

SUPPLEMENTARY LAW No 140, OF DECEMBER 8, 2011

Fixed standards in accordance with sections III, VI and VII of the caput and sole paragraph of art. 23 of the Federal Constitution, for cooperation between the Union, the states, the Federal District and the municipalities in administrative proceedings arising from the exercise of common responsibility for the protection of outstanding natural landscapes, to environmental protection, combating pollution in any of its fauna and flora forms; and the preservation and amending the Law of the 6938 forests, of August 31, 1981.

THE REPUBLIC OF PRESIDENT it known that the National Congress decrees and I approve the following Complementary Law:

CHAPTER I

GENERAL PROVISIONS

Art. 1 This Supplementary Law sets standards in terms of sections III, VI and VII of the caput and sole paragraph of art. 23 of the Federal Constitution for cooperation between the Union, the states, the Federal District and the municipalities in administrative proceedings arising from the exercise of common responsibility for the protection of outstanding natural landscapes, to environmental protection, combating pollution in any of its forms and the preservation of forests, fauna and flora.

Art. 2 the Forpurposes of this Supplementary Law, considered as:

I - Environmental licensing: the administrative procedure to license activities or users ventures of environmental resources, actually or potentially polluting or able, in any form, cause environmental degradation;

II - Supplementary activities: the Federation of action that replaces the federal entity originally holder of assignments, in the cases defined in this Supplementary Law

III- subsidiary operations: the Federation of action which aims to assist in the performance of duties under the common skills when requested by the federal entity originally holder of the tasks set in this Supplement.Law.

Art 3 the fundamental objectives of the Union, the states, the Federal District and the municipalities, in the exercise of common competence referred to this Supplementary Law:

I - protect, defend and preserve the ecologically balanced environment, promoting decentralized, democratic and efficient management

II- ensure balanced socio-economic development with environmental protection, observing the dignity of the human person, the eradication of poverty and the reduction of social and regional inequalities;

III -harmonize the political and administrative actions to avoid overlapping of activities between the federal entities in order to avoid conflicts of duties and ensure efficient administrative action;

IV -ensure the uniformity of environmental policy throughout the country, respecting the regional and local peculiaritiesINSTRUMENTS..

CHAPTER II

COOPERATION

Art4 The federal entities may consider, among others, the following institutional cooperation instruments:

I - public consortium, under the legislation in force;

II - agreements, technical cooperation agreements and other similar instruments with bodies and

power entities public, respecting the art. 241 of the Federal Constitution;

III - Commission National Tripartite State Tripartite Commissions and Commission Bipartite Federal District

IV- public and private funds and other economic instruments;

V - delegation of responsibilities of a federative entity to another, subject to the requirements of this Act

complementary;.VI - delegation of the implementation of administrative actions of a federative entity to another, the requirements respected in this supplementary Law

§ 1. the instruments referred in item II of the caption can be entered into for an indefinite period Tripartite.

§ 2 the Commission National will be formed, an equal footing, representatives of the Powers of the Union Executive, the states, the Federal District and the municipalities, in order to foster shared and decentralized environmental management among federal entities.

§ 3 the State Tripartite Commissions will be formed, an equal footing, representatives of the Powers of the Union Executive, states and municipalities, in order to foster shared and decentralized environmental management among federal entities.

§ 4. the Bipartite Commission of the Federal District will be formed, an equal footing, representatives of the executive branches the Union and the Federal District, in order to foster shared and decentralized environmental management of these federal entities.

§ 5 the Tripartite Committee and the Bipartite Commission of the Federal District will have its organization and operation governed by their internal regulations.

Art. 5o The federative entity may delegate, by agreement, the execution of administrative actions attributed to him in this Supplementary Law, provided that the entity recipient of the delegation available environmental agency empowered to perform administrative actions to be delegated and environmental advice.

Single paragraph. It is considered qualified environmental agency for the purposes of the caput, who has own or in consortium technicians duly qualified and number compatible with the demand of administrative actions to be delegated.

CHAPTER III

COOPERATION

Art. 6 The Municipalities actions should be developed cooperation between so the Union to reach the States, the District goals set out in the Federal Art. and 3 and to ensure sustainable development, harmonizing and integrating all government policies.

Art. 7 are administrative actions of the Union:

I - formulate, implement and enforce at national level, the National Environmental Policy

II- exercise the management of environmental resources in the context of its duties;

III -promote actions related to National Policy Environment at the national and international levels;

IV -promote the integration of programs and actions of agencies and entities of public administration of the Union, the States, the Federal District and the municipalities, related to protection and environmental management;

V - articulate technical, scientific and financial cooperation in support of the National environmental Policy;

VI - promote the development of studies and research aimed at protection and environmental management, disseminating the results obtained;

VII - promote the articulation of the National environmental Policy with the Water Resources, Regional Development, Planning and others;

VIII - organizing and maintaining, with the cooperation of the organs and entities of the public administration of the State, Federal District and Municipalities, the National Information System Environment (Sinima) ;

IX - prepare the environmental zoning of national and regional levels;

X - set territorial spaces and their components to be specially protected;

XI - promote and guide the environmental education at all levels of education and public awareness for environmental protection ;

XII - control production, marketing and use of techniques, methods and substances that represent risk to life, the quality of life and the environment, according to the law;

XIII - exercise control and supervise the activities and projects whose assignment to license or authorize, environmentally, is committed to the Union;

XIV - promote environmental licensing of projects and activities:

a) located or developed jointly in Brazil and neighboring country;

b) located or developed in the territorial sea, the continental shelf or in the exclusive economic zone;

c) located or developed on indigenous lands;

d) located or developed in conservation units established by the Union, except in Environmental Protection Areas (APAs),

e) located or developed in two (2) or more States;

f) military character, except for the environmental licensing, under the Executive Branch, those provided for in the preparation and use of the Armed Forces, as provided in Complementary Law No.

97 of June 9, 1999

g) for research, tilling, production, processing, transport, store and dispose radioactive material at any stage, or using nuclear energy in any of its forms and applications, on advice of the National nuclear energy Commission (CNEN); or

h) that meet typology established by the Executive Branch, from proposition Commission National Tripartite ensured the participation of a member of the National Council of the Environment (CONAMA), and considering the size criteria, pollution potential and nature activity or undertaking;

XV - approve the management and removal of vegetation, forests and succeeding formations:

a) federal public forests, federal land or conservation units established by the Union, except in APAs;
and

b) activities or licensed or authorized enterprises, environmentally, by the Union;

XVI - prepare the list of species of fauna and endangered flora and species overexploited in the national territory, through reports and technical and scientific studies, fostering activities that conserve these species in situ;

XVII - control the introduction in the country of potentially invasive alien species that threaten ecosystems, habitats and native species;

XVIII - approve the release of exotic species of specimens of fauna and flora in fragile natural ecosystems or protected;

XIX - control the export of components of Brazilian biodiversity in the form of wild specimens of flora, micro-organisms and fauna, parts or products thereof;

XX - control the collection of specimens of wild animals, eggs and larvae;

XXI - protect migratory wildlife and species inserted in the expected relationship in section XVI,

XXII - perform environmental control fishing in national or regional level;

XXIII - manage the genetic heritage and access to associated traditional knowledge, subject to the sectoral allocations;

XXIV - exert environmental control on the maritime transport of dangerous goods; and

XXV - exercise environmental control on the interstate, river or inland transport of dangerous products paragraph..

Sole The licensing of projects whose location concurrently understand areas of land and sea lanes of the coastal zone will be awarded the Union only in cases provided by typology established by the Executive Branch, from proposition Commission National Tripartite ensured the participation of a member the National Environmental Council (CONAMA) and considered the size criteria, pollution potential and nature of the activity or project.

Art. 8 Are administrative actions of the States:

I - execute and enforce, at state level, the National Environmental Policy and other national policies related to environmental protection;

II - exercise the management of environmental resources within its powers;

III - formulate, implement and enforce, at state level, the State Environmental Policy;

IV - promote, at the state level, the integration of programs and actions of agencies and entities of public administration of the Union, the States, the Federal District and the municipalities, related to protection and environmental management;

V - joint technical, scientific and financial cooperation, in support of the National Policy and State environmental;

VI - promote the development of studies and research aimed at protection and environmental management, disseminating the results obtained;

VII - organizing and maintaining, with the cooperation of competent municipal bodies, the state information System Environment;

VIII - provide information to the Union for the training and updating of Sinima;

IX - prepare the environmental zoning statewide in compliance with the zonings of national and regional levels;

X - set territorial spaces and their components to be specially protected;

XI - promote and guide the environmental education at all levels of education and public awareness for environmental protection;

XII - control production, marketing and use of techniques, methods and substances that represent risk to life, the quality of life and the environment, according to the law;

XIII - exercise control and supervise the activities and projects whose assignment to license or permit, environmentally, is committed to the States;

XIV - promote environmental licensing activities or enterprises users of environmental resources, actually or potentially polluting or able, in any form, cause environmental degradation, subject to the provisions of arts. 7 and 9;

XV - promote environmental licensing of localized activities or enterprises or developed in conservation units established by the state, except in Environmental Protection Areas (APAs);

XVI - approve the management and removal of vegetation, forests and succeeding formations:

a) state public forests or state conservation units, except in Environmental Protection Areas (APAs),

b) rural properties, subject to the duties provided for in item XV of art. 7;

c) activities or licensed or authorized enterprises, environmentally, by the State;

XVII - prepare the fauna relationship and endangered flora in their territory through reports and technical and scientific studies, promoting activities that conserve these species in situ;

XVIII - control the collection of specimens of wild animals, eggs and larvae for implantation of breeding and scientific research, subject to the provisions of section XX of the art. 7;

XIX - approve the breeding operation of wildlife;

XX - exercise environmental control of fishing at state level; and except

XXI - the exercise control provisions in the environmental section XXV of art. Shipping 7 the river and land of dangerous goods, Art 9 Municipalities:...
are administrative actions of

I - implement and enforce, at municipal level, the National Policy and State Environment and other national and state policies related to environmental protection;

II - exercise the management of environmental resources within its powers;

III - formulate, implement and enforce the Municipal environmental Policy;

IV - promote, in the city, integration programs and organs of actions and entities of the federal, state and municipal public administration, related to protection and environmental management;

V - joint technical cooperation, scientific and financial, in support of National Policies, state and Municipal Environment;

VI - promote the development of studies and research aimed at protection and environmental management, disseminating the results obtained;

VII - organize and maintain the Municipal information System Environment;

VIII - provide information to States and the Union for the training and updating of State Systems and National information Environment;

IX - prepare the Master Plan, observing environmental zoning;

X - set territorial spaces and their components to be specially protected;

XI - promote and guide the environmental education at all levels of education and public awareness for

the protection of environment;

XII - control production, marketing and use of techniques, methods and substances that represent risk to life, the quality of life and the environment, according to the law;

XIII - exercise control and supervise the activities and enterprises whose assignment to license or authorize, environmentally, is committed to the municipality;

XIV - subject to the powers of other federal entities provided in this Supplementary Law, promote environmental licensing of activities or projects:

a) that cause or may cause environmental impact of scope location as type defined by the respective State Councils for Environment, considering the size criteria, pollution potential and nature of the activity; or

b) located in conservation units established by the municipality, except in Environmental Protection Areas (APAs);

XV - subject to the powers of other federal entities provided in this Supplementary Law, approve:

a) the removal and management of vegetation, forests and succeeding formations in municipal forests and conservation units established by the municipality, except in Environmental Protection Areas (APAs); and

b) the removal and management of vegetation, forests and succeeding formations in licensed or authorized enterprises, environmentally, by the municipality.

Art. 10. Are administrative actions of the Federal District those provided in arts. 8 and 9.

Art. 11. The law may establish their own rules for assignments on the authorization of management and removal of vegetation, considered its characterization as primary or secondary vegetation in different stages of regeneration as well as the existence of species of flora or fauna endangered.

Art. 12. For environmental licensing purposes activities or enterprises users of environmental resources, actually or potentially polluting or able, in any form, cause environmental degradation, and to permit removal and vegetation management, the criterion of federative settlement unit conservation will not be applied to the Environmental Protection Areas (APAs).

sole paragraph. The definition of the federal entity responsible for licensing and authorization referred to the heading, in the case of APAs, follow the criteria set out in paragraphs "a", "b", "e", "f" and "h" of item XIV art. 7, in section XIV of art. 8 and in paragraph "a" of item XIV of art. 9.

Art. 13. The projects and activities are licensed or authorized, environmentally, by a single federative entity, in accordance with the duties established under this Complementary Act.

§ 1 Other interested federative entities can manifest the body responsible for license or permit, so not binding, subject to the terms and environmental licensing procedures.

§ 2 The removal of vegetation due to environmental licensing is authorized by federative entity licensor.

§ 3 The allusive values to environmental licensing fees and other related services shall maintain proportional relationship to the cost and complexity of the service provided by the federal entity.

Art. 14. The licensing bodies shall observe the deadlines for processing of licensing procedures.

§ 1. The supplementary requirements arising from the project analysis or activity shall be communicated by the licensing authority once the entrepreneur, except those arising from new facts .

§ 2 the information of additional requirements, documents or studies made by the licensing authority suspend the approval period, which continues to flow after a comprehensive approach by the entrepreneur.

§ 3 The course of the licensing terms, without the issuance of the environmental license does not imply tacit issue or authorize the practice act that it depends on or being conducted, but establishes the supplementary competence referred to in art. 15.

§ 4. The renewal of environmental licenses must be applied with minimum of 120 (one hundred twenty) days from the expiry of its validity, set in its license, getting this automatically extended until the final manifestation of the environmental agency.

Art. 15. The federal entities must act in supplementary character in the administrative actions of licensing and environmental authorization, in the following cases:

I - absence of qualified environmental agency or environmental council in the State or the Federal District, the Union shall carry out state administrative actions or district to its creation;

II - absence of qualified environmental agency or the environment in the city council, the state should perform municipal administrative actions to its creation; and

III - absence of qualified environmental agency or environmental council in the state and the municipality, the Union shall carry out administrative actions until its establishment in one of those federal entities

Art. 16. Administrative action subsidiary of the federative entities will be given by means of technical, scientific, administrative and financial support, without prejudice to other forms of cooperation.

Sole paragraph. The subsidiary action must be requested by the holder originally being the allocation under this Supplementary Law.

Art. 17. If the agency responsible for licensing or authorization, as the case of a project or activity, finding self environmental offense and commence administrative proceedings for the investigation of violations of environmental law committed by the enterprise or licensed or authorized activity.

§ 1 any legal person identified, finding environmental violations stemming from project or user activity of environmental resources, actually or potentially polluting, can direct representation to the agency referred to the heading, for purpose of exercising its police power.

§ 2 in cases of imminence or occurrence of environmental quality degradation, the federal entity that is aware of the fact must determine measures to prevent it, to cease it or mitigate it, immediately communicating to the competent body for the appropriate action.

§ 3 the the caption of this article shall not prevent the exercise by federal entities of the common assignment of monitoring the effective compliance projects and activities or potentially polluting or natural resource users with environmental legislation, prevailing self environmental assessment notice issued by body that holds the allocation of licensing or authorization referred to in the caput.

CHAPTER IV

FINAL AND TRANSITIONAL PROVISIONS

Art. 18. This Supplementary Act applies only to licensing procedures and environmental clearance started from its validity.

§ 1. In the event that is the letter "h" of item XIV of art. 7, the application of this Supplementary Law will give up from the entry into force of the act provided for in said device.

§ 2 In the case mentioned in paragraph "a" of item XIV of art. 9, the application of this Supplementary Law will give it from the issue of the decision of the respective State Council.

§ 3 While the typologies are not established that in §§ 1 and 2 of this article, licensing processes and environmental clearance will be conducted according to the law.

Art. 19. The management and removal of vegetation in unforeseen situations or areas in this Supplementary Law will give under the legislation in force.

Art. 20. Art. 10 of Law No. 6938 of August 31, 1981, becomes effective with the following wording:

"Art. 10. The construction, installation, expansion and operation of user establishments and activities of environmental resources, actually or potentially polluting or able, in any form, cause environmental degradation will depend on prior environmental licensing.

§ 1. The license applications, renewal and the concession will be published in the official gazette, as well as regional or local newspaper with wide circulation, or electronic means of communication maintained by the competent environmental agency.

§ 2 (Revoked).

§ 3 (Revoked).

§ 4 (Revoked). "(NR)

Art. 21. Revokes the up §§ 2, 3 and 4 of art. 10 and § 1 of art. 11 of Law No. 6938 of 31 August 1981.

Art. 22. This Supplementary Act shall enter into force on the date of its publication 2011.;

Brasilia, December 8, 190 Independence and 123th of Republic.

Rousseff Francisco Gaetani

This text does not replace the published in Official Gazette of 9.12.2011 and amended on 12.12.2011

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