

CLIMATE CHANGE LEGISLATION IN

PERU

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A Review of Climate Change Legislation in 99 Countries



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Peru

Legislative Process

Peru is a presidential republic made up of 25 administrative regions. The federal legislature is a unicameral congress, composed of 130 representatives who are elected by popular vote for five-year terms. National legislation can be proposed by the following: the executive branch (the President, elected by popular vote for a five-year term, the Prime Minister, appointed by the President, and the Council of ministers, also appointed by the President), members of Congress, the Judiciary, autonomous public bodies, municipalities or professional associations. Citizen groups and individuals are also constitutionally guaranteed the right to submit legislation to Congress for consideration.

When Congress passes a bill, the President may sign it into law within 15 days, or send it back to Congress for further review. Once promulgated by the President, the legislation is enacted and in force on the date of publication in the official congressional gazette, *El Peruano*.

Laws passed by Congress and signed by the President represent the strongest form of legislation. Supplemental legislation exists by the way of legislative resolutions, which are employed to ratify international treaties or specify and modify rules and regulations of existing legislation. Likewise the executive branch may issue a “supreme decree” (executive decree), which does not need congressional approval but does require the signature of at least one sitting cabinet minister. Much of the current legislation specific to climate change is in the form of executive decrees.

In 2002, the Congress passed the Decentralisation Framework Law, which decentralises fiscal planning from the central government to the 25 regional administrative governments, composed of a Regional President and a Council (both President and Council Members are elected for four-year terms), advised by specialised Co-ordinating Councils. Regional administrations are also responsible for implementation of federal laws.

Approach to Climate Change

Peru ratified the UNFCCC in 1992 and created the National Commission on Climate Change (NCCC) in 1993. The NCCC’s primary function is to co-ordinate the implementation of the UNFCCC and the National Strategy for Climate Change. In the decade after signing the UNFCCC, the government focused on synergising sustainable development, poverty reduction and environmental management; however, no significant legislation was enacted until after Peru ratified the Kyoto Protocol in 2002. That same year Congress passed legislation that obliged regional governments to formulate, co-ordinate and supervise the application of sub-national strategies related to climate change. The NCCC

elaborated the National Strategy on Climate Change, which was passed by federal decree.

The National Strategy on Climate Change of 2003 (NSCC) is a detailed accounting of 11 strategic focuses that prioritise scientific research, mitigation of the disproportionate and inequitable suffering of the poor caused by climate change, and development of mitigation and adaptation policies within the framework of the Clean Development Mechanism (CDM). Each strategic focus is broken down into strategic objectives that are further detailed by specific, realisable aims. Although the NSCC is not congressional legislation, implementation by the regional governments is obligatory. Due to challenges to the implementation of the NSCC, a number of institutional changes were recommended in an updated Strategy. The Ministry of Environment published a draft of the new National Strategy for Climate Change in July 2014 and solicited feedback from civil society. At time of publication, the Ministry had incorporated feedback, internally approved the plan, and was awaiting approval by executive decree.

In 2010 the Ministry of Environment published The Plan of Action for Adaptation and Mitigation of Climate Change. The document serves both as a report of ministerial projects and programmes related to climate change as well as a plan for future action between 2011 and 2021. The Plan categorises present and future programmes into seven thematic lines of action, including reporting mechanisms on GHG emissions, mitigation, adaptation, research and development of technology of systems, financing and management, and public education. It also includes detailed budget information and analysis indicating fiscal priorities pertaining to climate change. Of the 31 existing projects addressing climate change implemented by the Ministry of Environment, 19 are specific to adaptation and absorb 57% of total expenditure on climate change.

In 2011 a new planning project was launched, called Plan CC, in order to study and analyse future national scenarios for climate change mitigation and potential for sectoral GHG reductions. The program is co-ordinated by a federal committee comprised of the Ministries of Environment, Foreign Relations and Economy and Finance as well as the National Centre of Strategic Planning. The general objective of Plan CC is “to construct the technical and scientific foundations in addition to the capacity to explore the feasibility of ‘low carbon’ ‘clean’ development and incorporate the focus of climate change into the national development plans.” The major result of Plan CC has been the publication of a document preceding the completion of phase I of the project, *Scenes of Climate Change Mitigation in Peru until 2050: building low-emissions development*. This document lays out the case for following a development plan that privileges climate change mitigation. An additional technical document with analysis of the phase I study, complete with recommendations in six sectors to facilitate sustainable development was pending at time of publication.

The Third National Communication on Climate Change, which was slated for a 2014 publication, was still being prepared at time of publication. It should include analysis from Plan CC.

Sub-National activity

Peru has decentralised much of its governance structure over the past decade. National legislation therefore seeks to strike a balance between federal mandates and regionalised and localised strategies. The Organic Law of Regional Governments establishes that responsibility for managing natural resources and the natural environment resides with the regional governments and delegates' authority to strategically plan environmental projects, implement federal legislation, enact regionally specific environmental legislation, and monitor and evaluate both regionally and nationally enacted policy from the central government to the 25 regional governments.

However, because the natural environment and the processes of climate change are not determined by political borders, legislation regarding climate change has been driven at the national level, and legal and managerial authority still largely rests with the National Commission on Climate Change housed within the Ministry of Environment. The General Law for the Environment, which acts as the foundation of environmental legislation, states that the role of the regional governments is to formulate policies and co-ordinate strategic programmes within the national framework. As such, regional governments must develop strategies for implementation of policy and project development, assisted by the National Strategic Planning Centre and additional corresponding national ministries and commissions.

Energy Supply

Peru has experienced growing demand for energy. Government reports project an average annual increase of energy consumption of 7.3% between 2008 and 2015. To diversify energy markets, shore up national production of energy, protect the natural environment and decrease use of carbon-emitting fuel types, Congress passed Law Decree 1002 Promotion for the Investment of Electricity from Renewable Energy in 2008. The law declares investment in renewable energy sources a national priority, and directed the Ministry of Mining and Energy to elaborate a plan of implementation.

In 2013, renewable sources represented 60% of electricity generated. Of that, 52% was hydroelectric, 46% was geothermal, and 2% was from non-conventional renewable sources (wind, solar, and biomass). Development of non-conventional renewable energy sources has been slow relative to hydro and geothermal electricity, but the Ministry projects an increase in production so that by 2020 non-conventional sources make up 5% of overall production.

Energy Demand

Between 2003 and 2013, energy consumption increased by 92% and consumption of oil and natural gas doubled. In order to encourage efficient use of energy during this period of economic growth and social development,

Congress passed The Law to Promote Efficient Use of Energy in 2000. The Law requires the Ministry of Energy and Mining to promote a culture of energy efficiency and to design and fund energy efficiency projects. Directives regarding how the Ministry would implement the law were detailed by an executive decree issued in 2007.

REDD+ and LULUCF

Peru has the fourth-largest reserve of tropical forests in the world, a total of 72m ha. Deforestation, particularly in the Amazon, is a principal concern. According to the second national report to the UNFCCC, deforestation is the single largest source of GHG emissions, accounting for 47% of national emissions in 2000. Accordingly, Peru's voluntary pledges on the international stage have prioritised forest conservation and reducing slash-and-burn agriculture practices. At the UNFCCC meeting in Poland in 2008, Peru pledged to conserve 54m ha of tropical forests; and in 2009 at the Copenhagen UNFCCC meeting, the country pledged to reduce net deforestation of primary forests to zero by 2020.

To help meet these aims, the Ministry of the Environment created the National Programme for Forest Conservation for Mitigation of Climate Change. As of 2013 the programme had conserved 2.5m ha. The Programme received USD50m (USD26.8m in grant funding and USD23.2m in loan financing) from the Climate Investment Funds–Forest Investment Programme.

2014 saw two national policies – by executive decree and legislation – that promote conservation of forested land and ecosystems. While both of these policies are primarily conservation focussed, they incorporate carbon sequestration and represent efforts to legislatively regulate REDD+ mechanisms. By 2014, Peru had negotiated more than USD8m in carbon credits.

Adaptation

Peru reportedly experiences more natural disasters than any other country in Latin America. Since 1970, it has experienced over 100 droughts, floods, mudslides, frosts, earthquakes and volcanic eruptions resulting in tens of thousands of deaths. In response to its disaster-prone geography and the threat of increased droughts, floods, and extreme weather as a result of climate change, the Inter-American Development Bank granted Peru a loan of USD25m in 2010 to increase national and local capacity to manage disaster and reduce risk through policy creation. In early 2011 Peru published a framework law on disaster risk and management that establishes the National System of Disaster Risk Management working across sectors at all levels of government. While the legislation does not explicitly address climate change, it does provide a legal framework that national ministries have employed to develop adaptation plans.

The most direct action on adaption to climate change in Peru has been taken at the ministerial level through two national plans. The first, passed by the Ministry of Environment, is the Climate Change Mitigation and Adaptation Action Plan, which lays out short and medium term programmes and projects at the national, sectoral, regional and local levels. Objectives of the plan are broken down into

seven themes: measurement of GHG emissions, reductions of GHG emissions, adapting to climate change, integration of adaptation and mitigation into policy decision-making, strengthening research and monitoring of climate conditions, capacity building and public awareness, and financing. The plan reports that 68 projects were being executed or in early stages of implementation at time of publication. Responsibility for the implementation of the plan lies with the National Commission on Climate Change.

The second plan was developed by the Ministry of Agriculture and Food Ministry in co-operation with the UN Food and Agriculture Organization: the Risk Management and Adaptation Plan for Food and Agriculture to be implemented from 2012 through 2021. The plan presents a regionalised risk analysis for the agriculture industry in a changing climate and specific objectives related to food emergencies, drought and irrigation, and soil and forest management among other areas of strategic action. The plan also presents strategies for national, regional and local implementation.

Peru: Legislative Portfolio

Name of law	Mechanisms of Compensation for Services to Ecosystems, Law No. 30215
Date	29 June 2014
Summary	This law promotes, regulates and supervises means of compensation for voluntary actions to conserve, recuperate and sustainably use natural ecosystems. While this legislation is primarily focussed on conservation and recuperation of the natural environment, it incorporates climate change language and in particular promotes carbon sequestration and responsible land use. The legislation defines what constitutes as a service to the natural ecosystem and stipulates how actions are to be evaluated, monitored and remunerated.

Name of law	Promoting Investment Activity for the Generation of Electricity from hydropower and other renewable sources, Legislative Decree No 1058
Date	28 June 2008
Summary	This legislation incentivises investment in renewable energy by issuing special tax write-offs. Specifically, equipment, machinery and civil engineering works associated with the installation and operation of renewable energy generation are considered to depreciate value at an accelerated rate (not exceeding 20% annually).

Name of law	Promotion of Investment for the Generation of Electricity from Renewable Energies, Legislative Decree No. 1002
Date	1 May 2008
Summary	This legislation declares the production of electricity from renewable sources of energy a national priority. It designates the Ministry of Energy and Mines as the implementing authority, which will establish goals specifying a percentage of electricity to be generated by renewable energy sources (excluding hydroelectric and thermal energy), in maximum increments of 5%.

Renewable energy sources will have priority distribution on the energy grid and are defined as: biomass, wind, solar, geothermal, tidal, and hydropower when potential yield does not surpass 20 MW.

The Decree sets out a number of ways in which the government will promote technological investigation and capacity, including the development of a National Plan for the Promotion of Renewal Energies and through co-ordination between regional governments, universities and technical schools, and the National Board of Science, Technology and Technological Innovation.

Lastly, the Legislative Decree modifies existing laws and decrees that regulate energy use in order to further prioritise the consumption of renewable energy.

Name of law	Law to Promote a Market of Biofuels Fuels, Law No. 28054 and corresponding regulations specified in Federal Decree No. 013-2005-EM
Date	15 July 2003 (Law No. 28054) 31 March 2005 (Federal Decree No. 013-2005-EM)
Summary	<p>The Law's primary objective is to incentivise the diversification of the fuel industry by promoting investment in the production of biofuels, defined as any chemical fuel type originating in agricultural products to a standard defined by the national government.</p> <p>The policies defined in the legislation, to be implemented by the executive branch, are:</p> <ul style="list-style-type: none">• to strengthen the scientific research system necessary to developing biofuels• to educate workers about innovative fuel technologies• to incentivise the application of biofuel technologies• to incentivise private capital investment in biofuel production• to incentivise the commercialisation of biofuels• to promote the production of biofuels in rainforest regions within the framework of sustainable development <p>The Law outlines co-ordination with anti-drug programmes, so that national and international funds designated to The War on Drugs are used to incentivise farmers to cultivate crops designated for biofuels rather than production of coca plants.</p> <p>The legislation calls for the creation of a technical commission, which will create quality standards related to the production of various biofuels.</p> <p>The executive authority issued a decree to regulate the Law nearly two years after its promulgation. The Decree offers further legal definitions of terminology (such as biodiesel, denaturised chemical compounds etc.) as well as specifying the chemical make up of commercialised biodiesel (95% gasoline, 5% biodiesel) and ethanol fuel (92.2% gasoline, 7.8% ethanol). Additionally, the Decree identifies different funding streams to accomplish the legislative objectives established in Law No. 28054, including through the National Clean Development Mechanism, government-backed credits and funds designated for The War on Drugs.</p>

Name of law	Organic Law of Regional Governments, Law No. 27867
Date	18 November 2002
Summary	This broad legislation is meant to decentralise governance in the country and is a pillar of the juridical-legal framework of contemporary Peru. As such, most of the legislation is unrelated to climate change or the natural environment. However, it states explicitly that regional governments must formulate, co-ordinate, manage and supervise regional strategies to address climate change within the national framework (the National Strategy on Climate Change and additional legislation, executive decrees and ministerial resolutions).

Name of law	Law to Promote Efficient Use of Energy, Law No. 27345 and Executive Decree No. 053-2007-EM to Regulate Corresponding Law No. 27345
Date	8 September 2000 (Law No. 27345) 23 October 2007 (Executive Decree No. 053-2007-EM)
Summary	The Law declares the promotion of energy efficiency a matter of national interest. The motivations listed in the bill are to ensure a stable energy supply, protect the consumer, improve competitiveness of the national market and to reduce environmental damage caused by energy consumption. The Law requires the Ministry of Energy and Mining to promote a culture of energy efficiency and to design and fund energy efficiency projects. However, the legislation is vague on details and activities to be realised. The one exception is the labelling of electronic appliances and machines of energy consumption information within 90 days after the law has taken into affect.

The Executive Decree details how the Ministry of Energy and Mining is to realise the mandates of the corresponding law.

In order to encourage a culture of energy efficiency, the Ministry is to co-ordinate education programmes for the general public and in primary and secondary schools, as well as co-ordinate the establishment of undergraduate and graduate degree programmes in energy efficiency. Additionally, 21 October is celebrated as National Energy Saving Day.

The Ministry will encourage energy efficiency in homes and residences with publicity campaigns meant to change consumption behaviour; promote the financing of energy efficient electrical systems appliances; and encourage the use of energy efficient technologies in remote areas.

In the service and private industry sectors the Ministry will promote the creation of an “energy efficiency market”; create standards of energy efficiency for private enterprises; create minimum standards of energy efficiency depending on the type of productive activity; co-ordinate the financing of small and medium enterprises to establish pilot projects meant to make energy use more efficient; and coordinate with the National Commission on Climate Change and the National Environmental Fund to facilitate international financing through the Clean Development Mechanisms.

In the public sector the Ministry will audit the use of energy by public entities that use more than a pre-established amount of energy units; co-ordinate efficient lighting systems; and co-ordinate the conversion of public sector vehicles to run on natural gas.

In the transportation sector, the Ministry will co-ordinate with the appropriate public entities to encourage efficient use of public transportation systems and optimise traffic systems to mitigate idle use of fuels.

The Ministry should co-ordinate the replication of successful projects at the Regional Government level.

Peru: Executive Portfolio

Name of Policy	Directive on the Commercialization of Fees Generated by Ecosystem Conservation Projects in Nationally Protected Areas, Executive Decree No 26-2014-SERNANP
Date	30 January 2014
Summary	This executive policy regulates private sector participation in conservation projects as well as commercialization of natural resources in nationally protected areas of conservation. It works within the REDD+ framework to promote carbon sequestration.

Name of Policy	Creation of the Temporary Regimen for the Renovation of Automotive Vehicles in order to Promote Change to the Energy Matrix, Executive Decree No 213-2007-EF
Date	23 December 2007
Summary	This decree uses executive authority to regulate fuel efficiency of automobiles throughout Peru. It creates the “Temporary Regimen for the Renovation of Diesel Gas Vehicles”, otherwise known as Renovation, which has the objective of gradually replacing older diesel consuming cars and trucks with newer, more efficient models. In order to qualify for the plan, private citizens or organisations exchange a diesel vehicle with more than 10 years of age for a voucher that can be used to subsidise the purchase of a new, more efficient vehicle within 12 months. The value of the voucher is to be stipulated by the Ministry of energy and Mines and financed by the same in addition to the Ministry of Transport and Communication.

Name of Policy	National Strategy on Climate Change, Executive Decree No. 086-2003-PCM
Date	27 October 2003
Summary	<p>The National Strategy on Climate Change has the general objective of reducing the adverse impacts of climate change by conducting research that identifies vulnerability and development strategic action plans to mitigate climate change as well as adaption techniques. The decree acts as a national framework within which the regional and local governments can develop their own policies and action plans. The decree lists 11 strategic lines of action:</p> <ul style="list-style-type: none"> • Promote and develop scientific, technological and socio-economic research about vulnerability, adaptation and mitigation in regards to climate change • Promote policies, measurements (indicators) and projects to develop the capacity for adaptation to the effects of climate change and reduce vulnerability • Actively participate in international climate change negotiations in order to defend Peru’s national interests and protect the global atmosphere • Develop policies and measurements for the management of GHG emissions and other air pollutants and for the mitigation of climate change considering the mechanisms available in the Kyoto Protocol and other economic instruments • Disseminate knowledge and information about climate change and aspects concerning vulnerability, adaptation and mitigation • Promotion of projects that have as primary objectives poverty alleviation, reduction of vulnerability and/or mitigation of GHGs • Promotion of the use of technologies that are adequate and appropriate to adapt to climate change, mitigate GHG emissions and atmospheric contamination • Achieve the participation of citizens to strengthen the capacity to adapt to climate change and mitigate GHG emissions and atmospheric pollution • Management of forest ecosystems to mitigate the vulnerability to climate change and increase the absorption of CO₂ • Explore the possibility of achieving just compensation for the adverse affects of climate change principally caused by industrialised countries

- Management of fragile ecosystems, especially mountainous ecosystems, in regards to reducing vulnerability to climate change

Each strategic point listed above lays out specific objectives and specific actions to be realised.

Name of Policy	National Plan for the Conservation of Forests to Mitigate Climate Change, Executive Decree No. 008-2010-MINAN
Date	15 July 2010
Summary	<p>This Decree establishes a national programme to conserve tropical forests in Peru, the general objective of which is to protect 54m ha of tropical forests as a contribution to the mitigation of climate change and to sustainable development. Strategic objectives are:</p> <ul style="list-style-type: none">• Identify and map the areas to be conserved• Promote productive forms of income connected to forest conservation for the most economically vulnerable local populations• Strengthen the capacity to conserve forested areas at the regional gubernatorial level, as well as in indigenous and peasant communities. <p>The programme will be housed within the Ministry of Environment. These state interventions should be co-ordinated with the Ministry of Agriculture and the Ministry of International Trade and Tourism. Programme funds will be allocated from the existing budget of the Ministry of Environment and/or with international funds.</p> <p>In addition to the forest conservation hard-target, this plan also incorporates two international pledges: to halt slash-and-burn agriculture tactics (pledge made at 2008 UNFCCC-Poznan) and to reduce the rate of deforestation of primary forests to zero by 2020 (pledge made at the 2009 UNFCCC Copenhagen).</p>

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