

NEW GENERAL LAW OF ECOLOGICAL BALANCE AND ENVIRONMENTAL PROTECTION: TOWARDS A MORE PREVENTIVE, RESTORATIVE, AND ENVIRONMENTAL JUSTICE-ORIENTED MODEL

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Executive Summary

The new proposed LGEEPA would restructure Mexico's environmental policy by centralizing regulatory powers within the Federal Government and establishing that, in the event of any legal or technical uncertainty, authorities must rule in favor of environmental protection. It would also transform environmental enforcement by establishing a new authority empowered to issue preventive suspensions and impose fines of up to MXN 879.82 million.

INTRODUCTION

The President of Mexico has submitted a bill to enact a new General Law of Ecological Balance and Environmental Protection (the "Proposal"), which, if approved, would repeal the current law of the same name.

The Proposal could represent one of the most significant changes in the country's environmental policy and regulation since the publication of the **General Law of Ecological Balance and Environmental Protection** in 1988 ("LGEEPA"), as it proposes a comprehensive reorganization of the federal environmental legal framework.

In general terms, the Proposal seeks to transition towards a more preventive, restorative, and environmental justice-oriented model. To this end, it incorporates

incorporates new principles, instruments, and obligations aimed at preventing impacts from early planning stages, strengthening the restoration of degraded ecosystems, and broadening the consequences arising from environmental non-compliance.

The purpose of this summary is to provide a general overview of the main pillars of the Proposal. Notwithstanding the foregoing, our Firm will prepare specific analyses on each of these topics, so that companies may timely identify potential implications and, where applicable, adopt preparatory measures should the Proposal be approved in the coming months.

1. STRENGTHENING OF ENVIRONMENTAL PRINCIPLES AND POLICY.

The Proposal broadens the approach of the current LGEEPA by expressly incorporating concepts such as environmental restoration, compensation for negative impacts, economic valuation of environmental harm, and protection of environmental or ecosystem services.

It also incorporates new grounds of public utility related to the prevention, conservation, compensation, and environmental restoration of ecosystems and biodiversity; mitigation and adaptation to global change; and the implementation of conditions and sustainability measures regarding the use of natural resources and ecosystem services. This could provide greater legal support for compensation, restoration, and conditioning measures imposed by the authorities.

The Proposal also introduces new environmental interpretation principles, such as precaution, the superior interest of the environment, and pro natura, under which, in case of doubt, rules and decisions must be resolved in favor of nature. These principles could influence the interpretation of permits, authorizations, administrative proceedings, and judicial decisions.

Another significant change is that the liability of project developers is expanded. While the current LGEEPA provides for preventing, minimizing, or repairing damages, the Proposal adds obligations to remedy, restore, rehabilitate, and compensate, even in an area other than the affected one, provided that environmental equivalence criteria are met.

Finally, the Proposal incorporates elements of environmental human rights, such as maximum disclosure, access to environmental information, and meaningful participation, pointing towards a regime with greater transparency and public scrutiny in environmental decision-making.

2. NEW ORGANIZATION OF COMPETENCIES AMONG THE THREE LEVELS OF GOVERNMENT.

The Proposal incorporates new powers attributed to the Federation regarding pollinators, biodiversity, climate change, greenhouse gases, environmental restoration, remediation, sanitation, administrative environmental liability, air quality, the Federal Maritime-Terrestrial Zone (ZOFEMAT), seas, coasts, and islands. For projects, this could translate into a broader and more specialized federal review.

At the state level, the Proposal incorporates new powers regarding emissions reporting and pollutant transfer, environmental risk prevention, state environmental prevention policies, atmospheric contingencies, public information systems on environmental impact authorizations, and state biodiversity strategies.

At the municipal level, the Proposal strengthens coordination with the Federation and States and incorporates participation in environmental programs for emergencies and contingencies.

3. STRATEGIC ENVIRONMENTAL ASSESSMENT.

The Strategic Environmental Assessment is created as a new environmental planning instrument, primarily aimed at plans, programs, and national or strategic infrastructure projects promoted by public entities. In principle, it would not be designed for any private project, but rather for those of federal, national, or strategic scope.

However, it may be relevant for the private sector when a company participates as a contractor, developer, concessionaire, operator, supplier, or partner in public or national infrastructure projects. In such cases, although the formal obligation would fall on the promoting authority or public entity, the measures and conditions resulting from the assessment could directly impact on the costs, timelines, contractual obligations, and execution of the project.

This instrument seeks to assess impacts from early planning stages, including significant, cumulative, synergistic, and residual impacts, as well as viable alternatives.

4. COMPENSATION, RESTORATION, AND ECONOMIC VALUATION.

The Proposal strengthens concepts such as environmental compensation, environmental restoration, rehabilitation, remediation, equivalence criteria, and economic valuation. This represents a significant change from the LGEEPA, because environmental impacts would no longer be analyzed solely from the logic of preventing, mitigating, or repairing,

but also from the possibility of requiring measures that compensate or restore the negative effects of a project.

For companies and developers, this could translate into environmental authorizations with more robust conditions, including obligations for restoration, compensation, economic contributions, or equivalent measures in areas other than those affected. In practice, the environmental costs of a project could more clearly become part of the feasibility analysis, budget, and compliance.

The Proposal also introduces the possibility of using equivalence criteria and economic valuation to determine compensation and restoration measures. This could mean that when an impact cannot be entirely avoided or mitigated, the authority may require quantifying its environmental value and defining proportional measures to compensate for it.

In this regard, projects could require more detailed technical studies from the planning stage, not only to identify impacts, but also to justify compensation measures, estimate environmental costs, and demonstrate environmental benefits.

5. ENVIRONMENTAL JUSTICE AND SANCTIONS.

It is contemplated that the current Federal Attorney for Environmental Protection (Procuraduría Federal de Protección al Ambiente) would change its name to the Federal Attorney for Environmental Justice (Procuraduría Federal de Justicia Ambiental). However, it is unclear whether

this change would be merely denominative or would entail a modification in the structure, operational powers, or internal functioning of such institution.

The Proposal also incorporates new enforcement tools, such as anticipatory measures, safety measures, and environmental damage studies. In practice, these mechanisms could allow the authority to intervene before or during an administrative proceeding to prevent environmental damage from occurring, continuing, or increasing, making it even more relevant to maintain preventive and properly documented environmental compliance.

Another significant change is the formalization of the possibility for the Attorney's Office, in addition to imposing fines or closures, to order reparation measures or, exceptionally, compensation for environmental damage. It even contemplates the possibility of entering into administrative reparation or compensation agreements before the issuance of the resolution, as a restorative justice

mechanism. For companies, this could open spaces for regularization or agreements with the authority, but could also entail more robust corrective obligations with greater public visibility.

Finally, the Proposal significantly increases the maximum amount of administrative fines. Currently, the LGEEPA provides for fines of up to 50,000 UMA, equivalent to approximately \$5.86 million pesos; while the Proposal would allow the imposition of fines of up to 7,500,000 UMA, equivalent to approximately \$879.82 million pesos, based on the UMA value in effect for 2026.

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