

Peru Legal Highlights (Volume I 2013)

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Peruvian Soil Quality Standards Approved

Peru's Ministry of the Environment (*Ministerio del Ambiente*, "MINAM") has issued a decree (*Decreto Supremo N° 002-2013-MINAM*, the "Soil Standards") setting forth environmental soil quality standards applicable to all projects or activities that might have an environmental impact on soils. (Soil Standards, Art. 2.) The Soil Standards establish chemical, physical and biological thresholds for the existence of certain organic and inorganic contaminants in different types of soil. (Soil Standards, Annex I.) Allowable thresholds vary depending on whether the soil in question underlies agricultural, residential or commercial/industrial land. (Soil Standards, Annex I.)

The Soil Standards set forth environmental management processes to be employed by entities engaged in new and existing development projects which might impact soils. Entities engaged in projects begun after the enactment of the Soil Standards must identify in their environmental management plans any soil-impacting chemicals used in the project. (Soil Standards, Art. 6.) For existing projects, the same must be done within 12 months of the Soil Standards' issuance. (Soil Standards, Art. 7.) In the event that regulated entities cause soil contamination, they must remediate the contamination to levels that do not exceed the thresholds set forth in the Soil Standards. (Soil Standards, Art. 8.) Remediation is to be performed in accordance with decontamination plans to be presented to government inspectors no later than twelve months after the event which caused the contamination. (Soil Standards, Art. 8.) Violations of the provisions of the Soil Standards may result in administrative fines. (Soil Standards, Art. 13.)

The Soil Standards were published in Peru's Official Gazette (*El Peruano*) on March 25, 2013 and became effective the next day.

Congress Amends Peru's Environmental Inspection and Assessment Law

The Peruvian Congress has approved Proposed Bill 1815/2013-CR (the "SINEFA Bill"), amending Peru's National Environmental Inspection and Assessment Law (*Ley 29325, Ley del Sistema Nacional de Evaluación y Fiscalización Ambiental*, the "SINEFA Law"). The SINEFA Bill enhances the enforcement powers of Peru's Office of Environmental Assessment and Inspection (*Organismo de Evaluación y Fiscalización Ambiental*, "OEFA").

In describing OEFA's responsibilities, the SINEFA Bill, among other things, (i) outlines the standards for membership in OEFA's highest adjudicative body, the Tribunal of Environmental Inspection (*Tribunal de Fiscalización Ambiental*); (ii) sets forth an explanation of the normative, supervisory, and evaluative functions granted OEFA in the SINEFA Law; (iii) grants OEFA the power to take samples, measurements, photographs and videos of relevant matters when exerting its inspection functions; and (iv) grants OEFA the authority to require reports from the private entities it supervises. (SINEFA Bill, Art. 1, *amending* SINEFA Law, Arts. 10, 11, 13, 15.) The SINEFA Bill also delineates OEFA's authority to levy fines, stating that OEFA may impose fines for violations of environmental norms, violation of environmental commitments assumed by regulated entities, and violation of remediation measures mandated by OEFA. (SINEFA Bill, Art. 1, *amending* SINEFA Law, Art. 17.) In addition, the SINEFA Bill provides for greater transparency in OEFA's processes by requiring that technical information obtained as a result of OEFA's performance of its sampling and monitoring functions be made available to the public. (SINEFA Bill, Art. 2, *amending* SINEFA Law, Art. 13-A.)

The SINEFA Bill was approved by the Peruvian Congress on March 27, 2013 and has been referred to the Office of the President.

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