

## Stricter rules ahead for environment

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**In July, the Ministry of Natural Resources and Environment released a draft decree on the implementation of the Law on Environmental Protection (LoEP) for public comment. The draft decree outlines details on the law's new concept of environmental permits, which will govern the environmental implications of specific investment projects.**

Specifically, the document focuses on the administrative procedure of obtaining, adjusting, and renewing such environmental permits. It also specifies the order and methods for their revocation, which may come as a consequence of violations of environmental protection laws.

Further, the draft decree sets out environmental criteria for investment project classification. Following the criteria stated in the LoEP, the draft decree sets out the details for each category to ease compliance and increase consistency between the LoEP and other legal instruments.

When classifying investment projects under these factors, local authorities are advised to consider the issues set out hereafter.

### *- Scale and capacity of the investment project*

The assessment of the project scale will be guided by the laws on public investment and construction. Project capacity will be grouped into three slots: large, medium, or small. This classification will factor in the contents of the investment proposal, feasibility study reports, economic-technical reports, and other relevant documents of the project.

### *- Risk of environmental pollution*

Whenever in scope, the LoEP evaluates project-specific risks of environmental pollution. The draft decree also explicitly defines manufacturing, business, or service activities that the regulator deems hazardous for the environment.

### *- Area used*

The size and topography of the land used for a project will be classified – including water surface area, marine use area, and other – and governed by the laws on natural resources, marine, and island environment, and other relevant legal documents.

### *- Natural resources exploitation*

Another factor that comes into play in the draft decree's project evaluation schedule is the envisaged exploitation scale. It will be classified and governed by the competent authorities regarding the guiding laws on water resources and minerals.



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## *- Sensitive environmental factors*

Additionally, the new draft decree makes an effort to expand on the types and characteristics of investment projects that are associated with especially sensitive environmental impacts.

### **Producers' responsibility**

The Vietnamese law now structures extended producer responsibility (EPR) as an environmental policy approach. It extends the producer's responsibility for a product to the waste stage of that product's life cycle.

This approach is expected to increase compliance by endowing the governing authorities with additional implementation tools. According to the new EPR rules, manufacturers and importers within scope are now obliged to recycle their products or package them sustainably.

The draft decree gives operators a choice between recycling or arranging for the product recycling according to compulsory rates and specifications via either independently recycling in compliance with the protocol or engaging a qualified service provider to carry out the recycling. In addition, a company could also authorise a not-for-profit organisation to carry it out.

### **Liability insurance**

Further to the LoEP, the draft decree requires that organisations or individuals obtain liability insurance against environmental damage when engaging in high-risk business activities.

Some activities in scope of this obligatory liability insurance are oil and gas activities – including searching, exploration, field development, and extraction of oil and gas; manufacturing and selling of chemicals like petroleum; manufacturing of batteries with the capacity of at least 300,000kWh per year; and transportation and processing of hazardous waste.

### **Incentives and policies**

The draft decree also incentivises projects operating in the environmental protection. Eligible for environmental protection incentives and other supporting policies are collecting, processing, recycling, and reusing waste; processing of domestic wastewater; producing renewable energy; and manufacturing of transportation using renewable energy.

During operation, eligible organisations or individuals may be entitled to specific incentives and supporting policies prescribed in the draft decree and relevant legal documents, such as supporting policies on the infrastructure construction; incentives on land rent exemption or deduction and loan interest rates for investment capital; price supporting policies for services and products relating to environmental protection; green public procurement; and supporting policies on service and product advertisements pertaining to environmental protection.

Laws like the updated LoEP and similar regulations provide tangible evidence that environmental protection is becoming a part of Vietnam's general consciousness. The same trend has bolstered the rapid growth of the country's renewable energy sector in recent years.

With new regulations passed in this spirit, the lawmaker is starting to hold businesses accountable for their environmental footprints and moves them to act sustainably and clean up their messes.

Investors and enterprises operating in the country are required to take further steps in order to assist the government in preserving the environment to accommodate this development.

**Mark Oakley**