

LATIN AMERICA MINERAL AND ENERGY LAW

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ARGENTINA

Inés Agüero Ovejero, Reporter

Major Federal and Provincial Developments in Argentina's Mining Legal Framework

Between July and November 2025, Argentina introduced new federal and provincial measures affecting the mining legal framework. At the federal level, Decree 449/2025 amended the Mining Investment Law and transferred management of the National Geological Information Bank to SEGEMAR, streamlining administrative procedures and clarifying fiscal-stability mechanisms. Decree 563/2025 removed export duties on more than 230 metallic and nonmetallic products, reducing export costs and supporting competitiveness.

At the provincial level, regulatory activity expanded. Salta implemented a Sustainable Mining Assistance Program and updated its water-use fee for industrial and mining purposes. The Los Azules copper project in San Juan Province and Galan Lithium's Hombre Muerto West project in Catamarca Province were approved for inclusion under the RIGI. Catamarca also reorganized its Ministry of Mining to strengthen oversight. Río Negro, La Rioja, Jujuy, and Santa Cruz enacted new provincial regulations on supplier participation, local employment, and administrative procedures.

Interprovincial and cross-border cooperation also advanced. Salta and Catamarca signed protocols for the Diablillos–Plata project, while several northwestern provinces coordinated with Chile, Paraguay, and Brazil on the Bioceanic Corridor to strengthen mining logistics and regional connectivity. These developments reflect continued regu-

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BOLIVIA

Mattías Garrón, Reporter

Implementing the Minamata Convention in Bolivia and the New Framework for Mercury Management in Mining

Mercury use in Bolivian mining remains a central environmental and public health concern, particularly in artisanal and small-scale gold mining. Although mining is one of the country's most dynamic sectors, the widespread, poorly controlled use of mercury has generated serious impacts in rivers, protected areas, and Indigenous territories. The issue is no longer only technical; it has become a matter of regulatory design, human rights, and international compliance.

In the Amazon region, Indigenous peoples whose livelihoods and cultures have developed over centuries in riverine areas are directly exposed. Many of these communities depend on fishing for subsistence and income. The Central de Pueblos Indígenas de La Paz (CPILAP), representing affected communities, commissioned a scientific study to measure mercury levels in Amazonian rivers and in human populations. The results indicated individuals with concentrations five to six times higher than the limits recommended by the World Health Organization. These findings have placed additional pressure on authorities to move from diagnosis to implementation.

Bolivia responded by joining the Minamata Convention on Mercury on October 10, 2013, ratifying it through Law N° 759 on November 18, 2015, with entry into force on August 16, 2017. The Convention seeks to protect human health and the environment

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latory modernization and greater alignment between federal and provincial policies, while infrastructure and workforce capacity remain key implementation challenges.

Federal—Reform of the Mining Investment Law and the National Geological Information Bank (Decree 449/2025)

On July 7, 2025, the National Executive issued Decree 449/2025, amending the Mining Investment Law (Law No. 24,196) and the law establishing the National Geological Information Bank (Law No. 24,466). The reform, enacted under the powers delegated by Law No. 27,742 (“Ley de Bases”), aims to simplify administrative procedures and strengthen the technical role of SEGEMAR as Argentina’s central geological authority.

The main adjustments include:

- **Fiscal-stability certificates:** These will now indicate only the date of the project’s feasibility-study submission, which will serve as the reference point for determining the applicable tax burden throughout the stability period.
- **Investment reporting:** The sworn statement under Article 18 of the Mining Investment Law must now be accompanied by an independent technical report, improving the quality of information provided and streamlining evaluation.
- **Verification of commitments:** The enforcement authority will cross-check the data between the sworn statements required under Articles 18 and 25 to verify compliance with planned investments and works.
- **Geological data management:** Administration of the National Geological Information Bank has been transferred from the Mining Secretariat to SEGEMAR, which will collect, process, and publicly disseminate geological information from projects benefiting from the regime.

Overall, the reform seeks to reduce procedural bottlenecks, improve transparency, and enhance coordination between federal and provincial institutions in the evaluation of mining investments.

Federal—New Export Duty Exemptions (Decree 563/2025)

On August 22, 2025, the National Executive enacted Decree 563/2025, which eliminated export duties on more than 230 metallic and nonmetallic mining products, most of which were previously subject to a 4.5% rate. The measure covers inputs for the construction industry, nonmetallic minerals with established export markets, and metallic products such as iron, copper, lead, zinc, and ferroalloys. Lithium and silver remain subject to their existing tax and customs treatment.

This reform aims to enhance the international competitiveness of Argentina’s mining exports and aligns with the government’s broader deregulation and investment-promotion agenda under Law No. 27,742.

Province of Salta—Sustainable Mining Assistance Program

In October 2025, the Government of Salta implemented the Sustainable Mining Assistance Program under Decree 647/2025, in partnership with the Federal Investment Council (CFI). The program provides training, technical studies, and financial tools for small and medium-sized mining operators, with a focus on environmental management, community engagement, and best practices in sustainable mining. It also supports insti-

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tutional strengthening for the provincial Mining Secretariat and encourages collaboration between academia and industry.

Province of Salta—Resolution 159/2025, Water Use Fee Update

On August 14, 2025, the Secretary of Water Resources of Salta issued Resolution 159/2025, updating the water-use fee for industrial and mining activities. The value was increased by 15.05% compared to that established under Resolution 034/2025, following the annual variation rate of the National Consumer Price Index (CPI). The adjustment aligns the provincial fee structure with inflation trends and applies to all mining and industrial operations using provincial water resources.

Province of San Juan—Los Azules Project

In September 2025, the Los Azules copper project in San Juan was formally approved for inclusion under Argentina’s Incentive Regime for Large Investments (RIGI) through Resolu-

tion No. 1273/2025. The project, operated by McEwen Copper, represents an estimated investment of US\$2.7 billion and is the first copper development formally admitted under the regime. Located in Calingasta, near the Chilean border, Los Azules is projected to produce more than 180,000 tons of copper cathodes per year once operational, positioning it among the most significant undeveloped copper deposits in Latin America.

The company has signed a collaboration agreement with the International Finance Corporation (IFC) to structure potential debt financing and infrastructure funding, with the Inter-American Development Bank (IDB) also assessing possible participation. The approval grants access to RIGI's tax, customs, and foreign-exchange benefits, including fiscal stability and import facilitation for capital goods, inputs, and spare parts. Provincial authorities consider the project a cornerstone for diversifying San Juan's mining portfolio beyond gold and silver.

Province of Catamarca—Reorganization of the Mining Ministry

Through Decree 1211/2025, published in the Official Gazette of Catamarca on August 1, 2025, the Province of Catamarca reorganized its Ministry of Mining, creating specialized agencies to strengthen governance, oversight, and environmental management. The new structure includes a Mining Police, a Directorate of Environmental Programs, and divisions for investment promotion and technical assistance, as follows:

- Provincial Directorate of Institutional Coordination and Cabinet, which reports directly to the Ministry of Mining.
- Mining Police Directorate, which reports to the Provincial Directorate of Mining under the Secretariat of Mining Development of the Ministry of Mining.
- Directorate of Legal Advisory and Reporting, which reports directly to the Secretariat for Management of the Mining Authority.
- Directorate of Environmental Programs and Projects, which reports directly to the Provincial Directorate of Environmental Mining Management under the Secretariat of Mining Development of the Ministry of Mining.

This reform aims to modernize the provincial administration of mining activities, improving transparency, compliance, and monitoring of social and environmental performance.

Province of Catamarca—RIGI Approval for Galan Lithium (Resolution 1271/2025)

On August 28, 2025, the Ministry of Economy published Resolution 1271/2025, approving the application of Galan Lito S.A. to the RIGI under the mining sector and the potassium and lithium subsector. The project, titled Hombre Muerto West (HMW), will be developed in Catamarca Province through the company's branch Galan SDE, with a declared investment of US\$217 million.

Province of Río Negro—Local Supplier Promotion Law

In September 2025, Río Negro enacted Law No. 5805, establishing a framework for local-supplier participation in mining, energy, and hydrocarbons. The law mandates the creation of a Provincial Supplier Registry and requires that at least 60% of

goods and services used in such projects originate from local providers. The initiative seeks to boost local economic development, foster SME participation, and ensure that mining-related growth translates into employment and value creation within the province.

Province of La Rioja—Implementation of Law No. 10,799 on Local Suppliers and Labor

On August 19, 2025, the Secretary of Mining of La Rioja issued Resolution 121/2025, extending the application of Law No. 10,799 across the entire province. The law regulates the registration, classification, and certification of mining suppliers and local labor, promoting the use of local goods, services, and workforce within the mining industry.

The regulation establishes the Provincial Registry of Suppliers of Mining Companies (RePPEM), a mandatory public system responsible for supplier registration, digital recordkeeping, and statistical reporting on mining demand. Mining suppliers must renew their registration annually before June 30.

The Resolution also sets obligations for mining companies, including:

- Allocating at least 70% of contracts to registered local suppliers;
- Prioritizing suppliers domiciled in the department of the project;
- Hiring a minimum of 70% of workers residing in the province; and
- Submitting three-year procurement plans and sworn statements listing suppliers and employees.

The framework also introduces infractions and sanctions, along with tax, fiscal, and financing benefits for companies that meet local-content targets or promote inclusion of women (minimum 20% of workforce), youth, or environmental and training initiatives.

Province of Jujuy—Reform of the Provincial Mining Procedures Code

Jujuy approved Law No. 6475/2025, amending its Mining Procedures Code (Law 5186). The reform requires that all proceedings be handled by registered attorneys from the Jujuy Bar Association, ensuring legal oversight throughout the administrative process. The amendment also standardizes procedural timelines and digital filing systems, marking a step toward greater professionalization and efficiency in the province's mining governance.

Santa Cruz Province—Local Employment Law 3141

In September 2025, Santa Cruz enacted Law No. 3141, increasing the mandatory hiring quota for provincial residents in the mining, oil, and gas sectors from 70 to 90% and extending the required residency period to six years. While the reform strengthens local-employment policy, mining chambers have requested gradual implementation, citing the need for expanded training and infrastructure to meet the new requirements.

Interprovincial and International Cooperation—Diablillos—Plata Project

Salta and Catamarca strengthened regional coordination through the signing of four protocols for the Diablillos—Plata

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project, covering environmental management, taxation, and the equal sharing of mining royalties. The agreement also created an Interprovincial Management Committee tasked with coordination, monitoring, and oversight of operations. Both provinces committed to harmonizing tax and environmental standards, with legislative ratification pending. The initiative is considered a model for cross-border governance in the Puna region, given the project's location on the Salta–Catamarca boundary and the need for shared management of water and infrastructure resources.

Interprovincial and International Cooperation—Bioceanic Corridor

Salta continued to work on cross-border cooperation with Chile on the Bioceanic Corridor, a strategic initiative to improve mining logistics, trade, and connectivity between Argentina, Chile, Paraguay, and Brazil. The province secured a US\$100 million Fonplata loan for corridor development and is working with the Inter-American Development Bank (IDB) to finance the paving of several kilometers of National Route 51, a key route linking Argentina's northwest (Puna region) to Chile's Pacific ports.

The project also involves Jujuy, Catamarca, and La Rioja, which are coordinating through the Federal Mining Council (COFEMIN) and the Northwest Governors' Forum to align infrastructure investments, customs procedures, and environmental standards. On the Chilean side, the regions of Antofagasta and Atacama have partnered with Argentine authorities to harmonize technical requirements for high-altitude crossings, including the Sico and Jama Passes. The corridor, supported by Mercosur and Fonplata, aims to integrate transport, energy, and mining supply chains across the Southern Cone, promoting regional competitiveness and reducing logistics costs for mineral exports.

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from anthropogenic emissions and releases of mercury and its compounds. Article 7 requires Parties with artisanal and small-scale gold mining to prepare a National Action Plan (PAN) within three years of the Convention's entry into force, setting out concrete measures to reduce and, where feasible, eliminate mercury use in this subsector.

Although Bolivia did not meet the original deadline, the Vice-ministry of Mining Policy, Regulation and Oversight has resumed work to finalize the PAN. The draft plan focuses on three technical fronts: phasing out grinding processes that rely on mercury, introducing cleaner technologies and more responsible operating practices, and applying techniques to improve gold-recovery efficiency so that miners can maintain or increase output with lower mercury inputs.

Substantively, the PAN is organized around eight strategies for the artisanal and small-scale gold mining sector (MAPE): formalization of MAPE operations; reduction of illegal mining; reduction of mercury use; tighter control over mercury imports and domestic consumption; implementation of a dedicated Mercury and Health Plan; improvement of gender conditions in MAPE; continuous outreach and socialization of the PAN; and improved access to finance for MAPE operators. Each of these lines of action addresses a structural barrier, from informality and weak traceability to lack of credit for cleaner technology.

For regulators and practitioners, the PAN opens a new field of work at the intersection of mining, environmental, health, and

administrative law. Implementation will require clear rules on licensing and formalization, import permits and customs control, reporting duties, monitoring protocols, and coordination between sectoral and environmental authorities. It will also need to align with Bolivia's constitutional protections for Indigenous peoples and international instruments such as ILO Convention 169, particularly in relation to consultation and participation in decisions that affect traditional territories and livelihoods.

If the National Action Plan is translated into specific, enforceable instruments—with defined responsibilities, timelines, and indicators—Bolivia's mining sector can move toward more efficient processing and a gradual but measurable reduction in mercury use. This, in turn, can reduce exposure risks for Indigenous and local communities, provide greater regulatory certainty for responsible operators, and demonstrate practical compliance with the Minamata Convention in a context where mining remains a critical component of the national economy.

Bolivia's Lithium Framework and the Change in Government Philosophy for Investors

The election of Rodrigo Paz signals a potential paradigm shift for Bolivia's lithium sector. While the incoming administration aims to maintain a state-led model through Yacimientos de Lito Bolivianos (YLB), there is a clear intent to inject market discipline into the industry. The core issue for international investors and local communities is whether this political pivot will crystallize into a coherent legal and regulatory roadmap capable of sustaining long-term, capital-intensive deployment.

A credible legal framework requires more than political will; it demands specific statutory definitions. The market expects a transition from discretionary oversight to a standardized contractual regime with YLB, supported by transparent tender processes and unequivocal eligibility thresholds for private partners. Critically, regulatory instruments must sharply delineate permissible activities, establish rigorous HSE criteria, and enforce statutory timelines for administrative approvals. Furthermore, mitigating information asymmetry is essential; the establishment of secure data rooms containing verified geological and hydrological data would significantly align risk allocation between the sovereign and the investor.

Bolivia faces a strategic contradiction between traditional evaporation ponds and direct lithium extraction (DLE). A policy favoring DLE must be supported by competitive pilot windows and clear commercial milestones to address the water constraints inherent to the salars. Concurrently, the state requires a formalized mechanism to certify resources and reserves beyond the primary basins of Uyuni, Pastos Grandes, and Coipasa. Adopting international reporting standards (such as NI 43-101 or JORC) would enhance project bankability without compromising sovereign ownership.

However, hydrological integrity remains essential to viability. Given that lithium operations are situated within fragile arid basins, legislation must distinguish between brine and freshwater systems, setting enforceable abstraction caps. Effective governance mandates continuous, third-party monitoring with open-access data. Cumulative impact assessments at the basin level, coupled with binding closure obligations secured by financial-assurance mechanisms, are nonnegotiable for ecological stability.

Social license is not merely a "soft" metric; it is a constitutional mandate grounded in ILO Convention 169. The requirement for free, prior, and informed consultation implies a shift from distinct events to continuous, iterative engagement. To be

effective, Community Benefit Agreements must be legally enforceable contracts containing measurable commitments regarding procurement, infrastructure, and cultural heritage, supported by accessible grievance mechanisms.

These structural shifts will demand a multidisciplinary approach from legal counsel, integrating mining, environmental, tax, and administrative law. Future contracts must contain robust provisions regarding change in law, fiscal stability, and dispute resolution—specifically addressing neutral seats and governing law for complex industrial arrangements.

For investors, a prudent strategy involves phased DLE deployment contingent upon conditions precedent and independently verified performance gates. By prioritizing rigorous legal and technical due diligence alongside early community engagement, the private sector can navigate this new landscape. If the Paz administration succeeds in translating intent into enforceable regulation, Bolivia may finally align state policy with investor expectations within a stable, predictable legal framework.

Gonzalo Dávila, Reporter

Decision of the Bolivian Agro-Environmental Court to Curb Forest Fires

The Reality of Forest Fires in Bolivia

Every year in Bolivia, forest fires inflict significant damage on ecosystems. Deforestation, harm to wildlife and vegetation, and the degradation of air, water, and soil represent the tragic and irreparable consequences of these devastating events.

Bolivian journalist Iván Paredes Tamayo writes:

Forest fires have returned to Bolivia's forests. The flames are once again advancing in the eastern region, and two protected areas are among the most affected: the "Noel Kempff Mercado National Park" in Santa Cruz and the "Carrasco National Park" in Cochabamba. The fires continue to spread relentlessly. The Bolivian government has described the onset of the fire season as a "critical situation," issuing red and orange alerts across several municipalities. Until August 15, 706 active hotspots had been registered. The most severe fire is taking place in the Noel Kempff Mercado, where 14,566 hectares have already been consumed.

Iván Paredes Tamayo, "Forest Fires Advance in Bolivia: Government Activates Alert in 66 Municipalities," *Mongabay* (Aug. 18, 2025).

In 2024, Bolivia experienced the worst series of forest fires in its history, with 12.6 million hectares affected, according to an investigation carried out by the "Tierra" Foundation. Gonzalo Colque, a researcher at the organization, explains that "one hectare of burning has, on average, triggered ten hectares of wild-fire. This reflects the relationship between intentional burning and unintentional fire—what is properly considered a forest fire." *Id.*

One of the major drivers of forest fires in Bolivia is the practice known as "chaqueo." As Lykke E. Andersen, Executive Director of the Sustainable Development Solutions Network-Bolivia explains, the *chaqueo* consists of

the burning of forests and other vegetation in order to prepare land for the next planting season. Slash-and-burn agriculture is a traditional practice that involves cutting trees and vegetation in a designated area. The

cleared vegetation is left to dry and then burned before the start of the rainy season, producing a nutrient-rich layer of ash that increases soil fertility while temporarily eliminating weeds. After a few years of cultivation, soil nutrients diminish and weed infestations increase, so the land is left fallow, eventually giving way to secondary forest growth. This practice works well on a small scale; however, it can be disastrous when applied on a large scale, as it can accidentally lead to uncontrolled forest fires.

Lykke E. Andersen, "Deforestation and Forest Fires in Bolivia," *SDSN-Bolivia Blog* (Aug. 22, 2019).

This practice—used by agricultural producers to prepare land before planting—combined with both the lack of rainfall and strong winds that increase the risk of rapid fire spread, has been actively encouraged by the socialist Bolivian government through various legal provisions enacted since 2013. These include Law No. 337 of January 11, 2013; Law No. 502 of February 27, 2014; Law No. 739 of January 29, 2015; Laws No. 740 and 741 of September 29, 2015; Law No. 952 of May 26, 2017; Law No. 1098 of September 15, 2018; and Law No. 1171 of April 25, 2019. Collectively, these regulations have come to be known as the "Incendiary Laws."

Among them, Law No. 741 of 2015—authorizing the clearing of small properties for agricultural purposes—has been described as the "key point of conflict." The purpose of Law No. 741

is to expand agricultural and livestock production. The Authority for the Supervision and Social Control of Forests and Land (ABT) is empowered to authorize the clearing of up to 20 hectares of forested land suitable for various uses, as well as areas designated for permanent forestry production, without requiring the submission of Land Management Plans (POP). . . . A family may carry out clearing even without having consolidated property rights. Without formal documentation from the National Institute of Agrarian Reform (INRA), families were permitted to burn up to 20 hectares—effectively a way of saying "go ahead and burn"—within the framework of legally established communities.

"These Are the Laws and Regulations Considered Incendiary," *Bolivia Verifica* (Oct. 16, 2024).

Popular Action in Defense of the Environment

The filing of the constitutional protection mechanism known as "Popular Action" (which, pursuant to Article 135 of the Political Constitution of the State, is admissible against any act or omission by authorities or by individuals or collective entities that violate or threaten to violate collective rights and interests, including those related to the environment) has recently marked a turning point in Bolivia's environmental litigation landscape. As one national newspaper reported, a landmark judicial decision has redefined the contours of environmental accountability:

For the first time in the country's history, a court has issued a ruling forcing the State to answer for its role in the environmental destruction caused by forest fires. The Agro-Environmental Court rejected all challenges presented by State institutions and agribusiness sectors, and recognized the right of citizens to demand action against environmental devastation.

The judicial decision sets a precedent in Bolivian climate justice by validating the *Popular Action* filed by

seven young activists on behalf of civil society. The action demanded urgent State measures in response to the environmental and human impact of forest fires, whose magnitude in 2024 exceeded 12 million hectares affected.

“Historic Ruling Obligates the State to Account for Policies That Facilitated Forest Fires,” *Correo del Sur* (Sept. 9, 2025).

The petition—seeking urgent measures to address the environmental and human harm caused by forest fires—was spearheaded by seven young activists who began their environmental work as volunteers during previous fire seasons. After unsuccessful attempts in 2019 and 2020, and motivated by the unprecedented consequences of the 2024 forest fires, they decided to reactivate the claim, this time with stronger technical and legal backing. The Agro-Environmental Court admitted the action on June 5, 2025.

The Historic Ruling of the Agro-Environmental Court

Between August 29 and September 8, 2025, the Agro-Environmental Court ruled on the Popular Action referenced above, through Resolution SP-TAA 002/2025-AA, ordering the enforcement of precautionary measures in response to ongoing forest fires.

According to both the text of the resolution itself and the Court’s official article entitled “The Agro-Environmental Court Orders New Precautionary Measures and Urges Authorities to Submit Reports on Forest Fire Prevention,” published on September 8, 2025, on the Court’s website, the principal measures adopted by this judicial body include the following:

- **Mandatory 48-hour deadline for compliance by authorities and Autonomous Territorial Entities:** The Court imposed a non-extendable 48-hour period—under warning that noncompliance would result in referral of the case to the Public Prosecutor’s Office for the initiation of criminal proceedings—for authorities to implement the precautionary measures established in Resolution SP-TAA 002/2025-AA. These measures consist of:
 - **ORDERING** that the central government, through the Ministry of Environment and Water (MMAyA), the Vice-Ministry of Civil Defense (VIDECI), the Forest and Land Authority (ABT), the National Service of Protected Areas (SERNAP), and the corresponding departmental and municipal autonomous governments, act with utmost urgency—based on the principles of prevention, precaution, and maximum and due diligence—to extinguish forest fires across all nondisposable state lands, protected areas administered by SERNAP or the Autonomous Territorial Entities, external buffer zones, and national, departmental, municipal, and Indigenous Native Peasant parks, as well as National Integrated Management Areas and Ramsar sites throughout the country.
 - **ORDERING** the Ministry of Economy and Public Finance, the Ministry of Development Planning, the Ministry of Defense, the MMAyA, the ABT, VIDECI, SERNAP, and the departmental and municipal autonomous governments to provide, within a maximum of 72 hours and in light of the extreme emergency, information regarding their budgets allocated to forest-fire prevention, with the aim of ensuring transparency before the public.

- **URGING** the Office of the Attorney General to instruct specialized prosecutors to initiate investigations into public-action offenses related to forest fires, taking into account the nonprescriptible nature of environmental crimes established in Article 347 of the Constitution.

- **Instructions to Agro-Environmental Judges:** The Court directed agro-environmental judges across the Plurinational State of Bolivia—particularly those in the Chiquitania, Amazon, and Chaco regions—to activate their precautionary environmental jurisdiction to oversee compliance with Resolution SP-TAA 002/2025-AA. This includes requiring detailed reports on plans for mitigation and suppression of forest fires and supervising their execution. The Court also ordered the scheduling of inspections in areas with the highest incidence and risk of environmental harm.
- **Call to Organized Civil Society:** The decision instructs organized civil society—and all individuals and collective actors—to assume a proactive role as defenders of Mother Earth and its components, through concrete actions of environmental protection, conservation, mitigation, and other measures necessary to ensure the effectiveness of the precautionary orders issued.
- **Appeal to the Central Government to Support Volunteer Firefighters:** The Court urged the central government and the competent legal authorities to guarantee that volunteer firefighters—recognized as environmental defenders—receive adequate supplies and operational, safety, legal, and welfare support, in accordance with Article 9 of the Escazú Agreement.
- **Call to the Legislative Assembly:** Finally, the Court exhorted the Plurinational Legislative Assembly of Bolivia to review, analyze, and harmonize existing legislation that has been questioned by organized civil society—particularly Laws No. 741, 1171, and others—with the aim of generating a legal framework consistent with productive development and the protection of the rights of Mother Earth, the rights of Indigenous Peoples, and the rights of other living beings, in accordance with national legislation, international standards, and the recommendations of both the Inter-American and Universal human rights systems.

The Future of “Incendiary Laws” and Forest Fires After the Decision

As one commentator observed, “[t]he ruling issued by Bolivia’s Agro-Environmental Court on Monday, 8 September 2025, is not merely a legal act. It is a historic turning point—a radical shift in the struggle for environmental justice that redefines the role of citizens in relation to State power and economic interests.” “The Day Justice Lit a Light of Hope in the Forest,” *Nómadas J.* (Sept. 8, 2025). However, the implementation of the precautionary measures ordered by the Court remains pending. The current political, social, and economic context in Bolivia—shaped by the presidential elections held between August and October 2025 and the recent inauguration of the new government, which on November 8, 2025, began its five-year term—has left such compliance suspended.

It will fall to the new authorities of both the executive and legislative branches to carry out the measures mandated by the Agro-Environmental Court.

BRAZIL

Tiago de Mattos, Reporter

First Meeting of the National Council for Mineral Policy

The first meeting of the National Council for Mineral Policy (CNPM) took place on October 16, 2025, in Brasília, at the headquarters of the Ministry of Mines and Energy (MME), with the presence of the President of the Republic, Luiz Inácio Lula da Silva.

The CNPM is a strategic advisory body directly linked to the Presidency of the Republic, with an interministerial composition. Its role is to define long-term guidelines for Brazil's mineral policy, focusing on governance, sustainability, and integration with the country's economic, social, environmental, and strategic development policies.

At its inaugural meeting, the CNPM approved the priorities of Brazil's Mineral Policy, which aim, in an integrated manner, to:

- (a) promote a more sustainable mining sector aligned with current legislation and define the foundations for the preparation of the National Mining Plan 2050 (PNM-2050) and a Sectoral Goals and Actions Plan; and
- (b) foster the responsible use of mineral resources through improved governance, transparency, incentives for domestic value addition, advances in geological knowledge, and more efficient collection of the Financial Compensation for the Exploitation of Mineral Resources (CFEM).

Additionally, the CNPM approved its Internal Rules and the creation of four Working Groups (WGs) focused on immediate action:

- WG on Critical and Strategic Minerals: tasked with developing policies for minerals essential to the energy transition and the value chains of beneficiation and industrialization in Brazil.
- WG on Mining Fees, Charges, and Incentives: responsible for reviewing inspection fees, sectoral charges, and incentive mechanisms for mineral resource utilization, with the aim of creating a fairer, more predictable, and efficient regulatory environment and avoiding the retention of non-productive areas.
- WG on Sustainable Development in Mining: aimed at integrating mining with environmental, territorial, and social policies, promoting socioeconomic growth, land-use planning, and responsible land management.
- WG for Diagnostic Study on Mining Oversight: focused on identifying competencies, gaps, and improvement proposals for the National Mining Agency (ANM) and its coordination with states and municipalities.

This meeting marks the establishment of a long-term, interministerial governance model for Brazil's mineral sector, emphasizing issues such as critical minerals, the energy transition, national sovereignty, environmental sustainability, and regulatory modernization—key elements of an adequate mineral policy. However, while the initiative signals renewed strategic coordination, more concrete actions will be needed before its effectiveness and short-term impact can be meaningfully assessed.

ANM Resolution No. 220/2025—New Framework for Mining Dam Safety

Published on October 17, 2025, ANM Resolution No. 220 consolidates and updates the rules on mining dam safety, repealing Resolutions No. 95/2022, 130/2023, and 175/2024. The new regulation strengthens technical requirements, enhances digital monitoring through the SIGBM system, and standardizes criteria for classification by Potential Associated Damage (DPA) and Risk Category (CRI), in alignment with CNRH Resolution No. 241/2024.

Key innovations include changes to dam classification in emergency scenarios, revised methods for calculating DPA and CRI, adjustments to the frequency of certain obligations, and new provisions regarding flood maps.

The regulation provides for a phased transition: part of its obligations will come into effect in April 2027, with full enforcement by August 2027.

However, a sensitive issue arises concerning the treatment of “structures and equipment associated with the dam” located within the self-rescue zone (ZAS). The resolution expressly excludes mining, beneficiation, and waste-disposal areas from this definition, which could imply the removal of workers from these zones—raising significant legal and operational uncertainties.

ANM Resolution No. 223/2025—Significant Changes to the Sanctions Regime

On October 24, 2025, the National Mining Agency (ANM) published Resolution No. 223/2025, which sets out new procedures, parameters, and values for the application of administrative sanctions in Brazil's mining sector, replacing Resolution No. 122/2022.

The new regulation emerges in a context of strengthened regulatory enforcement by ANM and growing public demand for stricter oversight, particularly considering dam-related tragedies and the impacts of illegal mining. Resolution No. 223/2025 seeks to enhance the technical consistency of penalties, establishing a calculation model more aligned with the severity of infractions and the economic capacity of offenders.

Like its predecessor, the resolution maintains the division of infractions into groups and the creation of severity ranges. The calculation of monetary fines continues to consider factors such as the stage of the mining activity, production value, damage extent, and recurrence of the infraction. For infractions in Groups III to VIII, fines will now be determined using two alternative methodologies—both based on the offender's economic capacity—though the exact formulas to be used by ANM are yet to be disclosed. The resolution also requires that administrative decisions imposing fines present the values calculated under both methodologies, applying the lesser of the two.

The most notable impact of the new framework, which will take effect on November 23, 2025, is the substantial increase in fine amounts. In serious cases—especially those involving dam safety or environmental damage—penalties may now reach unprecedented levels, with a ceiling of up to BRL 1 billion. This escalation reflects ANM's clear intent to strengthen the deterrent nature of sanctions and bring Brazil's regime closer to international standards of regulatory enforcement.

For mining companies, Resolution No. 223/2025 necessitates an immediate review of compliance and regulatory-governance programs, emphasizing infraction prevention and rapid response to administrative actions. The measure marks a new era of rigor and accountability in Brazil's mining sector.

CHILE

Joaquín Corvalán Azpiazu, Reporter

Chile Enacts Comprehensive Framework Law Overhauling Sectoral Authorizations and Administrative Procedures

Executive Summary

After 18 months of parliamentary proceedings, Law No. 21,770 was published in the *Official Gazette* on September 29, 2025, establishing a Framework Law on Sectoral Authorizations (Framework Law) and amending 45 legal texts, including the Water Code; the General Law on Electrical Services; the Sanitary Code; Law No. 21,075, which regulates the collection, reuse, and disposal of graywater; the General Law on Sanitary Services; Law No. 20,551, which regulates the closure of mining operations and facilities; and Law No. 21,600, which creates the Biodiversity and Protected Areas Service and the National System of Protected Areas, among other laws regulating natural resources and extractive activities.

In the history of the Framework Law (Bulletin No. 16,566-03), it was noted that reports issued by the National Evaluation and Productivity Commission (CNEP) in 2019 and 2023 show that, for most sectoral authorizations, statutory deadlines are not met; that the authorizations with the highest processing volumes experience delays of 300%; and that delays associated with key authorizations for project siting may reach 700%.

Commentators have described the Framework Law as the most important legislative development since Law No. 19,880 of 2003 with respect to administrative procedures, permits, and authorizations, and, more generally, the ways in which private parties interact with the State. Another bill intended to streamline permit processing—Bulletin No. 16,552-12—remains pending. It would modify various laws to strengthen environmental institutions and improve their efficiency, including amendments to relevant aspects of the Environmental Impact Assessment System (SEIA).

Purpose, Scope, and Exclusions

The purpose of the Framework Law is to provide a general legal system that ensures compliance, standardizes and coordinates the actions of State Administration bodies that have authority to approve projects or activities subject to regulatory limitations, and thereby offers greater legal certainty to project proponents and to society in general (Art. 1). In line with Presidential Message No. 293-371, which initiated consideration of the bill on January 10, 2024, the Framework Law also seeks to promote productivity, economic growth, and investment through a progressive transition toward standardized and simplified regulation for the authorization of projects or activities by establishing clear rules governing timely action by State Administration bodies (Art. 1).

The Framework Law applies to the State Administration bodies listed in the second paragraph of Article 1 of Law No. 18,575, and to public-law entities created by statute with authorization powers, except for the Office of the Comptroller General of the Republic, law enforcement and public security forces, the Central Bank, and public companies created by law (Art. 3).

The following are excluded from the Framework Law's scope: (1) authorizations processed entirely within SEIA under Law No. 19,300 and its regulations; (2) administrative acts and procedures related to personality, entry, residence, and stay of persons in the country; (3) administrative acts and procedures related to matters governed by the Labor Code; and (4) administrative acts related to educational accreditation, subsidies, and tax obligations linked to the taxpayer's life cycle or com-

mon to the exercise of any taxable economic activity; among approximately a dozen additional exclusions (Art. 4).

System and Bodies Created by the Framework Law

The Framework Law creates the System for Sectoral Regulation and Evaluation, which consists of policies, institutions, and regulations designed to ensure proper processing of sectoral authorizations and alternative enabling techniques. The system consists of: (1) the Office of Sectoral Authorizations and Investment (OASI); (2) the Sectoral Authorizations and Investment Committee; and (3) ministries, undersecretaries, public services, and other competent State Administration bodies and public-law entities. Items (1) and (2) are newly created under the Framework Law.

Principles Applicable to Acts, Procedures, and Policies Executed Under the Framework Law

In addition to extending the principles contained in other laws (Law No. 19,880; Law No. 18,575; among others), the policies, plans, programs, rules, actions, procedures, and administrative acts executed under the Framework Law are governed by the following principles: (1) standardization; (2) facilitation; (3) predictability; (4) proportionality; (5) administrative simplification; and (6) cost-effectiveness (Art. 6).

Among these, administrative simplification is particularly significant. It requires State Administration bodies to progressively implement actions to modernize sectoral authorizations, aimed at reducing, eliminating, or optimizing existing procedures; avoiding duplicative functions or reviews; and ensuring efficient interactions between individuals and the State Administration. The principle further provides that, unless expressly required by sector-specific legislation, sectoral bodies may not require that other sectoral authorizations be obtained as a prerequisite for submitting an authorization application. Thus, procedures must be designed to allow applicants to request all authorizations associated with a project or activity in parallel (Art. 6).

Article 24 governs the effects of agency non-response—including the doctrines of positive and negative administrative silence—depending on the type of authorization involved (Arts. 7, 24).

Types of Sectoral Authorizations and Alternative Enabling Techniques

The Framework Law classifies sectoral authorizations into six categories: (1) administration or disposal; (2) location; (3) project; (4) operation; (5) professional or service; and (6) other (Art. 7). Each agency covered by the Framework Law must prepare a proposal for classifying the authorizations within its jurisdiction according to these categories, and OASI will determine the final classification of each authorization.

Depending on the type of authorization, there are specific rules regarding maximum processing times and the consequences of agency inaction (Arts. 20, 24). These deadlines are binding on the Administration, and the law establishes liability for public officials or public servants who fail to meet them (Arts. 25, 26).

Separately, Article 9 provides that, notwithstanding sectoral authorizations and their classifications, approval of projects or activities shall, as a general rule, be carried out using alternative enabling techniques (THA), without requiring issuance of an administrative act. The law establishes two THA: (1) a sworn statement and (2) a notice (Art. 10).

Other Relevant Provisions

The Framework Law provides for implementation of a Unified Sectoral Permit System (SUPER), supported by a digital platform, which seeks to unify the processing of sectoral authorizations and THA (Art. 52). It also establishes investment-promotion mechanisms (Art. 74) and a regulatory-stability regime (Art. 76).

The law contains 35 transitional provisions governing its temporal application. Transitional Article 1 establishes that the Framework Law enters into force on the date of publication in the *Official Gazette* (September 29, 2025), except as provided in Transitional Articles 4, 7, 8, 10, 17, 18, 19, 20, 21, 22, 23, 28, and 34. Transitional Article 24 provides that the law applies only to sectoral proceedings initiated after its entry into force; proceedings initiated earlier shall continue under the rules applicable at the time they began.

Chile Amends Water Code to Streamline Authorization of Agricultural Reservoirs and Dams

On August 9, 2025, Law No. 21,754 was published in the *Official Gazette*, introducing substantial amendments to Article 294 of the Water Code, which regulates which hydraulic works require approval by the General Director of the Water Authority (DGA). The amendment, which enters into force on March 2, 2026, establishes a new threshold for the approval of reservoirs (or dams), stipulating that water reservoirs built outside a natural watercourse with a capacity exceeding 150,000 cubic meters or a height of more than 7 meters must be approved by the General Director of the Water Authority. For reservoirs built in a natural watercourse, the same requirement as before the amendment remains in place—authorization will be required when their capacity exceeds 50,000 cubic meters or they are more than 5 meters high.

However, for reservoirs located outside natural watercourses with a capacity greater than 50,000 cubic meters or a wall height greater than 5 meters, and which are exempt from requiring authorization from the General Director of the Water Authority, owners or administrators must notify the DGA—by means of a sworn statement submitted before construction—of specified background information and characteristics of the work. The law also establishes an obligation to submit additional background information within a maximum period of six months after construction is completed.

This law enters into force on March 2, 2026, and before that date the regulation established by Supreme Decree No. 50 (2015), issued under Article 295 of the Water Code, must be updated to establish the technical conditions that must be met for the design, construction, and operation of the hydraulic works referred to in Article 294 of the Water Code. Law No. 21,770, the Framework Law on Sectoral Authorizations discussed above, also contains provisions amending Article 294 of the Water Code.

ECUADOR

Rafael Valdivieso, Gustavo Almeida, Indira Mendía, Reporters

Regulatory Framework to Promote Generation with Non-Conventional Renewable Energy in Ecuador

Amid growing pressure to diversify the energy matrix and attract new sustainable investments, on October 16, 2025, the Ecuadorian Electricity Regulation and Control Agency (ARCONEL) issued Regulation No. ARCONEL-005/25, applicable

to new non-conventional renewable energy generation plants with a nominal power greater than 10 MW and less than or equal to 100 MW (the “Projects”).

The Regulation applies to Projects that are not included in the Electricity Master Plan (Plan Maestro de Electricidad), which guides national electricity-sector planning and identifies needed infrastructure to meet energy demand, nor to those subject to a bidding process. This allows private companies to develop Projects under clear rules, defined timelines, and a preferential commercial regime.

This approach opens a significant investment niche: medium-sized, agile Projects with a more expedited approval process and incentives that improve financial viability.

The purpose of this report is to present the Regulation’s key elements to promote Projects.

What Does the Regulation Seek to Achieve?

The Regulation seeks to encourage energy generation using non-conventional renewable sources. It applies to power plants that meet the following characteristics: (1) have a nominal power greater than 10 MW and less than or equal to 100 MW; (2) are connected in synchronism with the National Interconnected System through an electricity transmission system; and (3) use a primary renewable source such as solar, wind, geothermal, biomass, biogas, and hydroelectric power.

Scope

The Regulation establishes obligations for developers, the Network Operator, and the National Electricity Operator (CENACE). It also defines a clear perimeter of exclusions:

- Self-generation projects;
- Distributed Generation projects;
- Self-supply systems (SGDA);
- Power plants that already have an authorization or are operating; and
- Projects connected to the Galapagos electricity system.

These exclusions avoid regulatory duplication and maintain the integrity of national planning.

Storage Systems

One of the most relevant aspects of the Regulation is the requirement that solar and wind Projects incorporate battery-storage systems. These must have a capacity equivalent to 10% of the plant’s nominal power and allow for four hours of charging and discharging.

This requirement seeks to ensure that intermittent generation enters the National Interconnected System with a minimum level of backup, improving operational stability, reducing variability, and providing greater flexibility to the dispatch coordinated by CENACE.

A Clearer and Simplified Process

The Regulation seeks to encourage investment through a simplified and expedited administrative process. To implement a Project, the following State authorizations are required:

- Preliminary Connection Feasibility Certificate from the Network Operator;
- Qualification Certificate from the Ministry of Environment and Energy (MAE);
- Concession Contract under a simplified procedure with the MAE; and

- Final Connection Feasibility from the Network Operator.

The Regulations to the Electricity Law set forth the procedure for this simplified process, which is expected to streamline and shorten the time required to obtain Concession Contracts.

Commercial Incentives: Preferential Prices Based on Technology

One of the main elements of the Regulation is the fixed preferential prices (LCOE) paid during the period in which the Project is implemented, depending on its technology. These prices include storage costs (for solar and wind) and the construction of a 25-km transmission line.

LCOE		
Renewable Source	Price (cUSD/kWh)	Preferred Term (years)
Biomass	10,525	20
Wind power	7,174	25
Amazon Basin Hydroelectric Power Plant	6,350	30
Pacific Basin Hydroelectric Plant	6,761	30
Photovoltaic power plant	8,036	25
Biogas	9,250	20
Geothermal	14,662	25

These fixed prices offer stability and allow for financial models with reduced exposure to regulatory volatility. If a Project requires an interconnection line longer than 25 km, the price may be adjusted to recognize the excess length, subject to validation by the MAE.

Expansions and Capacity Increases

The Regulation introduces specific treatment for Projects seeking to increase nominal power, distinguishing between expansions under the new regime and expansions of plants that already had a prior Concession Contract.

Assets Reversion to the State

Consistent with the Electricity Law, the Regulation provides that upon termination of the Concession Contract, the Project's assets must revert to the State at no cost. However, the MAE may conduct a technical, economic, and legal evaluation of the assets and decide not to revert them if doing so is not in the national interest.

Conclusion

Enacted pursuant to amendments to the Electricity Law and its General Regulations, the Regulation marks a turning point in the development of medium-scale renewable energy in Ecuador. It establishes a clear, predictable, and technically robust framework for Projects between 10 MW and 100 MW that are not required to undergo a bidding process.

The combination of preferential prices, simplified enabling procedures, storage requirements, and detailed guidelines for expansions and capacity increases creates an attractive environment for new energy-generation investments.

Rafael Paredes Corral, Guest Reporter

Ecuador Redefines Its Mining Policy: Between Tax Pressure and the Reopening of the Cadastre

Introduction

Ecuador is undergoing significant shifts in its mining policy, marked by seemingly contradictory signals: on the one hand, the imposition of a new, sector-wide Mining Supervision and Control Fee (Resolution ARCOM-003/25, published in Official Register No. 64 on June 20, 2025) that applies even to non-operating concessions; and on the other, the announcement of the reopening of the mining cadastre after seven years of closure (Ministerial Agreement No. MEM-MEM-2025-0018-AM of June 16, 2025, published in Official Register No. 73 on July 3, 2025; and Resolution No. ARCOM-ARCOM-2025-0029-R of July 8, 2025, published in Official Register No. 82 on July 16, 2025). This regulatory package comes alongside substantial legal changes, including amendments to the Mining Law's forfeiture (caducidad) regime and the creation of the Ministry of Environment and Energy, which merges the portfolios responsible for natural resources and environmental matters. (The Ministry of Energy and Mines was joined with the Ministry of Environment, Water, and Ecological Transition by Executive Decree No. 94, published in Official Register No. 105 on August 14, 2025.)

The State frames these measures as necessary to (1) regain control over inactive concessions, some affected by illegal mining; (2) promote responsible new investment; and (3) enhance transparency in the granting and administration of mining rights. Various stakeholders, however, have raised legitimate concerns about the financial burden of the new fee and about the technical and legal challenges that could arise during implementation.

Below is a summary of the key elements of the reforms and how the measures taken may deter further investment in Ecuador's mining industry.

Mining Supervision and Control Fee

In June 2025, the Mining Regulation and Control Agency (ARCOM) created the Mining Supervision and Control Fee, applicable to all mining titleholders. The fee is periodic for medium- and large-scale mining, small-scale mining, and commercialization licenses. The amount varies based on project phase, mineral regime, the statutory minimum wage for the year of payment (for 2025 it is US\$470), and the size of the concession in hectares (in the case of large-scale mining projects in the exploitation phase, the calculation can reach up to 100% of a minimum salary per mining hectare). ARCOM states that the purpose is to strengthen its operational capacity by dedicating proceeds to supervision and control. In practice, the fee also functions as a signal of concessionaires' effective commitment to develop their projects, including many titles that have shown little or no exploration activity in recent years due to social conflict, delays in permitting, or incursions by illegal miners.

ARCOM subsequently issued instructions clarifying application of the fee. These provide that:

- Payments are semiannual (by July 31 and January 31) for medium- and large-scale mining, and annual (by January 31) for small-scale mining;
- Official notices must include a payment form, banking details, and an obligation to submit proof of payment to the applicable ARCOM District Directorate;

- The Mining Management System (MSS) will automatically calculate the amount due;
- Enforcement proceedings will be initiated in cases of non-payment; and
- The 2025 settlement will be prorated from the fee's effective date.

Non-payment constitutes grounds for forfeiture under the amended framework once fully aligned with the new legal structure (see below).

Criticism has focused on charging for a putative supervision service that stakeholders say has not been effectively provided and on imposing additional carrying costs on legitimate titleholders unable to advance projects for reasons outside their control (social conflict, illegal mining within concessions, and delays in environmental licensing and other permits).

Reopening of the Cadastre

The Ministry of Energy and Mines (MEM) ordered the gradual reopening of the National Mining Cadastre (Ministerial Agreement No. MEM-MEM-2025-0018-AM of June 16, 2025, published in Official Register No. 73 of July 3, 2025), administered by ARCOM (Resolution No. ARCOM-ARCOM-2025-0029-R of July 8, 2025, published in Official Register No. 82 of July 16, 2025). This is the first step toward full reopening (including large-scale mining) by late 2025 and early 2026, formally repealing the resolution that kept the cadastre closed for more than seven years (Resolution No. 001-DE-ARCOM-2018 of January 24, 2018, published in Official Register No. 180 of February 14, 2025).

According to the MEM, the process will proceed in phases: (1) evaluation of current concessions, prioritizing compliance with investment, contractual, and environmental obligations; (2) modernization of the cadastral system through new digital tools; and (3) progressive opening of new areas for concessions under strengthened technical, environmental, and social criteria.

The MEM has indicated that, during its review, it identified more than 240 concessions (Organic Law of Social Transparency, published in the Third Supplement of Official Register No. 112 of August 28, 2025) potentially subject to reversal for multiple breaches (e.g., failure to execute minimum investments, failure to request required stage changes, or the presence of illegal operations within concession boundaries). Concessionaires will be required to justify any non-compliance, and forfeiture proceedings will be initiated where structural faults are found.

The government emphasizes a planned rollout focused on strategic areas with geological potential, lower social conflict, and existing infrastructure (Resolution No. 001-DE-ARCOM-2018 of January 24, 2018, published in Official Register No. 180 of February 14, 2018); and a more transparent cadastre with improved public access (Organic Law of Social Transparency, published in the Third Supplement of Official Register No. 112 of August 28, 2025). Its implementation will be accompanied by ongoing dialogue with communities, local governments, and the private sector (National Development Plan for the New Ecuador 2024–2025 (Objective 7: Safeguard the responsible use of natural resources within an environmentally sustainable framework), National Secretariat for Planning, published in Official Register, Third Supplement No. 511 of March 5, 2024).

Legal Reforms

In parallel with the phased reopening, the government has advanced several legal reforms intended to strengthen the regu-

latory framework for mining (Executive Decree No. 94 of August 14, 2025, published in Official Register No. 105 of August 14, 2025). Most notably, August 2025 amendments to the Mining Law reinforce State oversight and tighten compliance expectations for concessionaires (Organic Law of Social Transparency, published in the Third Supplement of Official Register No. 112 of August 28, 2025).

First, the amendments expressly add non-payment of any fee established in the Mining Law or its General Regulations as grounds for forfeiture of a mining concession. Because the Mining Supervision and Control Fee currently exists in an ARCOM resolution (rather than in the Law or the General Regulations), it is reasonable to expect an executive amendment to the General Regulations to incorporate or cross-reference this fee, thereby enabling forfeiture for its non-payment in a manner that fits the statute's wording.

Second, the amendments reaffirm and strengthen performance-based grounds for forfeiture, including non-compliance with minimum investment/work commitments, failure to request the required stage transition within the statutory period, and the commission of environmental damage duly verified by the authorities. See Mining Law art. 108.

Additionally, by executive decree in August 2025, the former Ministry of Energy and Mines and the Ministry of the Environment, Water, and Ecological Transition were merged to create the new Ministry of Environment and Energy (Executive Decree No. 94 of August 14, 2025, published in Official Register No. 105 of August 14, 2025). The objective is to integrate mining promotion and development with environmental regulation under a single authority. See Yury Garcia, "Ecuador Reopens Mining Concession Registry After Seven Years," Reuters (June 16, 2025). Critics, however, warn that this consolidation could produce conflicts of interest between developmental and oversight mandates within the same entity.

Taken together, these measures signal a shift toward greater oversight, control, and transparency. At the same time, questions remain regarding implementation, legal certainty, and the potential investment effects—particularly if a new periodic fee becomes a binary forfeiture trigger once woven into the General Regulations, even as the cadastre reopens to attract new capital.

A Policy Dichotomy: Reopening the Cadastre Versus a New Supervision and Control Fee

Ecuador's current policy mix pulls in two directions that are difficult to reconcile. The progressive reopening of the mining cadastre is intended to signal a renewed openness to exploration and new capital. At the same time, the newly created Mining Supervision and Control Fee adds an immediate, recurring cash burden that can deter early-stage investment, particularly from foreign juniors whose projects are pre-revenue and high-risk. The net effect is a contradictory message: an open door paired with a higher threshold to cross.

From an economic standpoint, the fee raises the fixed carrying cost of holding ground without linking that cost to production or measurable progress. For greenfield and early-stage exploration projects, this can accelerate relinquishment decisions or discourage entry altogether. For brownfield and development-stage assets—especially those facing permitting delays or social constraints outside the concessionaire's control—additional non-creditable costs can postpone capital commitments. Smaller operators are likely to feel the pressure most acutely, which may nudge the market toward consolidation or forced exits rather than disciplined advancement of projects.

The legal architecture amplifies these concerns. The August 2025 reform to the Mining Law explicitly added non-payment of any fee under the Law or its General Regulations as grounds for forfeiture of a concession. Although the Mining Supervision and Control Fee presently exists in an ARCOM regulation rather than in the Law or the General Regulations, it is expected for the fee to be included in the former to enable lapsing for its non-payment. If that occurs, in practical terms, the fee would become a compliance tripwire: miss a payment and risk forfeiture, even in circumstances where inaction stems from factors beyond the concessionaire's control. Many investors perceive this as a mid-game rule change that heightens regulatory risk.

The State's rationale is not without force. Authorities seek to fund effective oversight, deter the warehousing of inactive mining titles, and recover areas compromised by inactivity or illegal mining. Yet the market's reading diverges: the fee is seen as additional fiscal pressure without a clearly demonstrable service in return; an asymmetric risk during permitting or social standstills; and—once harmonized into the forfeiture framework—a new lever for lapsing based on a payment obligation rather than on performance against work or investment commitments (grounds for lapsing that may be more complicated for the authority to prove). The contradiction is thus sharpened: a cadastre reopening designed to attract capital paired with a fee structure that may drive it away.

In sum, the reopening of the cadastre positions Ecuador to compete for exploration capital, but pairing it with a new periodic fee—likely to be incorporated into the forfeiture regime for non-payment—creates a policy dichotomy that risks undercutting the investment signal. Targeted design fixes and procedural safeguards can preserve legitimate oversight goals without dulling the pro-investment intent of reopening the cadastre.

Conclusions

Ecuador's agenda—reopening the cadastre while introducing a universal Supervision and Control Fee and tightening forfeiture rules—sends mixed signals to investors. If the fee is incorporated into the General Regulations, its non-payment could trigger swift lapsing, amplifying regulatory risk precisely when capital is most needed. To keep the pro-investment promise credible, the framework should be calibrated with transitional relief, clear due-process and cure periods, and options to credit or scale the fee by project maturity. Done well, Ecuador can pair effective oversight with a competitive, predictable environment for responsible mining investment.

MEXICO

Jorge Rodríguez Moreno, Reporter

Mexico's New Electric Power Sector Framework: Centralization, Justice, and Regulation

Introduction

The process of updating Mexico's electric power sector regulatory framework was consolidated with the constitutional amendment published on October 31, 2024, through which Articles 25, 27, and 28 of the Political Constitution of the United Mexican States were amended. This reform redefined the organization of the national electric power system by reaffirming that transmission and distribution are strategic areas under the responsibility of the State and by incorporating the concepts of binding planning and state prevalence in electric power generation.

In development of this constitutional mandate, on March 18, 2025, the Electric Power Sector Law (LSE) and the Energy Planning and Transition Law (LPTE) were published, replacing the former Electric Power Industry Law. Both laws redefined the institutional architecture of the industry and specified the powers of the Ministry of Energy (SENER), the National Energy Commission (CNE), the National Center for Energy Control (CENACE), and the Federal Electricity Commission (CFE). Subsequently, on October 3, 2025, the Regulation of the Electricity Sector Law (Regulation) was issued, developing administrative procedures, technical criteria, and operational bases for the planning, supervision, and control of the National Electricity System (SEN).

In this context, the CFE becomes a strategic public enterprise and the central actor in the generation, transmission, and distribution of electricity, while SENER and the CNE lead and regulate the sector under principles of binding planning and state stewardship. The 2025–2030 Sectoral Energy Program (PROSENER) sets forth a socially oriented energy policy aimed at universalizing access to electric power and reducing energy poverty. Although the energy matrix still depends largely on fossil fuels, the current framework promotes a vision of energy as a human right and a public good, demanding greater responsibility from both authorities and society in ensuring its fulfillment and consolidation.

The new legal framework also incorporates energy justice and the right to energy as guiding principles of the electric power system, obligating the State to guarantee equitable, affordable, and environmentally sustainable access. Currently, the rights to energy and to a healthy environment have acquired a transversal dimension in the jurisprudence of the Supreme Court of Justice of the Nation (SCJN): the former as a foundation for other social rights and the latter as a condition for sustainable development. The nature of the right to energy establishes the conditions for access to a dignified life and directly influences the right to a healthy environment. Therefore, it is essential that these new legal implementations align with the human rights parameters developed in constitutional jurisprudence. These parameters must take into account the State's obligations recognized in the ruling of Amparo Trial No. 586/2020, which states:

It translates into a positive obligation on the part of the State, which assumes the duty to guarantee its full exercise in strict adherence to the principle of progressivity, in order to ensure development and welfare. Therefore, the State is obligated not to issue provisions contrary to the progress achieved in environmental protection, considering its capacities and available resources.

Second District Court on Administrative Matters Specialized in Economic Competition, Broadcasting, and Telecommunications (JSDMACERT) (2020).

Accordingly, this parameter must align with the SCJN's criteria, which recognize the State's duty to ensure the continuity of development policies through the provision of resources and restitution for those affected when a regressive decision disproportionately restricts their fundamental rights. JSDMACERT, Amparo Trial No. 586/2020 (2020).

In this sense, it is necessary to identify and analyze the scope of this new regulatory framework, its institutional structure, and the main innovations introduced in planning, permitting, generation, storage, mixed development, and energy justice, with the purpose of offering a comprehensive and tech-

nical view of the reorganization process of Mexico's electric power sector.

The Federal Electricity Commission as a Strategic Public Entity

Within the new electric power sector design, the CFE ceases to be a state-owned productive enterprise and becomes a public enterprise under the authority of SENER, with an explicitly social mandate. This change means that its activities cannot be considered monopolistic, as they are oriented toward guaranteeing the provision of strategic public services for the entire population and all economic sectors.

Likewise, a vertical integration of structures and activities is carried out, eliminating the existing legal separation. In this sense, subsidiary companies are dissolved with the aim of strengthening the monitoring and control of affiliate entities to identify opportunities and operational improvements.

Regulatory Integration Through the National Energy Commission

The creation of the CNE emerges as one of the most significant changes in the institutional framework of energy regulation, replacing the Energy Regulatory Commission (CRE). The CNE is structured as a decentralized agency under SENER, with technical, operational, and management autonomy, thereby centralizing the functions of the now-defunct CRE and the National Hydrocarbons Commission. In this way, its design consolidates state leadership in the sector, as its General Director is appointed by the President of the Republic and ratified by the Senate, while its Technical Committee is chaired by the head of SENER.

According to Article 7 of the National Energy Commission Law (March 18, 2025), among its main functions are the authorization of electric generation and commercialization activities, the issuance of technical regulations applicable to the sector, and the supervision of regulatory compliance. Additionally, it will define the terms under which the private sector may participate in regulated activities, ensuring state predominance in accordance with the new legal framework.

The CNE will also be responsible for defining tariff methodologies, regulating and registering Clean Energy Certificates (CELs), and supervising the Wholesale Electricity Market (MEM). Although these functions are technical in nature, they now acquire a more visible political dimension due to SENER's role in strategic decision-making. The creation of the CNE symbolizes a shift toward a state-controlled regulatory model, where technical and political elements converge to guide the development of the electric power sector in line with national sovereignty and energy-planning objectives.

The institution's dependence on SENER and the presidential appointment of its head may compromise its autonomy and expose it to politicization. The key challenge lies in maintaining technical independence and regulatory balance while ensuring that state stewardship remains transparent and oriented toward the public interest.

Strengthening the CFE and creating the CNE may improve institutional coherence, but jurisprudence warns that dispatch and access decisions must follow technical efficiency criteria, avoiding preferential treatment. Amparo in Review No. 548/2021 states that criteria favoring plants linked to the CFE may create entry barriers, hinder competition, and have regressive effects on the environment and social rights. To maintain the legitimacy of the model, it is essential to ensure functional separation, technical-regulatory autonomy, and clear accountability mechanisms. First District Court on Administrative Matters (JPDMA), Amparo Trial No. 548/2021 (2021).

Planning and Control in Mexico's Electricity System

Under the new legal framework, Article 12 of the Electric Power Sector Law (LSE) (March 18, 2025) introduced, for the first time, the principle of binding energy planning, meaning that every authorization, permit, or assignment must be issued in accordance with planning instruments prepared by SENER. This principle seeks to ensure coherence between system expansion and the country's actual needs, reinforcing the State's leadership over national electric power development.

The LSE also establishes that the State's participation in electric power generation may not be less than 54% of the energy injected annually into the SEN, reaffirming its predominant role in energy security and sovereignty. Additionally, Article 17 defines specific modalities of isolated and interconnected self-generation, distributed generation, generation for the MEM, and mixed-development schemes that regulate the coexistence between public and private actors under planning and technical control rules.

The planning process is led by SENER, supported by the Energy Planning Council, CENACE, and CFE in specific areas. Its main instrument is the Electric Sector Development Plan (PLADESE), considered the backbone of the binding planning framework established in the LSE and its Regulation. Accordingly, on October 17, 2025, PLADESE was published, setting out a long-term vision of 15 years, with scenarios for demand growth, supply expansion, and modernization of the national grid.

The plan defines three development horizons. In the short term (2025–2030), the focus is on modernizing existing plants and expanding transmission and distribution networks to strengthen system reliability. In the medium term (2031–2035), it proposes incorporating new generation capacity under mixed participation schemes, along with the expansion of regional electricity corridors. Finally, in the long term (2036–2040), it envisions a more diversified generation matrix, with greater weight on clean energy and storage sources, consistent with sustainability commitments.

However, the figures provided in PROSENER indicate that the target set for the end of 2024—achieving 35% clean energy generation—has not been met. During that period, only 24% of total generation came from clean sources. This suggests that current energy-transition strategies have been ineffective in meeting their own targets. Although the goals set for 2036 aim to stimulate clean energy generation, they appear distant in light of the data reported by energy authorities. Sectoral Energy Program, Diagnosis of the Current Situation and Long-Term Vision: 5.2.9 Sustainable Energy Transition, at 32, CONAMER, entered October 8, 2025, draft stage.

It is worth noting that the energy transition not only affects the sector's economic and infrastructure aspects but also impacts energy access and energy-poverty reduction—issues already recognized by the SCJN in Amparo Trial No. 548/2021, which states:

As the electric generation matrix diversifies, dependence on oil and energy prices may be reduced, and end users will benefit from lower costs. The development of renewable sources will depend, in part, on a rational approach to energy pricing aimed at establishing a stable foundation for such progress. Both systematic efforts toward energy efficiency and the use of renewable sources will help alleviate pressure on conventional fuels.

First District Court on Administrative Matters (JPDMA), Amparo Trial No. 548/2021 (2021).

To ensure effective implementation, the Plan provides for interinstitutional coordination mechanisms among SENER, CENACE, CFE, state governments, and private stakeholders, as well as a Monitoring System for Electric Sector Development, responsible for evaluating progress, investment programs, and compliance with efficiency and accessibility indicators. This system is public in nature, and its results must be published annually, reinforcing transparency in electricity policy.

Energy Justice and Inclusive Electrification Policies

The concept of energy justice is recognized in Article 3, section XXVIII of the LSE as a cross-cutting principle that must be present at all stages of electricity projects—from planning and construction to operation and eventual decommissioning. This implies recognizing energy not merely as an economic or technical resource, but as a right that must be guaranteed according to criteria of equity, sustainability, and universal access.

To make this principle effective, SENER, in accordance with Article 10, section XX of the LSE, is responsible for promoting mechanisms that ensure a reliable, affordable, safe, and clean electricity supply—especially in rural communities, marginalized urban zones, and among Indigenous, Afro-Mexican, and other vulnerable populations. In this way, electric power policy must expand its scope toward a more social and inclusive dimension aimed at closing historical gaps in access to energy.

These implementations must comply with the SCJN's criteria on access to energy, as expressed in Constitutional Action No. 64/2021:

First, regarding the right to access adequate housing, it is stated that since the basic supply of electrical power is not available at a fair price, but rather at prices distorted by mechanisms that do not allow tariffs to adjust to efficient market levels, competitiveness is affected, as is the right to live with dignity and the overall development of productive, commercial, and service sectors. This is considering that electricity is an essential input for housing and for all contemporary human activity.

Thus, recognizing access to energy as a right is an indispensable condition for achieving a better standard of living, and it enables the realization of other rights such as access to health, a healthy environment, and a dignified life. Supreme Court of Justice of the Nation, Constitutional Action No. 64/2021 (2022).

The Universal Energy Service Fund, established as a financial instrument to advance energy justice, is administered by SENER to meet electrification, infrastructure, and affordable supply needs in rural areas, marginalized urban zones, and among populations facing energy poverty. Pursuant to Article 45 of the Regulation of the Electric Power Sector Law (October 3, 2025), the Fund is financed by surpluses derived from managing technical losses in the MEM. The Regulation further mandates SENER to develop an Energy Justice Indicator System to track progress and update strategies, as well as mechanisms promoting the participation of Indigenous and Afro-Mexican communities in the sector's value chains through transparent, informed, and culturally appropriate processes.

In this regard, with respect to the genuine and inclusive participation of Indigenous communities, the SCJN, in its decision on Amparo in Review No. 410/2015, held that under international standards established by ILO Convention No. 169 and the jurisprudence of the Inter-American Court of Human Rights, Indigenous peoples' participation must be: (1) prior to the act—carried out during the project's planning phase and culturally appropriate; (2) in accordance with the community's customs

and traditions; (3) informed—ensuring that communities understand the project's scope; and (4) in good faith—as a genuine process of dialogue and joint construction. Therefore, the methodology incorporated into energy regulation must comply with these minimum elements.

Permits and Authorizations Under the New Regulatory Scheme

Under the now-repealed Electric Power Industry Law, the CRE was responsible for granting most generation, supply, and commercialization permits, while SENER primarily handled planning and import/export authorizations. This model corresponded to the logic of an open electricity market, in which the CRE acted as an independent technical regulatory body and the procedures were designed to promote competition. However, under the new regulatory framework, the CNE must now ensure this independence and promote competitiveness within the sector.

With the entry into force of the new Regulation, the powers of the authorities responsible for regulating sectoral activities are more precisely defined. On one hand, pursuant to Article 11, section I of the LSE, the CNE is responsible for issuing permits for generation, commercialization (including supply), and energy storage; while under Article 10, section XXXV of the LSE, SENER retains the exclusive authority to issue import and export authorizations. This division of competencies seeks to strengthen institutional coordination and provide greater legal certainty to the administrative procedures underpinning the operation of the national electricity system.

The evaluation of permit applications must be completed within 60 business days from receipt. Applicants must submit details of their corporate structure, controllers, and legal rights over the property involved. SENER or the CNE, with input from CENACE, may deny the permit if the project endangers the accessibility, reliability, or sustainability of the SEN or threatens energy supply. Simplified procedures may apply to strategic projects, while entities with revoked permits—and those exercising control over them—are barred from reapplying for five years, without this limitation automatically extending to their subsidiaries. Regulation of the Electric Power Sector Law (Oct. 3, 2025).

Article 23 of the Regulation stipulates that applications must include proof of ownership, legitimate possession, or the right to use the property, except for geothermal or hydroelectric plants, which are subject to specific rules. It also prohibits the commencement of construction before receiving definitive authorization regarding social impact, which must be formally notified to SENER or CNE. These provisions strengthen responsible planning, legality, and coherence between technical permits and social safeguards within the new regulatory framework of the electric power sector.

Electricity Generation and Market Reconfiguration

The LSE redefines the ways in which private entities can participate in the generation and commercialization of energy in Mexico. Under the previous Electric Power Industry Law, the system favored private participation through mechanisms such as isolated supply, distributed generation with a limit of 0.5 MW, and free competition in the MEM. The State retained its regulatory role, but permits, interconnections, and contracts were structured with broad margins of autonomy for private operators.

One of the most notable changes appears in distributed generation, whose limit increases from 0.5 MW to 0.7 MW. This category remains exempt from permitting but is subject to the technical feasibility of the General Distribution Networks. The

expansion seeks to promote self-generation without losing control over the flow within the electrical system.

In parallel, self-supply replaces the previous “isolated supply” scheme, incorporating two modalities: isolated, without connection to the grid; and interconnected, with a simplified process for projects between 0.7 MW and 20 MW. The innovation lies in that excess energy can only be injected into the SEN without compensation or sold exclusively to the CFE, following methodologies defined by the CNE. In the case of intermittent generation, operators are required to maintain backup capacity through energy storage systems or coverage contracts with CFE.

The regulation of generation for the MEM has also changed. Although the possibility of trading energy and associated products above 0.7 MW remains, permits now require CNE approval within SENER’s binding planning framework and the technical feasibility determined by CENACE. No project may begin construction without definitive authorization of its Energy Sector Social Impact Statement, which replaces the previous Social Impact Assessment. This condition strengthens the preventive approach and aligns regulatory processes with the objectives of energy justice.

From now on, the mixed-development scheme is prioritized. Projects may be developed jointly between the State and private entities under two main modalities: (1) long-term production, in which all energy is destined exclusively for CFE, with no state investment or right to sell to third parties; and (2) mixed investment, where CFE must hold at least 54% of share capital and may acquire the generated energy while allowing surplus sales to third parties under contract. These schemes symbolize the reconfiguration of the electric power model: private investment remains but is subordinated to the strategic goals of the State.

It is pertinent to consider the cross-cutting effects that these market adjustments may generate, in light of the criteria applied in Amparo Trial No. 250/2021, which stated:

It is observed that the criteria incorporated for the assignment and dispatch of power plants within the Wholesale Electricity Market, from a regulatory perspective, restrict the participation of private generators in favor of plants operated by the CFE. This configuration not only has implications for free competition and market participation but also affects the realization of the right to a healthy environment, as it contradicts the constitutional mandate to promote environmental protection, energy efficiency, and the reduction of greenhouse gases and pollutants.

Second District Court on Administrative Matters Specialized in Economic Competition, Broadcasting, and Telecommunications – JSDMAECERT, 2021, Amparo Trial No. 250/2021.

The new framework redefines cogeneration with stricter limits—allowing only residual thermal energy from industrial processes and restricting mandatory dispatch to self-consumed electricity. More broadly, it represents a shift from a competitive market toward state-led planning, where CFE assumes a dominant role and private investment operates under public-interest principles. Although private participation remains, its scope is now subordinated to national energy policy, raising concerns over potential concentration and discretion unless robust regulatory safeguards are maintained.

Energy Storage and Operational Integration

The storage of electrical energy plays a strategic role in Mexico’s new electric power sector framework. The Law and its

Regulation identify Electric Energy Storage Systems (SAEE) as key to strengthening the reliability, efficiency, and sustainability of the SEN and promoting energy justice. Under the LSE, SENER defines participation and permitting requirements, the CNE sets methodologies for compensation and tariffs outside the MEM, and CENACE incorporates operational rules ensuring storage capacity is dedicated to a single service and fully offered to the system.

The Regulation expands this framework by allowing SAEE to participate in generation or commercialization activities, whether or not associated with power plants or load centers, or as part of the transmission and distribution public service infrastructure.

For regulatory purposes, SAEE with a capacity of 0.7 MW or more that are not linked to a generation plant must obtain a permit from the CNE; however, those integrated into a plant holding a generation permit are exempt. Likewise, SAEE operating within the MEM require SENER authorization and must be represented by a recognized market participant to ensure compliance with market rules. Conversely, systems integrated into CFE’s transmission or distribution infrastructure are exempt from permitting, although they remain excluded from market participation due to their technical and operational function.

Finally, the Regulation clarifies that storage systems cannot receive Clean Energy Certificates (CELs), as they neither generate nor consume energy. This establishes a specific regulatory regime intended to balance their integration into the market with the technical needs of the SEN and the principles of reliability and energy justice.

Clean Energy Certificates and Climate Commitments

The CELs system remains in force under the new LSE, although with significant adjustments in its scope and application. Unlike the previous framework, the allocation of certificates no longer depends on plant ownership or start-up dates, expanding their coverage to all facilities that generate clean energy, including those owned by the CFE. In this way, the regime recognizes the environmental value of existing generation—not only of new investments—granting CELs a validity period of 30 months from the date of issuance. Electric Power Sector Law, arts. 143–146 (Mar. 18, 2025).

The commercialization of CELs remains free among MEM participants but must occur through the CNE’s electronic system, which centralizes transactions, settlements, and voluntary cancellations. SENER may also establish agreements with other jurisdictions to standardize CELs, ensuring compliance with the traceability, verifiability, and certification criteria set by the authority. This framework promotes transparent and technically consistent CEL operations, facilitating clean energy integration and aligning energy planning with environmental regulation. Regulation of the Electric Power Sector Law, arts. 187–188 (Oct. 3, 2025).

The Regulation complements this framework by allowing distributed generation and exempt generators to receive CELs if represented by a supplier and if they meet measurement requirements according to their voltage level. However, SAEE cannot receive certificates, leaving a pending regulatory gap concerning clean energy stored in these systems.

The CELs’ updated framework establishes a regulatory structure designed to articulate energy planning with Mexico’s environmental and climate policy commitments. Its provisions reflect an effort to harmonize market participation among various actors through traceability, verifiability, and transparency standards. The expanded coverage of certificates, along with

the possibility of recognition across jurisdictions, introduces new challenges for the management and monitoring of clean energy.

The CEL mechanism gains importance in light of Mexico's national and international commitments on climate change and energy transition. Both Constitutional Controversy 89/2020 and Action of Unconstitutionality 64/2021 highlight the State's obligation to progressively increase clean energy generation and reduce dependence on fossil fuels, consistent with human rights and sustainability standards. Likewise, Amparo Trial No. 250/2021 reinforces that a healthy environment is an essential public good and that renewable energy generation must be a state priority—above purely economic considerations—as it represents an effective means to guarantee access to clean, affordable energy compatible with human rights. Supreme Court of Justice of the Nation [SCJN], Action of Unconstitutionality 64/2021 (2022); SCJN, Constitutional Controversy 89/2020 (2020).

This aligns with Mexico's commitment to increase the share of clean energy in the national electricity grid through the substitution of fossil fuels, promotion of renewable and efficient cogeneration sources, incentives for clean infrastructure investment, and inclusion of externalities and emissions costs in generation decision-making. First District Court on Administrative Matters [JPDMA], Amparo Trial No. 548/2021 (2021).

Therefore, all electricity industry participants are recognized as having a duty to use clean energy, reduce emissions through CELs, and prioritize the dispatch of renewable energy to progressively reduce the nation's dependence on fossil fuels as primary energy sources SCJN, Constitutional Controversy 89/2020 (2020). This also serves to mitigate negative environmental impacts while fulfilling the State's national and international commitments. Second District Court on Administrative Matters Specialized in Economic Competition, Broadcasting, and Telecommunications, Amparo Trial No. 586/2020.

From this perspective, CELs play a central role in achieving these goals, requiring the State to prioritize the energy transition based on the effectiveness of these instruments.

Social and Human Rights Perspectives in Energy Regulation

Following the 2013 structural energy reforms, mechanisms for identifying, preventing, and mitigating social impacts gained greater relevance due to their formal inclusion within Mexico's energy legal framework. This framework was the only non-social regulatory regime to mandate social impact assessments, justified by the scope, investment, and magnitude of energy infrastructure and operation projects.

Under this new paradigm, the 2025 energy sector laws redefine market structure with a focus on reliability, efficiency, and equitable network access. Beyond technical and institutional redesign, the most relevant feature is the explicit incorporation of principles and instruments aligned with universal access and the criteria of progressivity, precaution, and interdependence of rights, reshaping energy policy. Electric Power Sector Law, art. 12 (Mar. 18, 2025).

Consequently, both energy planning and regulation entail the obligation to conduct environmental impact assessments and mitigation plans in compliance with the precautionary principle and the duty to prevent ecological and social harm. Within this framework, the Social Impact Statement (MIS) and Prior, Free, and Informed Consultation (CPLI) become the main instruments linking energy development with community rights protection.

Unlike the previous Electric Power Industry Law, the new regime mandates that all infrastructure projects—public or private—submit an MIS. This document replaces the Social Impact Assessment and is conceived as a tool to understand, anticipate, and manage the social impacts projects may cause in communities.

According to the Regulation of the Electric Power Sector Law, any project requiring authorization or a permit must submit its MIS to SENER, which has up to 90 business days to issue a resolution. If, during evaluation, it is determined that a CPLI is required, the authorization may be conditionally granted and will only become final once the consultation process concludes satisfactorily. Consequently, the MIS becomes an essential procedural step—no project may begin construction or commercial operation without its approval. It also introduces a new figure, the Social Management Plan (PGS), which complements the MIS and must include investment commitments, mitigation measures, and benefit-sharing strategies with affected communities. This plan must be updated annually, ensuring that resources dedicated to social benefits are at least equivalent to those allocated to impact mitigation.

One of the most significant innovations is the definition of "significant social impacts" (Regulation of the Electric Power Sector Law, art. 2, § XVII (Oct. 3, 2025)), now encompassing effects such as involuntary resettlement, land expropriation, or any alteration to the way of life and rights of Indigenous and Afro-Mexican peoples. Consistent with this, the Regulation authorizes SENER to deny MIS approval when a project endangers community survival, is located in restricted areas, or generates severe negative impacts. However, these grounds are not expressly stated in the Law itself, opening debate about the extent of regulatory powers vis-à-vis the principle of legality.

In this context, the Supreme Court's Thesis 2a./J. 11/2023 (11a.) is essential, establishing that significant impact should not be interpreted as a prerequisite for consultation but as a parameter guiding its intensity and, where applicable, the necessity of obtaining community consent. Therefore, the application of the Regulation and its definition of significant social impacts must adhere strictly to the Supreme Court's jurisprudential standards, ensuring that administrative authorities act consistently with the constitutional and international framework protecting Indigenous and tribal peoples' rights.

Within these new instruments, the MIS must describe project stages and influence areas, identify and characterize affected communities, and assess social impacts, including prevention, mitigation, and management measures. Articles 136 to 141 require SENER to publish public versions of MIS documents. The Regulation further establishes monitoring obligations, annual reports, and sanctions for non-compliance, ensuring that authorizations remain valid throughout the duration of contracts or permits.

Under this framework, the CPLI plays a central role. This procedure aligns with the right to participation established in Article 2 of the Mexican Constitution and ILO Convention No. 169 on Indigenous and Tribal Peoples, reinforcing democratic legitimacy and territorial equity within the energy sector.

The CPLI is conceived as a process ensuring the effective participation of Indigenous peoples and communities in decisions affecting them, following principles of good faith, inclusion, transparency, and cultural respect. Its implementation includes several stages: (1) planning, where SENER defines the consultation's methodology and scope; (2) preliminary agreements, negotiated with community authorities to determine the process structure; (3) informative phase, ensuring that commu-

nities receive all necessary information in their own language and in an accessible format; (4) deliberative phase, where the community internally reviews information and formulates its position; and (5) consultative phase, where agreements are formalized and consent, if applicable, is recorded through an official act. Regulation of the Electric Power Sector Law, tit. VI (Oct. 3, 2025).

These provisions must ensure effective Indigenous participation in decisions affecting their territories or resources, in accordance with principles of good faith, inclusion, and cultural respect, as established in Supreme Court Jurisprudence Thesis 34/2025 (11a.). The process must include the planning, preliminary, informative, deliberative, and consultative phases to ensure adequate information, community dialogue, and prior consent, thereby consolidating it as a key instrument of environmental and social justice.

Although the informative and deliberative stages may extend indefinitely—depending on each community’s timeline—the process aims to strengthen the social legitimacy of projects and promote more equitable access to the benefits of energy development. Thus, the new legal framework must create the necessary conditions for balancing energy sector development with social justice and collective rights, ensuring and promoting mechanisms for participation in Mexico’s energy governance.

Progressivity, Justice, and Implementation Challenges

The 2024–2025 energy reform represents a turning point in Mexican energy policy by restoring the State’s stewardship and introducing a binding planning system that redefines the relationship between public interest, technical regulation, and social participation. However, the mere formalization of these norms does not guarantee their effectiveness. As doctrine on the principle of progressivity emphasizes, authorities must interpret and apply the law in ways that favor rights holders, avoiding any regression in previously achieved protection levels.

The reform must be interpreted in light of the recognition of energy as an essential good and a minimum vital input. The

criterion of economic dispatch, particularly for clean energy, should align with sustainability principles and promote stable user prices. According to Amparo in Review No. 548/2021, open and non-discriminatory access to the National Transmission Grid and Distribution Networks is a state obligation. Thus, CENACE must ensure fair access without privileging specific market agents; otherwise, the new rules would breach regulatory and jurisprudential standards on access and affordability.

The inclusion of energy justice, together with the mainstreaming of gender and human rights perspectives, constitutes a major normative advance; however, its effective implementation requires concrete instruments. The doctrine on progressivity indicates that the formal recognition of rights—without resource allocation, binding targets, and monitoring mechanisms—risks being reduced to a mere programmatic declaration. In this context, energy justice requires specific funds and redistributive mechanisms, such as those channeling carbon-pricing revenues toward social programs, as well as consultation and social oversight processes that are effective and binding, not merely informative. These mechanisms are essential to protect communities in vulnerable situations. First District Court on Administrative Matters [JPDMA], Amparo Trial No. 548/2021 (2021).

In this regard, normative evaluation must incorporate both a practical assessment and implementation recommendations. The 2024–2025 reform envisions energy as a right, yet its consolidation depends on translating this principle into concrete and enforceable obligations. As established in Amparo in Review No. 548/2021, Amparo No. 250/2021, Indirect Amparo No. 586/2020, and Action of Unconstitutionality No. 64/2021, the principles of progressivity, precaution, and the State’s duties of guarantee and restitution must guide implementation. The reform’s success ultimately depends on institutional capacity to transform these judicial standards into coherent and effective policy actions.



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