

**Secretariat of the Commission for Environmental Cooperation  
Overall Plan to Develop a Factual Record**

**Submitter:** [Confidential information pursuant to NAAEC Article 11(8)(a)]  
**Party:** United Mexican States  
**Date of this work plan:** 18 October 2023 (updated on 7 June 2024)  
**Submission no.:** SEM-18-003 (*Hydraulic Fracturing in Nuevo Leon*)

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On 5 October 2023, by means of Council Resolution 23-05, the Council of the Commission for Environmental Cooperation (CEC) unanimously decided to instruct the CEC Secretariat to prepare a factual record in accordance with Article 15(2) of the North American Agreement on Environmental Cooperation (NAAEC) with regard to alleged failures to effectively enforce the following legal provisions:<sup>1</sup>

- Article 88 paragraph III of the General Ecological Equilibrium and Environmental Protection Act (*Ley General del Equilibrio Ecológico y la Protección al Ambiente—LGEEPA*), with respect to sustainable water use, and
- LGEEPA Article 170, with respect to the establishment of safety measures.

The Council directed the Secretariat to provide the Parties with an overall work plan for gathering relevant facts; it requested to be kept informed of any future changes or adjustments to such plan, and to be consulted immediately if the Secretariat should require any clarification with regard to the scope of the factual record. In the following, the Secretariat sets out the overall plan of work for developing the draft factual record.

Article 2(4) of the Environmental Cooperation Agreement, in force as of 1 July 2020, establishes that active submissions “shall continue in accordance with the procedures established under Articles 14 and 15 of the NAAEC”. Therefore, this general plan conforms to the provisions of the NAAEC and the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* (the “Guidelines”).

### **Overall Plan**

Pursuant to paragraph 19.5 of the Guidelines, “[t]he Secretariat should conclude the preparation of the draft factual record normally within 180 working days of being so instructed by the Council.” In this regard, the estimated time for the preparation of draft factual record SEM-18-003 (*Hydraulic Fracturing in Nuevo Leon*) is consistent with the timeframes established in paragraphs 19.5, 19.6, 19.7 and 19.8 of the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation*.

The overall plan is as follows:

#### *Information gathering*

In order to conform to the time period of 180 working days, and to ensure that the Secretariat has

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<sup>1</sup> See the public registry corresponding to submission SEM-18-003, which contains all documents and progress in relation to the process, on the CEC website at <<http://www.cec.org/submissions-on-enforcement/registry-of-submissions/hydraulic-fracturing-in-nuevo-leon/>>.

sufficient time to gather information and incorporate it into the draft factual record where appropriate, the Parties are invited to provide relevant information within the 30 working days following the request for this information, as detailed below.

1. Through public notices or direct requests for information, the Secretariat will invite the Submitters; the Joint Public Advisory Committee (JPAC); community members; the general public; and municipal, state and federal government from the Parties to submit information relevant to the scope of fact-finding outlined in Council Resolution 23-05. The Secretariat will provide sufficient information to enable interested nongovernmental organizations or persons, and/or the JPAC to provide relevant information to the Secretariat as per NAAEC Article 15(4).

Planned for: October 2023 to February 2024.

2. The Secretariat will request information relevant to the factual record from the federal authorities of Mexico, as appropriate, and shall consider any information furnished by a Party as per NAAEC Articles 15(4) and 21(1)(a). Also, meetings with relevant authorities will be scheduled. The authorities to which it is planned to send a request for information are as follows:

- Security, Energy and Environment Agency;
- National Water Commission;
- Ministry of the Environment and Natural Resources, and
- Office of the Federal Attorney for Environmental Protection.

Planned for: October 2023 to February 2024.

3. The Secretariat will gather relevant technical, scientific or other information that is publicly available, including from existing databases, public files, information centers, libraries, research centers, and academic institutions as per NAAEC Article 15(4)(a).

Planned for: October 2023 to February 2024.

4. The Secretariat, as appropriate, will collect relevant technical, scientific or other information for the preparation of the factual record, from interested nongovernmental organizations or persons, the JPAC and/or independent experts as per NAAEC Article 15(4)(b) and (c).

Planned for: October 2023 to February 2024.

5. The Secretariat, as appropriate, will develop, through independent experts, technical, scientific or other information relevant to the factual record as per NAAEC Article 15(4)(d).

Planned for: October 2023 to February 2024.

Au cours de la même période, le Secrétariat programmera une visite sur le terrain.

*Writing, editing, and translation of draft factual record*

6. In accordance with NAAEC Article 15(4), the Secretariat will prepare the draft factual record based on the information gathered and developed.

Planned for: November 2023 to April 2024.

7. The Secretariat will translate and finalize editing of the draft factual record into the other official languages of the CEC.

Planned for: May to August 2024.

*Submission of draft factual record to Council, comments on the accuracy of the factual record, and publication*

8. In accordance with NAAEC Article 15(5) and paragraph 19.5 of the Guidelines, the Secretariat will submit a draft factual record to Council within 180 working days of being so instructed by Council.

Deadline: No later than 26 June 2024.

*The deadlines given below will be adjusted if the Secretariat submits a draft factual record to Council prior to the date given in paragraph 8.*

9. Any Party may provide comments on the accuracy of the draft within 45 days thereafter, in accordance with NAAEC Article 15(5) and paragraph 19.6 of the Guidelines.

Deadline: 45 days following the delivery of the draft factual record.

10. As provided by NAAEC Article 15(6) and paragraph 19.7 of the Guidelines, the Secretariat will incorporate, as appropriate, any such comments in the final factual record and submit it to Council, normally within the period of 45 days following receipt of comments from the Parties.

Deadline: 45 days following the receipt of comments from the Parties.

11. The Council may, by a two-thirds vote, make the final factual record publicly available, normally within 60 days following its submission, in conformance with NAAEC Article 15(7).

Deadline: 60 days following the submission of the final factual record.

### **Additional Information**

The submission, the Party's response, the Secretariat's determinations, the Council Resolution, and a summary of the foregoing are available in the Registry of Submissions on the CEC home page <[www.cec.org/submissions-on-enforcement/registry-of-submissions](http://www.cec.org/submissions-on-enforcement/registry-of-submissions)>, via e-mail at <[sem@cec.org](mailto:sem@cec.org)> or upon written request to the Secretariat at the following address:

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