

- imposition of a prohibition on the capture and trade of marine turtles and their products; and
- successful management of a gray whale protection program.

L. ENFORCEMENT POLICIES AND PRACTICES

The Law empowers SEDUE to enforce the Law, its regulations and TENs within federal jurisdiction, while granting to the states and municipalities the authority to adopt legislation and to establish procedures to implement its mandates within their respective jurisdictions.

The Law establishes procedures for on-site inspections by governmental authorities. SEDESOL, or other competent authorities, may undertake inspection visits to verify compliance with environmental provisions.⁶¹ The Law sets out four enforcement mechanisms in the case of violators: plant closings, the imposition of fines, criminal penalties and administrative arrest. Plant closings, whether temporary, permanent, partial or a combination thereof, are intended to generate negotiations between SEDESOL and the corporate entities that have formally been charged with a violation. The plant may be allowed to re-open only after an agreement containing timetables for compliance is reached and the company has posted a bond equivalent to the value of the required alterations. Thereafter, implementation of the agreements is monitored by SEDESOL and the bonds released when the requisite modifications have been completed.

Mexico's enforcement practices are advanced in that they use multimedia (i.e., air, water, soil) inspections. Inspectors engage in a multimedia inspection, checking for violations with respect to all media at each facility. There is ongoing interest demonstrated by SEDESOL in having joint U.S.-Mexico site visits in the border area and in increasing the level of training and expertise among SEDESOL inspectors. In addition, the \$1-million NAFTA Parallel Program with Mexico under the Canada-Mexico Agreement on Environmental Co-operation will focus on strengthening Mexico's monitoring and enforcement capability.

The Law and corresponding regulations establish fines, indexed to the minimum daily wage, up to the equivalent of US\$70,000 for environmental non-compliance. Fines are doubled for second offences. Administrative arrest, as distinguished from criminal arrest, can result in the deprivation of a corporate officer's freedom for up to 36 hours. Criminal penalties, depending on the nature of the violation, can include fines up to 20,000 times the minimum daily wage and to prison sentences ranging from three months to nine years.

A person performing hazardous activities without prior authorization, or in violation of applicable safety and operational standards is subject to imprisonment for up to nine years and a fine equivalent to 20,000 times the minimum daily wage. A person producing or handling hazardous materials or residues without prior authorization or in violation of the applicable federal standards is subject to imprisonment for up to six years and a fine of 20,000 times the minimum daily wage. The same penalties may be imposed if an

61. Santistevan, Responses to Questions, p. 21.