



Newsletter
Environmental Practice Group

New Obligations for Water Concessions and Discharge Permits

On November 12, 2024, the Morena parliamentary group submitted the Decree that enacts the new General Water Law (“**LGA**”) and repeals the current National Water Law (“**LAN**”) (the “**Decree**”). The Decree will directly and indirectly impact all industries, sectors and activities in the country that require water within their processes.

The Decree seeks to make a 360 degree turnaround in the country’s water regulation. It modifies the approach, administration, conservation and use of water resources from a perspective focused on safeguarding human rights. The LAN, being a regulatory law of Article 27 of the CPEUM, is abrogated to issue the new LGA, as a regulatory law of Article 4 of the CPEUM, in compliance with the 2012 constitutional reform.

In other words, water regulation will go from the management and use of a resource owned by the nation to the management and administration of the resource, with a human rights approach. This privileges and guarantees access to water in quality, quantity and sanitation to the entire population above any economic interest. This is also aligned with national commitments of the 2030 Agenda.

The Decree radically modifies the rules applicable to the management and consumption of this resource, giving it social and environmental value beyond economic value.

Aims and Objectives of the Initiative:

Together with issuing a new legal framework for water adapted to current needs and conditions, five main aims and objectives of the Initiative are proposed, being the following:

1. Guarantee the respect, protection and defense of **human rights associated with water**, such as: (i) access to quality water; (ii) sanitation; (iii) healthy environment; (iv) to life; (v) to health; (vi) to participation; (vii) to Prior, Free and Informed Consultation in Indigenous matters; and (viii) of access to climate justice, through the creation of a new specialized chamber in water matters, in the TFJA and the Water Ombudsman’s Office.
2. **Define the new regulatory bases** for: (i) access; (ii) management; (iii) administration; (iv) disposal; (v) preservation and conservation; and (vi) water use. This will also include the regulation of non-wastewater (being that which after its use does not modify its chemical composition), sacred waters (cenotes and sacred indigenous sites) and virtual water (total volume used to produce a good or service).
3. Set new mechanisms for coordinated **citizen and community participation** among the different levels of government (federal, state and municipal) for proper water management.
4. Promote **water reuse and recycling**, as well as create and establish new mechanisms and instruments for wastewater and rainwater management.
5. Create and establish new mechanisms and instruments for risk management related to climate change vulnerability.

Main regulatory amendments:

The Decree will modify several aspects of the LAN, to create new obligations and responsibilities to

Concessionaires, the main and most outstanding being the following:

1. Regional Basin Councils are created: These additional mechanisms will guarantee social participation. These councils are created for civil society, the private sector and government to participate in the management, evaluation and granting of concessions and permits on water resources, which will complicate and lengthen the concession application procedures.

2. Reserves, Expropriation and Temporary Occupation: In addition to the establishment of closed zones, saturated zones and/or zones of environmental water importance, CONAGUA's power is expanded to: (i) issue volume reserves to granted concessions, for the benefit of the regeneration of the water cycle, of basins with a long-term perspective; (ii) temporarily occupy private volumes or infrastructure to attend water emergencies; and (iii) expropriate concessioned infrastructure to guarantee domestic supply.

3. The Utilization Pattern is created: Through this new instrument, the Regional Basin Councils will determine the annual availability of the volumes to be allocated or granted, as well as to reserve or expropriate those already granted, which will be updated according to an evaluation of negative impacts on the ecosystems, basins and equitable distribution of the resource.

4. The Socio-Hydric Impact Assessment is created: To request a concession or permit, the applicant must carry out a Socio-Hydric Impact Assessment, in order to: (i) ensure respect for the human right to water of indigenous and Afro-Mexican peoples and/or communities, in accordance with applicable legislation; (ii) guarantee the availability of water in the basin; (iii) that access to water for the resident population is not affected; (iv) that no damage is caused to water bodies or their ecosystem services; and (v) that no risks or vulnerability of climate change will be generated.

5. The Water Rights Transfer Center is created: It will manage the wastewater owned by the Nation, which must be returned by the concessionaires after its use, exploitation and treatment, so that these can be granted by CONAGUA to other uses that do not require first quality water. The transfer of wastewater between individuals is prohibited.

6. Reuse or Recycling of Water and Rainwater Use: The obligation to obtain concession titles to use the volume of water originated by rainwater collection is exempted. The reuse and recycling of wastewater is allowed and promoted by the same holder of the Concession, through a notice.

7. Transitory Provisions: The Decree enters into force the day after it is published, maintaining the

conditions of the permits and concessions issued prior to its entry into force, as long as they do not oppose the Decree, granting a term of:

- i. 3 years for the Concessionaires to regularize and comply with the new obligations and conditions set forth in the Decree.
- ii. 1 year to review and, if applicable, revoke Concessions issued in: Protected Natural Areas, overexploited aquifers and/or contaminated waters.
- iii. 18 months to review and, if applicable, revoke Concessions issued in: closed and reserve zones, which do not allow safeguarding the water recovery of the Basin.
- iv. 120 days to constitute the Regional Basin Councils.
- v. 240 days, for the issuance of regulatory provisions.
- vi. 5 years, for the enactment of new Mexican Official Standards (NOMs), on wastewater treatment and quality processes.
- vii. 5 years to create and operate the Water Rights Transmission Center; and
- viii. 5 years for concessionaires or permit holders to implement water reuse and saving strategies and process.

Conclusions:

As indicated above, the Decree seeks to guarantee the human right to water and sanitation for future generations by limiting the private use of the resource. This generates a risk for businesses, industries and investments regarding the assurance of the volume of water required.

New figures, obligations and mechanisms are created for the use of water, which must be analyzed and integrated into the financial and time projections for the development of new projects.

In addition to the above, on November 21, 2024, the National Water Plan 2024-2030 was published, whose main objectives are:

- i. Regularize Concessions:** Review of Concessions that are not used or are found with irregularities, through a national program of inspections.
- ii. Administrative Simplification:** Digitalization and reduction of paperwork and enactment of the LGA.
- iii. Improve Infrastructure:** Promote efficiency in agricultural irrigation, coordinate with the three levels of government the national water investment and administration. Develop strategic projects to ensure proper water management and basins recovery.

The industrial, extractive, commercial and service sectors are the sectors that represent the greatest number of changes in the use of the resource and the incorporation of new obligations in terms of sustainability, in addition to the fact that, with the modifications to the NOMs, processes and equipment for wastewater discharge treatment must be adapted and reevaluated.

Notwithstanding the above, the Decree and the National Water Plan also creates great opportunities to ensure a correct and legal use of water resources, avoiding the creation of risks during the operation of projects, integrating social and community values with concessionaires, allowing them to expand their actions in favor of the environment and communities, and favoring the best practices of the sector, in accordance with ESG principles and policies.

Please note that this Decree is subject to discussion by both legislative chambers and therefore its content may be modified, for which we will be attentive to the legislative process and be able to communicate any modification to the originally proposed text as soon as possible. However, this note serves as a guide to foresee the scope and impact that the Decree will have on the industries and economic activities of the country.

At Sanchez Devanny, we have a highly experienced team in this matter, and we will be pleased to provide more information about the present case and answer your particular questions, in order to help you guarantee proper compliance with your obligations.

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