Bolivia

EIA profile

Updated to: 28 August 2019

Overview ESIA procedure

The EIA procedure in Bolivia starts with Screening. This step involves the allocation of a project to one of different categories that each require different levels of environmental assessment. Thereafter, the impact assessment, the review process and the decision-making process regarding the issuing of an environmental license follow. Finally compliance-monitoring is required. Scoping is not a required step of the process.

Important documents that are part of the EIA process are the following: Form for the level of environmental categorization, EIA report, Prevention and Mitigation Plan (PPM), Application and Management Plan (PASA), Environmental Impact Declaration (= similar to environmental license), Monitoring plan.

Screening

Screening process

Screening is a required step of the EIA process. At national level, the Viceministry of Environment, Biodiversity, Climate Change and Forest Development and Management and at local level, the local government is the authority responsible for the screening decision.

The Screening process involves the categorization of projects to determine the level of assessment that is required. Four categories are distinguished:

1. Analytical integral environmental impact assessment study
2. Specific analytical environmental impact assessment study
3. Projects and activities which require only a monitoring plan and an environmental plan with prevention and mitigation measures.
4. No EIA required.

The screening process is described in article 2 of Decree 3856 of 2019:

I. The Legal proponent based on the listing in Annex "A" identifies the EIA category; This Annex of about 60 p. contains a long list of all kind of activities per sector and determines the category (1,2,3 or 4).

2. Once the level has been identified, the proponent has to fill in a form (also attached to the Decree), which has a legal status. The form has to be signed by the proponent and the RENCA consultant (EIA registered consultant.)

3. The form will be submitted to the relevant competent environmental authority for approval and registry;

4. The activities in Categories 1, 2 and 3, which are located in protected areas, must comply with the provisions established in the General Regulation of Protected Areas, which implies that the form needs to have attached the so-called Certificate of compatibility of use issued by SERNAP.

Whenever the proponent or RENCA consultant have difficulty to decide on the correct Category, they can consult with the respective competent environmental authority.

Sensitive areas

See above provision under 4.

source

http://snia.mmaya.gob.bo/web/PDFs/DS_3856.pdf

Contents of the starting document

The contents of the form for screening

- Data of the proponent and EIA consultant
- Project identification and location
- Project category according to Annex A.

The form is a public document and can be checked by any individual or collective, public or private party (Article 160-166 of RPCA, 2006).

source

http://snia.mmaya.gob.bo/web/PDFs/DS_3856.pdf

Timeline Screening

The competent environmental authority takes the screening decision within 10 working days.

source

RPCA 2006, Capítulo II

Scoping

Scoping process

There is no scoping step

Contents of the scoping document

Not applicable

Timeline scoping

Not applicable

Assessment

Assessment process

Whenever the screening decision is taken by the competent environmental authority (= approved screening form), the proponent, together with the consultants team starts to elaborate the EIA study (for category I and II). Category III does not require an EIA study, but instead an environmental management plan with prevention and mitigation measures.

The proces differs a little in terms of timelines and steps to follow according to the situation:

- the activity takes place in a protected area and there is a OSC (competent sectoral organism)
- the activity does not take place in a protected area and there is a OSC
- the activity does not take place in a protected area and there is no OSC
- the activity does not take place in a protected area and falls within the competence of departmental authorities.

source

Article 4, II (substitucions), Decree 3549

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

Contents of the EIA report

The regulation ?Prevention and control of environmental quality? describes the minimum content of the EIA-report.

- description of the project and its objectives;
- environmental baseline;
- identification of impacts;
- prediction of impacts;
- analysis of risk and contingency plan;
- environmental, social and economic impact assessment
- proposal of mitigation of negative impacts
- discussion of alternatives;
- program with prevention and mitigation measures, including their costs;
- analysis of cost-benefit;
- restauration and abandonment plan;
- monitoring and evaluation plan;

- identification of applicable legislation;
- references;
- complete EIA document including clear and easy understandable executive summary.

source

Annex B of Decree 3549

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

Accreditation of consultants

The National Environmental Authority administrates a register of accredited environmental consultants (RENCA). The National Environmental Authority grants authorization to any professional, business consultant, group of professionals, environmental units and non-governmental, national or foreign organizations, complying with the conditions laid down under the national environmental authority. Register lists of environmental consultants of the national environmental authority are available for public consultation in departmental governments, sectoral bodies and/or municipal governments.

A request for registration is directed to the General Directorate of Environment and Climate Change.

Recenty (april 2019) a new resolution has been approved regarding RENCA.

source

http://snia.mmaya.gob.bo/web/modulos/RENCA/

RESOLUCIÓN ADMINISTRATIVA VMABCCGDF N° 10/2019 04 de abril de 2019

Review

Review process

The review process follows a slightly different process according to the situation:

I. The activity takes place in a protected area and there is a OSC (competent sectoral organism):

- The proponent sends the EIA study simultaneously to the SERNAP or Municipal Instance when applicable and to the OSC;
- SERNAP, submits a Technical Opinion to the OSC within 15 days, so that the OSC within 18 days, issues the Legal Technical Opinion to the competent environmental authority, which will be the basis for the issuance of Environmental License. If there are observations, the OSC will grant the proponent 20 days for one time, for clarifications, complements to amendments, requesting that they be submitted simultaneously to the OSC and SERNAP when appropriate.
- Once the EIA study has been corrected, SERNAP has 8 days to review, so that the OSC can issue the Final Legal Technical Opinion to the Competent Environmental Authority within 10 days, which will be the basis for the issuance of the Environmental License.

- The Competent Environmental Authority, after receiving the Final Legal Technical Opinion, will issue the Environmental License within 5 days. If there are observations, the proponent will be granted 5 days for one time, for clarifications, complements or amendments.
- Once the EIA study has been corrected, the compentent environmental Authority will issue the Environmental License within 5 days.

In the other situations steps are a little different and timelines are generally a bit shorter.

II. the activity does not take place in a protected area and there is a OSC

III. the activity does not take place in a protected area and there is no OSC

IV. the activity does not take place in a protected area and falls within the competence of departmental authorities.

Details are available in Article 4, II (substitucions), Decree 3549.

source

Article 4, II (substitucions), Decree 3549

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

Review expertise

Municipality and/or the environmental units of the Ministeries (sector) are involved in the review and send their findings and observations to the competent environmental authorities.

Whenever the activity in located in, or may affect a protected area, also SERNAP is involved.

source

Article 4, II (substitucions), Decree 3549

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

Timeline Review

The deadline for the review by the competent environmental authority is 25-30 working days depending on the category. The timeline will be longer when the review leads to comments that need to be repaired.

Decision making

Integration of ESIA into decision-making

The Environmental License (Declaratorio de Impacto Ambiental (DIA) approves the project from an environmental point of view. The DIA usually contains certain conditions and requires the application of the so-called PASA (Environmental Management and Monitoring Plan).

The DIA is issued by the National or Departmental Competent Environmental Authority.

Decision justification

The Competent Environmental Authority is only required to justify the decision, when it refuses to issue the environmental license. Article 85 of the RPCA, 2006 lists a number a possible reasons.

Although it is stated in general terms that there is a right to acces of information during the administrative EIA process, it is not specifically indated that the decisions are published.

Timeline decision-making

The deadline for the EIA approval by the competent environmental authority is 20-30 working days depending on the category.

source

Article 4, II (substitucions), Decree 3549

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

Possibilities for appeal

Any natural or legal person, who is considered affected by the categorization, or the rejection of the EIA Study by the Competent Environmental Authority may appeal according to the procedures established in Law No. 2341, April 23, 2002, on Administrative Procedures and its Regulations.

The decisions taken by the competent environmental authority may be challenged in the final instance before the Maximum Executive Authority of the Ministry of Environment and Water.

source

Article 4, VII (substitucions), Decree 3549

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

Follow-up

Compliance monitoring

It is required to formulate a monitoring plan (Plan de Aplicación de Seguimiento Ambiental, PASA). The PASA contains inspection and monitoring during the phases of implementation, operation and closure.

Environmental units of the regional and national ministries, local governments at the level of the nine departamentos and municipalities should do the inspection and surveillance of the project during implementation, operation and closure.

The Gobiernos Indígena Originario Campesinos Autónomous (local autonomous governments) are involved in monitoring according to the PASA.

Non-compliance penalties

Environmental licenses could be suspended if the project does not meet the requirements laid down in the Environment Law or its regulations. This includes violations in categorization, the elaboration of the EIA, the elaboration of the mitigation measures plan and environmental monitoring plan. In the implementation phase the project can be stopped through the suspension of the environmental license, or in the case when the operator fails to comply with the approved mitigation measures and environmental monitoring plan.

source

Ley Medio Ambiente y su Reglamento Prevención y Control Ambiental, 2006, article 169 to 171.

Stakeholder engagement

Public participation requirements for ESIA process stages

During the EIA study, the proponent must carry out Public Consultation in order to take into account the observations, suggestions and recommendations of the population benefited and/or affected, in the area of intervention of the activity.

For this, the procedure in ANNEX E of Decree 3549 shall be applied.

During the review of the EIA study and the granting of the environmental license, any natural person or collective person (through the local community organization - OTB), can formulate in writing their comments, criticism and proposals for the project, with technical and legal justification. The competent environmental authority must take into account these comments in issuing its report.

During the phase of the EIA review, one may submit a petition for a public hearing initiative, in accordance with the general environment law and with the regulation of environmental management.

In the review of the EIA reports, the competent environmental authority may consult individuals, institutions and communities in the area of influence of the EIA, which may submit their judgment in writing.

The results of public participation have to be elaborated the EIA final report. There is no information though on how these are considered in decision making.

There are no costs for the public to partake in EIA.

source

Annex E, decree 3549

Articles 163-165, RPCA, 2oo6

Timeline for public comments

When the competent environmental authority decides to consult the public during the review phase, the public has 15 days to submit their comments.

A timeline of 20 days after the publication in the media is set for the industrial sector in the regulation of environmental procedure for the industrial and manufacturing sector.

source

Article 164, RPCA, 2006

Access to information

A summary of the EIA, with mandatory information that is set by the environmental regulation is elaborated. The summary must be accessible to the public.

The environmental regulation for the industrial manufacturing sector establishes that the proponent must inform through the media that the draft EIA and management plan are available for public consultation. In addition, a letter must be sent to the stakeholders in the area of influence.

The environmental and project information sheets, EIA-reports and environmental licenses have to be publicly available at the environmental units of the Local Government or the environmental unit of the National General Environmental Directorate (Viceministry of Environment, Biodiversity, Climate Change and Forest Development and Management).

For this purpose a register is opened, which contains updated versions of all relevant EIA related documents.

source

Article 163, RPCA, 2006

ESIA practice

Annual no. of ESIAs

800 EIAs are assessed and approved annually (information 2013).

Central ESIA database

Information is stored at the National System of Environmental Information, but this not only related to EIA documents.

source

http://snia.mmaya.gob.bo/web/

Relevant links

- Environmental Information System (website in Spanish)
- http://www.sbda.org.bo/areas-de-trabajo/politicas-publicas-y-legislacion-ambiental/

Background information

History of ESIA

In Bolivia the obligation to conduct an environmental impact assessment (EIA) exists since 1992, with the promulgation of the Law of the Environment (Law No. 1333). In 1995, the regulations of environmental control and prevention and environmental management were approved. The EIA legislation was strengthened with the adoption of sector regulations. EIA is implemented by the Ministry of Environment and Water, environmental units of the other Ministries at the national level and by the

local governments at the departmental level.

Recently, the regulations of environmental control and prevention were modified in 2018 by Decree 3549 and in 2019 again by DS 3856.

source

http://snia.mmaya.gob.bo/web/PDFs/DS_3856.pdf

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

Legal framework

Enabling law

The Law of Environment no. 1333 of 1992

source

https://www.mmaya.gob.bo/marco-legal/leyes-y-normas/

National detailed regulation

The Regulation on Prevention and Environmental Control (DS 24176, 1995) sets the EIA and environmental quality control regulatory framework. The regulation establishes the full EIA procedure and competences of the environmental authorities. Environmental quality control concerns the control of all investments in the process of implementation, operation, maintenance or abandonment phase.

The DS 24176 was modified in 2006, by DS 28592 ? 17/01/06. Issues modified were related to sanctions and environmental audit. The regulations were again modified in 2018 (DS 3549) and 2019 (DS 3856).

source

http://snia.mmaya.gob.bo/web/PDFs/DS_3856.pdf

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

https://bolivia.infoleyes.com/norma/2206/reglamento-para-la-prevenci%C3%B3n-y-control-ambiental-rpca

https://bolivia.infoleyes.com/norma/2388/decreto-supremo-28592

Guidelines

The EIA regulations contain a number of anexes that provide guidance on amongst others:

- how to fill in the environmental information form.
- the minimum content of an impact assessment study report.
- prevention and mitigation plans

- public consultation

source

https://bolivia.infoleyes.com/norma/6741/decreto-supremo-3549

Sector specific procedures or regulations

The Ministry of Mining and Metallurgy and the Ministry of Hydrocarbons and Energy are important ministries economically and socially, and their sectors have significant environmental impacts.

Sectors have their own regulations that are based on the environmental protection act. Sectoral EIA procedures are established based on the Regulation for prevention and environmental control.

The sectoral regulations are as follows:

- Environmental regulation of mining activities, RAAM (Supreme Decree No. 24782, 1997).
- Environmental regulation of the hydrocarbons sector, RASH (DS 24335, 1996).
- Environmental regulation for the industrial sector (RASIM, DS 26736, 2002).

The sector regulations provide permissible limits for the sector. Sectors use guidelines and promote the ISO 14000 standards.

source

https://bolivia.infoleyes.com/norma/4984/ley-de-miner%C3%ADa-y-metal%C3%BArgia-535

https://bolivia.infoleyes.com/norma/1/ley-de-hidrocarburos-3058

https://bolivia.infoleyes.com/norma/2323/reglamento-ambiental-para-actividades-mineras-raam

https://bolivia.infoleyes.com/norma/299/reglamento-ambiental-para-el-sector-de-hidrocarburos-rash

https://bolivia.infoleyes.com/norma/2280/reglamento-ambiental-del-sector-industrial-manufacturero-rasim

Scope of application

EIA is applicable to all plans and programs, works, activities and projects, and public, private or mixed investment. EIA will be applied previous to the implementation phase.

source

Article 2, EIA regulations

Exemptions from application

The newly adopted DS 3856 (2019) contains in Annex A a long list of activities in Category 4. These activities do not require any form of environmental assessment, unless they are located in a protected area. In the latter case, SERNAP (in charge of protected areas) needs to issue a Certificate of 'compitibilidad de uso'

source

http://snia.mmaya.gob.bo/web/PDFs/DS_3856.pdf

Institutional setting

Central ESIA authority

The competent national environmental authority is the Viceministry of Environment, Biodiversity, Climate Change and Forest Development Management (established by Decree No. 29894 in 2009 - article 98). The Vice-Ministry depends on the Ministry of Environment and Water.

The approval of the environmental license is authorized by the competent environmental authorities: the Viceministry of Environment, Biodiversity, Climate Change and Forest Development Management and the local authority (Gobiermo Autónomo Departamental) of one of the nine departments.

source

http://snia.mmaya.gob.bo/web/PDFs/DS_3549.pdf

Other key (governmental) parties

The Ministry of Mines and Metallurgy is an important environmental authority which establishes regulations, norms and guidelines for the EIA procedures.

Other important authorities are the Ministry of Hydrocarbons and Energy and the State Hydrocarbons Agency - Yacimientos Petrolíferos Fiscales Bolivianos (YPFB). This sector has its own regulations and guidelines.

The Ministry of Public Works, Services and Housing is involved as advisor for EIA procedures for projects, works and activities in this sector.

The so-called competent sectorial organisms (OSC) are National Ministries and Secretariats representing sectors of the national activity, linked to the environment. They have an advisory role when it comes to for instance reviewing the EIA study.

An advisory role in the EIA procedure is also allocated to the Service of Protected Areas (SERNAP) whenever a protected area is likely to be affected.

source

RPCA, 2006, article 12.

https://www.ypfb.gob.bo/es/

http://www.mineria.gob.bo

(De)centralisation of mandates

The Vice Ministry of Environment, Biodiversity, Climate Change and Forest Management, as the national authority, has competence in all projects, works or activities that have international cross-border impacts. This authority is also responsible in case of projects that are handled by the departmental

governments, when they have at least one of the following characteristics:

- They are geographically located in more than one department.
- The area of possible impacts may affect more than one department.
- Whenever a project is located in, or will affect Protected areas that are part of the National System of Protected Areas and their areas of influence.
- activities promoted by the Presidency of the Plurinational State of Bolivia.

Projects, works or activities within the competence of the Departmental Government (through their environmental units) are those that meet at least one of the following characteristics:

- are geographically located in more than one municipality of the department;
- if the area of possible impacts may affect more than one municipality of the department;
- are located in forest reserve areas;
- those that are not within the competence of the National or Municipal Authority.

Projects, works or local activities will be considered by municipal governments, when they are within the scope of their territorial jurisdiction.

The national and departmental governments have decision taking mandates within the EIA procedure, the municipalities have an advisory role only during certain steps of the EIA procedure.

There is also the framework law no. 31, that contains further details on autonomy and decentralization.

source

https://bolivia.infoleyes.com/norma/1943/ley-marco-de-autonom%C3%ADas-y-descentralizaci%C3%B3n-andr%C3%A9s-ab%C3%A1%C3%B1ez-031

Payment system

Not specified

Contact

Viceministry of Environment, Biodiversity, Climate Change and Forest Development and Management

CASA GRANDE DEL PUEBLO

Piso 18, Zona Central - Calle Ayacucho Esq. Potosí

Teléfonos: +591(2) 2154427 , +591 (2) 2156437

Email: mmaya@mmaya.gob.bo

source

https://www.mmaya.gob.bo/