

Legal Update

INCRA Publishes Regulation on Environmental Licensing Proceedings Impacting Maroon (Quilombola) Lands

On December 23, 2021, Brazil's National Institute for Colonization and Land Reform ("INCRA") published Normative Ruling No. 111/2021 ("IN") to establish the administrative procedures to be observed by the agency during the environmental licensing proceedings of projects that impact maroon lands.

In line with Interministerial Order MMA/MC/MS No. 60/2015, the IN establishes that INCRA must issue a technical opinion, which must be required by the competent environmental agency, for projects to be installed inside the limits established by Annex I of both regulations:

Activity	Distance in kilometers from maroon communities	
	Legal Amazon	Other Regions
Railways	10 km	5 km
Pipeline	5 km	3 km
Transmission lines	8 km	5 km
Highways	40 km	10 km
Non-linear projects	10 km	8 km
Hydroelectric power plants	40 km* or reservoir with the addition of 20 km downstream	15 km* or reservoir with the addition of 20 km downstream

* measured from the reservoir dam axis

If maroon lands are identified in the direct influence area of the project, INCRA must begin consulting with the impacted communities. Also, prior to that consultation, the project developer must make available to the communities, depending on the licensing phase, the Work Plan, Quilombola Component Assessment ("ECQ"), Basic Quilombola Environmental Project ("PBAQ") and/or Final Report. However, the IN will not require the consultation if it cannot be done due to reasons beyond the agency's or the project developer's control.

Although, as a rule, ECQ is required for the issuance of Preliminary Licenses and the PBAQ is required for the issuance of Installation Licenses, the IN establishes that in both cases the documents can be prepared concurrently if the impacted communities agree to this.

In addition, if the project is located in areas where previous studies have already been carried out, the project developer will be able to use these studies, with the necessary adjustments.

The IN entered into force on January 3, 2022, and also applies to environmental licensing proceedings that were already in progress.

For more information regarding this Legal Update, please contact our:

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