

Executive Summary

Environmental Law Streamlines Development Process And Protects Natural Resources

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The National Congress of the Dominican Republic has passed a new environmental law creating a Department of Environment and Natural Resources and streamlining the environmental review process required for development.

The law defines dozens of environmentally-related terms, from "sustainable use," "protected areas," and "environmental quality" to "load capacity," "contaminant," and "sustainable development." In addition, the law establishes a system of environmental studies and permits, which should be familiar to entities subject to environmental laws in the United States. Key definitions relating to these environmental studies and permits include:

- "environmental audit," defined as a systematic, documented, periodic and objective evaluation performed to determine whether a particular management system and environmental behavior are adequate;
- "environmental impact," defined as "any significant" alteration of one or more parts of the environment and natural resources;
- "declaration of environmental impact," defined as the process that analyzes a proposed act from the point of view of its effect on the environment and natural resources;
- "environmental impact study," defined as the technical and scientific activities directed towards the identification, prediction,

and control of environmental impacts of a project and its alternatives, presented in the form of a technical report and performed according to the criteria established by the standards in effect;

- "environmental impact statement," defined as a document prepared by a multidisciplinary team under the responsibility of the proponent, by means of which is made known to the appropriate government entity and other interested parties the results and conclusions of an environmental impact study;
- "environmental license," defined as the document that records the fact that the corresponding environmental impact study has been delivered, and that the activity, work, or project can be carried out, under the conditions indicated in the license;
- "environmental permit," defined as the document granted by the appropriate government authority at the request of an applicant that certifies that from the point of view of environmental protection, the activity proposed by the applicant may be carried out under the conditions indicated in the permit; and
- "toxic wastes," defined as any product that contains "significant quantities" of substances that present or may present a danger for the life or health of living entities when freed into the environment or if manipulated incorrectly due to their magnitude or their corrosive, toxic, poisonous, reactive, explosive, inflammable, biologically harmful, infectious, or irritating characteristics.

The Natural Resources Department

The law creates the Natural Resources Department as the governing body in charge of environmental matters. It also establishes five divisions of the Natural Resources Department, responsible for:

- environmental management;
- soils and waters;
- forestry resources;

- protected areas and biodiversity; and
- coastal and marine resources.

In addition, various existing government entities, such as the National Directorate of Parks, the Environmental Department of the National Planning Office, the National Institute of Forestry Resources, the National Institute of Environmental Protection, and the Office for the Protection of the Earth's Crust of the Department of State of Public Works, are now subject to the control of the Natural Resources Department.

Environmental And Natural Resources Management

To guarantee the design and efficient execution of the policies, plans, programs, and projects related to the environment and natural resources, the law creates the National System of Environmental and Natural Resources Management. This system constitutes the full range of standards, activities, resources, projects, programs, and institutions that make possible the application, execution, and implementation of the principles, policies, and strategies adopted by the government related to the environment and natural resources.

The head of the Natural Resources Department and other individuals -- from both the public and private sectors -- are members of this system. All of the members are expected to work together to ensure interinstitutional coordination of environmental management, subject to the directions of the Natural Resources Department.

The new law explains the methods that the Natural Resources Department may use to manage the Dominican environment and its natural resources. These include:

- environmental planning;
- environmental permits and licenses;
- strategic evaluation of environmental impact;
- environmental inspection; and
- incentives.

Thus, as described in the law, the planning of development throughout the country now must incorporate a consideration of environmental issues. Toward that end, all development plans, programs and projects -- whether of a national, regional, provincial, or municipal nature -- must be drafted or adjusted to reflect the new law's guiding principles and the applicable environmental policies, strategies, and programs established by the Dominican government.

Moreover, the law requires that, within three years, the Natural Resources Department together with other Dominican agencies create and implement a National Plan that incorporates environmental issues.

Protected Areas

A "National System of Protected Areas," with particularly significant environmental properties such as forests, wildlife refuges,

and certain beaches, is created by the new law, and made subject to the control of the Natural Resources Department. These protected areas are subject to a temporary ban on modification until regulations are developed regarding their use. These regulations will relate to the conservation and use of these areas, and must facilitate scientific research -- and promote recreational activities and sustainable tourism.

Significantly, the Dominican Republic may establish agreements for the co-management and/or the management of protected areas with interested entities, "so long as the interests of conservation prevail over any other."

Environmental Impact Statements

Developers must undertake certain steps that the law refers to as "environmental evaluation" before they may proceed with their projects. This evaluation includes the following steps:

- environmental impact statement;
- strategic environmental evaluation;
- environmental impact study;
- environmental report;
- environmental license;
- environmental permit;
- environmental audits; and
- public consultation.

The Natural Resources Department will be issuing regulations regarding this requirement. Among other things, they will require that developers perform an analysis to make certain that plans are consistent with the national policy on the environment and natural resources.

Additionally, every project or other activity that could affect the environment and natural resources in one way or another must obtain in advance from the Natural Resources Department an environmental permit or license, depending on the magnitude of the effects it could cause.

The law also sets forth the projects and activities that require an environmental impact evaluation. These include:

- ports, docks, navigation ways, breakwaters, piers, canals, shipyards, drains, maritime terminals, reservoirs, dams, dikes, irrigation canals, and aqueducts;
- high voltage electrical transmission lines and their sub-stations;
- hydro and thermo-electrical central stations and nuclear generating plans;
- airports, bus and railroad terminals, railroad lines, highways, roads, and public roadways;

- urban development projects;
- industrial plants, including sugar mills, cement plants, liquor distilleries, beer factories, paper factories, chemical factories, textile factories, producers of construction materials, equipment, and metallic products, tanneries, and gas, halogen, hydracid and acid facilities;
- agribusinesses and slaughterhouses, breeding stables, milking establishments and animal feedlots of industrial dimensions;
- plans for agrarian transformation, agricultural plantations, and cattle breeding, rural settlements, including those carried out according to the Agrarian Reform laws;
- mining projects, including petroleum and turbine; explorations or prospecting, removal of the earth's crust, exploitations, construction, and operation of wells, dams, processing plants, refineries and disposal of residues;
- extraction of dry materials (rocks, gravel, and sand);
- installation of pipelines, gaslines, mining ducts, and other analogous installations;
- importation, production, preparation, transformation, use, marketing, storing, transportation, disposal, recycling, or re-use of toxic, noxious, explosive, radioactive, inflammable, corrosive, or reactive substances or others of evident dangerousness;
- systems of environmental sanitation, such as sewage systems and potable water systems, sewage treatment plans, and plants to treat toxic residues of industrial, residential, and municipal origin, sanitary fills, underwater outlets, treatment and disposal systems for solid, liquid, or gaseous effluents;
- engineering projects that are projected to be performed in protected forests or water production and other fragile ecosystems, in rain or cloud forests, in upper basins, in wetlands, or in coastal areas;
- hotel or tourism development installations; and
- industrial parks, industrial free zones, or industries of transformation, and assembly parks.

It should be noted that projects that do not require an environmental permit or license nevertheless still must comply with the Natural Resource Department's environmental regulations. The Natural Resources Department is to establish rules to determine whether a project merely requires an environmental permit, and therefore must present an environmental impact statement, or whether it needs an environmental license, in which case it must present an environmental impact study.

Costs of an environmental impact statement or environmental impact study are to be borne by the developer, and are considered public documents subject to disclosure.

Conclusion

The Dominican Republic's new environmental law raises a number of environmental issues that developers and businesses operating in the country need to consider. By placing the responsibility for these matters in a newly created department, the law also reflects the country's interest in attracting foreign investment and its recognition of the need to allow businesses to discover what they need to learn to be able to comply with the rules in a streamlined, meaningful, and cost effective manner.

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