Galicia

Environmental Update

New Regulations for the Determination and Payment of the Guarantee Fee to Prevent the Expiration of National Water Rights

Mexico City, August 5, 2026

On August 4, 2026, the "Decree issuing the Regulations for the Determination and Payment of the Guarantee Fee to Prevent the Expiration of National Water Rights" *(Decreto por el que se expide el Reglamento para la Determinación y Pago de la Cuota de Garantía de No Caducidad de Derechos de Aguas Nacionales*) (the "Regulations") was published in the Federal Official Gazette (*Diario Oficial de la Federación*, "DOF"). The purpose of the Regulations is to update the procedure under which concession holders and assignees may pay a guarantee fee to prevent the partial or total expiration of volumes of national waters that have not been exploited, used, or utilized for two (2) consecutive years and that are subject to the grounds for expiration set forth in paragraph 3 of section VI of Article 29 BIS 3 of the National Water Law (*Ley de Aguas Nacionales*).

In this regard, the most relevant aspects of the Regulations are summarized below:

I. Calculation of the expiration period

The Regulations provide that the expiration period shall be calculated based on the last eight (8) quarters (that is, two (2) years) during which all or part of the volume of national waters subject to the concession or assignment has not been exploited, used, or utilized. For these purposes, the quarters shall be calculated as follows:

Quarter	Period
1st quarter	January-March
2nd quarter	April-June
3rd quarter	July-September
4th quarter	October-December

II. Determination of the guarantee amount to prevent expiration

The guarantee fee shall be determined in accordance with the following formula:

Guarantee Fee = Applicable Fee per m³ × Minimum volume not exploited, used, or utilized during the preceding two (2) consecutive years.

Where:

- **Applicable fee per m³**: the fee per cubic meter authorized by the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*, "SHCP") in effect on the payment date.
- **Minimum volume not exploited, used, or utilized**: the lowest volume that was not exploited, used, or utilized during any of the eight (8) consecutive quarters comprising the two (2) year period.

To determine this volume, the annual volume authorized under the applicable concession or assignment title will be compared against the volume actually exploited, used, or utilized during each of the eight (8) quarters comprising the two (2)-year period.

The Regulations also confirm that the guarantee fee may be paid solely in respect of the volumes of national waters that the concession holder or assignee intends to preserve. Accordingly, payment is not required with respect to the entire concessioned or assigned volume that may otherwise be subject to expiration.

III. Notice and payment of the guarantee fee

Concession holders or assignees electing to use this mechanism must:

a. Submit a notice to the National Water Commission (*Comisión Nacional del Agua*, "CONAGUA") at least fifteen (15) business days before the end of the eighth quarter, through the applicable electronic platform or system.

b. Pay the guarantee fee within forty-five (45) business days following the end of the applicable two (2)-year period. Payment may be made at offices authorized by the SHCP or through the electronic means enabled by CONAGUA, and must specify:

    i. The start and end dates of the two (2)-year period covered by the guarantee fee payment;

ii. The concession title or assignment in respect of which the payment is being made and, if applicable, the corresponding annex; and
iii. The volumes of national waters not exploited, used, or utilized that served as basis for calculating the guarantee fee.

c. Once the guarantee fee has been paid, submit the corresponding proof of payment to CONAGUA within fifteen (15) business days after the payment date so that the authority may validate the payment and recognize the interruption of the expiration period.

IV. Extension of the non-expiration period

The Regulations allow concession holders and assignees to obtain up to two (2) extensions to prevent the expiration of unused water volumes. These extensions may be requested consecutively or at different times during the term of the relevant title.

Each extension request must be submitted at least fifteen (15) business days before the end of the eighth quarter and must provide justification for: (i) the reasons why the relevant volume was not exploited, used, or utilized; and (ii) the reasons why preserving such volume is necessary.

CONAGUA shall have forty-five (45) business days to resolve the extension request. If the extension is granted, the applicant must pay the guarantee fee and submit the corresponding receipt within fifteen (15) business days following notification. In this regard, unlike the initial payment of the guarantee fee, extensions become effective only upon prior authorization by CONAGUA.

The two (2) extension requests may be submitted either consecutively or at different times during the term of the relevant title, including any renewals thereof, if applicable.

This provides flexibility to concession holders and assignees, as extensions do not necessarily have to be requested immediately following the expiration of a previously protected period, but may be exercised at a later time during the term of the relevant title, provided that the requirements set forth in the Regulations are satisfied.

V. Transitional Provisions

The Regulations establish the following transitional provisions:

a. The Regulations enter into force on August 5, 2026.

b. The Regulations for the Determination and Payment of the Guarantee Fee to Prevent the Expiration of National Water Rights, published in the DOF on May 27, 2011 (the "2011 Regulations"), are hereby repealed.

c. Proceedings initiated prior to its entry into force will continue to be processed in accordance with the legal provisions in effect at the time of their filing.

d. For each concession title or assignment, the first opportunity to pay the guarantee fee and its two (2) possible extensions shall be counted from the first complete two (2)-year period following the entry into force of the Regulations during which all or part of the authorized water volume is not exploited, used, or utilized.

e. Concession titles that, upon the entry into force of the Regulations, have accumulated less than two (2) years during which all or part of the authorized water volume has not been exploited, used, or utilized shall remain subject, on a one-time basis, to the 2011 Regulations. Any payment made pursuant to the 2011 Regulations shall not count as the first guarantee fee payment or as either of the two (2) extensions provided under the new Regulations.

Finally, the Regulations provide greater certainty regarding the guarantee fee mechanism by specifying the method to calculate the expiration period, the methodology for determining the applicable fee, the procedure for submitting the required notice and making the corresponding payment, as well as the rules governing extensions and the transitional regime. Accordingly, concession holders and assignees should timely review their water-use patterns and the deadlines set forth in the Regulations to prevent CONAGUA from initiating expiration proceedings with respect to volumes that have not been exploited, used, or utilized, unless one of the other mechanisms set forth in section VI of Article 29 BIS 3 of the National Water Law is applicable to prevent such consequence.

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