Country page: VENEZUELA

1. Population

According to the 2011 census carried out by the National Statistics Institute ("INE" in Spanish), Venezuela had a population of 27,227,930 inhabitants, almost 2/3 of whom live in Miranda State, the Capital District and neighboring states. This is what is known as the Caracas Metropolitan Area. Based on that 2011 census, the projections were for a population of 31,028,637 by 2016.
Venezuelan has a very diverse population, a mix of European ethnic groups and *mestizos*, and, to a lesser extent Africans, native Americans and Asians.
Spanish is the official language.

2. Political organization

According to the 1999 national Constitution, the Bolivarian Republic of Venezuela is a decentralized, federal state governed by the principles of territorial unity, cooperation, solidarity, and joint responsibility. It is a democratic and social state of laws and justice that espouses life, liberty, justice, equality, solidarity, democracy, social responsibility and, in general, the preeminence of human rights, ethics, and a plural political system as the main values of its body of laws and its actions.
The government consists of the Legislative, Executive, Judicial, Citizen and Electoral branches. The legislative power is vested in Congress, now called National Assembly, a unicameral body.
Politically, the republic is divided into 24 federal entities: 23 states and a Capital District — which includes the city of Caracas — as well as 12 federal dependencies or island groups.

3. RIELA contact firm and person, website

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4. Does the constitution cover environmental rights?

As part of CHAPTER IX, articles 127, 128 and 129, of the Venezuelan constitution provide that the government must protect and conserve the natural resources located in the territory

and that exploitation thereof is primarily be for the collective benefit of all the Venezuelan people.
The constitution speaks of the following rights and duties:
The right to a safe, healthy and ecologically balanced environment.
Mandatory environmental education at all levels of the educational system.
Protection of the environment, biological and genetic diversity, ecological processes, national parks and national monuments and other areas of ecological importance.
The fundamental obligation of the government, with the active participation of society, is to guarantee a pollution-free environment where the air, water, soil, coasts, climate, ozone layer and living species are protected as required by law.
The government is in charge of designing a territorial zoning system bearing in mind ecological conditions, among other factors.
The obligation to present environmental-impact and sociocultural studies for all activities that could cause harm to the ecosystems.
The obligation of the government to prevent toxic and hazardous wastes from entering the country as well as the manufacture of nuclear, chemical or biological weapons.
Regulating, by means of laws, the use, handling, transportation and storage of toxic and hazardous substances.
Determining that all contracts signed by the Republic and all permits granted involving natural resources must include, even if not expressly stated, the obligation to preserve ecological balance, allow access to technology and the transfer of technology, under mutually agreed upon terms, and restore the environment to its natural state if it has been altered, under the terms provided for by laws and regulations.

5. Who is the environmental regulator?

The Ministry for Ecosocialism and Waters is the national authority in charge of environmental affairs; it is responsible for designing, planning, directing, implementing, coordinating, monitoring and assessing plans, programs, projects and strategic activities for management of the environment.
The national environmental authority is in charge of promoting processes for the deconcentration and decentralization of environmental affairs towards the states, municipalities and districts following the principles of territorial unity, cooperation, solidarity and joint responsibility, based on regional and local needs and capabilities.

6. Overview of Legislation

Venezuelan environmental legislation is based on the following principles: sustainable development as a means for achieving a balance between the right to development and conservation of the environment for future generations; conservation, protection and improvement of environments considered to be in the public interest; the principles set forth is some international treaties such as, for example, the Stockholm Declaration.

The Territorial-Zoning Planning and Management Act, first passed on September 2, 2005 and amended several times –with a last amendment dated September 1, 2006-- provides the rules governing the general process for planning and management of the territorial-zoning system based on ecological realities and the principles, criteria and strategic goals of

sustainable development, with the participation of the citizens, to be used as the basis for planning the endogenous, economic and social development of the nation.
Territorial zoning is to be governed by a criterion based on the physical and natural features of the national territory; territorial balance, changing the pattern for occupation of the territory; tendencies for use and occupation; participation, joint responsibility of the government and society, and an organized and flexible system that foster the process for planning and management of territorial zoning.
This law provides for the system of private property as part of urban zoning, and provides that urban zoning plans limit the content of property rights, rights that are tied to the use set in zoning plans as provided for in the constitution and the laws.
In addition to urban variables, environmental variables must also be taken into account for any urban development project. The items to be taken into consideration are protected areas, the relationship between urban activities and the primary drainage system and subsoil, the climate, vegetation, relief and the soil, among other aspects.
Activities that have spatial effects and involve actions for occupation of territory must meet the requirements of the territorial-zoning plans provided for in the law. The authorities entrusted with monitoring implementation of those plans shall be in charge of issuing or denying the respective Proper Use Certificate.
The Environment Act, published on December 22, 2006, contains the provisions and governing principles for managing the environment within a framework of sustainable development as a right and a fundamental duty of the government and society, to contribute towards security and achievement of maximum wellbeing for the population and a sustainable planet in the interest of all humanity.
The provisions of this law aim at applying a set of actions or measures for diagnosing, improving, protecting, monitoring, overseeing and making use of the ecosystems, biological diversity and other natural resources and elements in the environment to guarantee sustainable development.
As one of the principles of environmental management, the law provides that liability for environmental damage is considered strict liability and the party responsible for the activity or who is in violation of the law shall bear responsibility. Harm caused to the environment is considered harm to the national wealth.

7. Environmental Impact Assessment / Environmental Assessments

Under the Constitution, prior environmental-impact and sociocultural studies are required for all activities that could cause harm to an ecosystem.
Furthermore, the Environment Act (December 2006) provides that the environmental-impact and sociocultural study is one of the instruments on which environmental decisions are based, and they are subject to different levels of analysis depending on the type of development action being proposed. The different types of analyses are regulated by the respective technical standards.
The Rules for the Environmental Assessment of Activities Capable of Degrading the Environment, Decree 1257 dated March 13, 1996, which have been undergoing a process of revisions and amendments by the National Assembly for years, determine the procedures to be followed when an environmental assessment is required before any industrial or commercial activities that could harm the environment are carried out. It specifies the methods for the technical evaluation of the environmental damage that is allowable for

development programs and projects. Compliance with these procedures and methods provides the investor with greater legal security when the authorizations covering the activities being proposed are based on strict technical criteria and determined on the basis of application of transferred technologies, environmental impact studies and specific environmental studies following procedures that are reasonable and speedy.

8. Permitting (Air / Water Taking / Water Disposal / Waste)

The purpose of the Waters Act, dated January 2007, is to provide the rules governing overall management of water as an element that is essential for life, for human wellbeing and for the sustainable development of the country, and considered strategic and of interest to the state. Comprehensive management of waters, declared an activity that is for the public benefit and of general interest, includes a number of activities covering the conservation and use of water for the benefit of all. It considers water in all its forms, the actors and interests of users, environmental policy, the zoning of the territory and the socioeconomic development of the country. All the water in the national territory, whether continental, marine or insular, surface or subterranean, belongs to the nation.

The law determines the procedure and the requirements for obtaining concessions, assignments and licenses to use waters and spills, as well as the rights and obligations involved.

The respective authority may temporarily suspend concessions, assignments and licenses for water use, or change the terms in emergency situations that lead to disputes caused by temporary or permanent water shortages.

The Standards for Air Quality and Control of Atmospheric Contamination, Decree 638 dated April 26, 1995, was designed to set the standards for improving air quality and for prevention and control of atmospheric contaminants produced by fixed or moving sources that may produce gaseous emissions and particles. This decree sets air-quality limits for certain atmospheric contaminants, such as the six criteria pollutants: sulfur dioxide, carbon monoxide, lead, ozone, nitrogen oxides, and PM_{10} particles (particulate matter with an aerodynamic diameter of 10 micrometers or less). In addition to setting the limits for these six contaminants, the decree also sets limits for others such as hydrogen sulfide, hydrogen fluoride, hydrogen chloride, and chlorides.

Under the environmental laws, permits are required in order to operate industries, discharge waste waters, for air emissions and hazardous waste management.

In short, environmental permits are associated with industrial activities; therefore, permits are always required in order to operate a facility.

9. Transportation of Dangerous Goods

The Hazardous Substances, Materials and Wastes Act was published on November 13, 2001 and regulates the use, gathering, storage, transportation, treatment and final disposal of hazardous substances, materials and wastes as well as any operation involving these with a view to protecting health and the environment. Control over the use of hazardous substances and materials, recovery of hazardous materials and the elimination and final disposal of hazardous wastes are declared matters for the public benefit and of social interest.

All activities that could harm the environment must be registered as such in the records kept by the environmental authorities.

10. Waste Management and Recycling

The Hazardous Substances, Materials and Wastes Act contains the general provisions; the Standards for Control of Recovery of Hazardous Materials and Handling of Hazardous Wastes, however, are to be found in Decree 2635, last amended on August 3, 1998. The purpose of this decree is to regulate recovery of hazardous materials and handling of wastes when they both have characteristics, compositions or conditions that pose a danger or risk to health or the environment. The decree was amended to provide guidelines on how to manage the generation, transportation and disposal or treatment of hazardous wastes. These standards aim at reducing the generation of wastes by fostering recycling, reuse and better use of hazardous materials found in recoverable hazardous materials, and they govern the treatment and final disposal thereof based on safety standards designed to avoid endangering human health or the environment..
This decree includes specific rules governing hazardous wastes resulting from the prospecting and production of oil, mining and health care, among other activities. These rules set the standards for the handling of this kind of wastes and the conditions for final disposal. The ideal solution is for these wastes to be eliminated in same area where they are generated or in nearby areas given the large amount of waste that is produced.

11. Sector-Based Regulations:

11.1 Mining

In September 1999, Congress passed the Mining Act and later on, in 2001, the regulations to the law. All mines or mineral deposits of any kind in country belong to the republic, are public property and, as such, are inalienable and imprescriptible.
This law is based on the principle of sustainable development, which means that mining activities must be guided by environmental concerns, zoning, economic stability and social responsibility, together with principles of rationality and best possible recovery of the resource. The Ministry of Energy and Mines is the agency with jurisdiction over all activities that involve mining, specifically plans for exploration, planning, defense and conservation, as well as the foreign-investment system.

11.2 Oil and Gas

The main laws governing this area are Executive Decree 1510/2001 Enacting the Hydrocarbons Act and the Gaseous Hydrocarbons Act, dated September 1999. These laws govern everything having to do with exploration, extraction, refining, industrialization, transportation, storage, sale and conservation of hydrocarbons as well as refined products.
Hydrocarbon deposits of any kind existing within the country belong to the republic, are public property and, as such, are inalienable and imprescriptible.
In the case of hydrocarbons extracted from any deposit, the state is entitled to a royalty of thirty percent (30%).

11.3 Power Generation

The Electric Power Act (enacted in December 2001), contains the provisions governing electric power within the national territory; this includes the generation, transmission and management of the national power system, the distribution and sale of electric power and energy as well as the actions of agents participating in the electric-power service.
Self-generation, understood to mean the generation of electric power for the exclusive use of the generating individual or company, is not subject to this law barring certain exceptions provided for in the law itself.
All activities that are related to the electric-power service are subject to concessions and the prior authorization of the appropriate authorities.

12. Contaminated Sites

Although several waste laws impact operations (e.g., Law 55 (2001) on Hazardous Substances, the Comprehensive Garbage Management Act (2011) and Decree 2,216/92 on Non-hazardous Waste), Decree 2,635/98 provides the most specific rules for handling waste generated during oil and gas operations. Chapter III is dedicated to management of hazardous wastes from exploration and production, covering everything from drilling muds and cuttings to production sands. Generators, as defined, must register in the RACDA and submit an annual waste report to the People's Power Ministry for Ecosocialism and Waters. This decree also includes a specific chapter dealing with hydrocarbon pollution as well as the standards for handling contamination of any kind.

13. Climate Change

Venezuela ratified the Law Approving the Kyoto Protocol linked to the United Nations Framework Convention on Climate Change, published in the Official Gazette dated December 7, 2004. The purpose of this law was to approve the Protocol that was adopted in the city of Kyoto, Japan on December 11, 1997 in its entirety, for it to have full international effects in the Bolivarian Republic of Venezuela.
Among other obligations, the Protocol calls for the promotion of sustainable development; application of the policies and measures aimed at reducing the adverse impacts of climate change to a minimum, effects on international trade and social, environmental and financial repercussions; and reducing total greenhouse-gas emissions by at least 5% below 1990 levels in the commitment period of 2008 to 2012.

14. Chemical and Hazardous Substance Registration

The Law Approving the Stockholm Convention on Persistent Organic Pollutants was published on January 3, 2005. This Convention was adopted in Stockholm on May 22, 2001, and aims mainly at protecting human health and the environment from persistent organic pollutants by adopting measures to prevent the adverse effects of these at all stages of their cycles. The Convention highlights the importance of designing and using alternative processes and substitute chemical products that are environmentally reasonable,

and of encouraging the parties that lack systems for regulating and evaluating pesticides and chemical products to develop these systems.
The Convention recognizes that persistent organic pollutants have toxic properties, resist degradation, bioaccumulate, and are transported by air, water and migratory species across international boundaries where they are deposited far from their place of release and accumulate in terrestrial and aquatic ecosystems,
Persistent organic pollutants are the cause of health problems transmitted to current generations and, above all, to future generations through food products and genetic loads.
All activities that are likely to harm the environment and human health must be registered in the Register of Activities Capable of Degrading the Environment (RACDA) kept by the People's Power Ministry for Ecosocialism and Waters.

15. Liability Scheme (Civil, Administrative, Criminal)

There are several types of liability which may arise where there is a breach of environmental laws and/or permits; these liabilities are civil, criminal and administrative.

In the case of environmental liability, the Environmental Crimes Act provides that criminal liability in the case of environmental crimes, which must involve violation of an administrative rule, is considered strict liability and that all that is required is proof of the violation; there is no need to prove fault. Companies are responsible for their actions or omissions when the crime committed involves violation of rules or provisions set forth in laws and rules governing the matter. In addition to the liability of companies *per se*, the owners, presidents or administrators are held criminally accountable for the crimes committed by their companies.
Furthermore, this law also provides for joint liability when two companies sign an agreement for one to carry out a specific job for the benefit of the other; in the event the job causes damage or harm to the environment or natural resources, both will the jointly liable.
Liability for harm caused to the environment is considered strict liability; just the fact of the existence of the harm determines the liability of the harming agent for the harm caused and, therefore, this agent must pay compensation for the damages caused. There is no need to prove that the action taken caused the damage; proof of having taken the harmful action is all that is needed.
The law provides that, in the case of environmental crimes that require violation of administrative action, there is no need to prove fault. This means that no intent or lack of prudence is required for the action to be considered a crime.

16. Reporting Obligations

The special laws governing these matters provide that an event must be reported to the authorities as soon as it is known to have occurred. Everybody is under the obligation to report any event that poses a threat to a safe, secure and ecologically balanced environment to the appropriate authorities.
The report must be presented to the appropriate authorities in the zone where the event occurred. If the matter is a special one that falls under the jurisdiction of two or more authorities, the report must be presented to each individually.

Any individual or company that engages in an activity that can harm the environment must have staff that is properly trained for any contingency, as well as the equipment and appropriate measures to deal with any accident.

17. Environmental Incentives (for conservation or clean energy)

The Venezuelan government could create financial and fiscal incentives for individuals or companies that invest in environmental conservation under the terms of the Environment Act, the technical standards and other special rules governing this matter in order to guarantee sustainable development. The government is supposed to promote the establishment of incentives and recognition for efforts made by the population to preserve the environment. State and municipal authorities may also create fiscal and financial incentives within their jurisdictions.

Financial incentives would be aimed at fostering activities that use clean technologies or technical mechanisms that generate values lower that allowable parameters, that favorably change or eliminate the effect of pollutants on the environment; that encourage the use of clean technologies, environmental management systems and conservationist practices; that foster taking full advantage of natural resources; that aim at creating programs and projects for reforestation and afforestation, among others.

The fiscal measures that could be applied would be a system of loans financed by the state, exemptions from taxes, charges and contributions, or other financial or fiscal incentives provided for by law.

18. Financial Assurance

Under the Environment Act financial assurances for compliance with environmental measures provided for in prior control instruments will be in the form of escrow accounts or joint performance bonds, as appropriate, that are considered satisfactory by the national environmental authority, set up by reputable insurance companies or banking institutions and insurance policies covering civil liabilities and compensation for possible environmental accidents, as well as special funds set up for specific items.

Financial assurances for environmental cases must be denominated in legal tender and updated periodically as specified by the national environmental authority in the respective prior-control document.