

## Colombia Legal Highlights (Volume II, 2013)

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### **Latin American Region Environmental Report, Second Quarter, 2013**

#### **Colombia Regulates Protection of Strategic Water Resources**

On May 17, 2013, the Ministry of Environment and Sustainable Development (*Ministerio de Ambiente y Desarrollo Sostenible*; "MADS") officially issued Decree No. 953 ("the Decree"), which regulates Article 111 of Law No. 99/1993. Article 111 requires departments and municipalities to earmark at least 1% of their annual revenue for the acquisition or maintenance of areas containing strategic water resources. "Strategic water resources" refers to waters that are strategically important for municipal, district, and regional water use. (Art. 1) Departments and municipalities may choose either to purchase lands containing strategic water resources or to implement a system of payments for ecosystem services ("PES"), whereby cash payments or other incentives are used to encourage conservation. Any PES, once established, would be required to be registered with the relevant environmental authority. (Art. 9.5)

Compensable ecosystem services will be determined based on technical support from the relevant environmental authority (Art. 7) and would include, for example, erosion and sediment control (Art. 3). The Decree further directs MADS to issue directives regarding the identification, location, and prioritization of these strategic areas (Art. 4), as well as the design and implementation of PES schemes (Art. 9, par 3).

*Reference Sources (in Spanish):*

- [Colombia Decree No. 953/2013](#)

#### **Colombia Adopts New Mining Provisions**

On May 14, 2013, the Ministry of Mining issued Decrees Nos. 933 and 934 (the "Decrees"), regulating the application process for mining concessions and areas excluded from mining concessions. Decree No. 933 provides a mechanism to formally approve the high percentage of mining activity in Colombia that takes place without a mining title. Decree No. 934 gives exclusive control over the location of concessions to Colombia's national mining and environmental authorities and prohibits local governments from making these determinations using routine zoning instruments.

The Decrees partially replace an amendment (Law No. 1382) to Colombia's Mining Law that had been judicially invalidated. Law No. 1382 both prohibited mining on several types of land, including national parks and wetlands designated under the Ramsar list, and expanded the scope of activities for which an environmental impact assessment was required. In 2011, Colombia's Constitutional Court declared Law No. 1382 void on the basis that it violated the constitutional right of indigenous Colombians to consult on legislation affecting land use and resource extraction in areas inhabited by their communities. Recognizing the environmental value of some provisions, however, the Court delayed the revocation of Law No. 1382 for two years.

*Reference Sources (in Spanish):*



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- [Colombia Decree No. 933/2013](#)
- [Colombia Decree No. 934/2013](#)

## Colombian Ministry Proposes Classification System for Environmental Permitting

On April 24, 2013, the Ministry of Environment and Sustainable Development's ("MADS") National Authority of Environmental Licenses (*Autoridad Nacional de Licencias Ambientales*; "ANLA") issued a draft resolution proposing a Technical Classification System that would establish criteria for various categories of projects, works, and activities that must be submitted to the Technical Advisory Council (*Consejo Técnico Asesor de Política y Normatividad Ambiental*; the "Council") for review as part of the permitting process. Administrative activities that could trigger submission to the Council include applications for environmental licenses, modifications to environmental licenses or Environmental Management Plans, general permitting, and other environmental processes overseen by ANLA. (Art. 1)

Covered activities would include, among others, projects whose development overlaps or involves the construction of tunnels underneath the National System of Protected Areas, Ramsar wetlands, páramos, mangroves, coral reefs, sea grass beds, aquifer recharge zones or Protected Maritime Areas, any project involving the construction or operation of maritime ports, and any projects involving nuclear energy generation. (Art. 2) The Council would be required to advise ANLA on the permitting of any covered projects. (Art. 6) Approval for projects or modifications required to undergo the aforementioned review process would be suspended for thirty days following the submission of all relevant technical documents to the Council. (Art. 10)

*Reference Sources (in Spanish):*

- [Colombia Draft STC Resolution](#)

### Colombian Senate Bill Would Prohibit Development of Certain Ecosystems

On April 17, 2013, Senator Juan Lozano Ramírez introduced Bill No. 206 to establish conservation standards for páramos (i.e., Andean tundra), wetlands, dry tropical forests, and national parks. Specifically, the following activities would be prohibited:

- In páramos: aquaculture, mineral and energy resource extraction, construction of refineries (Art. 1);
- In wetlands: aquaculture, high-impact mineral and energy resource exploration and extraction without detailed environmental impact assessment (Art. 2); and
- In national parks: any activity not associated with conservation, recreation, environmental education, and research; any activity which will cause significant deterioration of the environment; and any hunting, fishing, industrial, resource extraction, hospitality, livestock-rearing, or agricultural activities (Art. 3).

*Reference Sources (in Spanish):*

- [Colombia Senate Bill No. 206/2013](#)

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