

# Environmental Law and Practice in Guatemala: Overview

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Country Q&A | Law stated as at 01-Oct-2024 | Guatemala

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A Q&A guide to environmental law in Guatemala.

This Q&A provides a high-level overview of environmental law and practice, and looks at key practical issues including emissions to air and water; environmental impact assessments; waste; contaminated land and environmental issues in transactions.

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## Environmental Regulatory Framework

1. What are the key pieces of environmental legislation and the key regulatory authorities?

### Legislation

Guatemala's Constitution, which is the basis of all legislation, provides for:

- The preservation of the environment and natural resources through the establishment of national parks and reserves.
- The regulated exploitation of plant and animal life, land and water.

(Articles 64 and 97, Constitution).

The main pieces of legislation implementing these policies are the:

- Environmental Protection and Improvement Act (*Ley de Protección y Mejoramiento del Medio Ambiente, Decree 68-86*) (EPIA).
- Protected Areas Act (*Ley de Áreas Protegidas, Decree 4-89*).

The regulatory authorities also issue administrative regulations on various topics. The main administrative regulations on environmental protection are the:

- Regulation for Environmental Evaluation, Control and Monitoring (*Reglamento de Evaluación, Control y Seguimiento Ambiental*) No. 137-2016, as amended, issued by the Presidency and the [Environment and Natural Resources Ministry](#)

(*Ministerio de Ambiente y Recursos Naturales*) (MARN) (see [Question 2](#)). The most recent amendment was enacted in late September 2024.

- Regulation for Protected Areas Act (*Reglamento de la Ley de Áreas Protegidas*), Government Agreement 759-90.

## Regulatory Authorities

The authorities are as follows:

- The main regulatory authority is the MARN, created by Congress through Decree 90-2000, which is part of the executive branch.
- There is also a [National Council of Protected Areas](#) (*Consejo Nacional de Areas Protegidas*) (CONAP), a semi-autonomous public entity that depends directly on the Presidency of the Republic, which has jurisdiction over all protected areas as defined by Decree 4-89.
- There is a specific authority for forests called the [National Forests Institute](#) (*Instituto Nacional de Bosques*) (INAB).
- Local authorities (municipalities) also have jurisdiction over their territories, including some aspects of environmental protection and work in conjunction with MARN and CONAP in some areas. In recent years, some municipalities have taken more proactive measures in environmental issues, such as prohibiting the use of plastic bags within their jurisdiction.

## Regulatory Enforcement

2. To what extent are environmental non-governmental organisations (NGOs) and other pressure groups active?

Environmental NGOs are active in Guatemala. Some of the most well-known are the:

- Center for Environmental and Social Legal Action (*Centro de Acción Legal Ambiental y Social*) (CALAS), a non-profit organisation dedicated to social research and legal education on environmental and sustainable development issues.
- Mother Jungle Collective (*Colectivo MadreSelva*), an ecological organisation working in defence of Guatemala's natural goods and biodiversity.
- National Struggle Front (*Frente Nacional de Lucha*), which counts the defence of natural resources among its causes. Its membership includes trade unions, community and indigenous and student organisations.
- *Guateambiente*, a non-profit developing environment and energy projects, study and research.

- Defenders of Nature (*Defensores de la Naturaleza*), a non-profit working in areas such as natural reserves and biodiversity, climate action and resilience, environmental education and awareness, civic engagement, and organizational development.

These organisations are very active in promoting their environmental agendas, not only before legislative and regulatory authorities, but also through strategic litigation. There have been collaborations between government, industry and NGOs that have resulted in the advancement of issues related to protected areas. There has also been noticeable impact associated with investing related to mining and energy generation.

## Environmental Permits

3. What is the framework for the environmental permitting regime?

### Integrated or Separate

There is no integrated permitting regime for emissions, only a regime of separate permits, depending on the activity that is to be carried out and the area in which it will occur.

### Permits and Regulator

There is no single environmental permit for all activities on a site in Guatemala.

As there are different regulating authorities with jurisdiction over different aspects, a single project may, for example, require permits from MARN, CONAP, INAB (*see Question 1*) and the local municipality.

MARN issues 19 different types of permits (*licencias ambientales*), related to the following general categories:

- Projects, works, industries or activities (approved environmental instruments).
- Import or export of products, substances and raw materials.
- Import of refrigeration and air conditioning equipment.
- Controlled final disposal.
- Environmental consultants (for individuals or companies).

CONAP issues permits for:

- The exploitation of national plant and animal life.
- Hunting and fishing for sport.

- Transport.
- The commercial possession, handling, export and commercialisation of wildlife products.

The INAB grants permits for various activities related to forests, including clean-up and salvage, change of use for the land (between forest and non-forest uses) and forest management.

## Length of Permit

Environmental permits issued by MARN must be valid throughout all phases of the project, work, industry or activity, including its closing. The length of the permit depends on the category of the project, work, industry or activity (which is based on their environmental impact).

For environmental instruments in categories A, B1 and B2, the permit can be issued for between one and five years, depending on the applicant's requirements. Permits can be renewed within 30 days of their expiry date, which can be extended by up to 15 days at the interested party's request.

Hunting and fishing permits are valid for the period indicated by CONAP, which cannot be longer than the official annual season established for these activities. CONAP sets the length for other types of permits.

INAB sets the length of its permits depending on the time needed to guarantee compliance with the management plan and its commitments.

## Restrictions on Transfer

Permits issued by MARN depend on the specific contents of the approved studies and terms.

Permits issued by CONAP are generally considered personal and non-transferable. However, permits related to a specific piece of real estate are transferred to the new owner and must be reported to CONAP.

Permits issued by INAB relating to the land itself can be transferred to a new owner and the transfer must be reported to INAB.

## Penalties

Penalties for non-compliance with the permit requirements include administrative measures and criminal penalties.

## Water Pollution and Abstraction

4. What is the regulatory regime for water pollution?

## Permits and Regulator

The protection of water from pollution is part of MARN's functions. It is implemented through the environmental impact assessment (EIA) for each specific project (see [Question 12](#)), and by the Regulation for the Discharge and Reuse of Sewage and Disposal of Sludge (*Reglamento de las Descargas y Reuso de Aguas Residuales y de la Disposición de Lodos*) (Government Agreement 236-2006) (Sewage and Sludge Regulation).

### **Prohibited Activities**

In general, the soil, subsoil and limits of national waters cannot be used as reservoir for contaminating or radioactive waste. The Sewage and Sludge Regulation prohibits the:

Disposal of sewage on land, open canals and rainwater drains.

Discharge of untreated sewage into the groundwater layer.

Dilution of sewage.

Reuse of sewage in areas specified by the regulation.

Disposal of sludge in drains or into surface or underground waters.

### **Clean-Up and Compensation**

MARN can require a polluter to clean up or pay compensation for water pollution. In general, the environmental permit includes the obligation to take preventive or mitigating measures, as well as taking out insurance.

### **Penalties**

Penalties for non-compliance with the permit include administrative and criminal penalties. There can also be civil liability for damages to third parties and their property.

5. What is the regulatory regime for water abstraction?

### **Permits and Regulator**

The lack of modern regulation on water has been cause for controversy in Guatemala for many years.

The Constitution declares as state property all water in:

- The maritime zone.
- Lakes.
- Navigable rivers and their riversides.

- Rivers, slopes and streams which serve as international borders.
- Waterfalls and springs which can be used for hydro-electric power.
- Underground waters and others subject to legal regulation.
- Waters not exploited by private parties.

The state also reserves for itself territory of 100 metres on either side of the riverside of navigable rivers and of 50 metres around springs and wells which provide water for populations.

Under the Constitution, all waters are inalienable and indefeasible public goods. Their exploitation, use and enjoyment are granted as established by law, in accordance with public interest.

The Constitution calls for specific legislation on this matter, which has never been enacted. This means that water is still regulated by provisions of the 1933 Civil Code (for public waters) and the 1964 (current) Civil Code.

The state can grant concessions and authorisations for exploitation of its waters and has the right to oversee such use.

Mining concessions carry the right of ownership over waters found in the mines.

Permits for water abstraction and use in public waters can be granted by municipalities. Easements can be established through contract or judicial ruling for certain uses related to water.

Any owner can freely abstract water within their properties, keeping a distance set by law between each well (*see below, Prohibited Activities*).

## **Prohibited Activities**

The Civil Code which regulates use and property of water establishes certain restrictions:

- Any use must be carried out without damage to the public or to third parties.
- Wells can be dug at a distance of two metres from one other, in populated areas, and 15 metres in the countryside.
- Artificial works carried out for abstraction of underground waters must not distract or turn away public or private waters from their natural superficial flow.
- Artificial works must not be carried out less than 40 metres from another owner's building, railways or roads, and less than 100 metres from another abstraction or well, river, canal, ditch or public trough, without authorisation from the owner or from the local municipality.
- Artificial works must not be carried out within mining properties without prior stipulation for compensation of damages.
- Private owners of riverbeds must not carry out works which could vary their natural course to the detriment of another, or whose destruction may cause damage to land, factories or establishments, wells, roads or populations.

## **Compensation**

The Civil Code sets out specific cases requiring compensation, including those stated in Question 4. Further, the 1964 Civil Code establishes as a general rule that all damages must be compensated, whether caused intentionally or through negligence. Municipal regulations can establish administrative service fees and fines for violation of local ordinances.

## Penalties

Civil liability can arise from any non-compliance with applicable laws and regulations, under the general rule by which all damages must be compensated. However, its nature is compensatory, not punitive.

Administrative penalties can be set out under the regulations of each local municipality(*see above, Compensation*). There are currently 340 municipalities in Guatemala, so the range of penalties can be extensive.

The Criminal Code establishes the following crimes:

- Theft of fluids (illicit extraction of water and other fluids): punishable by a fine of between GTQ1,000 and GTQ15,000 (Article 249, fine amounts amended by Decree 2-96).
- Intentionally and illegally exploiting, seizing or damaging waters controlled by another by:
  - damming or diverting waters;
  - totally or partially destroying dams, canals, ditches or any other means of retention or conduction of waters; or
  - in any other way disturbing or preventing the rights of a third party over such waters.

The above offences are punishable by a prison sentence of between one and three years, and fine of between GTQ1,000 and GTQ5,000 (Article 260).

- Threatening the safety of public services, by endangering the security, or preventing or hampering the functioning of water services: punishable by a prison sentence of between one and five years (Article 294).
- Poisoning water, by purposely poisoning, polluting or adulterating water of common or particular use, so endangering health, or knowingly supplying such water for consumption or storing it for distribution: punishable by a prison sentence of between two and eight years (Article 302).
- Polluting water through toxic emanations, excessive noise, discharging dangerous substances or discarding products which may be harmful to persons, animals, forests or plantations: punishable by a prison sentence of between one and two years, and:
  - a fine of GTQ300 to GTQ5,000, if intentional;
  - a fine of GTQ200 to GTQ1,500, if through criminal negligence
  - (Article 347(A).)
- Industrial pollution, committed by the director, administrator, manager, owner or beneficiary of an industrial exploitation or commercial activity who allows or authorises the pollution of water (also applicable to air and soil): punishable by a prison sentence of two to ten years and a fine of GTQ3,000 to GTQ10,000 (Article 347(B)).

If industrial pollution is carried out in a populated area or its surroundings, or affects plantations or waters destined for public services, the prison sentence can be between four and 13 years (Article 347(B)).

If industrial pollution is carried out unintentionally but through criminal negligence, it is punishable by a prison sentence of between one and five years, and a fine of GTQ1,000 to GTQ5,000 (Article 347(B)).

- If either pollution or industrial pollution result in a permanent alteration of environmental or climate conditions, the penalty will be increased by a third (Article 347(B)).

## Air Pollution

6. What is the regulatory regime for air pollution?

### Permits and Regulator

The protection of air from pollution is part of MARN's functions. The permit is granted when a project is authorised.

### Prohibited Activities

Some activities such as burning waste, car tyres or any object in a public area, are prohibited by waste regulations.

### Clean-Up and Compensation

MARN can require a polluter to clean up or pay compensation for air pollution. The environmental permit generally includes the obligation to take preventive or mitigating measures, as well as taking out insurance.

### Penalties

Penalties for non-compliance with the permit include administrative measures and criminal penalties. There can also be civil liability for damages to third parties and their property.

## Climate Change

7. Is your jurisdiction party to the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, or the Paris Agreement? Are there any national targets or legal requirements for reducing greenhouse gas (GHG) emissions?



## International Agreements

Guatemala is party to the UNFCCC (approved by Congress through Decree 15-95), the Kyoto Protocol (approved by Congress through Decree 23-99) and the Paris Agreement (approved by Congress through Decree 48-2016).

The requirements of these international agreements, as developed by Decree 7-2013 (*see Question 7*), are being implemented through measures taken by various government agencies, including the:

MARN and CONAP.

- [\*Presidential Secretariat for Planning and Programming\*](#) (*secretaría de planificación y programación de la presidencia*)(SEGEPLAN).
- [\*Agriculture, Farming and Food Ministry\*](#) (*Ministerio de Agricultura, Ganadería y Alimentación*) (MAGA).
- [\*National Co-ordinator for Disaster Reduction\*](#) (*Coordinadora Nacional para la Reducción de Desastres*) (CONRED).
- [\*National Institute of Seismology, Vulcanology, Meteorology and Hydrology\*](#) (*Instituto Nacional de Sismología, Vulcanología, Meteorología e Hidrología*) (INSIVUMEH).

## Targets

Guatemala's target reduction is 11% by 2030 through its own efforts, and an additional 11% with international co-operation (a total target of 22%) by 2030.

## National Strategy

The Framework Act for Reducing Vulnerability, Obligatory Adaptation Before the Effects of Climate Change and the Mitigation of Greenhouse Gas Emissions (*Ley Marco para regular la reducción de la vulnerabilidad, la adaptación obligatoria ante los efectos del cambio climático y la mitigación de gases de efecto invernadero*) (Decree 7-2013, enacted by Congress) establishes an emissions reduction regime. It provides that when greenhouse gas emissions from burning fossil fuels are greater than those that would be produced by non-fossil fuels, they must be compensated through projects and activities which reduce or absorb the emissions.

The law also seeks to reduce greenhouse gas emissions through the sustainable use of forestry resources and the conservation of forest ecosystems, and regulating their emission from public and private transportation. There are fiscal incentives and subsidies focused on the use of clean energies for transportation.

A project headed by CONAP known as "Guatecarbon" seeks to reduce emissions in the Mayan Biosphere Reserve (*Reserva de la Biósfera Maya*) through activities aimed at reducing deforestation. This project has generated 700,000 carbon credits to be traded in the international market.

AGEXPORT (a collective of Guatemalan exporters) has promoted actions to reduce greenhouse gas emissions, setting up investment agreements through carbon bonds between entities such as Global Carbon Group, Rainforest Alliance and Guatemalan municipalities.

8. Do any mandatory emissions or carbon trading schemes operate?

The "Guatecarbon" project (*see Question 7*) seeks to reduce emissions in the Mayan Biosphere Reserve (*Reserva de la Biósfera Maya*).

Decree 7-2013 (*see Question 7*) provides for activities and projects which generate certificates of removal or reduction of greenhouse gas emissions can have access to voluntary and regulated carbon markets. The owners of generating projects must be registered at MARN to access rights to negotiate greenhouse gas and carbon reduction units.

9. What rules apply to prohibit or impose liability for greenwashing?

There are no rules specifically aimed at greenwashing. However, greenwashing practices may be covered by existing regulations, such as the following:

- They may constitute violations to environmental instruments approved by MARN, potentially leading to fines and revocation.
- They may constitute violations in matters of consumer protection, such as false advertising.
- They may constitute cases of unfair competition or other violations of commercial practices. These would mainly be challenged by private competitors, not government authorities.

## Renewable Energy

10. Are there any national targets or legal requirements for increasing the use of renewable energy? Do renewables support schemes operate?

## National Targets and Requirements

The country's Energy Policy 2019 to 2050 sets the goal of promoting self-sufficiency through renewable resources in the industrial, commercial, services and institutional sectors promoting the transition from fossil to alternative fuels. For this, it aims to create a National Energy Efficiency Award and implementation of the National Energy Efficiency Plan, educating the public sector on the efficient use of energy and taking inventories of greenhouse gas emissions. It also sets the goal of increasing participation of renewable resources in the energy matrix, through periodic studies and prioritisation of renewable energy.

## Renewables Support Schemes

Congress issued Decree 52-2003, the Incentives for the Development of Renewable Energy Projects Act, which establishes tax, economic and administrative incentives. These include exemption from import tariffs during pre-investment and construction for up to ten years, and from income tax for ten years, and issuing of emission reduction certificates.

## Energy Efficiency

11. Are there any national targets for increasing energy efficiency or legal requirements for achieving energy efficiency standards? Do any mandatory or voluntary labelling schemes exist to identify energy efficient goods or buildings? Do any energy efficiency support schemes operate?

## National Targets and Requirements

The Energy Policy 2019 to 2050 aims to promote:

- The development of smart grids and technological transition in illumination systems. No strict monitoring is currently in place for private homes and workplaces.
- The use and knowledge of international rules of energy management in the industrial sector, through energy audits and promote efficiency and savings in public and private institutions in the commercial, services and institutional sector.

The policy included a proposal for a Bill for an Energy Efficiency Act by 2019, which was not carried out.

There is also a National Energy Plan 2017 to 2032, whose aim is to:

- Duplicate the world rate of energy efficiency improvement by 2030.
- Increase international co-operation to facilitate access to research and non-contaminant energy technology, including renewables, energy efficiency and advanced technologies for fossil fuels, also by 2030.

There are four areas on which the development of technical regulation on energy efficiency is being focused in the Central American region:

- Lighting.

- Purchase and use of electric motors (focused on industry).
- Household, industrial and commercial refrigeration equipment.
- Household, industrial and commercial air conditioning.

## Labelling Schemes

There are no mandatory or voluntary labelling schemes.

## Energy Efficiency Support Schemes

The National Energy Plan (see above) mentions certain financing models for energy efficiency projects to which Guatemala has access, including:

- The Energy and Environment Partnership Program (EEP).
- Energy Service Companies (ESCOS).
- Nationally Appropriate Mitigation Actions (NAMAS) for Energy Efficiency.

## Environmental Impact Assessments

12. Are there any requirements to carry out environmental impact assessments (EIAs) for certain types of projects?

### Scope

The EPIA requires an environmental impact assessment (*estudio de evaluación de impacto ambiental*) (EIA) to be carried out for all projects, works, industries or any other activities that can potentially damage natural resources or the environment, or introduce harmful or noxious alterations to the landscape and cultural resources.

Regulation 137-2016 classifies projects, works, industries and activities based on their potential environmental impact or risk, which serves as a guideline for determining the scope of the EIA. If the activity is not in the listing, MARN analyses and grades the activity.

Projects, works, industries and activities are categorised as follows:

- Category A: those with the highest potential environmental impact or risk.

- Category B: those with moderate environmental impact or risk, sub-classified as:
  - B1: moderate to high environmental impact or risk;
  - B2: moderate to low environmental impact or risk.
- Category C: those with low environmental impact or risk.
- Category of Registry (CR): those with minimal environmental impact or risk, presented only for registration in listings.

Activities with foreseeable and controllable environmental impact and minimal environmental risk only need to complete a form for the municipality or other government agency in charge of approving them, while activities whose potential environmental impact and risks are considered significant must present an EIA to MARN (*Environmental Impact Assessment Studies (Reglamento sobre Estudios de Evaluación de Impacto Ambiental)*, dated 3 July 1998).

Regulation 137-2016 divides environmental management instruments into two categories:

- **Environmental instruments.** These are technical documents containing information necessary to identify and evaluate the environmental impacts or risks of a project, work, industry or activity. They serve as the basis for the environmental commitments that proponents of projects must assume, and for the control and monitoring of each proposed activity. Environmental instruments may be:
  - predictive: these serve from the planning phase, as a preventive measure, until the phases of operation or closing. They can include initial environmental evaluation, EIA, strategic environmental assessment and form for registering activities;
  - corrective: these allow for the design of control, verification and monitoring measures, which can include environmental diagnostic forms for registering corrective activities;
  - complementary: these can include environmental risk assessment, social impact assessment, cumulative effect assessment, and environmental management plan.
- **Environmental control and monitoring instruments.** These may be environmental audits and/or monitoring and supervision activities, carried out by the permit holder or by MARN.

## Permits and Regulator

An environmental permit issued by MARN, CONAP or INAB is required before a project can start. Also, depending on the type of project, it could require other permits issued by other regulators (see [Question 3](#) to [Question 6](#)).

## Penalties

The failure to present an EIA or form when legally required to can result in a fine of between GTQ5,000 and GTQ100,000, depending on the category of the activity. Administrative fines do not exclude other applicable penalties, such as civil liability for damages to the environment or third parties, or criminal liability if the violation also constitutes a crime.

## Habitats and Biodiversity

13. What requirements and regimes apply for the conservation of nature, habitats, and biodiversity that affect development? What assessments or obligations are required before any development begins?

Guatemala is a party to the [Convention on Biological Diversity](#) (CDB), as well as the Cartagena and Nagoya Protocols. MARN and CONAP are the national governing bodies on matters of environment, habitats, wildlife and biodiversity.

The National Protected Areas regime is administered by CONAP. It declares protected areas and establishes establishing a master and an operational plan for each, which act as the basis for concessions or contracts regarding any activity within the relevant areas. An EIA must be presented before any of the following activities within the protected areas:

- Commercial.
- Industrial.
- Tourist.
- Fishing.
- Forestry.
- Agricultural.
- Experimental.
- Transportation.

### **Prior Assessments and Obligations**

The National Protected Areas System (*Sistema Guatemalteco de Áreas Protegidas*) (SIGAP) requires declarations, master plans, operational plans, EIAs and contracts applicable to each protected area. EIAs must be completed before contracts are concluded and must conform to the master plan.

### **Waste and the Circular Economy**

#### **Regulatory Regime**

14. What is the regulatory regime for waste?

## Permits and Regulator

Matters related to waste are included in the EIA for each project. For example, a project which includes waste management must be authorised by MARN. Additionally, waste management and disposal is generally regulated locally by the municipalities. Each municipality is in charge of formulating and co-ordinating policies, plans and programmes regarding waste collection, treatment and disposal (Municipal Code (Código Municipal) (Decree 12-2002)). Some specific types of waste are subject to special regulation (*see below*).

## Prohibited Activities

### Prohibited Activities

Transporting waste without a municipal permit, or to sites other than the landfills approved and administered by the municipality, is prohibited. Other prohibited activities are:

- Burning waste.
- Burning car tyres.
- Burning any object in a public area.
- Disposing of private waste in public areas or empty plots, or by giving it to municipal employees in charge of cleaning public areas.

Violation of these prohibitions can result in a fine.

## Operator Criteria

The process of waste management and disposal is carried out by each municipality, either directly or indirectly. When done indirectly, operators require a municipal permit to transport waste, which will be granted only if they meet certain criteria, mostly related to the type and characteristics of the vehicles to be used, and the location and procedures for carrying the waste to the landfill, which is administered and operated by the relevant municipality.

## Special Rules for Certain Waste

Each municipality can establish special rules for specific types of waste. For example, the Municipality of Guatemala has special rules for solid waste from construction activities, included in the general regulation COM-028-2002. Under these rules, construction materials and solid waste from construction cannot remain for more than 24 hours on public space at the construction site. It must be taken to a specially designated area within the municipal landfill. The builders are in charge of collecting this waste and transporting it to the landfill.

Hospital waste is subject to specific regulation, contained in Government Agreement 509-2001, and is administered by the Public Health Ministry. Common hospital waste can be transported and disposed of in the municipal systems, but hazardous hospital waste must be processed according to Public Health regulations.

MARN has a Co-ordinating Unit (established by Ministerial Agreement 240-2007) for the management of chemical products and hazardous waste. The Economy Ministry has some regulations related to the export and transportation of waste containing copper and other metals.

## Penalties

In general, non-compliance with municipal rules regarding waste management, transportation and disposal can result in an administrative fine (Municipal Code). In some cases, such violations can constitute a crime.

15. Is there a national strategy to tackle particular types of waste (such as plastics waste or marine litter)? What waste targets exist? What producer responsibility schemes exist?

## National Strategy

The National Policy for the Integral Management of Residues and Solid Waste (Government Accord 281-2015) establishes four main programmes which are the:

- Institutional Strengthening Programme, to support the main governing and enforcing agencies related to waste.
- Investment Programme, aimed at fostering the assignation of resources and promoting public-private co-operation.
- Technical and Administrative Strengthening Programme, aimed at improving waste management in the different flows of waste in society.
- Education, Communication and Social Participation Programme, focusing on strategic areas which complement the other programmes.

## Targets

The National Policy does not specify any targets. However, it does set out various courses of action and specific regulations for certain materials. Additionally, various local municipalities have in recent years begun to enact regulations prohibiting the use and distribution of single-use plastics and polystyrene in their territorial jurisdictions.

The central government (2016-2020) extended this prohibition to the entire country (Government Accord 189-2019), granting a period of two years to substitute all such products for those using compostable materials, in accordance with EU norm UNE-EN 13432. However, the next administration (2020-2024) repealed this regulation (Government Accord 164-2021).

A new administration took office in 2024 and has signalled a willingness to strengthen environmental protection. For example, it amended Regulation 137-2016 in late September 2024. It may seek to reinstate and put in force a general prohibition on single-use plastics and polystyrene in the near future.

## Producer Responsibility Schemes



There are no national producer responsibility schemes. Waste management is regulated at the local level by each of the 340 municipalities, so a case-by-case analysis is necessary for companies, depending on the jurisdictions in which they operate.

## Asbestos

16. What is the regulatory regime for asbestos?

Asbestos cannot be imported or exported without a permit issued by MARN. Through the Department of Chemical Products and Hazardous Waste, MARN has issued guidelines for the handling and disposal of asbestos, giving general information about asbestos and its effects, and recommendations for identifying asbestos-containing materials in buildings and other areas, and rules for its final disposal.

Guatemala is party to [ILO Convention 162](#) concerning safety in the use of asbestos (approved by Congress through Decree 17-89), which applies to all activities in which workers are exposed to asbestos in the course of their duties.

### Prohibited Activities

Crocidolite (blue asbestos) and the pulverisation of all forms of asbestos is prohibited (ILO Convention 162). Exceptions can be made when substitution or alternative methods are not reasonably practicable, as long as adequate measures are taken to guarantee no risk to workers' health. The Convention also mandates that workers must be prohibited from taking home their work clothes, special protective clothing and equipment.

Guatemala does not have a general prohibition against crocidolite but the substance is subject to control by MARN. Therefore, the provisions for workplace health and safety must be applied and interpreted in accordance with the rule of Convention 162 regarding exceptions. The Convention's prohibition related to work clothing and equipment is contained in the Guatemalan workplace health and safety regulations.

The pulverisation of all types of asbestos is subject to the Regulations for Workplace Health and Safety, which contain specific rules to guarantee air quality in workplaces where harmful powders, gases or other substances are produced.

### Main Obligations

The Regulations for Workplace Health and Safety do not specifically refer to asbestos, although it must be considered included in its general provisions against carcinogenic agents.

Employers must avoid the use of carcinogenic agents in work, substituting them for less harmful substances, and ensuring that the production and use of carcinogenic agents be carried out within a closed system. When such a closed system is not technically possible, the employer must guarantee that the level of exposure is as low as technically possible. In any activity in which there is risk of contamination from carcinogenic agents, the employer must:

- Adopt the necessary measures to prohibit workers from eating, drinking or smoking in the risk-affected areas.

- Provide appropriate clothing as well as a separate place to store normal clothes, adequate bathrooms and washing facilities.

Workers must be given time to bathe before eating and leaving work. The employer must ensure the proper washing and decontamination of work clothes, among other measures.

## Permits and Regulator

Asbestos is included in the list of substances and products whose import and export is controlled by MARN, requiring a permit for these activities (Regulation 137-2016).

## Penalties

The penalties for the illegal import and export of asbestos include administrative fines and criminal liability.

As related to workplace health and safety, the General Labor Inspection can impose administrative fines for non-compliance.

Employers are also civilly liable for damages suffered by their employees.

## Contaminated Land

17. What is the regulatory regime for contaminated land?

## Regulator and Legislation

Land and the prevention of land contamination is part of the general scope of the EPIA, and therefore subject to regulation by MARN.

## Investigation and Clean-Up

MARN has the authority to require clean-up of contaminated land as a result of investigations arising either from complaints (which any person can file) or from the monitoring and supervision activities to which holders of environmental permits are subject during their operations. The bonds and insurances required by law can be used to cover part of the damages, although they do not exclude or limit the permit holder's liability for additional damages or clean-up requirements.

## Liable Party

The permit holder (when a permit is in force) or any offending party in any other case is liable for carrying out the clean-up. The EPIA has no specific provisions for liability among multiple parties. However, when multiple parties are liable for damages, they are all wholly liable for the entire amount of damages (*responsabilidad solidaria*), unless it is possible to determine the part or proportion of damage caused by each (Civil Code).

There is no specific government programme or fund to pay for clean-up of contaminated land where no financially solvent liable party can be located. However, all the fines collected by MARN are put into a common fund dedicated to programmes for the conservation and improvement of the environment.

**Owner/occupier liability.** When an environmental permit is in force, the permit-holder assumes the liabilities established under its terms. In other cases, the EPIA states that the offending party (infractor) is liable, without determining whether they are owners, tenants or other occupiers of the land. Generally, the owners, tenants, occupiers and anyone who uses or profits from goods is equally liable for damages, explicitly including some cases of contamination (Civil Code).

**Previous owner/occupier liability.** Previous owners or occupiers can be liable for contamination they have caused in the past, if an action is brought within the statute of limitations. An exception to the statute of limitations could be argued under the concept of continued damages, by which the period of limitation cannot be counted since the damage is still occurring. This doctrine has been used by Guatemalan courts in previous cases, although not specifically in cases related to environmental liability.

**Limitation of liability.** There is no limit to the liability for environmental damage established by the EPIA. Even when there is a permit including mandatory bonds and insurances, Regulation 137-2016 sets a limit to the insured amounts, but provides that the party will be liable for further amounts if the damage is greater than the one insured.

**Lender liability.** A lender does not incur liability for contaminated land. The law only provides for liability of the directly contaminating party.

**Minimising liability.** It is common practice to include indemnity clauses and waivers in all lending agreements.

## Voluntary Clean-Up Programme

There is no specific incentive for voluntary clean-up of contaminated land for redevelopment. However, there are incentives directed towards promoting reforestation and sustainable management of natural forests, issued by INAB.

## Penalties

Penalties for non-compliance may include fines, clean-up, and criminal liability (if the contamination constitutes a punishable crime).

18. Can an individual bring legal action against a polluter, owner, or occupier?

Any person can bring action against polluters, whether they are owners or occupiers. This can arise from damage caused by the movement of contamination on to their land, or by other forms of contamination that affect their property (such as air pollution, emanation of gases, smoke or from sewers, among others). In these cases the owners, tenants and occupiers are equally liable (see [Question 17](#)).

## Environmental Liability and Asset and Share Transfers

19. In what circumstances can a buyer inherit pre-acquisition environmental liability in an asset sale or the sale of a company (share sale)? In what circumstances can a seller retain environmental liability after an asset or share sale?

## Buyer

**Asset sale.** This depends entirely on the type of asset being acquired. In general, all transfers of real estate or immovable property involve the transfer to the new owner of all liabilities arising from the land or building themselves.

If the site is being used for an ongoing project, work, industry or activity with a valid environmental permit, whether liability is inherited or not depends on whether the new owner acquires:

- The site itself: liability could remain with the enterprise or company carrying out the acts (who would, for example, only pay rent to the site owner).
- The business enterprise or company carrying out the permitted acts: liability is transferred to the new owner of the business enterprise or company (depending on the type of company and the nature of the sale, as explained below).

In any case, both the (new) owner and tenant or occupier are equally liable for damages to third parties or the environment, but their private contract or the terms of the environmental permit may indicate different rules which will apply only between the parties.

**Share sale.** In Guatemala, stock corporations constitute legal entities separate from the owners of their respective shares. Therefore, the liable party is the entity itself as a distinct legal subject, and not the shareholders.

Liability will affect the corporation or company and its respective assets, and not the shareholders as individuals (different liability rules apply to partners of non-stock legal entities) and so the buyer does not technically inherit liability on a personal level, although it will impact on the risk of their investment.

## Seller

**Asset sale.** This depends on the type of asset transferred and the legal nature of the transfer, and the terms of the contract and/or of the environmental permit. The parties can privately agree for the seller to retain liability after the asset sale, but this will not prevent the corresponding authority from taking action against the current owner. In such a case, the current owner will have to enforce the terms of the contract privately, such as seeking reimbursement from the seller.

**Share sale.** Share sales refer only to interest in a stock corporation, but the liability corresponds to the corporation itself as a legal entity.

20. Does a seller have to disclose environmental information to the buyer in an asset or share sale?

### Asset Sale

There is no legal requirement to disclose environmental information in asset sales, although it will usually be done as part of the due diligence before purchase, especially if the asset currently serves or will be used for activities requiring environmental or forestry permits.

### Share Sale

There is no legal requirement to disclose environmental information in share sales, although it will usually be done as part of the due diligence before purchase of the shares. This will be more common when the business or company to be purchased carries out activities requiring environmental or forestry permits.

21. Is environmental due diligence common in an asset or share sale?

### Scope

Environmental due diligence is becoming increasingly common in asset and share sales. It mainly refers to verifying that environmental permits and other legal requirements are in order. On-site inspections are rarely, if ever, used. There is no current increase in the focus on climate change and sustainability issues.

### Types of Assessment

Types of assessment mirror those used in EIAs (*see Scope*).

### Environmental Consultants

Environmental consultants are not usually used in due diligence by buyers.

22. Are environmental warranties and indemnities usually given and what issues do they usually cover in an asset or share sale? Are there usually time limits or financial caps on environmental warranties and indemnities?

### Asset Sale

Environmental warranties and indemnities are usually given in asset sales which involve the acquisition of company control.

## Share Sale

Environmental warranties and indemnities are usually given in share sales which involve the acquisition of company control. They tend to focus on covering any permit infractions if contingencies are discovered during due diligence.

There are usually both time limits and financial caps on environmental warranties and indemnities. These are negotiated and agreed on by parties in private contracts. For example, it may be provided that the warranty or indemnity will only apply for a fixed amount of time, or up to a certain amount.

Environmental liabilities also usually serve as basis for negotiating lower prices, longer periods between payment of instalments, and so on.

## Reporting and Auditing

23. Do regulators keep public registers of environmental information? What is the procedure for a third party to search those registers?

### Public Registers

MARN keeps a listing of environmental instruments (both those currently in force and those in the process of being authorised), which include predictive, corrective and complementary instruments, such as evaluations, diagnostics and forms, among others, including EIAs.

### Third Party Procedures

The list of environmental filings (EIAs and other instruments) is available online for public consultation.

24. Do companies have to carry out environmental auditing? Do companies have to report information to the regulators about environmental performance?

## Environmental Auditing

Companies must report information on environmental performance when audits are done voluntarily. However, the EPIA and its Regulation establish environmental audits, controls, monitoring, investigation and other procedures, which can be carried out by MARN.

Audits are necessary in all projects, works, industries or activities within categories A and B of the legal classification (*see Question 12*). Their purpose is to monitor compliance with the environmental commitments in permits, assess environmental impact, or reduce impacts or risks not foreseen in the environmental instruments approved during the permit process.

## Reporting Requirements

Specific reporting requirements depend on the terms of the environmental permit. MARN has issued some content guidelines for environmental diagnosis.

25. Do companies have to report information to the regulators and the public about environmental incidents (such as water pollution and soil contamination)?

Companies must inform MARN about environmental incidents, although they are not under an obligation to inform the public.

26. What powers do environmental regulators have to access a company?

The powers of environmental regulators are limited to the terms of the environmental permit. They are, for example, allowed to inspect sites, access documents directly relevant to environmental issues, and so on. Their powers do not grant them access to other types of documents or information, which require a valid court order.

27. What obligations are there on companies to report on environmental issues in their annual corporate reports?

There is currently no legal obligation for companies in Guatemala to report on environmental issues in their annual corporate reports.

28. What mandatory GHG, carbon reporting, or transparency requirements apply to corporates, including as part of their annual corporate reporting requirements? Is reporting in accordance with the Task Force on Climate-related Financial Disclosures (TCFD) recommendations? Do any voluntary GHG reporting schemes exist?

## Mandatory Requirements

There are no mandatory reporting requirements in Guatemala.

## Voluntary Schemes

Some multi-national corporations may apply voluntary reporting schemes in accordance with their policies originated abroad.

## Environmental Insurance

29. What types of insurance cover are available for environmental damage or liability, and what risks are usually covered? How easy is it to obtain environmental insurance and is it common in practice?

## Types of Insurance and Risk

When MARN issues a permit for projects, works, industries or activities categorised as A, B1 or B2, (see [Question 3](#)) the interested party must present both a surety bond (*seguro de caución*) and environmental insurance (*seguro ambiental*).

The surety bond covers the performance of the environmental commitments and control measures assumed by the interested party during the construction phase of the project, work, industry or activity. It must be in existence during the construction phase.

The environmental insurance covers the potential risks and impacts of the operational phase of the project, work, industry or activity, referring to civil liability for environmental damages. It must be in place during the operational phase.

The beneficiary of the bond and insurance is the State of Guatemala through MARN. If the damages are greater than the insured amount, the remaining balance will also be enforced against the debtor.

## Obtaining Insurance

The obtaining of surety bonds and environmental insurance is mandatory by law.

## Environmental Taxes



30. What are the main environmental taxes?

There are no specific environmental taxes in Guatemala.

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