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Regulation for the Determination and Payment of the Fee to Guarantee the Non-Expiration of National Water Rights

On August 4, 2026, the Decree enacting the Regulation for the Determination and Payment of the Fee to Guarantee the Non-Expiration of National Water Rights (the "**Regulation**"), which takes effect on August 5, 2026, was published in the Official Gazette of the Federation.

The Regulation establishes the procedure for determining and paying the fee to guarantee the non-expiration of water rights and its extensions, as provided for in Article 29 BIS 3, Section VI, paragraph 3, subparagraph 3, of the National Water Law (*Ley de Aguas Nacionales*). The payment of this fee prevents volumes of water that have not been exploited, used, or consumed from being declared partially or totally expired with respect to their concessionaires or assignees.

The new Regulation repeals the Regulation for the Determination and Payment of the Fee to Guarantee the Non-Expiration of National Water Rights, which was published on May 27, 2011 (the "**Previous Regulation**"), with the exception of the contents of the Fifth Transitory Provision.

Key Concepts

To correctly interpret and apply the Regulation, it is essential to understand the following concepts:

- The *Authorized Fee per m3* is the amount set by the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*) in the Federal Revenue Law (*Ley de Ingresos de la Federación*) for the corresponding fiscal year, which is applicable to each cubic meter of water.

- The *Non-Expiration Guarantee Fee* is the amount that a concessionaire or assignee may pay to prevent the total or partial expiration of a concession over or assignment of a volume of water when they cease to exploit, use, or consume it over the last two consecutive years.

- The *Non-Expiration Extension* is the authorization issued by the National Water Commission (*Comisión Nacional del Agua*) ("**CONAGUA**") to extend the option to pay the guarantee fee with respect to volumes of water that have not been exploited, used, or consumed over the last two consecutive years. The option to pay the guarantee fee may be extended twice.

Key Changes Compared to the Previous Regulation

1. Clarification of the Calculation of the Two-Year Period (Start of Quarters)

The Previous Regulation calculated the two-year period from the date of cessation of the operation, use, or exploitation of volumes of water subject to a concession or assignment, without establishing a mechanism for calculating the period by calendar quarters. The new Regulation clarifies that this period will be calculated using fixed calendar quarters (January-March, April-June, July-September, and October-December), thus eliminating ambiguity regarding the beginning and end of each quarter. This is one of the most significant practical changes: it replaces the criterion of calendar months counted from the cessation of exploitation with a system of uniform calendar quarters for all titles.

2. The Notice Must Be Filed "Independently" of the Payment Deadline

Under the Previous Regulation, payment had to be made within 15 business days of the end of the two-year period, provided that the interested party had notified CONAGUA in writing at least 15 days before the end of that period. The new Regulation maintains the obligation to notify CONAGUA at least 15 business days before the end of the eighth quarter, through the corresponding electronic platform or system, but expressly states that payment must be made "regardless of whether the notice is filed," within 45 business days of the end of the consecutive two-year period.

3. 15-Business-Day Deadline for Submitting Proof of Payment

The new Regulation establishes a 15-business-day deadline, beginning on the date the guarantee fee is paid, for an interested party to submit the corresponding proof of payment to CONAGUA so that CONAGUA may validate the payment and suspend the expiration of the guarantee. This requirement to provide proof of payment within a specific timeframe was not included in the Previous Regulation, which only required payment to be made at authorized offices and specified that certain details be noted in the "remarks" section of the corresponding form.

4. Extension of the Payment Deadline from 15 to 45 Business Days

Under the Previous Regulation, payment of the guarantee fee had to be made within the first 15 business days of the end of the two-year period. The new Regulation extends this deadline to 45 business days following the end of the consecutive two-year period. This change grants concessionaires and assignees considerably more time to gather the necessary funds and make the corresponding payment.

5. 30-Business-Day Deadline for the Authority to Request Clarifications

The new Regulation establishes a period of 30 business days, which begins on the expiration of the payment deadline, for CONAGUA to notify concessionaires or assignees of any inconsistency or omission relating to the determination and payment of the guarantee fee and its extensions, and further grants them a period of no more than 15 business days to comply with the corresponding request. The Previous Regulation provided for a different mechanism: a two-year period for CONAGUA to notify a concessionaire or assignee of an incorrectly made payment, counted from the filing of the respective return. The new framework substantially reduces the authority's review period and ties it to the expiration of the payment deadline, rather than an extended two-year period.

6. Request for an Extension Subject to the Same Dates as the Notice, Contingent Upon Prior Authorization

In the case of an extension to prevent expiration, the new Regulation requires concessionaires or assignees to submit their request for authorization, accompanied by a justification of the reasons why they ceased to exploit, use, or consume the volume of water subject to the concession or assignment and the reasons for retaining it, within the same deadline applicable to the Notice, i.e., at least 15 business days before the end of the eighth quarter. CONAGUA has 45 business days following the submission of the application to approve or reject it; only if the extension is authorized will the concessionaire or assignee have 15 business days, counted from the date of notification, to make and provide proof of the payment of the guarantee fee. Unlike the standard notice (which does not require prior authorization from the authority to make the payment), payment under the extension scheme is contingent upon CONAGUA expressly authorizing the request before a party may make the corresponding payment.

It should be noted that the two occasions on which extensions may be requested may or may not occur consecutively during the term of the title. However, when they are not requested consecutively, this shall not be interpreted as an authorization to cease exploiting, using, or consuming the volumes of water granted or assigned for periods of two consecutive years between the first and second extensions, without prejudice to the application of other grounds for suspension of the expiration provided for in the National Water Law. The Previous Regulation did not expressly provide for an extension mechanism; it only regulated the one-time payment of the guarantee fee.

7. Transitional Regime: Application of the New Scheme Beginning with the First Full Two-Year Period Following Its Entry into Force

The Fourth Transitory Provision establishes that the calculation of the initial period and the two extensions for the payment of the guarantee fee shall be made, with respect to each concession and assignment title, from the first complete two-year period during which the volume of water subject to the concession or assignment has not been exploited, used, or consumed, following the Decree's entry into force. Given that the Decree enters into force on August 5, 2026 (in the third quarter of the year, which runs from July to September) and that quarters are calculated in accordance with the fixed calendar established in Article 3 of the Regulation, the first full quarter under the new scheme would be the one beginning in January 2027. Therefore, the first complete two-year period relevant for the purposes of the new Regulation would begin on that date.

For its part, the Fifth Transitory Provision provides for a special rule: concession and assignment titles that, upon the Decree's entry into force, have periods of less than two years remaining during which the volumes of water subject to concession or assignment have not been exploited, used, or consumed, and where such periods conclude after the Decree's entry into force, shall be subject, on a one-time basis, to the provisions of the Previous Regulation of 2011, meaning that any guarantee fee paid under that regime, if applicable, does not count when calculating the first occasion and its extensions referred to in the Fourth Transitory Provision. If the corresponding payment is not made under this transitional provision, the respective title will not be eligible for this special scheme.

Comparison Table

Issue	Previous Regulation (2011)	New Regulation (2026)
Calculation of the two-year period	Consecutive months from the cessation of operation, use, or exploitation.	Fixed calendar quarters (Jan-Mar, Apr-Jun, Jul-Sep, Oct-Dec).

Proof of payment	No specific deadline was specified for submission.	15 business days from the date of payment to submit it to CONAGUA.
Payment deadline	15 business days following the end of the two-year period.	45 business days following the end of the two-year period.
Authority's review period	2 years from the submission of the declaration.	30 business days from the expiration of the payment deadline.
Non-expiration extension	Not provided for; only the one-time payment was regulated.	Express procedure, allowing up to two extensions (not including the first occasion), subject to prior authorization by CONAGUA.
Transitional regime	Not applicable.	The Fifth Transitory Provision provides one-time continuity for titles with ongoing periods of less than two years.

For concessionaires and assignees with volumes of water at risk of expiration, it is important to:

- Review the status of their concession or assignment titles to determine whether, upon the Decree's entry into force, they fall under the special provision of the Fifth Transitory Provision (ongoing periods of less than two years);
- Adjust their internal controls for calculating quarters to the new fixed calendar (January-March, April-June, July-September, October-December);
- Bear in mind that, under the Fourth Transitory Provision, the first relevant two-year period under the new scheme would begin in January 2027, given that the Decree takes effect during the third quarter of 2026; and
- Clearly distinguish the dates and requirements of the standard notice from those of the extension request, since the latter requires documented justification and is subject to CONAGUA's express authorization before payment can be made.

We are available to assist you in analyzing the specific impact of this new regulation on your operations and to provide you with the necessary legal advice to ensure timely compliance with the obligations arising from the new Regulation for the Determination and Payment of the Fee to Guarantee the Non-Expiration of National Water Rights.

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