

Country page: MEXICO

1. Population

Under the last intercensal survey (2015) carried out by the National Institute of Statistics and Geography ("**INEGI**", for its acronym in Spanish), Mexico has a population of 119.5 million inhabitants, being among the 11 most populous countries in the world.

2. Political organization

Mexico is organized as a federal republic with a democratic political system. The federal government represents the United Mexican States and is divided into three branches: the Executive, the Legislative and the Judicial, as established by the Political Constitution of the United Mexican States (the "**Mexican Constitution**"), enacted on February 5th, 1917.

The Executive Branch is headed by the President of the United Mexican States, who is advised by his cabinet. The Legislative Branch is vested upon the Congress of the Union, a bicameral system composed by the Senate and the Chamber of Deputies. The National Supreme Court of Justice heads the Judicial Branch.

The Mexican Republic is divided into 32 federal entities. Mexico City is the federal entity where the Powers of the Union are established, as well as the Capital City.

Each federal entity enacts its own constitution, elects its own governor and legislators and appoints its own judges to the provincial courts.

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4. Does the constitution cover environmental rights?

Article 4 of the Mexican Constitution incorporates the right of all inhabitants to have a healthy environment for their development and well-being. The Mexican State shall guarantee the respect of this right. Environmental deterioration and damage to the environment will derive in liabilities for those causing the damage or deterioration it in terms of the provisions of the law.

Also, the Mexican Constitution establishes the right of all inhabitants to access to and to receive water and drainage services for personal and domestic consumption in a sufficient, safe, acceptable and affordable manner.

5. Who is the environmental regulator?

The Ministry of Environment and Natural Resources (the "**SEMARNAT**", for its acronym in Spanish) is the Mexican State's Ministry of the federal Executive Branch, responsible for promoting the protection, restoration and conservation of Mexico's ecosystems, natural resources and environmental goods and services, with the aim of promoting their sustainable use and development.

Environmental matters in charge of the SEMARNAT include environmental impact, forestry land use change, air emissions, water exploitation, wastewater discharges, hazardous wastes, risky activities and wildlife, among others.

Furthermore, as a consequence of the Mexico's energy reform that took place in 2014, the Agency of Security, Energy and Environment (the "**ASEA**", for its acronym in Spanish) was created as a decentralized administrative body of SEMARNAT in charge of all environmental matters relating to conduction of energy related activities.

The ASEA's main authority is to regulate and supervise the industrial and operational safety and environmental protection with respect to the hydrocarbons' sector activities.

6. Overview of Legislation

Article 73 fraction XXIX-G of the Mexican Constitution determines the competence of the Chamber of Deputies to enact laws that define the concurrent jurisdiction that exists on environmental matters, between the Federal and Local governments, differentiating the latter between states and municipalities.

As a product of the above mentioned authority, the General Law of Ecological Equilibrium and Environmental Protection (the "**LGEEPA**" for its acronym in Spanish) was published on January 28th, 1988, which determines which subjects will be ruled by each jurisdiction (federal, state or municipal), outlines a general policy for the environment protection, as well as the implementation of sustainable development.

According to the LGEEPA, all states shall issue its own environmental legislation to govern certain local jurisdiction environmental matters, such as the formulation, conduction and evaluation of the state environmental policy; the prevention and control of the atmospheric contamination generated by fixed sources of pollution that function as industrial establishments at a local jurisdiction level; the regulation of the collection, transport, storage, treatment and final disposal of solid wastes that are not classified as dangerous, amongst others.

The Mexican environmental regulatory framework is formed primarily by the following laws and regulations:

- LGEEPA, and its regulations which are the following:
 - LGEEPA'S Regulations on Environmental Territorial Management (*Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en materia de Ordenamiento Ecológico*).
 - LGEEPA'S Regulations on Environmental Impact Evaluation (*Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en materia de Evaluación del Impacto Ambiental*).

- LGEEPA'S Regulations on Emissions Registration and Contaminant Transference (*Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en materia Registro de Emisiones y Transferencia de Contaminantes*).
 - LGEEPA'S Regulations on Prevention and Control of the Atmosphere's Pollution (*Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en materia Prevención y Control de la Contaminación de la Atmósfera*).
 - LEEGEPA's Regulations on Natural Protected Areas (*Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en materia Áreas Naturales Protegidas*).
- General Law on Sustainable Forest Development (*Ley General de Desarrollo Forestal Sustentable*), and its regulations.
 - General Law for the Prevention and Integral Management of Wastes (*Ley General para la Prevención y Gestión Integral de los Residuos*), and its regulations.
 - General Wildlife Law (*Ley General de Vida Silvestre*), and its regulations.
 - General Law on Climate Change (*Ley General de Cambio Climático*) and its regulations.
 - Federal Law of Environmental Liability (*Ley Federal de Responsabilidad Ambiental*).

7. Environmental Impact Assessment / Environmental Assessments

The LGEEPA provides that all works or activities that may cause ecological imbalance or exceed the limits and conditions established under the applicable environmental regulations shall be subject to an environmental impact procedure (EI), in order to protect the environment and preserve and restore ecosystems, and to avoid or minimize their negative effects on the environment.

In addition, article 28 of the previously mentioned Law sets out a list of works and activities subject to a federal EI; other activities that are not

included in the LGEEPA or its Regulation on Environmental Impact Evaluation, may be subject of state or municipal evaluation.

8. Permitting (Air / Water Taking / Water Disposal / Waste)

Environmental legislation, at a federal, state and municipal level regulates the commercial and industrial facilities that will be subject to permitting on air emissions, wastewater discharges and integral management of wastes.

In addition to the environmental laws and regulations, the federation and the states have the authority to issue official standards, within their scope of jurisdiction, regarding technical specifications and obligations on environmental matters. The main environmental official standards refer to: allowable maximum limits of contamination (for air emissions, water pollutants, presence of hazardous substances within the soil), list of wastes classified as hazardous, list of non-hazardous wastes subject to management plan, noise emissions and testing methods, amongst others.

Environmental permits are associated with industrial or commercial activities; therefore, it is always required to obtain certain permits (depending on the specific case) in order to operate any kind of facility.

9. Waste Management and Recycling

The LGEEPA defines hazardous wastes as those that possess any of the characteristics of corrosiveness, reactivity, explosive, toxicity and ignitability or that contain infectious agents that confer dangerousness, as well as containers, recipients, packages and soils that have been contaminated, and therefore represent a danger to the ecological equilibrium or the environment. SEMARNAT published the Official Mexican Norm 052-SEMARNAT-2005, which establishes the characteristics, identification procedure, classification and the list of hazardous wastes. Hazardous wastes are of federal jurisdiction; any other wastes (special management and urban) will be state and municipal jurisdiction.

The General Law for the Prevention and Integral Management of Wastes and its regulations deals with matters related to waste and its management and classifies wastes as follows:

- a) Wastes of Special Management: those generated in the productive processes that do not satisfy the characteristics required to be considered dangerous or urban solid wastes, or that are produced by big generators of urban solid wastes.
- b) Incompatible wastes: those that when come into contact or when being mixed with water or other materials or wastes, react producing heat, pressure, fire, particles, gas or harmful fumes.
- c) Hazardous wastes: those that possess any of the characteristics of corrosiveness, reactivity, explosive, toxicity and ignitability or that contain infectious agents that confer dangerousness, as well as containers, recipients, packages and soils that have been contaminated.
- d) Urban Solid Wastes: those generated in the domestic sector, that result of the elimination of the materials that are used in domestic activities, of the products that are consumed as well as its containers, recipients or packages, and those that result from the cleaning of public ways.

Furthermore, the General Law for the Prevention and Integral Management of Wastes establishes the joint liability of producers, importers, exporters, traders, consumers, waste management service companies and authorities in order to achieve the integral waste management and reduce the environmental impact caused by the generation and mismanagement of wastes.

Sector-Based Regulations:

9.1 Mining

The LGEEPA establishes the obligation to present EIA procedure for the activities of exploration, exploitation and profit of minerals.

In addition, article 108 states that to prevent and control the general effects on exploration and exploitation of the non-renewable sources in the ecological equilibrium and integrity of the ecosystems, SEMARNAT will issue Official Mexican Norms that allow (i) the control of water quality and the protection of waters that are used or are the result of these activities, so that they can be subject to reuse; (ii) the protection of soils and wild flora and fauna; and (iii) the proper location and shape

of mine dumps, tailings and slag deposits, and mineral processing facilities. As an example, SEMARNAT has published the Official Mexican Standard NOM-120-SEMARNAT-1997 which establishes environmental protection specifications for direct mining exploration activities; and Official Mexican Standard NOM-141-SEMARNAT-2003, which establishes the procedure for characterizing the mine tailings, as well as specifications and criteria for the characterization and preparation of the site, design, construction, operation and post-operation of tailing dams.

On the other hand, the Mine Law dictates that the holders of mining concessions are forced to abide to the Official Mexican Norms that apply to the mining-metallurgy industry regarding ecological equilibrium and environmental protection.

It is worth noting that the General Law for the Prevention and Integral Management of Wastes points out that the wastes of the mining industry that come from the mine and treatment of the minerals may be disposed on the site they are generated.

10.2 Oil and Gas

As a result of the Mexico's energy reform that took place in 2014, it was created the ASEA. The ASEA's main duty is to regulate and supervise the industrial safety and environmental protection with respect to hydrocarbons' sector activities with the purpose of promoting, benefit and develop in a sustainable manner such industry.

ASEA is in charge of all the hydrocarbon's sector activities, being the following: (i) oil and gas; (ii) natural gas; (iii) LP gas; and (iv) petroleum by-products and petrochemicals.

The ASEAS' s environmental attributions are:

- Protection, conservation, and restoration of ecosystems and natural resources.
- Waste characterization and management.
- Pollutant emissions control.
- Technical elements for the country's environmental and energy policies.
- Approval of Environmental Impact and Risk Assessments of the hydrocarbons sector.
- Authorizations of Forest Land Use Permit Modification for the development of hydrocarbons projects.

The assignee, contractors, authorized and licensed persons are responsible to implement prevention actions and carry out repairs of damages caused, either directly or indirectly, to the environment or ecological equilibrium resulting from their activities, and are obligated to pay the costs that come along with these repairs.

10.3 Power Generation

The Federal Government has enacted various regulations, such as the Geothermic Energy Law and the Energetic Transition Law, in order to facilitate the protection of the environment from activities connected with the generation of electricity. Most of these regulations make reference to the LGEEPA, since SEMARNAT is authorized to issue manuals and operating procedures that will ultimately provide a comprehensive framework for the reduction of adverse environmental impacts created by the energetic industry.

10. Contaminated Sites

According to the General Law for the Prevention and Integral Management of Wastes, those who are responsible for the contamination of a site, as well as for health damages as a consequence of the site's contamination, will be obligated to repair the damage caused.

Any person or legal entity that, directly or indirectly, contaminates a site or causes damage to the environment as a result of the generation, handling or release, discharge, infiltration or incorporation of hazardous materials or waste, into the environment shall be responsible and liable for its repair and, where appropriate, for its respective compensation, in accordance with the provisions of the Federal Law of Environmental Responsibility.

Furthermore, the General Law for the Prevention and Integral Management of Wastes establishes that, owners or possessors of private properties and the owners of concession areas, whose soils are contaminated, shall be jointly liable for any necessary remediation actions.

11. Climate Change

The General Law on Climate Change establishes as principal objectives, among others, the following:

- To guarantee the right to a healthy environment.
- To reduce the vulnerability of human and natural systems to the effects of this phenomenon.
- To regulate adaptation and mitigation actions.
- To facilitate the transition to a competitive, sustainable and low carbon emission economy while promoting environmental, social and economic benefits.

Under the above law, the National Institute of Ecology and Climate Change ("**INECC**" for its acronym in Spanish) was created, which is a sectored public organism of SEMARNAT.

INECC's mission is to generate and integrate technical and scientific knowledge and increase qualified human capital for the formulation, conduction and evaluation of public policies that lead to environmental protection, preservation and ecological restoration, green growth, as well as mitigation and adaptation to climate change in the country.

12. Liability (Civil, Administrative, Criminal)

Environmental related breaches may derive in administrative, civil and/or criminal liability.

(i) Administrative Liability: all environmental laws provide for administrative sanctions ranging from closure to fines, depending on the level of infringement. The administrative sanctions are the following:

- Fines that may amount up to MXN\$4,000,000.00.
- Temporary or definitive closure, total or partial.
- Administrative arrest for up to 36 hours.
- Confiscation of instruments, specimens, products or by-products directly related to infringements concerning forest resources, wildlife species or genetic resources.
- The suspension or revocation of the corresponding concessions, licenses, permits or authorizations.

Additionally, when there is an imminent risk of ecological imbalance or serious damage or deterioration to natural resources, cases of pollution with dangerous repercussions for the environment, their components or for the public health, the authority may impose any or all of the following safety measures:

- Temporary, partial or total, decommissioning of polluting sources, as well as of installations in which specimens, products or by-products of species of flora or wild fauna, forest resources are handled or stored.
- Precautionary attachment of hazardous materials and wastes, specimens, products or by-products of wildlife species or their genetic material, forest resources, in addition to the goods, vehicles, utensils and instruments directly related to the conduct giving rise to the imposition of the security measure.
- Neutralization or any similar action for preventing hazardous materials or wastes.

Likewise, the Federal Law of Environmental Liability defines the environmental damage as any loss, change, deterioration, impairment or adverse modification and of the habitats, ecosystems, or natural resources, of the chemical, physical or biological conditions. This law establishes that any person or entity causing (directly or indirectly) an environmental damage shall be liable and shall be obligated to remedy the damage, and when the remediation is not possible, will be obligated to the environmental compensation, in addition to any administrative, civil or criminal liability that may correspond.

(ii) Civil Liability: The provisions of the Federal Civil Code shall apply to matters not covered by the Federal Law of Environmental Responsibility.

(iii) Criminal Liability: The Criminal Federal Code sets out several cases in which environmental crimes are committed and establishes that those who perform the activities described below will be penalized with one to four years of prison and a fine that may amount up to MXN\$226,470.00.

- Transports, consents, authorizes or commands the transportation of any dangerous waste, without permit.
- Falsely declares on the register or any document used with the purpose of simulate the compliance of the obligations set by the federal environmental legislation.
- Destroys, alters or hides information or any other document needed to maintain or file according to the federal laws.
- Does not perform nor fulfils the measures needed to avoid a damage or environmental risk that the administrative or judicial authorities order or impose.