

Basic sanitation and the environment

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Authors

Márcio Pereira

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The environmental aspects of sanitation have become even stronger under Brazil's New Basic Sanitation Framework Law, which will require investors attracted by the opportunities in the sector to perform a careful analysis of risks and costs, even when obtaining financing for new infrastructure, or renovating existing systems.

Under Law 14.026/2020, untreated sewage and unmanaged garbage dumps – common in localities without basic sanitation services – are no longer allowed. Although the duty not to pollute existed prior to the new legislation, the sector lacked compulsory targets to ensure that basic sanitation was accompanied by environmental responsibility.

Water, which is affected by lack of sanitation, has undeniable economic value. With the new legislation, Brazil has finally – years late – undertaken the task of regulating the use of water resources, although the plan extends to 2033, with compulsory targets of potable water for 99% of the population, and collection and treatment of sewage for 90%.

Pollution compromises the quality of water, making treatment of water captured for public supply more expensive (a recent example is the Guandu river in the Rio de Janeiro Metropolitan Region); the target of universal supply of potable water can be affected by the fact that the same water source is frequently used for different purposes, resulting in conflicts over water quantity and quality (one example is the use of the Paraíba do Sul river for hydroelectric purposes).

The allocation of these risks in concession contracts can influence investment strategies, including contracts currently in force, which must be brought into compliance with the New Basic Sanitation Legal Framework by 2022. Expansion of services will depend on the basic sanitation

plan, which in

turn is connected to the plan for the relevant hydrographic basin (rational use of water resources, and the charges for water use) and water security initiatives (such as contingency plans in case of water scarcity and extreme climactic events). Other obligations may be included in the regulatory standards to be issued by the National Waters and Basic Sanitation Agency – ANA, such as a pricing policy that takes into consideration rational use of natural resources and the reuse of effluents.

Targets for pollution control will continue to be established in the environmental licensing process, which will weigh the population's capacity to pay and the users involved. By December 31, 2025, all buildings must be connected to available sewage networks, on pain of environmental liability.

On another important front, the New Basic Sanitation Legal Framework deals with public solid waste management services and economic sustainability. Rates and tariffs for the services must contemplate appropriate final disposal of waste. The 2018 deadline for discontinuation of garbage dumps under the

National Solid Waste Policy has been extended, and now runs until December 2020 or December 2024, depending on specific requirements (such as the existence of a waste management plan and charges for the service), in addition to the location and size of the municipality in question.

Last, the availability of simplified procedures for environmental licensing of basic sanitation infrastructure will continue to depend on the size of the works and their expected environmental

impacts, but a new criterion, environmental resiliency, has been added. Jurisdiction over environmental licensing does not change: the provision giving exclusive jurisdiction to the municipalities was vetoed because Complementary Law 140/2011 – which is higher in the hierarchy of laws than ordinary legislation like the New Basic Sanitation Legal Framework – already deals with cooperation among the various levels of government in environmental matters.

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Márcio Pereira