

Emergency decree for water shortage in Nuevo León.

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On Friday, July 29, 2022, the Decree establishing the immediate action plan to address the emergency due to the shortage of drinking water for urban and domestic public use in the Municipalities affected by the pandemic was published in the Official Gazette of the Federation. low availability in its supply sources and due to drought in the State of Nuevo León (the "Decree"), which establishes certain provisions as part of the action plan to address the emergency due to the shortage of drinking water, the most relevant being:

1. The Decree entered into force the day after its publication and will be valid for up to six months, however, it will be subject to the subsistence of the state of low availability in the sources of water supply for domestic and urban public use.
2. Provisional **modifications or reductions to industrial use are ordered**, since concessioned water rights will be temporarily used, intended for uses other than domestic and urban public. To this end, the National Water Commission ("CONAGUA") may enter into agreements with concessionaires and coordination agreements with local authorities.

The volumes of water will be delivered directly, from the extraction point in the concessionaire's infrastructure to the distribution network, in coordination with the state operating agency, as long as the emergency continues, for which the necessary technical actions and measures must be carried out.

These actions may involve the installation of infrastructure to connect the extraction point to the distribution network, however, the Decree fails to indicate the actions and technical measures, as well as whether the concessionaire will be responsible for their execution.

The Decree does not specify if this will imply acts of nuisance in the private property of the companies that have water extraction concessions, and if applicable, sanctions to those who oppose these actions.

3. The volumes of water must be accounted for through the installation of meters, which will be in charge of the Operating Agency of the State of Nuevo León (the "Agency").

The Decree fails to establish who is responsible for installing the meters or how consumption will be differentiated from existing ones.

However, with respect to the volumes used by the Agency and/or third parties, the concessionaires will be released from the payment of the water right for the time these measures are applied.

4. Overexploitation due to the use of water derived from the measures indicated here is exempt from sanctions in accordance with the National Water Law.
5. Only until the effects of the Decree cease will the concessionaires be able to dispose of the total volume of water concessioned and will be responsible for complying with the obligations inherent in the Titles.

Although the application of this Decree will be carried out on a case-by-case basis, if it is considered that the provisions have an adverse effect on its operations, or, in the event that the agreement with CONAGUA is not implemented, the alternative of challenging it could be evaluated. by means of defense that are applicable.

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