ANDRADEVELOZ ABOGADOS | DESDE 1974

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1. ELIMINATION OF THE WINDFALL TAX

Through the regulation for the application of the Organic Law for Productive Development, Attraction of Investments, Employment Generation and Stability and Fiscal Equilibrium (hereinafter the "**Law for productive development**"), which is published in the Official Register Supplement number 309 of August 21, 2018, the General Regulation of the Mining Law was amended, eliminating article 86.1, which dealt with the tax for the Windfall Tax.

The Law for Productive Development reformed the Mining Law (Article 40, third paragraph) regarding the Contracts for the Provision of Services, by which the mention of the extraordinary income tax was eliminated. This tax was repealed at its source, with the elimination of Chapter II entitled "Creation of the extraordinary income tax", Title Four "Creation of Regulatory Taxes" of the Reform Law for Ecuador's Tax Justice.

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2. VICEMINISTRY OF MINING ALLOWS PERFORATIONS IN THE INITIAL EXPLORATION PERIOD

The Minister of Energy and Natural Resources has renewed the Instructions for the Exploration and Exploitation of Mining Concessions, Negotiation and Subscription of Mining Contracts. In June 2018 it was reformed, allowing scout drilling with varied inclinations and dimensions made with portable or aerial equipment during initial exploration, something that until that moment was not possible.

In the current reform, the following changes are made:

- Ecological fragility areas are modified by forest and protective vegetation, indicating that, in mining concessions that totally or partially intersect with these spaces, scout drilling can be carried out in a maximum of 20 6x6 meters platforms.
- In mining concessions of any other area of the national territory, 40 platforms of 10x10 meters can be made.
- During scout drilling, environmentally friendly chemicals must be used, changing from biodegradable chemicals established in the previous regulation, and have a water recirculation system installed.

These changes to the law entered into force on January 14, 2019, with the signature of Eng. Carlos Pérez, Minister of Energy and Natural Resources not Renewable, by Ministerial Agreement.

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3. IMPORTANT JUDICIAL DECISIONS FOR THE MINING INDUSTRY IN ECUADOR

During 2018 a series of constitutional actions to protect rights against mining projects were presented, which have left several doubts for the mining industry in general. An element that resembles three of the four cases analyzed is the participation of the nearby municipalities: in the first case, that of Río Blanco, the municipality of Cuenca intervened with statements in favor of the petitioners. In the second case, the 52 concessions in Sucumbíos, the municipality of Lago Agrio presented an Amicus Curiae in favor of the plaintiffs; and, in the third, that of Río Magdalena (Llurimagua, in Cotacachi), the municipality is the principal plaintiff. This leaves a precedent that can be taken by other municipalities to initiate constitutional actions and other administrative or judicial measures against mining projects in their cantons.

The main points of each case are presented below, starting with Río Blanco, followed by Sucumbíos, Magdalena River and finally Mirador. Special emphasis is placed on the analysis of the subjects of prior consultation and the spaces of the national territory in which metal mining can be carried out.

I. Río Blanco Case - Province of Azuay

The Provincial Court of Justice of Azuay (hereinafter the "**Court of Azuay**"), constituted in a Constitutional Court of Justice, handed down judgment in August 2018, on the appeal of a lower court decision granting an action for protection against the mining project Río Blanco. The Court decided not to lift the suspension of the project, and determined that it is a decision to be defined by the judge of first instance who decided to suspend the project.

With respect to the prior consultation of the Molleturo community, the Court of Azuay ruled to revoke the measure of restitution of the supposedly violated right, indicating that the results of the question on mining in the national referendum of February 4, 2018, can be used as a substitute. This decision is controversial since the referendum question did not refer specifically to the Río Blanco mining project. The referendum question was about whether citizens were for or against metal mining in protected areas, intangible zones and urban centers. In Molleturo, where the Río Blanco project is located, the majority of its population voted against mining in the areas indicated above. It could be interpreted from the ruling that, with the referendum, the lack of prior consultation in Molleturo is solved, and therefore, the mining project could continue.

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It should be remembered that metal mining in all other areas is allowed by the Constitution of the Republic of Ecuador (hereinafter the "**Constitution**") and the law. The Río Blanco mining project is not located in a protected area, in an intangible zone or in an urban center; therefore, there would be no reason why mining activities cannot be carried out. However, the Court of Azuay affirmed that the Río Blanco project is located in the area of influence of the Cajas National Park, designated as a protected area, since it is within the Molleturo Mollepungo protected forest, which according to the Court, is part of the National Park. Therefore, there are doubts regarding the effects of this ruling on the Río Blanco project, as well as for current and future projects.

II. 52 mining concessions case - Province of Sucumbíos

The second case was that of 52 mining concessions, some in the process of being granted, in which the Provincial Court of Justice of Sucumbíos (hereinafter the " **Court of Sucumbíos** "), constituted in a Constitutional Court of Justice, in September 2018 ratified the decision of the judge of first instance, which granted constitutional protection to the plaintiffs against the Ministry of Mining, the Mining Regulation and Control Agency (hereinafter "**ARCOM**"), the Ministry of the Environment (hereinafter "**MAE**"), and the Water Secretariat (hereinafter the "**SENAGUA**"). In a very short resolution, the Court of Sucumbíos determined that concessions were granted without prior consultation. This questioning by the Court, in the absence of specific regulations, leaves open the question whether prior consultation, if appropriate, must be made before the granting of a mining concession and, therefore, during the request and offer process for the case of small mining, and auctions, for medium and large mining. Alternatively, as suggested by some drafts of instruments of the Ministry of Mining, the prior consultation could become an administrative act additional to those already indicated in Article 26 of the Mining Law, in addition to the environmental permit, the certificate of non-affect to water sources, and the affidavit of not affecting infrastructure, archaeological, natural and cultural patrimony of the State.

Moreover, a doubt is generated regarding who should be consulted, as the sentence of the Court of Sucumbíos indicates that *"it is not that how the alleged party has argued that consultation only comes when the activities are those that are intervened in territory, but by the affectations that these people can suffer [sic]*". In this sense, it should be defined whether prior consultation should be held for indigenous peoples and nationalities within the area of influence of the mining concession, which will be determined by the environmental impact study carried out by the mining title holder, or if it will be carried out for only those who reside within the mining concession or transit within it, as is the case of communities of hunter-gatherers. If it is the second, the procedure to determine who will be consulted will always be questioned by those who consider that they should be consulted, and that they may argue that the water they use downstream or air that they breathe brought

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by the wind is affected by the mining activities within the concession. Thus, those who live in Machala could argue that they should be consulted about the mining activities within the Jubones hydrographic area that includes 4 provinces, including Azuay.

The most worrisome aspect of the decision of the Sucumbíos Court is the simplicity with which it declares the violation of constitutional rights by the aforementioned public institutions. In the constitutional process, the causes of the existing environmental damage in the area in question were never determined. The Ministry of Mining, the MAE and the SENAGUA, in their interventions, indicated the existence of illegal mining, and that this would be the cause of the environmental effects. The Court of Sucumbíos does not consider, in its analysis, that the concessionaires to whom the Ministry of Mining recently granted the mining titles, have not started any mining activity, and that illegal mining is the cause of the environmental effects. Without any substantive analysis, the judgment *"annuls the concessions for gold mining exploitation [sic],"* and *"provides for the definitive suspension and filing of all pending and procedure in the sector"*. In its tiny resolution, the Court does not justify its decision, it even indicates that *"this court has not executed studies of natural or analysis, legal, regulatory or other normative documents [sic]."* For example, to justify its decision, an in-depth analysis of the precautionary principle could have been carried out.

More surprising still, is that the decision orders *"the repair of the damages caused, activity that must be done by the Ministry of the Environment, or the corresponding institution the Executive branch determines"*. Several doubts also arise from this decision: (i) What environmental damage does the Court refer to?; (ii) Who caused the environmental damage and, therefore, is under obligation to repair them? And, (iii), why is the Ministry of the Environment obligated to repair environmental damages? Is it competent for that? It is also striking that the Court of Sucumbíos ordered that the State Prosecutor's Office investigate those responsible for the environmental damage, and that the General Comptroller of the State conduct an audit of the concession granting process.

III. Río Magdalena (Llurimagua) Case – Province of Imbabura, Cotacachi Canton

In this case the plaintiffs filed an constitutional action for protection before the multicompetent judicial unit of the Cotacachi canton (hereinafter the " **Judge of Cotacachi** ") in which (i) they requested prior consultation in the concessions of the National Mining Company EP (hereinafter "**ENAMI**"), Río Magdalena 1 and 2, in the Llurimagua sector, Cotacachi canton, and (ii) argue that the concessions should not be granted because they intersect with the Los Cedros protected forest. The Judge of Cotacachi denied the appeal in November 2018, without going into an analysis of the merits regarding these two issues. However, it is clear that the alleged violation of the rights alleged by the plaintiffs was not justified. For the Judge of Cotacachi no serious, current or possible damage was determined, and indicated that the defendants

may follow other administrative or judicial instances for their claims. Therefore, ENAMI maintains the concessions and can continue with the mining activities corresponding to the initial exploration phase in which they are located.

From the analysis of this case, the disjunctive arises regarding the moment in which the prior consultation must be carried out. From the plaintiff's arguments it can be deduced that for them the prior consultation had to be carried out before the environmental registration was granted by the MAE. This adds an additional level of difficulty, since, if we accept that it should be carried out as part of the environmental licensing process, prior consultation could coincide with the social participation required by environmental legislation. These two processes are different and the definition of their audiences can be complex, especially since prior consultation is made only to indigenous peoples and nationalities. In this case there may be overlapping deadlines and matters that could increase conflict, especially in sensitive projects.

As for the spaces in which mining activities can be carried out, again the petitioners claim that the concessions should not be granted since they intersect with the Los Cedros protected forest. The Judge of Cotacachi does not perform any analysis in this regard and limits itself to referring to relevant law without providing a conclusion. It can be perceived by the order in which these laws are considered by the Judge of Cotacachi that he believes that, although there are secondary rules favorable to the argument of the plaintiffs, Article 407 of the Constitution determines precisely the areas where metallic mining is prohibited.

This decision does not contribute to clarify the current uncertainty generated by the Río Blanco case, in which the Provincial Court of Azuay determines that mining activities cannot be carried out in concessions that intersect with protected forests. Despite denying the arguments of the plaintiffs in this regard, the Judge of Cotacachi never analyzes this point. In the appeal filed by the Municipality of Cotacachi the Provincial Court of Imbabura could tie the loose ends left by the Judge of Cotacachi and the courts of Azuay and Sucumbíos.

The hearing before the Provincial Court of Imbabura began on January 15, 2019, it was suspended after 3 hours of development, and the call for its continuation is awaited.

IV. Mirador Case – Province of Zamora Chinchipe

In a judgment of first instance dated January 15, 2019, in a constitutional action filed by the Amazonian Social Action Community Cordillera del Cóndor-Mirador (Cascomi), a constitutional judge determined (i) that Ecuacorriente S.A., mining concessionaire of the project Mirador, located in the Tundayme parish, province of Zamora Chinchipe, is not obligated to make a prior consultation since there is no indigenous peoples and nationalities in its area of influence; and, (ii) that the accusation of evictions is baseless, since, according to the constitutional judge, it determined that the

mining easements executed by the mining authorities were developed in compliance with the applicable regulations.

This is the third judicial decision that favors Ecuacorriente S.A. that used the same arguments presented in the current constitutional action.

V. Consequences of the decisions

The four cases analyzed generate more doubts than certainties because their analysis is very poor and leaves many loose ends. The lack of certainty with respect to the prior consultation is mainly due to the lack of regulations that should develop its application in terms of the mining industry. This situation was already noticed by the authorities of the former mining ministry and now this lack of regulation is being used with constitutional actions that seek to cancel concessions already granted. This is dangerous since prior consultation was not carried out in any of the large industrial metal mining projects. It would not be surprising if more protection actions are filed using this argument, which forces the MERNNR to issue regulations for prior consultation. Regarding the determination of the spaces in which metallic mining can be carried out, the Constitution is clear. However, the Court of Azuay issued a complex precedent since it confuses a protected forest with a protected area. It seems that, due to a misunderstanding of secondary environmental regulations, this confusion could affect several projects that intersect with protected forests. The Provincial Court of Imbabura has the opportunity to clarify the terms in the appeal of the case that will be heard in the coming weeks.

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4. REFOR OF ENVIRONMENTAL RULES – TULSMA, ESPECIALLY FOR CITIZEN PARTICIPATION

The Ministry of the Environment reformed the Combined Text of Environmental Legislation (hereinafter the "**TULSMA**") through Ministerial Agreement 109 dated October 2, 2018, published in the Supplement to the Official Registry 640 of November 23, 2018, in several aspects and, mainly, the process of citizen participation. It has been known unofficially that this ministerial agreement would be repealed, eliminating the reforms carried out; however, until now there is no confirmation of this decision.

Therefore, the reforms to TULSMA are presented below:

I. Prior consultation

Chapter V of social participation is replaced by one for the citizen participation process.

This process is mandatory for the environmental regulation of projects, works or activities that may cause low environmental impacts, medium and high socio-environmental impacts and must be paid for by the operator.

It is defined as an effort of public deliberation between the State, the population possibly affected and the operator, which is carried out prior to the granting of the corresponding environmental authorizations.

In its application, it establishes principles of opportunity, interculturality, good faith, legitimacy and representativeness.

Its objects are:

- Publicize possible socio-environmental impacts of a project, work or activity.
- Collect the opinions and observations of the population that lives in the corresponding area of direct social influence.

The elements to determine the subjects of citizen participation are the following:

- Population that could be directly affected;
- Possible socio-environmental impacts generated by a project, work or activity;
- Area of direct social influence determined in the environmental impact studies.

The area of direct social influence is defined by the following requirements:

- Space that results from direct interactions between the elements of the project, work or activity with the elements of the social and environmental context in which it will be developed.

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- These interactions can take place in several spaces: legally recognized territories, communities and lands of ancestral possession, communes, enclosures, neighborhoods and communities.

The mechanisms of citizen participation for environmental regularization are the following:

- Public assembly.
- Workshops on environmental socialization.
- Information workshop.
- Distribution of informative documentation about the project.
- Website.
- Public information center.

The call for citizen participation can be made through the following means, which must be carried out in native languages in the case of indigenous peoples and nationalities:

- Publication in mass media.
- Informative posters located in the place where the project, work or activity is carried out.
- Written communications.

The operator must ensure the presence of a translator for the presentation of the environmental impact study and the dialogue during the public presentation meeting.

For the collection of opinions and observations, the following means may be used:

- Minutes of public assemblies.
- Registration of opinions and observations.
- Reception of criteria by traditional or electronic mail.
- Others that are considered convenient by the area or socio-cultural characteristics.

It is not grounds for annulment of the citizen participation process that the inhabitants of the area of influence do not exercise their right to participate, having been duly summoned.

The operator must deliver the corresponding information to the competent authority within 48 hours of having performed each of the activities for which it is responsible.

There are two processes of citizen participation to obtain an environmental administrative authorization:

- For low impact projects, works or activities.
- For projects, works or activities of medium and high impact.

The steps of the citizen participation process in general terms are the following:

1. Informative phase of the possible socio-environmental impacts, relevance of actions and opinions and observations of the population to the competent authority.

a. It is carried out after the review of the environmental impact study by the competent environmental authority.

b. For Environmental Registries, for projects, works or activities of strategic sectors (i.e. petroleum and mining), a mandatory assembly of public presentation must be held, implementing a mechanism for

receiving observations that are collected in minutes, mail or records.

c. For another type of project, work or activity, a public information center can be created.

2. Call to the process.

a. For Environmental Registries for projects, works or activities of strategic sectors, such as mining, a call must be made by radio, press or television at least 5 days in advance before the opening of the publication information center, and with 3 days of anticipation for other sectors.

b. For another type of project, work or activity, it can be done by means of posters in the place of the meeting, and in places with greater affluence, or by personal communications, at the determination of the competent environmental authority.

c. The call and invitations, which will be subject to the approval of the competent environmental authority, must indicate the dates and places where the public information centers will operate; the websites of the online system of the Ministry of Environment (SUIA), the operator and other online media to access the environmental impact study and receive comments on it; the participation mechanisms selected for the process; and, the maximum date to receive opinions and observations.

3. Systematization report.

For the issuance of the environmental register, the operator must upload to the SUIA a report detailing the citizen participation activities with verification documents.

4. Environmental facilitator.

a. The national environmental authority will establish a database of environmental facilitators.

b. The facilitator must not have been part of the team that prepared the environmental impact study and the environmental management plan.

c. The competent environmental authority will determine if the information process should be developed with a facilitator, for which it will designate one, whose cost will be borne by the operator.

d. The facilitator or facilitators, if considered necessary by the competent environmental authority, will be designated through the SUIA after the operator presents the approval of the environmental impact study and the invoice for the services of the facilitator. The designated facilitator may accept or reject the appointment in 3 days.

e. For projects, works or activities of medium or high impact, the facilitator should visit the area of influence -in the absence of the operator- to identify the most appropriate means of convening and participation

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mechanisms for citizens, which for Indigenous, Afro-Ecuadorian and Montubio communities and nationalities must be adapted to their culture and organizational form.

f. The facilitator should also do the following:

i) List of people living in the area of direct influence defined in the environmental impact study, which must necessarily include representatives of institutions, local governments and social organizations.

ii) Identify the issues, problems and socio-environmental conflicts.

iii) Determine the means of convocation for the informative phase and means of communication for dissemination of the environmental impact study.

iv) Schedule the moment to carry out the informative phase of the process.

v) Submit a technical report of the technical visit with means of verification to be approved by the competent environmental authority, which will be the frame of reference for the development of the participation process. If there are observations, they should be corrected.

vi) Present a systematization report of the citizen participation process in its informative phase to the competent environmental authority within 4 days of its completion.

5. Opening of public information centers

Once the publication of the calls has been published, the operator must keep the environmental impact study available at the information centers for at least 5 days before holding the public presentation meeting or its equivalent, and itinerant information centers and information workshops may be ordered in the area of direct influence. After the public presentation meeting, the information center should be kept open for at least 5 additional days with the presence of personnel with information on the project, work or activity, to receive opinions from the inhabitants of the area of direct social influence.

6. Public presentation assembly

The environmental facilitator must hold the public presentation meeting or its equivalent in which the environmental impact study will be presented by the operator and the population convened will be able to issue opinions and observations.

7. Complementary mechanisms

The competent environmental authority may provide for the application of reinforcement, complement or extension mechanisms for the dissemination of the environmental impact study and the collection of opinions and observations on it.

8. Incorporation of opinions and observations

The operator must, within 5 days after the end of the information phase, include in the

environmental impact study the opinions and observations of the population that lives in the area of direct social influence, if these are technically and economically viable.

9. Environmental consultation phase

The competent environmental authority will arrange the environmental consultation to the population that lives in the area of direct social influence, once the environmental impact study has been approved, with the incorporation of the opinions and technical and economically viable observations.

The facilitator must present a report with the mechanisms for convening the consultation assembly, and a timetable for execution and the mechanisms to carry out the consultation. The call must be made with a term of 7 days in advance by the means approved by the authority.

From the moment call to the completion of the consultation assembly, an information center with information on the environmental impact study should be enabled, and the authority may arrange to hold an information workshop.

During the consultation assembly, the opinions and observations collected in the information phase are analyzed and clarified with the presence of the environmental facilitator and the competent environmental authority. In addition, an identification of community perception will be made.

The environmental facilitator must present a systematization report of the participation process to the competent environmental authority within a period of 5 days after the close of the consultative phase.

The competent authority may approve the report by administrative act or, if it does not comply with the requirements of the regulations, order a new citizen participation process to be carried out.

10. Verification.

The environmental authority will review compliance with the execution of the citizen participation process of the Environmental Registry.

II. Environmental regulation

a. A new regularization process is established to carry out a **modification of a project, work or activity**.

   For new activities of medium or high impact a complementary environmental impact study should be presented. If the new activities generate low impacts, the approved Environmental Management Plan (hereinafter the "**PMA**") must be updated.

b. The term "title holder of the environmental permit" is modified by "operator of the project, work, or activity". The change of operator is permitted while the environmental administrative authorization is granted, without affecting the procedure.

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c. Details are updated regarding the obtaining of the Environmental Certificate for activities with no significant environmental impact and that have no obligation to regularize but must comply with the applicable environmental good practice guidelines. To obtain an Environmental Certificate, a certificate of intersection with areas or protected forests must be requested in the SUIA.

d. The Environmental Registry will be obtained through the SUIA for works, projects or activities with low environmental impact without the need to hire an accredited consultant.

e. 8 steps are established to obtain en Environmental Registry through the SUIA, including obtaining the intersection certificate and carrying out the citizen participation process, after which the systematization report and the matrix of observations collected must be attached, and the justification of those not incorporated in the SUIA. To update an Environmental Registry, it must be done in the SUIA attaching the registration form and its environmental management plan, provided that the new activities do not require an environmental license.

f. The **environmental licensing** is executed through the SUIA adjoining the (i) project, work or activity information, (ii) environmental impact study; and, (iii) the other requirements established in the technical rules.

g. There are 6 requirements for the environmental license, which includes an intersection certificate, terms of reference, environmental impact study, citizen participation process, payment for administrative services and the respective policy or guarantee.

h. The process to conduct an environmental impact study (hereinafter the "**EIA**") is described, which will include the environmental management plan; baseline environmental diagnosis; evaluation of environmental and socio-environmental impacts; a forest inventory, if applicable; and, the opinions and viable technically and economically observations in the informative phase of the citizen participation process.

The MAE must conduct an analysis of the EIA that cannot take more than 4 months, after which the citizen participation process can begin. The operator may request a single explanatory meeting within a period of 10 days, and the MAE shall have a term of 15 days from the request for it to be held. If there are observations, the MAE may request information or additional documentation that must be resolved within a period of 30 days that cannot be extended from the explanatory meeting. The MAE must provide answers within 30 days.

Once the observations are solved, the process of citizen participation can begin. The MAE will be in charge of the informative phase of the process, and

within 10 days, it must notify the operator of its completion, in order to arrange for the technically and economically viable observations or opinions to be included in the EIA, in a term of 15 days, which will be verified by the MAE within 30 days, with a term of 5 additional days, in case of non-compliance.

The MAE will approve the EIA if the observations or opinions are included and start the consultative phase of the citizen participation process. Once this phase has been completed and the citizen participation process has been completed, or the resolution of the MAE has been issued to execute the project even though there is a majority opposition of the corresponding population, the operator must present the environmental responsibility policy and payment vouchers for administrative service within a period of 30 days. The MAE must issue the environmental license within 10 days from the presentation of the policy and indicated payments, which must have the legal and technical considerations of the EIA and citizen participation.

i. **Additional powers are granted to the competent environmental authority**. The authority may order the modification of the project, work or activity; the incorporation of alternatives in the EIA that do not change it substantially; corrections to the information presented; and, complementary or new analyzes.

j. If the policy or guarantee of faithful compliance of the Environmental Management Plan is invalid the **environmental license will be suspended** until it is renewed. It is also provided that the financial unit of the MAE must report semiannually the validity of the policies or guarantees.

k. The **technical requirements of an** EIA and the PMA for the issuance of an environmental license in relation to physical, biotic, forestry and social components are established. It is indicated that the environmental license cannot establish additional obligations to present complementary information that is already incorporated in the EIA and the PMA.

III. Additional rules for environmental regulation

a. The expiration of the environmental administrative authorization can be executed ex officio or requested by the operator only once the obligations pending have been fulfilled until the date of the request, and that upon termination of the administrative act, the obligations of the operator are also extinguished, without prejudice of the integral reparation responsibility that may exist. A closure and abandonment plan must also be submitted.

b. The unification of environmental administrative authorizations is possible ex officio or at the request of the operator, when the operator and the object of the

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projects to be integrated are the same, and in accordance with a technical feasibility report (fourth innumerable article).

c. It is prohibited to divide activities to obtain environmental permits of a lower category than those required for a certain environmental impact under penalty of a sanction according to the Organic Environmental Code (articles 314 to 319).

   In case a project has several activities, the operator must obtain an environmental permit referring to the activity that generates the greatest impact, extinguishing other existing permits once the main permit has been granted.

d. In case of fractioning of the intervention area, the operator must update the environmental management plan and its environmental responsibility policy.

e. Minimum requirements are established for the content of the closure and abandonment plan, which must be approved by the competent environmental authority: environmental impacts to the time of closure and abandonment; management measures for the area and final restoration activities, plans and maps of the location of the infrastructure; and, pending obligations, if applicable. The environmental authority has a period of 30 days to approve the closure request, and then an inspection must be made. The operator must make a report or audit, according to the type of environmental authorization that will be verified in another inspection. The environmental authorization will be extinguished once the obligations to the MAE have been presented.

IV. Generator of hazardous or special waste

a. The generator of hazardous or special waste must obtain a single Generator Registry for several activities subject to environmental regularization corresponding to the same operator and of the same nature, for each project, work or activity.

   In addition, the operator of a project, work or activity will be responsible for the hazardous or special waste generated in its facilities, those generated by other operators that support them, so they must obtain their own registration.

b. The generator of hazardous or special waste must carry out a Plan for Minimization of Hazardous or Special Waste or Discharge within a period of 90 days once the corresponding Generator Registry has been issued, which will be valid for 5 years.

c. When the operators carry out the transport or disposal of hazardous and special waste, they must previously carry out a complementary study or update of the environmental management plan and an administrative authorization.

d. The original meaning of the article that established a framework for the integral

management of hazardous and/or special wastes is modified, with specific obligations for companies generating waste to promote and establish programs for use, treatment or recycling. Instead, the disposal of hazardous and/or special waste.

Mainly, the following: (i) the minutes of receipt of hazardous and/or special waste by the environmental managers are eliminated and the manifests, annual declarations and movement records and rules on their acceptance or rejection in the receiving facilities are adopted; (ii) the obligation to maintain recycling and reuse systems under environmental conditions of industrial safety and health; (iii) the technical, financial, social and environmental sustainability of the companies, organizations or institutions dedicated to value, reuse or recycle hazardous and/or special waste, among others; and, (iv), the approval of the national environmental authority for the use of hazardous and/or special waste as a raw material for its elimination.

e. Obligations are established regarding the disposal of this waste. Any technology or procedure and facilities for the elimination of this waste must be authorized by the national environmental authority. The basic guidelines of location and access of the facilities are indicated. Obligations of the operation to these facilities are determined in application of the applicable INEN technical standards for their classification, packaging, labeling, including a buffer zone around the facility whose limit will be established based on their risk analysis in the respective environmental study. Additionally, the liability for damages caused by the inadequate management or operation of the operators of waste disposal facilities is established.

f. The importer or manufacturer of a dangerous chemical substance must identify its dangerousness in the respective label in Spanish.

g. Projects, works or activities that use hazardous chemical substances must obtain the Register of Hazardous Chemical Substances within 30 days of the publication of these reforms in the Official Register (January 4, 2019). Projects in operation that are in the process of environmental regularization to obtain an environmental license, may obtain in parallel the registration of dangerous chemical substances.

V. Review of environmental reports for compliance of the Environmental Management Plan

a. A term of 60 days is established for the Competent Environmental Authority to approve, request changes or reject the environmental compliance report of the PMA sent by an operator.

In the event that there are observations, the operator must absolve them within a maximum term of fifteen (15) days from the notification, and the Competent

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Environmental Authority will have a period of 1 month to decide on the response presented by the operator.

In case the observations are not cleared or presented in the determined time, the Competent Environmental Authority will file the request. When the request is filed, the operator must submit a new environmental compliance report, within 15 days, without prejudice to possible administrative sanctions.

b. The environmental compliance reports must be submitted one year after the granting of the administrative authorization, and subsequently every 2 years, which must be submitted within a maximum of 1 month from the end of the evaluated period. The environmental compliance reports may include an update of the environmental management plan, if necessary. Invoices must be submitted for each environmental compliance report and control and monitoring payments.

c. A term of 45 days is established for the competent environmental authority to approve, provide observations or reject the terms of reference of the environmental compliance report of the PMA submitted by the operator, and will have 30 days to decide on the responses to the observations. No time is set for the operator to answer the observations. Failure to submit a response to the observations will cause filing of the request, and new terms of reference must be submitted within 15 days, without prejudice to corresponding legal actions.

d. A term of 90 days is granted for the competent environmental authority to approve, provide observations or reject the environmental compliance audit and 30 days to decide on the responses to the observations.

e. It is possible to submit joint audits under approval for a single occasion to the competent environmental authority, ex officio or at the request of the operator. This will allow the unification of consecutive periods of audits to monitor the same environmental license of the same operator. It will not be applicable for audits under review.

f. If there are two major nonconformities that imply noncompliance with the environmental management plan and other obligations of the environmental administrative authorization or environmental regulations, without them being mitigated or remedied, which were verified by control and monitoring mechanisms, the competent environmental authority may order the suspension of the administrative environmental authorization, interrupting the execution of the project, work or activity.

g. An operator can request the suspension of the presentation of the obligations derived from the environmental administrative authorization that was granted. This

request will proceed when (i) the operator has not started activities having been granted the environmental authorization or (ii) the entire project, work or activity in its construction or operation phase has stopped while being in compliance with the normative and regulatory obligations. The competent environmental authority will have a term of 1 month to decide on the request, for which it will carry out an inspection.

The authorization of the suspension must determine the maximum time of the suspension, which may not be longer than one renewable year that must be requested and approved, and the obligation to report quarterly in writing the status of the suspended activity. During the suspension, an environmental insurance policy must be submitted. The operator must notify the restart of activities 1 month in advance.

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