

LEGAL UPDATES IN THE FACE OF THE GENERAL WATER LAW AND THE REFORM OF THE NATIONAL WATER LAW

December, 2025

Introduction

In 2012, Article 4 of the Constitution was reformed, establishing that Congress had to issue a new General Water Law before February 2013. Since then, multiple initiatives had been presented that did not advance, which generated twelve years of regulatory stagnation. It was not until December 11, 2025, that the Decree issuing the General Water Law (the "New Water Law") and amending various provisions of the National Water Law (the "LAN") was published in the Official Gazette of the Federation, reconfiguring the water framework with a decisive emphasis on the human right to water and sanitation.

The New Water Law regulates Article 4 of the Constitution and articulates the concurrence between the Federation, states and municipalities, incorporating human rights principles.

The publication of this Decree provides that the reforms to the LAN and the New Water Law will enter into force the following day, that is, December 12, 2025, and sets specific deadlines to harmonize local laws and issue secondary legislation.

Faced with this scenario and considering that the industrial and agricultural sectors depend on having stable, legal and quality water sources, Santamarina y Steta presents this guide to explain the changes that the Reform generates in the water supply for these sectors and the recommended actions to protect their rights.

A. Transmission of water concessions

Antecedent

Broadly speaking, this system operated based on studies carried out by the National Water Commission (the "CONAGUA" or the "Authority") to determine the volume available in each aquifer. When available, the Authority itself may issue new concessions directly. However,

in those aquifers where availability has been exhausted, CONAGUA is prevented from granting new concessions.

This circumstance has led to the development of concession transfer schemes among the holders of securities issued before the scarcity, often of an onerous nature, without necessarily being illegal, as the Judiciary has recognized, with the purpose of facilitating access to water resources within the previously authorized extraction limits.

Unlike what has been stated in some spaces, this system does contribute to maintaining the balance of the aquifer. This is because there is a fixed volume of water already concessioned and, when CONAGUA cannot grant new titles due to lack of availability, anyone who requires water must obtain it through the transfer of an existing concession. In other words, no new allocations are opened, or total extraction increased, the water simply changes hands, but the amount of liquid authorized to be exploited in the aquifer remains the same.

Reform

This is perhaps one of the most controversial points of the Reform, since it puts an end to the transfer of concessions and, in addition, expressly prohibits this practice. Likewise, the provisions of the LAN that enabled transmission operations between individuals are repealed or no longer applicable, replacing them with the figure of reassignment. Instead, reassignment is incorporated as an exceptional way to give effect to the transfer of ownership, mergers and spin-offs of civil or commercial companies and inheritance rights, issuing a new title with the same characteristics of volume and use, and for the remaining period, without requiring a new analysis of availability; The reassignment may be processed by ordinary or expedited procedure.

In its place, CONAGUA creates the so-called "National Water Reserve Fund" (the "Fund"), an instrument under the responsibility of the Authority itself that will be integrated with the volumes from concession titles that have been extinguished, as well as those that are voluntarily ceded to CONAGUA.

It is worth remembering that the extinction of a concession title can derive from various causes: non-payment of rights, non-compliance with obligations, expiration of the term of validity, among others. In this way, the Fund will be gradually nourished as the titles are extinguished, and CONAGUA will use this volume to meet new concession requests, mainly privileging urban and agricultural public use and the conservation of natural resources.

However, the Reform does not clarify what will happen when two users – for example, within the industrial sector – simultaneously request the same volume. In the absence of a clear criterion of priority or allocation, this aspect becomes one of the weakest and most uncertain elements of the proposal.

Suggestions

In this context, the most effective recommendation is also the most basic: **comply in a timely manner with all the obligations derived from the concession titles**, to avoid any possibility of CONAGUA declaring their extinction. It is foreseeable that, once the Reform has been approved, the Authority will actively seek to identify volumes likely to expire to feed the Reserve Fund; therefore, it is essential to ensure strict compliance with payments, reports and technical obligations associated with each concession.

B. Ease of expiry of concession volumes

Antecedent

The expiration was updated when the volumes of water are not used for two consecutive years, to avoid this the LAN considers some cases of exemption, for example, the payment of the guaranteed fee, to this day the payment of that fee is indefinite.

Reform

The payment of the fee can only be made twice consecutively, so it will be easier for CONAGUA to decree the expiration of volumes.

Suggestions

The Reform continues to recognize those concessionaires that make investments in savings and efficiency in the use of water. Therefore, it is essential to implement water efficiency measures and properly document the programs, investments, and results obtained. Informing the Authority in a timely manner about these actions not only strengthens the culture of compliance, but also helps to avoid the configuration of the expiration of the title.

C. Extension of concession titles

Antecedent

Under the previous legislation, a concession title could be extended respecting both the volume granted, and the use assigned in the original concession. To this end, it was essential to submit the request for extension within five years prior to the end of the term and at least six months before its expiry.

CONAGUA used to take advantage of this procedure to verify compliance with the terms and conditions established in the title, such as the payment of rights, the presentation of declarations and other inherent obligations. In the event of non-compliance, the Authority could initiate administrative actions, which could lead to the imposition of fines or, in serious cases, the revocation of the concession.

Reform

In addition to the above, the extension of the concessions will be subject to the technical studies determined by CONAGUA. This means that, even if the holder has complied with all its obligations in a timely manner, the authority may deny the extension if the studies reveal critical conditions in the corresponding aquifer.

For example, a concessionaire located in Monterrey, Guadalajara or Mexico City, regions whose aquifers are among the most overexploited in the country, may be limited in the possibility of renewing its title. With the LAN Reform, CONAGUA is empowered not to grant the extension based exclusively on the state of availability of the aquifer, even if there is no non-compliance on the part of the user.

Suggestions

- Request the extension of the concession under the current law.

Given that the Reform will be binding as of December 12, 2025, it is important to consider that if the corresponding extension was not requested before that date, the previous regime (which allowed it to be requested within the five years prior to expiration) ceased to be applicable. Consequently, the owners must comply with the regulatory provisions.

Prior to initiating this procedure, we recommend carrying out a *due diligence* or audit to verify compliance with the obligations of the title, because as mentioned above, CONAGUA could impose fines or even revoke the concession.

- Propose actions to improve the aquifer.

This prohibition could have its antecedent in various amparo lawsuits filed in the city of Torreón, in which the Judiciary ordered CONAGUA to refrain from granting new concessions until it was guaranteed that the aquifer of the region was not in a state of overexploitation.

In this context, one of the alternatives that could be explored is to request the extension of the concession accompanied by an environmental action plan aimed at improving the recharge of the aquifer. For example, the water balance is a technical tool that allows CONAGUA to propose conservation, infiltration and catchment measures that contribute to restoring the balance of the aquifer to a magnitude equivalent to, or even greater than, the volume concessioned.

Through this type of proposal, it could be argued before CONAGUA that the requested extension not only does not aggravate the condition of the aquifer, but is environmentally beneficial, making the issuance of the extension legally viable and technically justifiable. It should be noted that this approach is not guaranteed and will require a robust legal argument supported by solid technical studies that prove the viability and effectiveness of the suggested actions.

D. Supply of water to third parties

Antecedent

In principle, the concessioned waters could only be exploited by the concession holder. This means that one company cannot supply water to another, even if both belong to the same group or consortium. If a company supplies water to another without legal basis, there is a risk that CONAGUA will impose administrative sanctions and even proceed to revoke the concession.

However, Article 23 Bis of the LAN established an exception that allowed water to be supplied to third parties by means of prior notice to CONAGUA, provided that the third party uses the water for the same use authorized in the concession title. With this notice, the liability of the owner is limited, and the legality of the supply is formalized, significantly reducing the risk of sanctions.

This article is little known and therefore rarely used. For example, in principle, industrial parks should present this notice to be able to supply water to their users; In turn, the users themselves would have to demand from their suppliers the accreditation of such compliance. Its omission is not minor: it implies a direct risk for the continuity of the concession title, the eventual loss of which represents a significant operational risk for both the supplier and the end user.

Reform

The Reform eliminates Article 23 Bis, which eliminates the possibility for the holder of a concession to supply water to third parties. This modification generates several problems, including:

- a) In the case of industrial parks, the supply of water between the owner of the park and its tenants or owners is difficult.
- b) For consortia or business groups, each company must have its own concession, regardless of the physical proximity of its facilities or the existence of common infrastructure.
- c) The possibility of avoiding the expiration of volumes by supplying them to third parties is limited, reducing the operational flexibility of many users.

Suggestions

The Reform eliminates the possibility of transferring volumes and concessions, except in the cases strictly provided for (purchase and sale of the property, inheritances or mergers). Consequently, the consortia or business groups that previously analyzed the internal transfer of volumes must now evaluate the structure of their uses in accordance with the new regulatory framework, considering that it is no longer possible to carry out partial or total voluntary transfers between legal entities of the same group. It will be necessary to review the current situation of each title and determine compliance alternatives under current regulations.

E. New water crimes

Reform proposal and suggestions

New criminal types are considered, among which we can point out, the following, accompanied by the following:

- (i) supplying water to third parties is considered a crime: therefore, we consider it necessary to review whether the water supplier has permits from the State or the Municipality to do so, or if CONAGUA itself issued some type of confirmation of criteria to provide such service.
- (ii) Diverting rivers or causes: In this case, it is recommended to have an exhaustive review of the land that is intended to be acquired, to rule out that any type of stream has been diverted or filled, since CONAGUA could hold both the seller and the purchaser responsible for this action. It should be noted that the diversion of rivers can be carried out legally under the protection of the corresponding permits.

F. Key transitional articles and next steps

- The Decree enters into force on the day following its publication; that is, on December 12, 2025, which means that the provisions contained in the Reform will begin to be mandatory as of that day. However, if the secondary regulations are issued, the provisions contained in the previous National Water Law are maintained, except for transfers and changes of use.
- CONAGUA will have 180 days, as of December 12, 2025, to implement actions derived from the Decree, which will involve the issuance of guidelines and operational adjustments applicable to users and concessionaires.
- CONAGUA is obliged to issue a new NOM of updated measurement and regularization programs both for works in free delivery recorded in the registry and for titles through simplified procedures.

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