

Environmental law cited in the submission
SEM-23-003 (Agave Production in Jalisco)

- **Mexican Constitution**

Article 4.

...

Everyone has the right to a healthy environment for his development and well-being. The State shall guarantee respect for this right. Environmental harm and deterioration shall give rise to responsibility on the part of anyone who causes them, as prescribed by law.

Everyone has the right of access to, disposal of, and treatment of water for his personal and household consumption in a sufficient, safe, acceptable and affordable form. The State shall guarantee this right and the law shall define the rules, supports, and modalities for equitable and sustainable access to and use of water resources, establishing the participation of the Federation, the federative entities, and the municipalities, as well as the participation of citizens, in the attainment of these goals.

...

- **National Waters Act**

Article 9.

...

XXXVI. Oversee compliance with and enforcement of this Act, interpret it for administrative purposes, apply such sanctions and exercise such acts of authority in this area as are not reserved to the Federal Executive Branch;

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

...

X. Comprehensive management of water resources by watershed, on the basis of multiple and sustainable uses of water and the interrelationship that exists between water resources and the air, the soil, flora, fauna, other natural resources, biodiversity, and the ecosystems that are vital to water;

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XII. Water shall be used with efficiency and its reuse and recirculation shall be promoted;

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XVII. Natural or legal persons who contaminate water resources are responsible for restoring their quality, and the “polluter-pays” principle shall be applied, as prescribed by the applicable laws;

...

Article 47. Wastewater discharges into national property, or their infiltration into land where this may lead to the contamination of the subsoil or aquifers, shall be subject to the provisions of Title Seven of this Act. “The Water Authority” shall promote the use of wastewater from the water supply and sewer systems by the municipalities, the operator agencies, or third parties.

Article 85. In accordance with Paragraphs VI and VII of Article 7 of this Act, it is fundamental that the Federation, the states, the Federal District, and the municipalities, acting by the competent bodies, the water users, and the organizations of society, preserve the ecological conditions of the water regime, through the promotion and implementation of the measures and actions necessary to protect and conserve water quality as prescribed by law. The Federal Government may coordinate with the governments of the states and the Federal District for the latter to carry out certain administrative acts relating to the prevention and control of water contamination and to responsibility for environmental harm, as prescribed by this Act and other applicable legal instruments, in order to contribute to the decentralization of water management. Those natural or legal persons, including agencies, organizations, and entities of the three orders of government, who exploit, use, or enjoy national waters in any use or activity, shall be responsible, as prescribed by law, for: a. Taking the measures necessary to prevent the contamination thereof and, where applicable, restoring such waters to adequate condition, in order to allow for their subsequent exploitation, use, or enjoyment, and b. Maintaining the equilibrium of vital ecosystems.

Article 86. “The Water Authority” shall be responsible, as prescribed by law, for:

...

- V. Inspection and verification of compliance with the provisions of the Mexican Official Standards applicable to the prevention and conservation of the quality of the national waters and property set out in this Act;

...

Article 88. Those natural or legal persons who make wastewater discharges into any of the receiving bodies to which this Act refers shall:

- I. Hold the wastewater discharge permit mentioned in the preceding article;
- II. Treat the wastewater prior to its discharge into receiving bodies, where this is necessary to comply with the stipulations of the corresponding discharge permit and with the Mexican Official Standards;
- III. Cover, where applicable, the federal duty for the use or enjoyment, for the purpose of wastewater discharges, of national property such as receiving bodies;

...

- V. Inform “the Water Authority” of contaminants present in the wastewater that they generate as a result of an industrial process or a service that they are operating, where such contaminants were not contemplated in the particular conditions of discharge;
- VI. Inform “the Water Authority” of any change in their processes, where such change causes alterations in the characteristics or volumes of the wastewater indicated in the corresponding discharge permit;

- VII. Operate and maintain, themselves or via third parties, the works and facilities necessary to manage and, as applicable, treat wastewater, as well as to provide for control of the quality of such water prior to its discharge into receiving bodies;
- VIII. Retain for at least five years the logbooks corresponding to any monitoring that they carry out;
- IX. Comply with the conditions of the corresponding discharge permit and, as applicable, keep the works and facilities of the treatment system in satisfactory operating condition;
- X. Comply with the Mexican Official Standards and, as applicable, with any particular conditions of discharge that have been set, for the prevention and control of any extended or dispersed contamination that could result from the handling and application of substances capable of contaminating the quality of national waters and receiving bodies;

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Article 91. Wastewater infiltration for recharge of aquifers requires a permit from “the Water Authority” and shall adhere to any Mexican Official Standards promulgated in this regard.

Article 92. “The Water Authority” shall order the suspension of any activities that give rise to wastewater discharges where:

- I. The wastewater discharge permit prescribed by this Act is lacking;
- II. The quality of the discharges does not adhere to the applicable Mexican Official Standards, the particular conditions of discharge, or the provisions of this Act and its regulations;

...

Article 96 bis. “The Water Authority” shall intervene to secure compliance with repair of environmental harm, including such harm as may compromise vital ecosystems, adhering in its actions under the law to the National Waters Act and its Regulation.

Article 96 bis 1. Any natural or legal persons who discharge wastewater in violation of the applicable legal provisions, thereby causing contamination of a receiving body, shall bear the responsibility for repairing or compensating for the environmental harm caused, as prescribed by the National Waters Act and its Regulation, without prejudice to the application of any applicable administrative, penal, or civil penalties, by removing the contaminants from the affected receiving body and restoring it to its condition prior to occurrence of the harm.

Article 119. “The Water Authority” shall apply sanctions as prescribed by this Act for the following offenses:

- I. Continually, intermittently or accidentally discharging wastewater, in contravention of the provisions of this Act, into receiving bodies that are national property, including marine waters, as well as where such water infiltrates into land that is national property or into other land where it may contaminate the subsoil or the aquifer;
- II. Exploiting or using wastewater that is national property without complying with the applicable Mexican Official Standards and the particular conditions established for this purpose;

...

VII. Failing to install, retain, repair, or replace the devices necessary to record or measure the quantity and quality of water, as prescribed by this Act, its regulations, and other applicable provisions, or to modify or alter facilities and equipment for the measurement of water volumes exploited or used, without the corresponding permit, including any such devices installed by “the Water Authority” in the course of exercising its powers;

...

XIV. Dumping or depositing any contaminant, in contravention of the legal provisions, into rivers, watercourse beds, ponds, lakes, lagoons, estuaries, marine waters, or other bodies of water or watercourses, or allowing water-contaminating materials or substances to infiltrate into the subsoil;

XV. Failing to comply with the obligations set out in discharge concessions, assignments, or permits;

...

XVII. Causing considerable environmental harm, or harm giving rise to disequilibria, in the area of water resources, in accordance with the applicable provisions;

...

Article 123 bis 1. In those cases where the existence of an offense is presumed, “the Commission” shall file the corresponding complaint with the Office of the Public Prosecutor.

- **Federal Environmental Responsibility Act**

Article 10. Any natural or legal person who, by his act or omission, directly or indirectly causes harm to the environment, shall be responsible and obligated to repair the harm, or, where repair is impossible, to provide environmental compensation as applicable, as prescribed by this Act. Such person shall likewise be obligated to take the actions necessary to prevent the harm caused to the environment from increasing.

Article 54. Any person having knowledge of the commission of an offense against the environment may report it directly to the Office of the Public Prosecutor. In those cases where, as a result of the exercise of its powers, the Ministry or the Office of the Attorney for Environmental Protection have knowledge of acts or omissions that could constitute offenses against the environment, they shall file an immediate complaint with the Office of the Public Prosecutor. The Office of the Attorney for Environmental Protection shall file the actions and shall grant the pardon in cases of offenses against environmental management, adhering to the principles of environmental criminal law policy set out in the preceding article, as well as to the provisions of Title Two of this Act. Every public servant is obligated to give immediate notice to the Office of the Public Prosecutor of the probable existence of a fact deemed by the Act to be an environmental offense, as well as of the identity of anyone who may have committed or taken part in committing the offense, relaying all relevant information in his possession and transferring custody of the accused if they have been detained.

- **NOM-001-SEMARNAT-2021**

Establishing the permissible contaminant limits for wastewater discharges into nationally owned receiving bodies (NOM-001).