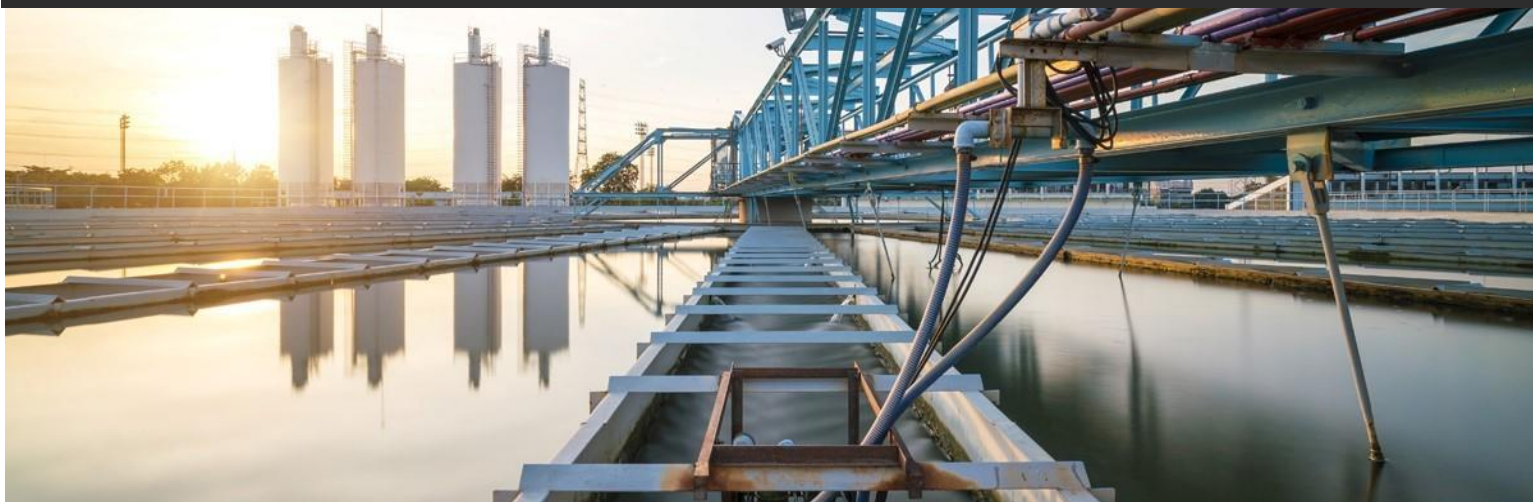


Alert | Environmental



September 2024

Mexico City Government Modifies Environmental Laws

On July 18, 2024, Mexico City's head of government published the following decrees in the city's Official Gazette: (i) Decree issuing the Environmental Law of Mexico City and repealing the Environmental Law for the Protection of the Land in Mexico City; and (ii) Decree amending Article 65 of the Solid Waste Law for the Federal District, repealing Articles 221, 222, 223, and 224 of Chapter VI of Title 7 of the Environmental Law for the Protection of the Land in Mexico City and issuing the Environmental Liability Law for Mexico City.

This GT Alert discusses the most relevant aspects of these legal modifications.

I. Decree issuing the Environmental Law for Mexico City (Environmental Law) and repealing the Environmental Law for the Protection of the Land in Mexico City.

a. Purpose

The Environmental Law regulates the provisions contained in Article 16 of Mexico City's political constitution in connection with the right to a healthy environment. The provisions seek to recognize and regulate the protection of the rights of nature as a collective entity subject to rights.

b. Environmental Impact Assessment

The Environmental Law, in its fourth section, details the environmental impact assessment procedure. This section includes the following: (i) modalities of environmental impact studies; (ii) works and activities that require an environmental impact authorization; (iii) the requirements to be included in the environmental impact study submitted by those interested in obtaining an environmental impact authorization; and (iv) the large construction¹ cases that require a neighborhood consultation process, among others.

c. Single Environmental Assessment

The fifth section of the Environmental Law considers the Single Environmental Assessment (MAU) as the environmental policy instrument whereby those responsible for fixed sources subject to the provisions of the Environmental Law must report compliance with their environmental obligations regarding atmospheric emissions, generation and management of solid waste, consumption of drinking water, and wastewater discharge, among others. In this regard, the section includes the requirements and steps for submitting the MAU.

d. Water as a Public Asset in Mexico City

Article 159 of the Environmental Law prohibits the privatization of water in Mexico City in any form, as well as the services derived from its supply and collection. It also specifies that water management is public and not for profit.

e. Sanctions

Chapter III of the Environmental Law provides the list of violations and corresponding penalties. The failure to comply with the provisions of the Environmental Law may result in penalties of up to MXP \$10,857,000.

f. Timeline

The Environmental Law is currently in effect.

g. Issuance of Regulations

The regulations deriving from the Environmental Law must be issued within 180 business days following the law's effective date.

h. Others

The sixth transitory provision of the Environmental Law provides that, until the government issues the regulatory provisions of the law, the regulations of the Environmental Law for the Protection of the Land in Mexico City will remain in effect, insofar as they do not oppose the Environmental Law.

¹ Neighborhood consultation for large constructions is defined as an orderly and systematic process whose objective is to submit a project before the inhabitants and users of the area of social influence of the project to obtain their opinion on the impacts generated in socio-environmental matters and the way to address them through the construction of social agreements.

II. Decree amending Article 65 of the Solid Waste Law for the Federal District, repealing Articles 221, 222, 223, and 224 of Chapter VI of Title 7 of the Environmental Law for the Protection of the Land in Mexico City and issuing the Environmental Liability Law of Mexico City.

Amendments to Article 65 of the Mexico City Solid Waste Law

Article 65 states that it is the responsibility of any person who generates and manages solid waste to do so in a manner that does not harm human health or the environment.

The amendments to the second paragraph specify that if the generation, handling, and final disposal of solid waste produces environmental contamination, regardless of the applicable criminal or administrative sanctions, whoever provides the service would be subject to the provisions of the Environmental Liability Law for Mexico City.

Prior to the amendment, this article did not mention the Environmental Liability Law.

Repeal of Articles 221, 222, 223, and 224 of Chapter VI of Title Seven of the Environmental Law for the Protection of the Land

The decree repeals the provisions relating to liability for environmental damage.

Issuance of the Mexico City Environmental Liability Law (Liability Law)

a. Object

The Liability Law seeks to regulate environmental liability arising from damage caused to the environment, regulate liability arising from damage to people's health as a direct or indirect consequence of damage to the environment, and determine the integral reparation of damage to the Mexico City environment when it is of local jurisdiction.

b. Relevant Definitions

Definitions are included for "environmental damage" and "indirect damage," among others.

c. Events Not Considered Environmental Damage

Article 4 of the Liability Law excludes impairments, losses, affectations, modifications, or deteriorations to the environment that do not have adverse effects from its definition of "environmental damage." It also includes a list of the cases in which the law does not consider impairments, losses, affectations, modifications, or deteriorations as adverse.

d. Obligations Arising from Damage Caused to the Environment's Natural Elements

Article 10 of the Liability Law provides that any person whose action or omission directly or indirectly causes the loss, modification, deterioration, impairment, affectation, and/or adverse and measurable modification of habitats, ecosystems, and natural elements and resources, of their chemical, physical, and/or biological conditions and of the interaction relationships between them, as well as of the environmental services they provide, will be liable and bound to make full reparation for the damages under the terms of said law.

e. Financial Penalty

Article 19 provides for a financial penalty of up to MXP 5,428,500 for individuals and up to MXP 65,142,000 for legal entities.

It also specifies that such economic penalty would be an accessory to the integral repair of the damage caused to the natural elements of the environment, and that the exact amount of the sanction would be determined according to the damage produced and based on the criteria set forth in Article 22.

f. Environmental Liability Legal Proceedings

Chapter 6 of the Liability Law regulates the judicial procedure for environmental liability.

g. Criminal Liability

Chapter 11 of the Liability Law regulates the criminal liability of legal entities in environmental matters.

h. Timeline

The Accountability Law is currently in effect.

i. Issuance of the Corresponding Regulations

The third transitory provision of the Accountability Law states that the regulations of said law must be issued within 180 business days from the law's effective date.

Conclusion

Companies should take the new amendments into consideration to ensure compliance with the laws and avoid potential penalties.

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