

Appendix 1

Environmental Law in Question

a. General Ecological Equilibrium and Environmental Protection Act

Article 5. The following are powers of the Federation:...

III. Addressing matters that affect ecological equilibrium on the nation's territory or in zones under the nation's sovereignty and jurisdiction, originating within the territory or in zones under the sovereignty or jurisdiction of other states, or in zones beyond the jurisdiction of any state;...

VIII. The establishment, regulation, administration, and surveillance of federally protected natural areas;...

XI. The regulation of the sustainable use, the protection, and the preservation of national waters, biodiversity, fauna, and other natural resources under federal jurisdiction.

Article 15. For the formulation and administration of environmental policy and the enactment of Mexican official standards and other standards contemplated in this Act in relation to the preservation and restoration of ecological equilibrium and the protection of the environment, the Federal Executive shall observe following principles:...

XII. Everyone has the right to enjoy an environment adequate to his or her development, health, and well-being. The authorities shall, in accordance with this and other laws, take the measures necessary to guarantee this right.

Article 28. Environmental impact assessment is the procedure by which the Ministry establishes the conditions governing the execution of works and activities that may cause ecological disequilibrium or exceed the limits or conditions set out in the provisions applicable to the protection of the environment and the preservation and restoration of ecosystems, with a view to preventing or minimizing the negative effects of such works and activities on the environment. To that end, in those cases determined by the regulation issued for such purpose, anyone seeking to carry out any of the following works or activities shall require prior environmental impact approval from the Ministry:

I. Hydraulic works, roads, oil pipelines, gas pipelines, coal pipelines, and multi-use pipelines;...

VII. Land-use changes in forested areas, as well as in tropical wet forest and arid zones;...

Article 162. The competent authorities may, acting by duly authorized personnel, conduct inspection visits, without prejudice to any other measures prescribed by law that they may carry out for the verification of compliance with this act.

Such personnel, when conducting inspection visits, shall possess the official document accrediting or authorizing them to carry out the inspection or verification, as well as the written order, with a proper basis in law and fact, issued by the competent authority, specifying the place or zone to be inspected and the purpose of the inspection.

Article 170. Where there exists an imminent risk of ecological disequilibrium or of serious harm to or deterioration of natural resources, or in cases of contamination with dangerous consequences for ecosystems, their components, or public health, the Ministry may, with a proper basis in law and fact, order any of the following safety measures:

I. Temporary partial or total closing of contamination sources, and of facilities handling or storing specimens, products, or subproducts of wildlife species, forest resources, or carrying on activities that give rise to the conditions to which the introductory paragraph of this article refers;

II. Seizure of hazardous materials and wastes as well as specimens, products, or subproducts of wildlife species or their genetic material, forest resources, and also property, vehicles, tools, and instruments directly related to the conduct giving rise to the application of the safety measure, or

III. Neutralization or any similar measure to prevent hazardous materials or wastes from giving rise to the effects contemplated in the introductory paragraph of this article.

In addition, the Ministry may apply to the competent authority for the application of any safety measure that may be prescribed by other provisions.

Article 189. Any person, social group, nongovernmental organization, association, or society may complain to the Office of the Federal Attorney for Environmental Protection or to other authorities of any fact, act, or omission that causes or could cause ecological disequilibrium or harm to the environment or natural resources, or that violates provisions of this Act or other provisions governing the protection of the environment and the preservation and restoration of ecological equilibrium.

Where there is no office of the Federal Attorney for Environmental Protection in the locality in question, the complaint may be filed with the municipal authority or, at the complainant's discretion, with the nearest offices of the said federal authority.

Where the complaint is under federal jurisdiction and is filed with a municipal authority, the latter shall relay it to the Office of the Federal Attorney for Environmental Protection for processing.

Article 192. Where the Office of the Federal Attorney for Environmental Protection allows a complaint, it shall identify the complainant and give notice of the complaint to the person or authority to which the facts complained of are attributed or to those who are able to affect the outcome of the measure taken, in order for these latter to file documents and evidence within a maximum period of 15 days following notification thereof.

The Office of the Federal Attorney for Environmental Protection shall take the measures necessary to ascertain the existence of the acts, facts, or omissions stated in the complaint.

Said Office may, in those cases prescribed by this Act, initiate any applicable inspection and surveillance procedures, in which case the provisions of this Title shall be observed.

Article 193. The complainant may assist the Office of the Federal Attorney for Environmental Protection by providing evidence, documentation, and information as it sees fit. Said Office shall, when ruling on the complaint, state any considerations adopted with respect to the information submitted by the complainant.

Article 194. The Office of the Federal Attorney for Environmental Protection may commission academic and research institutions and public- and private-sector bodies to prepare studies, reports and expert appraisals on matters raised in the complaints that have been presented.

b. General Sustainable Forest Development Act

Article 93. The Ministry may, on an exceptional basis, authorize land-use changes on forested land, acting upon a technical opinion from the members of the relevant State Forest Council and on the basis of technical studies, whose contents shall be established in the Regulation, which demonstrate that the biodiversity of the ecosystems to be affected will be maintained and that soil erosion, carbon storage capacity, water quality degradation, and reduced water supply are mitigated in the areas affected by the removal of forest vegetation.

Article 97. Forested land-use changes may not be approved where the loss of forest cover was caused by fire, felling, or clearing, unless at least 20 years have passed and it is proved to the Ministry that the affected forest vegetation has regenerated, by means of the mechanisms set out in the Regulation to this Act.

Article 154. Preventive and surveillance measures related to forests are the responsibility of the Ministry, acting by the Office of the Federal Attorney for Environmental Protection, which has the duty to safeguard and patrol forest resources and to carry out acts of technical research, inspection, surveillance, and verification of compliance with the provisions and obligations contained in this Act, its Regulation, and the Mexican Official Standards, as prescribed by Title Six of the General Ecological Equilibrium and Environmental Protection Act.

Research may be conducted in response to a complaint or during acts of inspection and surveillance, operations, or verification of compliance with the provisions and obligations contained in the Act, its Regulation, and the Mexican Official Standards.

Diagnostic studies of critical forested areas shall be part of the technical research.

In addition, forest-related professionalization and training of personnel participating in inspection visits and operations shall be furthered.

Article 155. The following are offenses under this Act:...

- VII.** Changing the soil use of forested land without the corresponding approval;...
- XII.** Causing serious harm or deterioration to forest ecosystems.

c. General Wildlife Act

Article 5. The goal of national policy on wildlife and its habitat, is its conservation through protection and requiring that its sustainable use must be kept within optimal bounds, so as to simultaneously maintain and promote restoration of its diversity and integrity, while also increasing the well-being of the country's inhabitants.

In formulating and administering national wildlife policy, the competent authorities shall adhere to the principles set out in Article 15 of the General Ecological Equilibrium and Environmental Protection Act. In addition, these authorities shall provide for:

- I.** The conservation of genetic diversity, as well as the comprehensive protection, restoration, and management of natural habitats as a primary factor in the conservation and recovery of wild species.

Article 58. Among the species and populations at risk include those identified as:

- a) In danger of extinction, those whose areas of distribution or population size on the national territory has declined drastically, jeopardizing their biological viability throughout their natural habitat, due to factors such as habitat destruction or drastic modification, unsustainable use, disease, or depredation, among others.

Article 107. Any person may complain to the Office of the Federal Attorney for Environmental Protection, concerning harm caused to wildlife or its habitat, about which they have knowledge.

The Office of the Federal Attorney for Environmental Protection shall carefully assess the information submitted in the complaint and, where applicable, shall exercise exclusive power to bring an action of responsibility, which will be joint and several, for harm to wildlife and its habitat.

Where the respondent is a body of the federal public administration or a company in which the state owns a majority share, any person directly before the competent tribunal may bring the action in responsibility for harm to wildlife and its habitat.

d. National Waters Act

Article 7 bis. The following are declared to be matters of public interest:

I. Watersheds and aquifers, as the basic territorial units for the integrated management of water resources.

Article 14 bis 5. The principles underlying national water policy are as follows:

- I.** Water is a vital, vulnerable, finite good within the federal public domain that possesses social, economic, and environmental value and whose preservation in quantity, quality and sustainability is a fundamental task of the state and society as well as a priority and a matter of national security;...
- IX.** The conservation, preservation, protection, and restoration of water quantity and quality is a matter of national security, so that the unsustainable use of water and its concomitant adverse ecological effects must be avoided;...
- XX** The informed and responsible participation of society is the basis of the better management of water resources, and particularly their conservation; therefore, environmental education, particularly in regard to water, is essential.