
Simplification of procedures for renewable energy projects

Exceptional measures have been approved to simplify renewable energy production procedures.

Energy Legal Flash

April 28, 2022



Key points

Decree Law 30-A/2022 establishes exceptional measures for renewable energy procedures, the most notable of which are the following:

- Decree Law 30-A/2022 contains certain requirements that exempt operators from needing a license to commission power plants that generate electricity from renewable energy sources or create storage facilities and self-consumption production units (“UPACs”).
- Outside sensitive areas, certain projects that do not exceed the limits established in the Environmental Impact Assessment (“EIA”) Law will only be subject to this assessment if the Directorate-General for Energy and Geology (“DGEG”) considers that there are signs that the project is likely to have a significant impact on the environment.
- Existing wind power plants will be able to feed all the energy they generate into the Public Service Electricity Grid (“RESP”).



Analysis of Decree Law 30-A/2022 of April 18

Decree Law 30-A/2022, on exceptional measures to simplify procedures for energy projects from renewable sources, was approved on April 18 in light of rising fossil fuel prices and in line with the European joint action for more sustainable and accessible energy.

This decree law entered into force on April 19, 2022, with a two-year validity period.

The following measures are of note:

> Electricity | Exemption from requirement to own a license for operating purposes

To enable operators to start operations sooner at (i) renewable energy source power plants, (ii) storage facilities, and (iii) UPACs, **they no longer need to obtain a license or operating certificate in advance** from the DGEG, **provided they confirm in a communication that the technical conditions** to connect and feed energy into the grid have been met.

This exemption from the need to have a license or certificate does not affect how the law on tests and trials and experimental operations are applied, and applications will be considered to have been implicitly granted if the DGEG does not state otherwise within 10 days from the date prior notice is received.

Operation licenses and certificates must be subsequently applied for within three years from the date the above communication is sent. In this procedure, the DGEG may decide not to carry out a prior inspection.

However, there are technical rules that must be observed when power plants that generate energy from renewable sources for UPACs are deployed.

> Outside sensitive areas, projects that do not exceed the limits established in the EIA Law are no longer subject to a case-by-case assessment.

Unless they are located in sensitive areas and operate above the thresholds established in the EIA Law, projects to (i) deploy renewable energy source power plants, (ii) create UPAC storage facilities, (iii) install lines to connect to the RESP, and (iv) generate hydrogen through water electrolysis will no longer be subject to a case-by-case assessment. In these cases, projects will only be subject to this assessment if the DGEG considers that there are signs that they are likely to have a significant impact on the environment.



> Deadlines for issuing opinions

The law incorporates all administrative procedures for issuing opinions and authorizations as part of public consultations on EIA procedures and analysis of environmental impact by competent authorities when this process is carried out during the operational phase, with the pertinent authority's involvement being confined to this phase. The requirement to publish further legal notices is also waived.

If there is no public consultation, the law states that the opinions required under the sector-specific law that applies to activities and infrastructures must be issued by the competent authorities within 10 days from the date the request is submitted. If no opinion is issued, it is considered that no objections have been raised to the procedure going ahead.

> Proposals for involving local populations

The procedures for advance reviews of the deployment of (i) renewable energy source power plants and UPACs with installed capacity of 20MW or more, or (ii) power plants that are primarily powered by wind that have at least 10 towers must be based on proposals to involve local populations, specifically relating to traditional activities with certain harvesting and herding requirements, generating employment, nature conservation and biodiversity projects, making electricity available to local communities and industries, and granting co-investment options in the facility to the general public.

This requirement does not release operators from their regional energy transfer obligations under article 49 of Decree Law 15/2022.

> Generating hydrogen through water electrolysis

If projects to generate hydrogen through water electrolysis are changed or extended, the law stipulates that EIAs will only be carried out when the project exceeds certain thresholds, or it is considered that the project is likely to have a significant impact on the environment.

The law also states that, when incorporated into an existing industrial facility, the generation of hydrogen through water electrolysis will only be considered a change to the project for the purposes of an EIA if the existing industrial facility has had to be extended to generate hydrogen.

Decree Law 30-A/2022 expressly notes that the generation of hydrogen through water electrolysis using electricity from renewable energy sources is not subject to the legal system on industrial emissions that applies to the integrated prevention and control of pollution, or the rules to prevent or reduce emissions into the air, water or soil, or the production of waste (Decree Law 127/2013 of August 30).



> Wind power plants | Feeding power into the RESP above the assigned connected capacity

Existing wind power plants will be able to feed all the electricity they generate into the RESP (they will no longer be restricted to the administratively allocated power provision capacity, so they will be able to provide as much energy as possible), without prejudice to the legal system that applies to additional energy. To achieve this, the provisions of Decree Law 15/2022 on retrofitting as regards the interruption of energy provision and remuneration will apply, with the necessary amendments.

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