

Alert | Mining/Environmental



May 2023

Mexico Passes Bill Amending Mining Law, and Related Environmental Laws

Read in Spanish/Leer en Español.

On March 28, 2023, the Federal Executive presented a bill (the Bill) to the House of Representatives that would amend various provisions of the Mining Law, the National Waters Law, the Law of Ecological Equilibrium and Environmental Protection, and the General Law for the Prevention and Management of Waste with regard to mining and water concessions.

On April 20, 2023, after the United Commissions of Mining and Regional Development amended the Bill, the House of Representatives approved and forwarded it to the Senate, which approved on April 28, 2023, without any additional changes.

Finally, the Bill was sent to the Federal Executive and published through a decree (the Decree) in the Official Gazette of the Federation on May 8, 2023.

Relevant Amendments

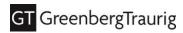
The following tables compare the original and amended versions of each law.



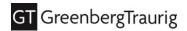
I. Mining Law

Original Version	Amended Version
Arti	cle 6
The exploration, exploitation, and processing of	Eliminates the preferential character of mining
minerals or substances must take precedence over	activity.
any other use or exploitation of the land.	
No correlative.	Prohibits granting concessions in protected
	natural areas or in areas where the population is
	at risk, as well as in areas without water
	availability.
No correlative.	Establishes the obligation to carry out a free,
	prior, and informed consultation with indigenous
	and Afro-Mexican peoples and communities, and
	to perform a social impact study.
Arti	
No correlative.	Expands the powers of the Department of
TWO COTTCIALIVE.	Economy, allowing it to nullify concessions and
	administrative acts regulated by the Mining Law
	in case of omission or irregularity of any elements
	of validity of the administrative act established in
	the Federal Law of Administrative Procedure and
	to promote lawsuits against administrative
	resolutions and concessions that harm the public
A 12	interest or the Federal Public Administration.
Artic	
Mining concessions and assignments will be	Eliminates the prior scheme. The Department will
granted on free land to the first applicant for a	only grant mining concessions through public
mining lot.	bidding competitions.
When land inhabited and occupied by an	When land inhabited or equipped by an
indigenous town or community is requested	When land inhabited or occupied by an indigenous or Afro-Mexican community is subject
simultaneously by the local community and by	to bidding, the winning bidder must sign an
another party, the mining concession will be	agreement with the community to obtain
granted to the indigenous community.	permission to use the land and must pay
	consideration of at least 5% of the amount
	resulting from subtracting the balance from the
	payments made by the concessionaire for non-
A 11*	deductible contributions for income tax purposes.
	cle 14
No correlative.	Concessions cannot be granted on the following
	lands:
	Areas with minerals or substances the State
	considers strategic.
	Protected natural areas.
	Areas without water availability.
	Areas where mining activity poses a risk to the
	population

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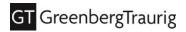


Original Version	Amended Version	
	14 BIS	
No correlative.	The concession title will be granted to the winner of the corresponding bidding process, after obtaining the necessary environmental, labor, energy, social, and any other federal permits and authorizations required, as well as the corresponding water concession for industrial use.	
Article 15		
The concession title will be granted to the winner of the corresponding bidding process, after obtaining the necessary environmental, labor, energy, social, and any other federal permits and authorizations required, as well as the corresponding water concession for industrial use.	Mining concessions are subject to the public domain regime of the Federation and will have a 30-year duration, which can be extended once for a term of 25 years, provided that the holders have not incurred any of the cancellation grounds provided in the Mining Law and apply for extension within two years and up to one year before the expiration date. Holders must also have the necessary authorizations and permits for their operation, as well as the concession of water for industrial use in mining. The concession holder may obtain a 25-year extension and participate in the bidding process for the same mining area once the extension has expired. In this case, the concession holder will have preference over the same area if they match the highest bid.	
	The concession title must specify each mineral or substance susceptible to exploitation.	
	15 BIS	
No correlative.	Mining assignments will be granted by the Department to governmental entities of the Federal Public Administration, thus creating the possibility for these entities to carry out exploration, exploitation, and processing of strategic minerals or minerals reserved for the State, as well as other activities regulated by the Mining Law.	
	cle 19	
 Mining concessions confer the following rights: Carry out exploration and exploitation operations and activities within covered mining lots Dispose of the mineral products obtained from mining lots. Dispose of the land located within the area covered by the concession. 	 Mining concessions confer the following rights: I. Carry out works and activities for the exploitation of specific minerals or substances within the mining concession. II. Utilize the mineral or substance obtained from the mining concession. III. This fraction is eliminated. 	



Original Version Amended Version IV. Request temporary occupation or the Obtain expropriation, temporary occupation, establishment of servitude. or establishment of easements. V. Utilize water derived from mining activities for Utilize the water derived from mining activities the "exploitation and benefit of minerals." for the exploration, exploitation, and Note the amended version eliminates the word beneficiation of minerals. "exploration." Mining concessions may be subject to guarantees for the compliance of obligations of their holders provided that (i) the corresponding mine is in operation, (ii) the person in whose favor the guarantee is issued states they are aware that, in case of execution of the guarantee, they will have 6 months to prove that they meet the requirements to be a concessionaire or, where appropriate, transfer the rights of the concession, and (iii) prior authorization is obtained from the Department. Article 23 The transfer of ownership of mining concessions The transfer of mining concessions requires the or the rights derived from them have effects on approval of the Department which may authorize third parties and the Department from their the transfer of ownership once the transferee registration in the Public Mining Registry. In complies with the requirements of the original other words, the transfer of the concession concession. between the transferor and transferee was a The Regulations must specify the procedure to be private act that only required registration in the carried out jointly by the holder and the new Public Mining Registry as a formality. beneficiary. The Department will not recognize any type of document or act of a private nature through which the transfer is intended to be made. Article 24 The withdrawals duly formulated regarding the The Department <u>may authorize</u> the early ownership of mining concessions or the rights termination of the concession when the holder derived therefrom, will be effective as of the date requests it and complies with the same obligations of filing with the Secretariat. to which the closing of operations is subject under the Mining Law. Article 27 Obligations of mining concession holders: Obligations of mining concession holders: Execute and verify the operations and activities Execute and verify constructions specified in specified in the Law and its Regulations. the Law and its Regulations and notify the Department within 90 working days of such Submit to the Department the statistical, technical, and accounting reports under the execution or completion of pre-operational activities. terms and conditions set forth in the Regulations of this Law. Submit to the Department a report on the execution and verification of activities and

operations performed, which must contain the accounting and financial, technical, and



Original Version	Amended Version
	statistical aspects, under the terms set forth in
	the Law and its regulations.
Article 42	
Causes for cancellation of concessions and	The amended version adds the following: (i)
assignments include (i) termination of validity;	failure to make timely payments of contributions
(ii) withdrawal; (iii) substitution derived from	for two consecutive years; (ii) failure to submit the
reduction, division, identification, or unification;	reports required by the Law and its Regulations
(iv) commission of infractions; and (v) judicial	for two consecutive years or five non-consecutive
resolution.	years; and (iii) failure to perform the work
	covered by the concession for a period of two
	consecutive years.
No correlative.	Chapter Eight "Notifications," Chapter Nine
	"Mine Closure," and Chapter Ten "Crimes" are
	added.

II. National Waters Law

Original Version	Amended Version	
Article 4		
No correlative.	If there is a risk of limited water availability for human and domestic consumption, the volume of water granted will be reduced or cancelled.	
Article 29 BIS 4		
No correlative.	Causes for revocation of the concession, assignment, or discharge permit include the following: • When false documentation has been submitted to obtain or maintain a concession. • If there are supervening facts of public interest or factors that cause economic, social, or environmental imbalance. • When mining concession holders do not comply with the Restoration, Closure, and Post-closure Program.	
Article 37		
Transfers made in violation of the provisions of the law will be null and void.	Prohibits the transfer of the rights to exploit, use, or take advantage of national waters for industrial use in mining.	
No correlative.	Adds Chapter III Bis about Industrial Use in Mining. Establishes the figure of the water concession for specific use in mining.	

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III. General Law of Ecological Equilibrium and Environmental Protection.

Original Version	Amended Version
Article 46	
No correlative.	No exploration and exploitation works may be
	carried out in protected natural areas.
No correlative.	Article 107 Bis.
	Establishes the Restoration, Closure and Post
	Closure Program.

IV. General Law for Residue Prevention and Integral Management.

Original Version	Amended Version	
Article 1		
States the motives of the Law.	Includes the management of mining and	
	metallurgical wastes as a motive of the Law.	
Article 7		
Lists the powers of the Federation.	Adds to the powers of the Federation the issuance	
	of regulations, NOMs, and other legal provisions	
	to regulate the integral management of mining	
	and metallurgical wastes that fall under its	
	jurisdiction.	
Article 42		
In the event that hazardous waste management	In the event that hazardous waste management	
and disposal services are contracted by authorized	and disposal services are contracted by authorized	
companies and the waste is delivered to such	companies and the waste is delivered to such	
companies, the responsibility for the operations	companies, the latter and the waste generator will	
will be theirs, regardless of the responsibility of	share joint and several liability.	
the generator.		
	The management and final disposal of mining and	
	metallurgical waste is the responsibility of the	
	person who generates it.	

V. The Decree's relevant transitory articles.

Article 1.

The Decree takes effect the day following its publication.

Article 2.

The legal provisions that oppose the Decree are hereby repealed.

Article 4

Within 180 days, the Federal Executive should issue the respective regulatory provisions.

Article 5.

Applications for a new concession in process will be rejected without further action.

Article 6.

The concessions granted prior to the entry into force of the Decree will have the duration established in the respective title.



Conclusion

The Decree presents important changes in the sector and raises questions about the rights of the current concessionaires with respect to some of the new provisions.

Those concessionaires that could see their rights affected may opt for local or international channels if they are considered foreign investors by any of the international treaties involving Mexico.

* This GT Alert does not apply to matters or laws in the United States, nor to other jurisdictions outside of Mexico.

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