Netherlands Commission for Environmental Assessment

Colombia

EIA profile

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Contact & history

Country contact

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History of ESIA

In 1973 the legal system of Colombia incorporated the first environmental law; the Law No. 23. The President then issued Decree-Law 2811 of 1974, known as the National Natural Resources Code. The Code introduced the conservation of natural resources and the environment. It already required environmental impact assessments through its Articles 28 and 29. It provided for a declaration of environmental effect but left decisions to the discretion of the environmental authority.

With the issuing of the Environment Law (Law 99) of 1993, the process to obtain an environmental license was defined and related responsibilities determined. The law 99 established the creation of the Ministry of the Environment (now Ministry of the Environment and Sustainable Development). The issue of ?Sustainable development?, launched at the Earth Summit in Rio de Janeiro in 1992, was essential for the issuing of the Law 99.

Since 1993, it is required to elaborate an EIA prior to the execution of any investments that affect the environment. The Ministry of the Environment and the regional environmental authorities made decisions concerning environmental licensing.

Thereafter, several EIA regulations have been issued to optimize the environmental licensing scheme. Decrees of the years 1994, 2002, 2003, 2005 and 2010 altered the scope of application of the EIA procedures and regulated the functions of the environmental authorities.

The latest regulation is from 2015, Decree 1076. The competent authorities for environmental licensing are now the National Agency for Environmental Licensing (ANLA) and/or the Regional Autonomous Corporations and Sustainable Development Corporations. In some cases also municipalities, districts

and metropolitan areas can be competent authorities.

source

http://portal.anla.gov.co/sites/default/files/normativa_ambiental/dec_1076_26052015.pdf

Article 2.2.2.3.1.2

Legal framework

Framework/Enabling law

Decree-Law 2811 of 1974: National Natural Resources Code and Law no. 99 of 1993

source

http://www.minambiente.gov.co/index.php/normativa/leyes

National detailed regulation for ESIA

Decree 1076, 2015 containing overall Regulations for the Sector Environment and Sustainable Development, p. 174-225

source

- http://portal.anla.gov.co/sites/default/files/normativa_ambiental/dec_1076_26052015.pdf
- Website of the Ministry of Environment and Sustainable Development (website in Spanish)
- Regulations on the website of the National Environmental Licensing Authority (ANLA) (website in Spanish)

Guidelines

- ?Guidelines for Civil Participation? elaborated by the Office of the Inspector General (Procuraduría General de la Nacion), 2007.
- The National Oil Agency developed guidelines on the participation of indigenous and black communities in the EIA process in 2008: ?Manual on the management for exploration and production of hydrocarbons in socially sensitive areas, communities, and environmental vulnerable areas?.
- General methodology for the presentation of environmental studies (2018, 228 p.) developed by Ministry of Environment and Sustainable Development and ANLA.

source

http://portal.anla.gov.co/sites/default/files/comunicaciones/permisos/metodologia_estudios_ambientales_2018_0.pdf

http://portal.anla.gov.co/manuales-y-guias

Sector specific procedures or regulations on EIA

ANLA has grouped sector specific guidelines on their web-site for the following sectors:

- Agrochemicals and Special Projects
- Energy, Dams, Water transfers and Reservoirs
- Hydrocarbons
- Infrastructure
- Mining

source

http://www.anla.gov.co/Sectores-ANLA

Scope of ESIA application

The EIA applies to all public and private works, activities and projects mentioned in decree No. 1076, of 2015, in particular those mentioned in paragraphs 2.2.2.3.2.2 and 2.2.2.3.2.3. EIA is required prior to the investments.

source

http://portal.anla.gov.co/sites/default/files/normativa_ambiental/dec_1076_26052015.pdf

Exemptions from ESIA application

Law 99 of 1993 established exclusive powers for the Ministry of the Environment in relation to activities that are considered to be of national public interest and that have a bearing on key sectors in the economic development of the country. It remains unclear if this means that the Ministry can exempt an activity from the EIA process though, as the Decree 1076 does not specify criteria or projects/activities for exemption of EIA.

Institutional setting

Central ESIA authority

The National Environmental authority is the Ministry of Environment and Sustainable Development. The Ministry had been renamed several times. Art. 6 of Law 99, created the initial Ministry of the Environment in 1993. The Ministry of the Environment, Housing and Territorial Development (MAVDT) followed which was split up in 2011. Since then the Ministry of the Environment and Sustainable Development is the central EIA authority.

In 2011, the National Environmental Licensing Authority (ANLA) was established through Decree 3573 Article 2. The Authority is part of the Ministry of Environment and Sustainable Development. It is responsible for the environmental licensing and permitting process for the projects, works or activities to comply with environmental regulations, so as to contribute to environmentally sustainable development of the country.

source

http://www.anla.gov.co/

Other key (governmental) parties involved in ESIA, and their roles

- The Regional Autonomous Corporations and those of Sustainable Development. These may delegate to territorial entities, for which they must take into account the technical, economic administrative and operational capacity of such entities to exercise the delegated functions.
- Municipalities, districts and metropolitan areas whose urban population exceeds one million inhabitants.
- Environmental authorities created by Law 768 of 2002.

source

http://portal.anla.gov.co/sites/default/files/normativa_ambiental/dec_1076_26052015.pdf

Article 2.2.2.3.1.2

(De)centralisation of ESIA mandates

Regional and local environmental authorities are:

- The Regional Autonomous Corporations (CAR) and Corporations of Sustainable Development.

At district / city level the environmental authorities are:

- Municipalities, districts and metropolitan areas whose urban population exceeds one million inhabitants of the urban area.
- Environmental authorities of the districts Baranquilla, Santa Marta and Cartagena. The districts of Cartagena, Santa Marta and Barranquilla exercise the same functions delegated to the Regional Autonomous Corporations (Law 768 of 2002).

source

http://portal.anla.gov.co/sites/default/files/normativa_ambiental/dec_1076_26052015.pdf

Article 2.2.2.3.1.2

Payment system

Environmental authorities may charge for evaluation and monitoring of the environmental license. The procedure is explained on the web-site of ANLA. Payments have to be done 15 days before the request for an environmental license is done.

source

http://www.anla.gov.co/Portals/0/documentos/comunicaciones/ABC-Licenciamiento/TramiteSolicitudLiquidacionEvaluacionPasoaPaso.pdf

ESIA procedure

Overview ESIA procedure

The EIA process in Colombia consists of Screening, Scoping, Assessment, Review, a decision on the granting of an environmental license and Monitoring.

Main documents resulting from the EIA process are: Starting document (Screening), Terms of Reference (Scoping), Environmental Analysis of Alternatives document (if applicable), EIA report, and an Environmental License document.

On ANLAs website all steps are explained in the so-called 'ABC of environmental licensing'.

source

http://www.anla.gov.co/ABC-del-Licenciamiento-Ambiental

Screening

Screening process

Screening is a required step of the EIA process. Environmental licensing is required only for projects, works and activities as specified in article 2.2.2.3.2.2 (within the mandate of ANLA) and 2.2.2.3.2.3 (within the mandate of the decentralised authorities, such as the Regional Autonomous Corporations) of the Decree 1076 of 2015.

The proponent has to register first through VITAL (counter for online registration). Those interested in projects, works or activities described in Article 2.2.2.3.4.2 of Decree 1076, 2015, must request a statement on the need to present the Environmental Diagnosis of Alternatives (DAA), by request addressed to ANLA. The application must be accompanied by an executive summary with the description of the project and information related to its geographical location, as established in the terms of reference for the presentation of the DAA. The procedure also goes online via VITAL.

The regulation stipulates that if a DAA is not required, then only an environmental impact assessment study is required according to the Terms of Reference of the Ministry of the Environment and Sustainable Development.

Sensitive areas

Projects in the marine environment or coastal areas, need to consult with INVEMAR (research institute).

Projects which affect the areas of national parks are the responsibility of the Ministry of Environment and Sustainable Development.

When projects intervene in wetlands included in the list of wetlands of international importance (RAMSAR) or highland moors and mangroves, the competent environmental authority must request prior approval of the Ministry of Environment and Sustainable Development.

Projects, works or activities requiring removal of national forest reserves are the responsibility of the Ministry.

The Mining Law (No. 1382 of 2010) stipulates in Article 34 that no mining activities are allowed in protected areas.

source

http://vital.anla.gov.co/SILPA/TESTSILPA/Security/Login.aspx

Contents of the starting document

Information to be provided online via VITAL.

The competent authority will decide whether a DAA or an EIA is required. Article 2.2.2.3.4.2. lists 16 categories of projects for which a DAA may be required.

Those interested in mining /oil and gas projects must provide a copy of the mining/oil or gas exploration title and/or the concession contract issued and registered by the national mining registry or the oil and gas registry.

source

http://www.anla.gov.co/Portals/0/documentos/comunicaciones/ABC-Licenciamiento/procedimiento_registro_validacion_y_aprobacion_usuarios_vital.pdf

Timeline Screening

Timeline is fifteen (15) working days. From filing of the request, the environmental authority shall take a decision of the need to submit an analysis of the alternatives (DAA), enclosing the terms of reference for elaboration of the DAA and/or EIA according to the case within 15 days.

source

Article 2.2.2.3.6.1.

Scoping

Scoping process

Scoping is mandatory in Colombia. The proponent should develop the environmental impact assessment (EIA) and/or environmental alternative diagnosis (DAA) considering the terms of reference formulated by the environmental authority. The Terms of Reference determine the intention, scope and content of the environmental study. The terms of reference should be based on the general methodology for the presentation of environmental studies of 2018.

On its web-site, ANLA presents sector specific Terms of Reference.

The Terms of Reference for the environmental impact assessment and the environmental diagnosis of alternatives is reviewed by the competent environmental authority. The competent authority can be ANLA, the Regional Autonomous Corporation or Corporation of Sustainable Development or the District or major cities. The authority may adapt the terms of reference to the particularities of the project, work or activity.

source

http://www.anla.gov.co/Sectores-ANLA

Contents of the scoping document

The contents of the scoping document should be based on the General Methodology for the Presentation of Environmental Studies (2018). But for different sectors, specific ToRs are available.

source

http://www.anla.gov.co/Sectores-ANLA/agroquimicos

http://www.anla.gov.co/Sectores-ANLA/energia

http://www.anla.gov.co/Sectores-ANLA/hidrocarburos

http://www.anla.gov.co/Sectores-ANLA/infraestructura

http://www.anla.gov.co/Sectores-ANLA/mineria

Timeline scoping

When no sector specific ToR are available, the competent authority has 15 days upon receipt of the request for an environmental license, to develop ToR.

source

Article 2.2.2.3.3.2.

http://portal.anla.gov.co/sites/default/files/normativa_ambiental/dec_1076_26052015.pdf

Assessment

Assessment process

As part of the assessment process, the proponent can firstly be required to prepare an environmental analysis of alternatives (DAA), depending on the decision of the competent environmental authority. The competent environmental authority reviews the environmental analysis of the alternatives and decides on the alternatives for which the proponent should develop the environmental impact assessment. If no such an analysis is required, the proponent directly prepares the environmental impact assessment.

The proponent must elaborate the EIA in accordance with the general methodology for the presentation of environmental studies (2018). The methodology describes the official sources of information, the methodology for the identification and assessment of environmental impacts.

The environmental impact assessment includes biological, physical and socio-economical impacts. Quantitative and qualitative assessment criteria that are used for it can be the following: area of influence, magnitude, duration, resilience, reversibility, periodicity, type and possibility of occurrence of impacts. Maximum permissible limits of pollutants as defined in the environmental legislation can be used to evaluate and rank impacts. Moreover, the risks of the construction and operation of the project should be taken as reference. Economic evaluation is another important tool used to assess impacts. It includes an economical evaluation of environmental impacts and the environmental cost benefit analysis.

source

http://portal.anla.gov.co/sites/default/files/comunicaciones/permisos/metodologia_estudios_ambientales_2018_0.pdf

Contents of the EIA report

The general methodology for the presentation of environmental studies, gives the following indication about the content of the DAA or EIA report (see also article 2.2.2.3.4.3. and article 2.2.2.3.5.1.of Decree 1076). The EIA report should contain amongst others:

- Identification of the environmental impacts and the impact assessment is elaborated in the direct and indirect area of influence and consists of the following elements:
- Physical (geology, hydrology, quality of air, water and soil, water, climate, noise)
  - Biological (ecosystems, flora and fauna)
  - Socio-economical
  - Landscape
  - Archaeological
- Environmental management plan
- Zoning of environmental management measures
- Monitoring Program
- Contingency plan
- Abandonment and final restoration plan.

The content requirements for a DAA are different from those for the EIA. A DAA should contain:

- Objective, scope and description of the project, work or activity.
- The general description of the alternatives for the location of the project, work or activity
- Information on the compatibility of the project with the land uses established in the Land Use Plan or its equivalent.
- The identification and comparative analysis of the potential risks and effects on the environment; as well as the use and/or exploitation of the natural resources required for the different alternatives
- Identification and of the communities and mechanisms used to inform them about the project, work or activity.
- An environmental cost-benefit analysis of the alternatives.
- Selection and justification of the chosen alternative.

source

http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30019960

http://portal.anla.gov.co/estudio-impacto-ambiental

http://portal.anla.gov.co/diagnostico-ambiental-alternativas

Accreditation of consultants

There is no legislation on accreditation of consultants

Review

Review process

The review process starts with the proponent's request for an environmental licence. The competent environmental authorities shall take the general criteria defined in the manual of environmental impact assessment (2002) for the review of the environmental impact assessment study. Also a site visit may take place according to the characteristics of the project.

source

http://portal.anla.gov.co/documentos/normativa/MANUAL%20DE%20EVALUACI%C3%93N%20DE%20ESTUDIOS%20AMBIENTALES%202002.pdf

Review expertise

The review is done by the competent authority. Whenever ANLA reviews, it can ask for the opinion of the decentralized competent environmental authorities.

source

Article 2.2.2.3.6.3.

http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30019960

Timeline Review

After the presentation of the EIA by the proponent the competent environmental authority has 5 working days to start the review process. The competent environmental authority can request within 15 working days information from other authorities or entities. The required information should be submitted within 20 working days. If necessary, additional documents or information can be requested from the applicant. In this case the response time is suspended until the additional information is presented. The review process may include a meeting between the proponent and the competent environmental authority.

source

http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30019960

Article 2.2.2.3.6.3.

Decision making

Integration of ESIA into decision-making

EIA is required in all cases where an environmental license is required. It thus results in the issuing or rejecting of an environmental license. Such a license is required for the approval of the project, work or activity and it must be obtained prior to its start. The environmental license is the decision document.

Obtaining the environmental license is a precondition for the exercise of the rights arising from the

permits, authorizations, concessions, contracts and licenses issued by authorities other than environmental authorities.

Competent environmental authorities to grant or reject environmental license are as follows:

Ministry of the Environment and Sustainable Development and specifically the National Environmental Licensing Authority (ANLA) are responsible for the environmental licensing and permitting process at national level.

Other authorities are:

The regional environmental authorities and the regional corporations of sustainable development;

Municipalities, districts and metropolitan areas whose urban population is exceeding one million inhabitants in the urban area;

Environmental authorities of the districts Baranquilla, Santa Marta and Cartagena. The districts of Cartagena, Santa Marta and Barranquilla exercise the same functions as the regional autonomous environmental corporations (Law no. 768 approved in 2002);

Territorial entities which are delegated by regional autonomous corporations and/or regional corporations of sustainable development, except for the realization of projects, works or activities undertaken by the same territorial entity. Territorial entities must have particularly technical, economic, administrative and operational capacity to serve as delegates.

source

Articles 2.2.2.3.1.3 to 2.2.2.3.1.5

http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30019960

http://portal.anla.gov.co/licencia-ambiental-subdireccion-evaluacion-y-seguimiento

Decision justification

The environmental license should give a summary of environmental considerations and motivations that have been taken into consideration in the issuing of the license.

The start of the license procedure should be published.

The Environmental Law (No. 99) establishes the obligation concerning the publication of the decision.

Decisions on environmental licenses are published in a bulletin (Gaceta Ambiental) of the Ministry of Environment and Sustainable Development.

source

Article 2.2.2.3.6.6.

Timeline decision-making

The competent environmental authority shall decide on the license of the project, work or activity, within a maximum period of 30 working days.

source

Article 2.2.2.3.6.2.

Follow up

Compliance monitoring

The relevant competent environmental authority is also responsible for control and monitoring. The environmental authority may carry out visits to the place where the project is developed, make requirements, impose environmental obligations, technically check the monitoring carried out by the licensee of the environmental management plan.

ANLA has a manual from 2002 for control and monitoring.

source

Section 9, Decree 1076-2015

http://portal.anla.gov.co/manuales-y-guias

http://portal.anla.gov.co/control-y-seguimiento

Non-compliance penalties

Regarding sanctions, reference is made to Law 1333 of 2009.

Stakeholder engagement

Public participation requirements for ESIA process stages

If the project, work or activity develops within territory of an indigenous community, a consultation is mandatory during the assessment process.

A public audience might be performed before the issuance of the administrative act which approves, rejects or modifies the environmental license, but always after the presentation of environmental impact assessment study to the environmental authority.

The public hearing results are documented and available on ANLAs website.

ANLA also has a public participation strategy of 2018 available.

Public participation is an obligation to obtain an environmental license for oil and gas projects. The National Oil Agency developed a manual for exploration and production of oil and gas in socially sensitive areas. The manual describes a methodology for participation.

In 2007 the Office of the Inspector General prepared public participation guidelines.

source

http://www.anla.gov.co/Participaci%C3%B3n-Ciudadana

Chapter 4 of Decree 1076-2017 elaborates on the procedures of public hearings.

http://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30019960

http://portal.anla.gov.co/documentos/atencion_ciudadano/dec_0330_080207.pdf

http://portal.anla.gov.co/sites/default/files/comunicaciones/Planeacion/estrategia_participacion_ciudadana_2018-2.pdf

Access to information

Any person may request information about the status of the environmental assessment of a project, work or activity subject to environmental license. The request can be directed to the competent environmental authority that is involved with the environmental assessment procedure.

In addition, every person may invoke their right to be informed about the amount and use of financial resources, which are intended for the preservation of the environment.

VITAL is the online system for environmental assessment where all kind of information can be accessed.

There are also specific institutes that have environmental information, like SICA and IDEAM.

source

http://www.siac.gov.co/

http://www.ideam.gov.co/

Appeal

Possibilities for appeal

The applicant (and government agencies, individual citizens, public interest groups (NGOs) and private parties) can appeal against the decision on the environmental license which is granted or rejected. The appeal is filed with the same environmental authority that took the decision.

source

Law 1437 of 2011.

ESIA practice

Annual no. of ESIAs

No recent data available.

In the period of 1994-1999 a total of 1536 EIAs were administered by the MAVDT (Directorate of Environmental Licenses and Permissions) (this does not include EIAs processed by the Regional Autonomous Corporations (CARs).

source

www.iaia.org/ case study Colombia por I.Acosta http://www.iaia.org/publicdocuments/EIA/CaseStudies/ColombiaStudy.pdf

Central ESIA database

The central online environmental system (VITAL) is a system that unifies all the administrative procedures of environmental management plans and environmental licenses at national level.

The Minstry has a bulletin: “La Gaceta Ambiental”, which publishes the EIAs which are approved by the Ministry.

ANLA administers a register of environmental licenses that are pending, granted or rejected.

source

www.minambiente.gov.co

VITAL is part of Environmental Information Sistem (SIAC) www.siac.gov.co