IDENTIFYING AND ADDRESSING "BOTTLENECKS" IN ENVIRONMENTAL PROTECTION LAW – A PERSPECTIVE UNDER LAW NO. 146/2025/QH15

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On December 11, 2025, Law No. 146/2025/QH15 was approved, amending and supplementing several articles of 15 laws in the fields of agriculture and environment (**Law No. 146**). Among them are amendments and supplements to the Law on Environmental Protection 2020, as amended and supplemented in 2022, 2023, and 2024 (**Law on Environmental Protection 2020**). Law No. 146 was promulgated to address shortcomings in the applicable legal framework governing the agricultural and environmental sectors, simultaneously simplifying administrative procedures and amending provisions on authorization to align with reforms in the state apparatus organization. In this article, NHQuang&Associates will focus on analyzing and evaluating several legal impacts of Law No. 146 on business activities in the environmental protection sector, with particular attention to the following contents:

***First*, Law No. 146 amends and supplements the regulations on environmental impact assessment (EIA).**

(i) Regarding the timing for EIA implementation, Law No. 146 adds a provision allowing the EIA to be conducted concurrently with the feasibility study report of a component project or a specific investment phase of a project. Under the Law on Environmental Protection 2020, only one EIA report is required for an investment project at the project preparation stage. However, practical implementation has revealed the inadequacy of this regulation for long-term, multi-phase projects. In practice, at the time of preparing the initial EIA report, investors of such projects normally just complete the basic design for the first phase, while detailed information for subsequent phases is not yet available to accurately assess the environmental impact. Meanwhile, construction law (Decree 175/2024/ND-CP) already permits the appraisal of feasibility study reports by component project or investment phase. This new regulation of Law No 146, therefore, not only ensures the consistency between the environmental law and construction law, but also significantly reduces procedural burdens on investors. Accordingly, enterprises are now able to complete legal procedures in line with the actual progress of their projects instead of having to prepare a comprehensive complex report.

Furthermore, Law No. 146 amends the deadline for submission of EIA reports applicable to construction investment projects that are subject to feasibility study report appraisal by specialized construction agencies or appraisal councils under the construction law. Specifically, the deadline is changed from "*before*

the conclusion of the appraisal of the feasibility study report" as provided under the Law on Environmental Protection 2020 to "*before the approval of the project or the construction investment decision*". Enterprises, individuals, and organizations should note this change to select an appropriate timing for conducting EIA appraisal procedures in alignment with the project implementation progress.

(ii) Regarding the scope of projects subject to EIA report appraisal by the Ministry of Agriculture and Environment (formerly the Ministry of Natural Resources and Environment), Clause 7, Article 1 of Law No. 146 provides a more detailed clarification of the Ministry's appraisal authority. Accordingly, the Ministry of Agriculture and Environment is vested with the authority to appraise EIA reports for Group I and Group II investment projects that are located in two or more provincial administrative units, or in sea areas where the administrative management responsibility of provincial People's Committees has not been defined, as prescribed in Clause 3, and points c, d, dd, and e, Clause 4, Article 28 of the Law on Environmental Protection 2020. For example:

- Investment projects whose investment policy is decided or approved by the National Assembly or the Prime Minister, except for those located within two or more provincial administrative units which are assigned by the competent authority to a single provincial People's Committee as the competent authority in accordance with the law on investment under public-private partnership model, or assigned to a single Chairperson of a provincial People's Committee to decide on the investment in accordance with the law on public investment, or which are divided into component projects and each component is implemented within only one provincial administrative unit;
- Investment projects subject to the authority of the Ministry of Agriculture and Environment to issue mineral exploitation licenses, water resource exploitation and usage licenses, sea dumping licenses, or decisions on the allocation of sea area;
- Investment projects for the construction and business of infrastructure in concentrated production, business, and service zones;
- Investment projects involving large-scale usage of land or land with water surface, excluding hydropower projects, projects for construction of transport infrastructure, transmission lines, or telecommunications infrastructure, as well as projects with only one or more objectives of annual crop cultivation, perennial crops, or propagation and nuture of agricultural seedlings.

Compared to the Law on Environmental Protection 2020, Law No. 146 significantly narrows the scope of investment projects subject to the authority of the Ministry of Agriculture and Environment for appraisal of EIA reports by introducing additional binding conditions.

Furthermore, it should also be noted that Law No. 146 no longer stipulates the dossiers and procedures for appraisal of EIA reports, but delegates the authority to issue detailed implementing regulations to the Minister of Agriculture and Environment.

***Second*, Law No. 146 amends and supplements the regulations on environmental licenses.**

(i) Regarding the entities required to obtain an environmental license, under Clause 9, Article 1 of Law No. 146, these subjects include Group I, II, and III investment projects that fall into one of the following cases:

a. Projects generating wastewater, dust, or exhaust gases discharged into the environment, which must be treated upon official operation as regulated by the Government;

b. Projects importing scrap from abroad as raw production materials or providing hazardous waste treatment services.

Compared to Article 39 of the Law on Environmental Protection 2020, Law No. 146 has removed projects generating hazardous waste, which must be managed under waste management regulations upon official operation, and added case (b) mentioned above to align with the applicable Law on Investment, as these projects are in conditional business lines and require an environmental license to satisfy business conditions.

(ii) Regarding the authority to grant environmental licenses.

Under Law No. 146, the Ministry of Agriculture and Environment no longer has the authority to issue environmental licenses for investment projects specified in Article 39 of the Law on Environmental Protection 2020 that are located in two or more provincial administrative units, or in sea areas where the administrative management responsibility of provincial People's Committees has not been defined. Instead, this authority is delegated to the Chairperson of provincial People's Committees. This new regulation is promulgated to strengthen decentralization and enhance the role of local authorities. The specific contents of this regulation and the coordination mechanism among relevant localities will be further detailed by the Government in an upcoming Decree.

Similar to the appraisal procedures for EIA reports, Law No. 146 no longer stipulates the dossiers and

procedures for the issuance of environmental licenses, but delegates the authority to provide detailed regulations to the Minister of Agriculture and Environment.

Furthermore, attention should be paid to the transitional provisions of Law No. 146, such as:
(i) Documents, licenses, and certificates issued by competent agencies or persons as a result of the settlement of administrative procedures before January 1, 2026, which remain valid or unexpired, shall continue to be valid and effective for the duration specified therein. In the cases where organizations or individuals wish to request amendments, supplements, re-issuance, or extension of such documents, they are required to submit a written request to the agencies or persons authorized for settlement in accordance with the provisions of Law No. 146.
(ii) With respect to the dossiers for the settlement of administrative procedures received by competent state agencies or persons before January 1, 2026, but for which results have not yet been issued, they shall continue to be settled in accordance with the legal regulations in force at the time of receipt, unless such organizations or individuals request the application of this Law.

Law No. 146 takes effect on January 1, 2026, marking a new phase in the state's environment management. The new regulations of this Law aim not only to streamline the apparatus and simplify administrative procedures but also to establish a transparent and coherent legal framework aligning environmental laws with the laws on construction and investment. Given the reality that the system of legal normative documents is being continuously updated to meet current socio-economic development requirements, enterprises need to proactively and carefully study the provisions of Law No. 146 in order to maximize opportunities arising from the reduction of business conditions and the decentralization of authority, at the same time ensure compliance with legal regulations. Should Clients and readers wish to obtain further information or seek advice regarding the implementation of the new policies and regulations under Law No. 146 in relation to specific investment projects, NHQuang&Associates is ready to address queries and provide relevant legal opinions.

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