing the "public road" and "public water". For a long time, the transportation of ore to the port is usually mainly heavy diesel vehicles, which will cause a lot of carbon emissions, so the port transportation "revolution to iron" has become an important means to solve this problem. However, the research results of the green collar environmental protection organization show that although the bohai Rim port has been transforming from "revolution to railway" for 5 years, it still relies on road transportation. The key reasons are that the incentive policies enjoyed by local trunk railways have not been implemented, and the response of railway freight vehicles is insufficient.

2.2. Legal reasons for the practical dilemma of motor vehicle carbon emission pollution prevention and control

2.2.1. The government responsibility provisions are not clear

First, the nature of government responsibility is not clearly defined. The Opinions stipulate that local governments at all levels should take overall responsibility for the ecological environment of their respective administrative areas. The Law on the Prevention and Control of Air Pollution stipulates that local people's governments at all levels should be uniformly responsible for the environmental quality of their respective administrative areas. Although the two expressions are similar in form, their connotations are very different. The expression of "overall responsibility" can only be used as a link in the management process or the final deterrent tool. The constant emphasis on the expression of overall responsibility will lead to a short-sighted phenomenon. Compared with the former, the concept of "unified responsibility" highlights the leading force of local governments, and formulating the overall plan and capital investment plan for the prevention and control of carbon emission pollution are in line with the basic concept of administrative law. Legislation defines the nature of government responsibility differently, leading to the lack of active responsibility awareness of local governments.

Second, the establishment of the government's rights and responsibilities is not clear. According to the principle of unification of power and responsibility, the functions and powers of local governments at all levels in the prevention and control of motor vehicle carbon emission pollution should match the corresponding responsibilities. However, while the Regulations on the Prevention and Control of Motor Vehicle Pollution lack the legal provisions that they should take responsibility for failing to perform their duties, leading to the enhancement of the government's authority attribute and prone to inaction. For example, only the chapter of "legal liability" simply stipulates the responsibilities of all levels of government and the competent authorities. The administrative sanctions responsibilities stipulated in these legal provisions cannot correspond to the large number of administrative powers stipulated in the foregoing chapters. Without the administrative responsibility that checks and balances with the administrative power, the government cannot effectively fulfill the responsibility, and the government responsibility will only become a declarative legislative expression.

2.2.2. Insufficient institutional supply

The prevention and control of motor vehicle carbon emission pollution is a systematic treatment project, and the obligations of local governments at all levels in pollution prevention and control are mainly institutional supply obligations and environmental law enforcement obligations. However, the difficulties and bottlenecks in practice reflect that some local governments are not in place in pollution

prevention and control.

First, the public participation procedures are inadequate. In the motor vehicle pollution control, there are three government, enterprises and operators. However, at present, the Regulations on the Prevention and Control of Motor Vehicle Pollution in all provinces and cities do not stipulate the public participation procedures, that is, the other two parties are in a passive position in the process of system design and decision-making and implementation of local governments at all levels, and there is no corresponding way to put forward suggestions and opinions. However, when local governments control motor vehicle pollution, there will inevitably be conflicts between economic development and environmental protection, environmental right and travel freedom right and enterprise property right. In the process of conflict resolution, operators and enterprises can only comply with the requirements. In the long run, this will not improve the enthusiasm of enterprises and operators for automobile pollution prevention and control, but also affect the effectiveness and durability of pollution prevention and control.

Second, the law enforcement coordination mechanism is not sound. According to the Regulations on the Administration of the Establishment and Establishment of Local People's Governments at all levels, local governments at all levels have the right to decide the division of responsibilities between functional departments. In order to realize the more powerful control of motor vehicle carbon emission pollution, it is necessary to mobilize the regulatory forces and regulatory resources of multiple departments to form a joint force for the prevention and control of automobile pollution. Local governments at all levels have responded positively by clarifying the responsibilities of municipal and county governments in pollution discharge in the measures or regulations for the prevention and control of motor vehicle pollution. At present, although the core of the powers of various functional departments is clear, there is ambiguity in the marginal division of labor, and they will expand their discretion with the attitude of seeking advantages and avoiding disadvantages.

2.2.3. Imperfect financial system

With the continuous progress of air pollution prevention and control work in various regions, the prevention and control of motor vehicle pollution has been gradually standardized, the construction of road vehicle pollution supervision platform, the promotion of new energy vehicles and other work need governments at all levels to increase investment. However, take the financial expenditure of the People's Government of Zhaoquanying Town from January to June in 2023 as an example. Among the total 13 expenditures, there is no expenditure related to energy conservation, environmental protection and transportation. The grassroots environmental protection concept is not strong, the law enforcement force is weak, and it is easier to only emphasize "GDP". Therefore, in the practice of motor vehicle pollution prevention and control, insufficient capital investment has become a major bottleneck restricting pollution supervision, but also reflects the lack of corresponding norms for the use of funds.

The Measures for the Management of Funds for the Prevention and Control of Air Pollution stipulate that local people's governments at all levels shall work out plans for the use of the funds for pollution prevention and control and be responsible for the specific implementation of the funds. However, some governments have not issued corresponding normative documents for management. Even though some provincial governments have issued the Management Measures for Environmental Funds and Pollution Prevention and Control Funds, their contents are relatively simple and have many principles, and lack specific operational rules. Secondly, the different industrial structure and the scale of operating vehicles in different regions lead to the greatly reduced operability of local governments at all levels in the implementation of the upper law, which cannot meet the requirements of the prevention and control of operating vehicle pollution carried out by the ecological environment department and the Ministry of Finance in practice.

2.3. The optimization path of motor vehicle carbon emission pollution prevention and control

2.3.1. Improve the legislation to further clarify the leading responsibility of the government

First, the Regulations on the Prevention and Control of Motor Vehicle Pollution were issued to clarify the government's leading responsibility for the prevention and control of carbon emission pollution by motor vehicles. The Air Pollution Prevention and Control Law has strong principles, and it does not cover the whole process of dealing with the prevention and control of carbon emission pollution by motor vehicles. Although there are some local laws and regulations, the different legislative purposes of the leading departments still leave a gap in the links between laws and regulations. With the improvement of the legal system of motor vehicle pollution prevention and control and the enrichment of the government's environmental responsibility theory, there are no technical obstacles to the unified

legislation at the national level. Therefore, The State Council should issue the Regulations on the Prevention and Control of Motor Vehicle Pollution to clarify the "government-leading responsibility" as the basic principle of pollution prevention and control.

Second, we need to clarify the distribution of the powers and responsibilities of the government. The Law on the Prevention and Control of Air Pollution only simply stipulates the responsibilities of the government and functional departments. Therefore, on the basis of the promulgation of the Regulations on the Prevention and Control of Motor Vehicle Pollution, the provisions on legal responsibilities should be improved.

2.3.2. Optimize and improve the institutional supply of automobile pollution prevention and control

As a kind of social resource, the supply situation of the legal system directly affects whether the legislation can be realized according to the established goals. Therefore, the local governments at all levels should give full play to their industrial guidance, organization and coordination responsibilities, and promote the pollution prevention and control work through institutional supply.

First, build the legislative model of social co-governance. Enterprises and operators are the source of carbon emission pollution, and the response to the implementation of motor vehicle pollution prevention and control system directly affects the trend of automobile pollution prevention and control legislation. Therefore, local governments at all levels should highlight the principle of the principle of proportion and due process, increase the public participation procedures, transform enterprises and operators from policy recipients to participants, and enhance the benign interaction among the three parties. In addition, in the legislative process, industrial development guidance should be added, and guiding documents on motor vehicle pollution prevention and control should be issued. Finally, the government, enterprises and operators of the motor vehicle carbon emission pollution control co-governance model.

Second, we should build a new type of law enforcement system. Due to their organizational and coordination responsibilities and inherent attributes, local governments at all levels should not only guarantee the independence of all functional departments, but also give full play to their unity and integrity, so as to realize the cooperation in the prevention and control of motor vehicle carbon emission pollution on the basis of the division of labor. First of all, the ecological environment should clarify the enforcement scope, methods and standards of the consistency inspection of new vehicles for the carbon emission of material cycle; they should improve the flexibility of sampling and coordinated law enforcement for the carbon emission of fuel cycle.

2.3.3. Improve the government financial system for the prevention and control of automobile pollution

First, we will improve investment, fiscal and tax policies. With different car ownership, geographical environment and other factors, local governments at all levels should invest in low-carbon projects that meet the development conditions of the region, so as to prevent the phenomenon of looking only on political achievements. When the conditions are met, we will increase capital input and policy support for clean energy, low-carbon transportation equipment and other projects, budget the construction of highway transportation infrastructure, and include eligible projects. In order to improve the enthusiasm of relevant enterprises and motor vehicle operators to participate in the prevention and control of automobile pollution, the relevant tax policies on carbon emission reduction should be implemented to ensure that vehicle replacement and the procurement of new energy vehicles enjoy tax incentives.

Second, we will standardize the use of funds. Local governments at all levels shall, under the guidance of the upper-level law, organize ecological environment departments, financial departments and other relevant departments to issue the Measures for the Management of Funds for Automobile Pollution Prevention and Control to standardize the use of funds for automobile pollution prevention and control. The Measures for the Management of Funds for the Prevention and Control of Automobile Pollution shall include the management responsibilities of all departments, the conditions and application scope of the use of funds, the application and examination of funds, the use and management of funds, the performance and supervision of the use of funds, the disclosure of the use of funds and the legal responsibilities of relevant personnel. We will ensure that the whole use of special funds is open and standardized.

3. Conclusions

The 20th report clarified the overall goal of green development in 2035, and on this basis, puts forward the carbon emission reduction target of "carbon peak and carbon neutral". As the focus of carbon

emission reduction, motor vehicles have the characteristics of large proportion, fast growth rate and slow peak reaching, which determines that the pollution prevention and control work is bound to be long-term and arduous. It is imperative for local governments at all levels, as the main body of responsibility for the implementation of the motor vehicle carbon emission pollution prevention and control systems, to actively and effectively play their leading role. A perfect legal system is a necessary condition for governments at all levels to play a leading role. Therefore, this paper starts from the practical dilemma, deeply analyzes the causes of the rule of law of the practical dilemma, and puts forward not only to improve the relevant legislation, but also to implement the law enforcement practice of pollution prevention and control, to establish an effective response mechanism of pollution prevention and control.

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