

# THE GENERAL LAW OF WATER RESOURCES: IS MY COMPANY OBLIGED TO COMPLY WITH THIS NEW LAW?

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## MONTHLY NEWSLETTER THE LAW FIRM OF CENTRAL AMERICA

**T**he General Law of Water Resources ("Law") approved by the Legislative Assembly on December 21, 2021 after almost six months of discussion and revision of the project presented by the Minister of Environment to the Assembly on June 18, 2021. The Law was published in the Official Gazette No. 8 Volume 434 of January 12, 2022 and will become effective six months after its publication in the Official Gazette.

The Law is innovative in all aspects as it regulates the use and development of water resources as well as sanitation, with the creation of a new authority - the Salvadoran Water Authority (ASA) - and a National Water Resources Registry, the establishment of new procedures, authorizations, and obligations for both natural and legal, private and public persons.

**Subsectors.** Among the innovations of the Law is the establishment of sub-sectors and the respective competent entities for each of them, being the following:

- **Drinking water and sanitation:** the competent entity in this subsector is the Ministry of Health with respect to drinking water; the Ministry of Environment and Natural Resources (MARN) is the competent entity with respect to the sanitation subsector.

- **Water for agricultural, aquaculture and fishing purposes:** the competent authority is the Ministry of Agriculture and Livestock.
- **Water for hydroelectric purposes (from the reservoirs mentioned in the law):** the competent authority is the Comisión Ejecutiva Hidroeléctrica del Río Lempa (CEL), and for the particular cases of other uses it will be ASA.
- **Water for industrial, agroindustrial, recreational and other purposes:** the authority is ASA.

**Authorizations and permits.** It is necessary to highlight the obligations that regulates for natural and legal persons who are currently operating and making use and exploitation of water resources, or discharges of wastewater to receiving means. At this point it is important to note that the Law establishes, among others, authorizations for the use of a certain quantity and quality of water, surface or groundwater, which may be of two levels, depending on the volume of use, as follows: if the volume is equal to or greater than 365,000 cubic meters per year, the authorization will be level 1 and will be for a term of up to 15 years; if the volume is less than 365,000 cubic meters, the authorization will be level 2 and its term will be for up to five years. In this manner, the Law establishes that persons wishing to use and exploit national waters will have a period of one year as of the entry into force of the Law to apply for the corresponding authorization according to the annual volume.

On the other hand, the Law also establishes the discharge permit that will authorize the discharge to a receiving body that is on public or private property. The term of validity of this permit will be 3 years. On this point, the Law also establishes the obligation for natural or legal persons who discharge into receiving means, to process and legalize their situation within a period of no more than one year from the entry into force of the Law.

The Law also establishes that persons using drilled wells and drilling companies must legalize their situation before the ASA within a period of no more than one year from the date the law enters into force.



**Charges.** In addition to authorizations and permits, the Law also establishes charges for the use and development of water, for discharges and for the use of property forming part of the public water domain. Although the Law establishes the formula for the calculation of the charges, the values of the coefficients will be established by ASA in the regulations of the Law, so that the elaboration of the regulation or regulations of the Law is fundamental to have a complete and more precise framework for the implementation of the Law.

**Conclusion.** With the approval of the Law, it is necessary to follow up closely on the issuance of its regulations, since these could clarify or define the procedures that the persons who must adapt to the Law must follow for such purposes, and thus determine with greater precision the requirements and procedures to be followed for the legalization of wells and the obtaining of authorizations or permits.

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