

ENVIRONMENTAL LAW IN CUBA SERIES

Decree-Law Number 212-2000

August 8, 2000

COASTAL ZONE MANAGEMENT

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ENVIRONMENTAL DEFENSE
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COASTAL ZONE MANAGEMENT

A Project of
Ministry of Science, Technology and Environment, Cuba
Environmental Defense
Tulane Institute for Environmental Law and Policy

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TRANSLATION SERIES EDITORS

Teresita Borges

Ministry of Science, Technology and Environment,
Environment Directorate, Cuba

Teresa D. Cruz

Ministry of Science, Technology and Environment,
Environment Directorate, Cuba

Eric Dannenmaier

Tulane University
Institute for Environmental Law and Policy

Kenyon Lindeman

Environmental Defense

Orlando Rey

Ministry of Science, Technology and Environment,
Environment Directorate, Cuba

Daniel Suman

University of Miami
Rosenstiel School of Marine and Atmospheric Science

Daniel Whittle

Environmental Defense

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1. To draft and propose environmental policy and to oversee its adoption, in coordination with the Regulatory Office.
2. To develop, perfect, and oversee the Strategies, Plans, and Programs for the protection of the environment and the rational use of natural resources and priority ecosystems, with special attention to the integrated management of watershed basins, bays and coasts, mountainous zones, and protected areas.
3. To oversee the implementation of the National System of Protected Areas, the National Strategy for Environmental Education, and the National Monitoring System.
4. To propose the System of Indicators which enable the measuring of the impacts on different sectors of the economy and on the quality of life of the population. To coordinate and direct the completion of this system in coordination with the National System of Statistics.
5. To direct and perfect the process of approval and oversight of annual investments in the environment in the Economic Plan.
6. To draft, establish, and oversee policies related to the application of clean technologies and clean production, having as a fundamental principle the prevention of pollution and the

economic utilization of residuals in the different sectors of the national economy.

7. To propose and oversee the policies of the System of Environmental Certifications and Incentives.
8. To direct and oversee land use through observance of environmental requirements and regulations in land use plans, prior to their approval.
9. To propose policy related to biological security; and once approved, to direct and oversee its adoption and compliance.
10. To propose policy related to the management of chemical substances, and once approved, to direct and control its adoption and compliance.
11. To oversee the activities carried out by the entities of the Ministry with respect to the fulfillment of environmental policies and regulation.
12. To propose the measures and decisions to be made in cases of discrepancies among the entities of the Central Administration of the State and other agencies and entities, in cases related to the protection of the environment and the rational use of natural resources.

Environmental Defense is dedicated to protecting the environmental rights of all people, including future generations. Among these rights are clean air and water, healthy and nourishing food, and flourishing ecosystems.

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- To support interdisciplinary research and critical analysis of law, policies and institutions for sustainable development, and to encourage dialogue among citizens, experts and government officials about development alternatives;
- To promote the design and implementation of more effective legal and institutional frameworks for sustainable development through its research, analytical and educational missions.

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Inquiries regarding additional copies of this publication or information on this project should be addressed to Orlando Rey, DMA-CITMA, Capitolio Nacional, Prado y San José, La Habana, Cuba. tel (537) 867-0598, fax (537) 867-0615; Environmental Defense, 2500 Blue Ridge Rd., Ste. 330, Raleigh, NC, 27607, tel (919) 881-2601, fax (919) 881-2607; or to Kathy Harrison, Tulane Institute for Environmental Law and Policy, 6329 Freret Street, New Orleans, LA, 70118, tel (504) 862-8827, fax (504) 862-8857.

Further information related to this project can also be found at the website of CITMA at www.medioambiente.cu, the Environmental Defense website at www.environmentaldefense.org, or the website of Tulane Institute for Environmental Law and Policy at www.law.tulane.edu/enlaw.

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Introduction

This English translation of Decree-Law 212 is intended to familiarize practitioners, students and others with the regulation of the coastal zone in the Republic of Cuba. The translation is a result of the efforts and dedication of many professional colleagues within the Directorate of the Environment of the Ministry of Science, Technology and Environment (CITMA), Environmental Defense, and Tulane University School of Law.

On August 8, 2000, the Council of State of the Republic of Cuba approved Decree-Law 212, “Coastal Zone Management,” published in the Official Ordinary Gazette, Number 68, on August 14, 2000, delineating the extent of the coastal zone, and regulating activities within the coastal zone to ensure its protection and sustainable use, in light of principles of integrated coastal zone management.

Cuba has more than 5,746 kilometers of coastline and more than 4,000 keys and islets. This island system, because of its geographic isolation, has an abundant biological diversity. Currently, as is the case in the majority of coastal areas around the world, the coasts of Cuba are beginning to experience a process of erosion and other adverse environmental impacts that are negatively affecting the conservation of natural areas. These problems have arisen in large part because of activities related to industry, agriculture, transportation, fishing, and tourism that have historically taken place in coastal zones without adequate measures to mitigate adverse environmental impacts. Decree-Law 212 is intended to protect coastal areas from adverse environmental impacts associated with these and other activities.

Long and complex was the path of negotiations that resulted in the approval of Decree-Law 212, which has its roots in an extensive database developed over the past 38 years by scientific institutions dedicated to the study of marine resources. The Decree-Law was also informed by Law Number 80, Law of the Ports, in effect in Cuba since 1880, and by comparative studies of similar laws based on the model that resulted in Law Number 22/1998, Law of the Coasts of Spain.

An important step in the development of a draft for this bill was the convening of an international workshop called “Workshop on Coastal Zone Legislation,” held from May 24-28, 1999 in Havana and sponsored by the Directorate of the Environment within the Ministry for Science, Technology and Environment (CITMA), with the technical participation of the Center for Marine Conservation, a U.S.-based non-governmental organization, and Tulane University Law School. This workshop advanced substantive environmental concerns that were ultimately addressed in legislation.

In the 12 years it took to negotiate and develop this bill there were two distinct periods that influenced the direction and content of the final Decree-Law:

- Before 1997, the first drafts of the bill were fundamentally aimed at regulating construction in and occupation of the coastal zone.
- After 1997, the approval of Law 81, Law of the Environment, brought a new focus of environmental protection to the bill. Also, the legal framework for marine and coastal resources was further developed by putting into place a series of additional environmental laws, including: new regulation of

marine fisheries pursuant to Decree-Law 164, on May 28, 1996; the establishment of the environmental impact assessment process, pursuant to Resolution 77/99 of CITMA; the system of sanctions for environmental violations, established pursuant to Decree-Law 200; and the further development of the National System of Protected Areas, pursuant to Decree-Law 201.

The passage of Decree-Law 212 not only fills in legislative gaps, but addresses activities and actions that were already taking place in the coastal zone by:

- Regulating activities in the coastal zone in a manner consistent with sustainability criteria in order to obtain adequate conservation of coastal ecosystems and natural resources.
- Incorporating the principles of integrated coastal zone management into territorial and urban land use plans and tourism development plans.
- Incorporating scientific knowledge acquired through the study of the physiographical conditions of the coastal zone, and requiring the use of mitigation measures to ensure the sustainable use of natural resources.

The fundamental prescriptions of Decree-Law 212 are dedicated to the following:

- Defining the coastal zone and its zone of protection and establishing boundaries of the coastal zone, taking into account the typology of the coast.
- Defining the components of the coastal zone subject to the application of standards.
- Establishing the functions of governmental agencies that, because of their respective mandates, have

jurisdiction over activities taking place in the coastal zone.

- Defining the uses of the coastal zone, while emphasizing its inherently public nature and the rights of citizens to freely use and enjoy the coastal zone.
- Establishing specific prohibitions for certain construction projects and other activities in the coastal zone and its zone of protection.
- Establishing a special regulatory regimen for keys and peninsulas, where an environmental impact assessment is a precondition for obtaining an Environmental License.

The development, approval and implementation of Decree-Law 212, “Coastal Zone Management,” are critical steps in the development of Cuban Environmental Law because Decree-Law 212 is premised upon the most current and up-to-date environmental principles used in the world.

The adoption of Decree-Law 212 reflects a political will with respect to conservation and sustainable use of the coastal zone, and challenges entities with jurisdiction over activities in the coastal zone to find new forms of coordination and collaboration. For this reason, an interagency National Coastal Working Group has been formed to discuss policies and actions needed to implement the mandates of Decree-Law 212 in a manner that results in integrated coastal zone management throughout the country.

FIDEL CASTRO RUZ, President of the Council of State¹ of the Republic of Cuba.

BE IT KNOWN: That the Council of State has agreed upon the following:

WHEREAS: Law Number 81 of July 11, 1997, Law of the Environment², includes among the marine resources the coastal zone and its zone of protection, the bays, the estuaries and the beaches, the island shelf, the seabed and the living and non-living natural resources present in the marine waters and their zones that emerge to the surface, and establishes the general principles for their conservation and improvement, according to the country's integrated policy of sustainable development and the principles set forth under Chapter 17 of Agenda 21, adopted at the United Nations Conference on Environment and Development held in Rio de Janeiro, Brazil, in June 1992.

WHEREAS: The coastal zones are the habitat of a significant number of marine species during their primary stages, the most vulnerable of their life cycle, and therefore erosion, pollution, clearing of mangrove swamps, the increase of human settlements in the zone, construction on sand dunes, port activities, the sowing of inappropriate plants, the extraction of aggregates for construction, the destruction of coastal sand dunes, the filling of coastal lagoons, the execution of marine works and the over exploitation of marine resources, among other factors, lead to their alteration and to the loss of biological diversity.

¹ The executive body of the National Assembly of the Popular Power, which sits in permanent session.

² The official text of Law No. 81 appears in Year XCV, No. 7, Official Gazette of the Republic of Cuba at 47 (Special Edition, 11 July 1997).

WHEREAS: Our coasts, which extend more than 5,746 kilometers in length and include more than 4,000 keys and islets, and exhibit an abundant biological diversity, have for years been subject to industrial, agricultural, transportation, fishing, tourism and other uses that negatively impact the conservation of this natural scenery.

WHEREAS: The sustainable exploitation of our natural resources, including those located in the keys, is a requirement for the socio-economic development of the country, therefore it is necessary to establish the principles and regulations under which they are to be exploited, in such manner so as to preserve this sensitive ecosystem.

WHEREAS: The conditions referred to above, in conjunction with the trend toward population growth in the coastal zone and the occurrence of numerous natural phenomena, demand the establishment of measures directed towards economic planning and environmentally rational use of our coasts, isles, keys and peninsulas in a manner consistent with the nature of these resources and with a perspective directed towards the protection of their natural and cultural values, their rational use and the adoption of measures designed for their restoration and improvement.

WHEREAS: Legislation enacted to regulate the use, management and protection of the coastal zones is diverse and heterogeneous, being found in legal instruments of different dates and ranks, in a way that does not comprise all the necessary aspects for the adequate environmental management of the coasts, and is insufficient and ineffective for the accomplishment of those objectives, which when taken together calls for their integration.

NOW THEREFORE: The Council of State, by virtue of the authorities bestowed upon it by Article 90, Section c) of the Constitution of the Republic³, adopts the following:

**DECREE-LAW⁴ No. 212
COASTAL ZONE MANAGEMENT**

**CHAPTER I
GENERAL PROVISIONS**

**SECTION ONE
OBJECTIVE**

Article 1.- This Decree-Law has as its objective to establish the provisions for the boundaries, protection and sustainable use of the coastal zone and its zone of protection, in accordance with the principles of integrated coastal zone management.

**SECTION TWO
BOUNDARIES**

Article 2.- The coastal zone is defined as the marine-terrestrial margin of variable width, where the land, the sea and the atmosphere interact by way of natural processes. It is where unique forms of fragile ecosystems

³ This is the charter on which the political system and the State of the Republic of Cuba are based. It was adopted on the 24th of February, 1976, was published in the Extraordinary Official Gazette No. 2 dated February 24th, 1976, page 3, and was modified in July 1992, published in the Extraordinary Official Gazette dated February 13th, 1992, page 23.

⁴The Decree Law (Decreto Ley) is a legal instrument which may be proposed by CITMA or another ministry but is presented to and approved by the Council of State (Consejo del Estado), the executive body of the Assembly which sits in permanent session.

develop and special economic, social and cultural connections take place.

Article 3.- All natural extensions of land, surrounded by water, that are located above water at the high tide mark, including those where the conditions to sustain human habitation or economic activities do not exist, shall have a specific coastal zone and zone of protection, accordingly.

Article 4.- The boundaries of the coastal zone are established taking into account the structure and configuration of the different types of coast according to the following descriptions:

- The inland boundary of the coastal zone is established in each case, as follows:

a) **Low terrace**, the area composed of carbonated rocks, including the ridge of loose materials, such as stones, pebbles, gravels and sand formed during storms, and ordinarily covered by vegetation. Its boundary is established as the farthest inland border of the ridge.

- In absence of a ridge:

I. the boundary shall be the line located 20 meters inland, measured from the beginning of the strip of consolidated natural vegetation closest to the sea over the terrace;

II. in the presence of an escarpment on the second level of the terrace, located at less than 20 meters inland, measured from the beginning of the strip of natural vegetation closest to the sea over the terrace, the inland boundary shall be determined by the summit of said escarpment;

III. if the area bordering the low terrace is a coastal lagoon with mangroves, the inland boundary shall be defined as per subsection d).

- b) **Coastal cliffs**, the area with a cliff, the summit of which is not exceeded by the tides or penetration of the sea. It shall extend 20 meters inland from said summit.
- c) **Beach**, area of coastal zone ecosystem composed of loose materials of different thickness in exposed and underwater areas that manifest processes of erosion and accretion due to alterations of natural or human origins, with changes in the dynamics of its profile; included are underwater sandbars, berms and sand dunes. Its boundary limit is established in the external border towards the land of the dune closer to the sea.
- In the absence of sand dunes:
- I. the boundary shall be the line located 40 meters inland, measured from the beginning of the strip of consolidated natural vegetation closest to the sea;
- II. if there is a cliff located less than 40 meters inland, measured from the beginning of the strip of natural vegetation closest to the sea, the inland boundary shall be the summit of said cliff;
- III. if the area bordering the berm is a coastal lagoon with mangroves, the limit shall be defined as per subsection d).
- d) **Low coast with mangroves**, this area encompasses the extensions of the mangrove swamps associated with marshes, creeks, coastal lagoons, and in general, those low lands that are exposed to the influence of tidal ebbs and flows, the waves or the seepage of sea water. Its inland boundary is determined by the point of maximum penetration of the mangrove forest: if there is swamp vegetation, the boundary shall be set at the external inland border of said forest.
- e) **In the case of the river mouths**, the coastal zone shall extend 300 meters inland in a straight line, beginning at the river mouth and following a longitudinal section of the river and 60 meters inland

along both river banks, as far inland along the river bank to where the effect of tidal ebbs and flows is present.

f) **In the case of those coastal zone areas that, due to natural or artificial causes, it is impossible to identify the types described in the above subsections,** the inland boundary is extended 20 meters from the point where the waves of the biggest known storms have ever reached or, high tide mark during the equinox, whichever is greater.

- The outer boundary of the coastal zone towards the sea shall be the edge of the island shelf of the country, generally at depths between 100 and 200 meters.

Article 5.1.- The zone of protection is the terrestrial and maritime space adjacent to the coastal zone that serves as a buffer zone against the negative effects of human activities and its boundaries are established as per the classification established in the preceding Article.

2.- The inland boundaries are established as follows:

For the types indicated in subsections a), b) and e) of Article 4, a minimum width of 20 meters is established, measured from the inland boundary of the coastal zone;

For the types indicated in Section c), d) and f) of Article 4, a minimum width of 40 meters is established, measured from the inland boundary of the coastal zone.

SECTION THREE COMPONENTS THAT COMPRISE THE COASTAL ZONE

Article 6.1.- The components that comprise the coastal zone are the following:

- a) all the physical and geographical elements in Article 4 of this Decree-Law;
- b) the inland waters with their beds and subsoils, defined and regulated by the applicable legislation;
- c) all living and non-living natural resources contained in such zone, including forests that provide protection;
- d) all areas formed by the deposit of materials or by the retreat of the sea, whatever the cause;
- e) all lands claimed from the sea as a direct or indirect consequence of construction and draining;
- f) all lands invaded by the sea that become part of the sea bed, whatever the cause;
- g) all estuaries, bays, inlets and coves.

2.- All construction works and installations built over the elements mentioned in the present Article shall also be considered a constituent component of the coastal zone.

CHAPTER II RESPONSIBLE AUTHORITIES

Article 7.- The Ministry of Science, Technology and Environment⁵ is the agency of the Central State Administration⁶ in charge of proposing the policies and strategies for integrated management of the coastal zone, aimed at reaching the objective expressed in Article 1 of this Decree-Law and controlling its execution, as well as

⁵ This ministry is the agency of the Central Administration of the State responsible for developing and implementing the national environmental policy. It was created by the Decree Law No. 147 of April 16th, 1994.

⁶ The Central Administration of the State is our translation of “Administración Central del Estado”. It comprises the organizational units of the state, with a set of functions assigned to each, within the framework of their respective authorities for executive and administrative activity.

organizing, directing and controlling, as the case may dictate, the necessary environmental measures to attain those goals, in coordination with the competent agencies and entities and without prejudice to their respective powers and duties.

Article 8.- The Ministry of Science, Technology and Environment shall execute the duties referred to in the above Article as follows:

- a) Participate in the process of discussion, evaluation and approval of the land use plans and in the evaluation of real estate development planning projects and any other projects of any class, and in their modification and revision, in all that affects the coastal zone or the zone of protection, with the aim of introducing the modifications that may be pertinent;
- b) Evaluate the environmental impacts of and grant environmental permits, as the case may be, for those projected construction projects and activities that are to be developed in said zone and in the zone of protection, pursuant to the provisions of Article 28 of Law 81 of 1997, Law of the Environment;
- c) Participate in the enforcement of the coastal zone and zone of protection, in order to prevent the perpetration of violations and to impose adequate sanctions;
- d) Participate in investigations or investments related to projects for the protection, regeneration, clean-up, improvement and conservation of the coastal zone, recreation places, coastal trails and public accesses, ports, nautical-sporting facilities and hydro-technical installations;
- e) Approve, direct and control the drafting of integrated management plans for the coastal zone, as well as to control the implementation of such plans;

- f) Coordinate with the competent agencies and entities the participation of the community in the execution of the development plans and programs for coastal zone and zone of protection;
- g) Enforce the observance of measures that guarantee that the community is kept duly informed and participates in the evaluation process of projects to be executed in the coastal zone and zone of protection;
- h) Approve, taking into consideration the opinion of other competent agencies and entities, the expansion of the inland boundaries of the zone of protection when needed for sound reasons;
- i) Authorize, in coordination with the competent agencies and other entities, the extraction of aggregates and the dredging of watershed deposits close to the beaches, if these activities are carried out with the purpose of artificial alimentation, regeneration, remodeling, improvement or restitution of the natural conditions of the beaches, as long as they do not affect their stability;
- j) Establish an environmental monitoring system, with special attention given to beaches and keys, with the purpose of conserving, protecting and restoring them, where necessary;
- k) Prohibit industrial processes in the coastal zone and zone of protection when required by their physical and geographic characteristics, if the effluent of such processes, even when treated, could pose a significant risk of contamination;
- l) Reconcile differences among agencies and entities with regard to conflicts arising from the multiple uses of the coastal zone.

Article 9.- The Ministry of Economics and Planning⁷ is the governing body for the national land use policy, which takes into consideration in an integrated manner environmental aspects and their link with economic, demographic and social factors, and therefore as part of its duties, by way of the Physical Planning Institute⁸, it is directed to:

- a) Direct, formulate and control the land use and urbanization of the coastal zone and zone of protection, in consultation with the competent agencies and entities.
- b) Establish the boundaries for the coastal zone and zone of protection in the land use and urbanization plans, in accordance with the stipulations in this Decree-Law.
- c) Carry out the marking, expansion and control of the boundary marks on the inland portion of the coastal zone and zone of protection.
- d) Mark the boundaries, in coordination with the competent agencies and entities, of the zone of protection, when the boundary is greater than that established in Article 5 of the present Decree-Law.

⁷ This is the body of the Central Administration of the State in charge of national economic and land use planning. This ministry was created by Decree Law No. 147 of 16 April 1994.

⁸ This is the entity of the Ministry of Economy and Planning that is in charge of land use planning. The land use planning process in Cuba is quite distinct from the land use planning systems generally in use in the United States in that planning in most American jurisdictions is almost exclusively a local function. There is land use planning in Cuba, but (a) the subject matter of planning is much broader than what is usually included in land use planning in the U.S., and (b) local planning in Cuba is integrated with plans at the regional and national levels.

- e) Incorporate the corresponding corrections to the boundaries of the coastal zone and zone of protection when the configuration of the coastal zone is modified due to natural phenomena.
- f) Incorporate into the land use plan or urbanization projects the expansion of the inland boundaries of the zone of protection.

Article 10.- The inland boundary of the zone of protection may coincide with the building line, but in no case may the building line go into the boundaries of the zone of protection.

Article 11.- The competent authorities in charge of overseeing the coastal zone in order to protect it are the federal environmental inspectors from the Ministry of Science, Technology and Environment, federal inspectors from the different agencies and entities linked to coastal and marine resources, that have been duly accredited, and the members of the Ministry of the Revolutionary Armed Forces⁹ and the Ministry of Interior¹⁰ that have been assigned such duties.

CHAPTER III USES OF THE COASTAL ZONE

Article 12.- The use of the coastal zone will be unrestricted, public and free of charge for common uses consistent with its nature, such as walking, resting, bathing, fishing, boating, and similar uses that do not require works or facilities of any kind and that are carried out in accordance with this Decree-Law and

⁹ This is the ministry that includes all the armed forces of the Republic of Cuba, created in 1959.

¹⁰ It is in charge of domestic order, and includes the Border Troops and the Forest Guards Service.

related legislation, except in areas designated for or of interest to the defense, security and domestic order, port facilities, protected areas under strict management, productive and scientific facilities and for maritime signals.

Article 13.1.- All works, projects and activities carried out in the coastal zone shall guarantee access to the coastal zone and zone of protection from the nearest public road.

2.- The Ministry of Economics and Planning shall guarantee that development plans for the coastal zone include rights-of-way to allow unrestricted public access to said zone.

3.- The entities that utilize coastal zone resources are required to finance the building of pedestrian walkways, which in all cases shall be rustic, in order to minimize harm to the ecosystem.

4.- When an entity develops a project or activity that affects or destroys the infrastructure for public use located in the coastal zone, it shall be required to provide a coastal area for the relocation of new structures for public use, consistent with the requirements imposed by the Ministry of Science, Technology and Environment.

Article 14.- Uses and activities in the coastal zone and zone of protection in areas designated or of interest for the defense, national security and the domestic order, shall be authorized by the Ministry of the Revolutionary Armed Forces and the Ministry of the Interior, in coordination with the Ministry of Science, Technology and Environment.

Article 15.1.- The coastal zone shall preferably remain unoccupied, authorization given only for the development or the execution of activities or facilities that due to their own nature do not allow any other location, such as ports, wharves, shipyards, marinas, docks, thermo-electrical facilities, marine crops, submarine effluents, submarine parks, oil perforation platforms, aids to navigation, salt mines, works for protecting, regenerating, improving and conserving said zone, forestation and reforestation activities and others of similar nature will be authorized as long as they comply with the environmental impact assessment process.

2.- In coastal zone spaces that become unoccupied for any reason whatsoever, locating new permanent facilities will not be allowed, except in those cases properly duly justified by public use or social interest for the activities mentioned in the previous section.

Article 16.- The following is prohibited in the coastal zone, without prejudice to other specific prohibitions:

- a) the building of all new facilities, except as provided in Article 15 herein;
- b) the extraction of aggregates;
- c) the parking and driving of vehicles, except for specialized equipment used for security, cleaning, monitoring, rescue, maintenance and those related to navigational aid, hydrographic and scientific research activities. Excepted are the cases of vessels which are forced to an emergency port arrival and duly authorized vehicles used to perform forestry activities;
- d) the creation of new residential or lodging areas and the expansion of existing developments towards those areas;

- e) the expansion of existing buildings occupying areas in the coastal zone and zone of protection, except for the cases established in Article 15.1;
- f) watercraft and motorized vehicle traffic in areas where it has been prohibited or limited by the Ministry of Science, Technology and Environment in coordination with the Ministry of the Tourism¹¹;
- g) the final disposal of solid and liquid wastes resulting from any activity, in a manner that does not comply with established norms for disposal;
- h) the introduction of exotic species without complying with the requirements established for such activity;
- i) horseback riding, and the use of pack animals or vehicles pulled by animals on the beaches;
- j) the construction of any kind of facility, except in the cases established in Article 15.1.

Article 17.- In cases where it is demonstrated that there are no feasible alternatives to the extraction of gravel outside the coastal zone and that the proposed watershed does not intervene in the process of beach dynamics, or when the extraction is carried out for the improvement of the same beach or of others located in the same system, the Ministry of Science, Technology and Environment may, in exceptional cases, waive the application of the provisions contained in section b) of the preceding Article, subject to the prior issuance of an Environmental License¹² before the activity begins.

¹¹ Created by Decree Law No. 147, of 16 April 1994. Among its functions are the establishment of the national policy for tourism activity and the control of its implementation by hotel chains.

¹² All activity capable of producing significant environmental effects or that requires a specific control to conform with the requirements of existing environmental laws, will be subject to the granting of an environmental license from the Ministry of

Article 18.1.- The provisions stipulated in Article 16 are applicable to the zone of protection in pertinent cases.

2.- In exceptional cases, and with the prior authorization of the Ministry of Science, Technology and Environment, the following works or activities may be carried out in the zone of protection:

- a) Locating light facilities dedicated to providing the services necessary and proper to the zone, provided they comply with the following requirements:
 - are light in structure, constructed with standard prefabricated elements, modules, panels or similar;
 - are able to be assembled and disassembled without the need for demolition and with parts that are easily transportable;
 - that when the facility is disassembled, the site will remain free and unoccupied;
 - that provide proper systems and means for the collection and disposal of wastes;
- b) Farming and agricultural growing of crops, provided that:
 - they do not obstruct the right of way;
 - they do not harm the stability of the ecosystem;
 - they do not cause the displacement of the natural vegetation, and
 - they do not affect the observation or access to the signals of navigational aids;

Science, Technology and Environment, according to the stipulations of that agency, which will also establish the types and kinds of such license.

- c) The temporary deposit of objects and materials washed up by the sea or as a result of maritime rescue operations.

**CHAPTER IV
COASTAL AND PROTECTIVE ZONE
MANAGEMENT**

**SECTION ONE
ENVIRONMENTAL LICENSE FOR
CONSTRUCTION AND THE TERRITORIAL
CODE**

Article 19.- The execution of construction projects and activities in the coastal zone and zone of protection is subject to the issuance of an Environmental License and to the compliance with the requirements established in it, pursuant to the provisions of Article 28 of Law Number 81, Law of the Environment, and other applicable laws.

Article 20.- The issuance of an environmental license for the purpose of carrying out the construction projects set forth below shall be contingent on compliance with the following requirements:

- a) **Works of protection against the invasion of the sea due to natural causes:** that they do not cause damage to the coastal zone or occupy beaches;
- b) **Maritime works or maritime/terrestrial real estate development that are subject to the invasion by the sea or waters from rivers, on lands that prior to these works were not located in the coastal zone:** to the new demarcation of the land that remains emerged in the coastal zone with its corresponding protective zone;

c) **Works for the recovery of flooded land:** that they do not pollute the marine environment or alter the water flow in a harmful way, and maintaining said flood lands incorporated in the coastal zone and its corresponding zone of protection.

Article 21.- If a license is definitively suspended for any reason whatsoever, its bearer shall be required to withdraw the facilities from the coastal zone and zone of protection, in the manner and time indicated by the Ministry of Science, Technology and Environment, and shall restore the altered conditions.

Article 22.- The Territorial Code shall comply with the provisions contained in the present Decree-Law for the integrated management of the coastal zone and shall be consistent with the strategies and programs for the integrated management of the coastal zone that have been duly approved.

SECTION TWO SYSTEM OF SIGNALS

Article 23.1.- Prior to the execution of any construction project or activity of any type capable of affecting the coastal zone or zone of protection, a suitable system of signals must be provided.

2.- Land-based signals for the coastal and protective zone shall be done by official initiative or at the request of the interested party, by placing boundary stones or specific landmarks, with a maximum distance of 100 meters between each on the land portion and carried out by the Ministry of Economy and Planning through the Institute of Physical Planning.

3.- Marine signals shall be placed in those areas indicated by the Ministry of the Revolutionary Armed Forces and in accordance with its established requirements.

4.- The costs of the system of signals shall be borne by the bearers of title for the construction projects or activities to be executed in the coastal zone.

CHAPTER V KEYS AND PENINSULAS

Article 24.- The small barren islands and keys in waters of the island shelf or in rivers to the point affected by the tides and the peninsulas, shall have coastal zones and zones of protection when applicable and shall be governed by all the provisions established in this Decree-Law, without prejudice to the stipulations of this chapter.

Article 25.- Issuance of an Environmental License for the construction works or activities to be executed in the keys is contingent upon the completion of an Environmental Impact Statement¹³.

¹³ Detailed description of the characteristics of a planned project or activity, including a description of its technology, which is submitted for approval through a process of environmental impact assessment. Well-founded information must be provided for the prediction, identification and interpretation of the environmental impacts of the project. The actions that will be taken to prevent or minimize any adverse effects as well as the monitoring program that will be adopted must be described.

Article 26.1.- No construction of any type shall be authorized in the keys or peninsulas where the setbacks established for the coastal zones and zones of protection are not fulfilled, or in those areas of extreme fragility due to their stage of geomorphologic development, or because their surface is completely covered by mangrove vegetation or exhibits an incipient development of their beaches, unless it is necessary in the interest of national defense and security.

2.- It is the responsibility of the Ministry of Science, Technology and Environment to identify the keys that meet the above-mentioned characteristics.

Article 27.- In geomorphologic consolidated keys and peninsulas, the construction of permanent facilities may only be authorized on firm surfaces, cliffs and on those coastal areas that strictly comply with the distances stipulated in Article 4 of the present Decree-Law for that coastal type.

Article 28.- On all the keys and peninsulas where permanent construction is executed, the waste treatment systems shall be specified in the investment plan and be appropriate, taking into consideration the fragility of the keys, and their effectiveness shall be evaluated on a case-by-case basis, and the feasibility or non-feasibility of authorizing the installation shall be determined.

SPECIAL PROVISION

SOLE PROVISION: When exceptional circumstances impose the need to establish permanent facilities in the keys, contrary to the provisions established in Article 27, the Council of Ministers shall evaluate and if appropriate issue authorization, taking into consideration the opinion

of the Ministry of Science, Technology and Environment.

FINAL PROVISIONS

FIRST: The Ministry of Science, Technology and Environment and the Ministry of Economics and Planning, at an agreed upon time, shall revise the land use plans and real estate development projects, approved prior to the effective date of this Decree-Law, in order to adapt them to the provisions established in hereunder.

SECOND: Authorizations granted prior to the effective date of this Decree-Law, and that are contrary to the provisions or requirements established in it, shall remain under the conditions in which they were issued until they expire. The Ministry of Science, Technology and Environment is in charge of establishing the corresponding conditions needed to regulate such actions, to be executed once prior authorizations have expired.

THIRD: The Ministry of Science, Technology and Environment is authorized to dictate all reasonable measures necessary for the application and fulfillment of the provisions established in this Decree-Law, in coordination with the agencies and entities competent in the matter.

FOURTH: Appendix 1 herein established the principal technical terms applicable to the implementation of the current Decree-Law.

FIFTH: A term of three years following the promulgation of this Decree-Law shall be allowed, in order for all specific legislation concerning uses of the

coastal zone to be reviewed and modified accordingly and made consistent with the provisions herein.

SIXTH: The following are repealed:

- Articles 9, 11, 39, 40, 41, 42, 43 and 46 of Chapters I, II, and IV of Law No. 80, “Law of Ports”, of May 7, 1880; also Article 38 of said Law, as modified by the Second Final Disposition of the Decree-Law No. 578 of December 1, 1952.
- Decree No. 277 of February 26, 1932; Rules and regulations for the withdrawal and channeling of maritime and river sands and mineral deposits, as modified by Decree 4537 of October 19, 1951 and all other provisions that are contrary to what has been established in this Decree-Law.

SEVENTH: This Decree-Law will come into full force and effect after its publication in the “Gaceta Oficial de la Republica de Cuba.”

Enacted in the Revolutionary Palace, in the City of La Habana, on the 8th day of August 2000.

FIDEL CASTRO RUZ

APPENDIX No.1

COASTAL ZONE MANAGEMENT

As used herein, the following terms have the following meanings:

- **sand**, particle with a diameter varying between 0.06 mm and 2 mm.
- **gravel, grit**, loose detritus, which size varies between 2.00 and 2.56 mm.
- **pebbles**, a small stone weathered, polished and rounded by the action of the water, sand or another element, whose diameter is between 4.0 and 64 mm.
- **round stones**, stone naturally rounded, larger than a pebble.
- **submarine sand bar**, the accumulation of loose sand that appears in the form of a submerged ridge.
- **coast**, the terrestrial area of the coastal zone.
- **berm**, the strip of land along a water body, a channel or a beach. On the beach it may be formed by the deposit of materials due to the action of the waves, and is the high tide mark.
- **dune**, dorsal knoll or accumulated sand hill on the coast covered or not by vegetation and, generally, parallel to the coastline.

- **fragile ecosystems**, those that due to their natural characteristics are particularly sensitive to environmental impacts, and the alteration of one or more of their components can easily disrupt the ecological equilibrium.
- **estuary**, portion of a watercourse influenced by the tides of the mass of water towards which it flows. Among others, inlets, creeks and marshes are forms of estuaries.
- **coastal lagoon**, the closed-in extension of salt water, separated from the open sea by any obstacle, such as a low sand bar, which extends parallel to the coast, with little exchange of water.
- **coastline**, the line on the coast that coincides with the mean water level of the sea.
- **island shelf**, the gradually sloping seabed spanning the coastline and the abrupt slope of its outer limit.