

## Executive Branch sends Hydrocarbons Bill to the Chamber of Deputies

On March 26, 2021, the Federal Executive Branch sent to the Deputies Chamber a “**Bill with draft Decree amending the Hydrocarbons Act**”.

This bill seeks to reform articles 51, 53 second paragraph, 56 section XI and 57, and to add a section XII to article 56, article 59 Bis; and a second paragraph to section II of article 86 of the Hydrocarbons Act.

The general purpose of this bill is the following:

- 1.- Establish that the permits that are granted to Petróleos Mexicanos, to other Productive Companies of the State and to private parties are subject to demonstrating that they have the storage capacity determined by the Ministry of Energy.
- 2.- Modify the regime of the issuance of the permits granted by the Ministry of Energy or the Regulatory Energy Commission, so that, if the period established for the issuance of a permit has expired without an express ruling by the appropriate authority, instead of presuming that the permit has been granted, it be understood that the response of the authority is negative for the petitioner. In other words, the constructive denial is introduced.
- 3.- Modify the sanctions regime in order to complement the monetary sanctions established through the imposition of the revocation of the operating permit to all subjects that engage in the following conduct more than once:
  - a) The violation of the provisions applicable to the quantity, quality and measurement of hydrocarbons and petroleum products; and
  - b) The modification of the technical conditions of systems, pipes, installations or equipment without the corresponding authorization.
- 4.- Authorize the Ministry of Energy and the Energy Regulatory Commission to revoke the permits issued when their holders commit the crime of smuggling hydrocarbons, petroleum products or petrochemicals and this has been determined by a final ruling of the relevant authority.
- 5.- Authorize the corresponding authorities to temporarily **suspend** the permits issued in the terms established by the Hydrocarbons Act, **when an imminent danger for national security, energy security or the national economy is predicted**.

Furthermore, the bill establishes that the authority that has issued the corresponding permit may take charge of the administration and operation of the permit holder, and use the personnel that the permit holder had been using, contract a new operator or a combination of the two. It is also established that for the continuity of the operation, the authority may contract Productive Companies of the State for the handling and control of the facilities subject to a suspension or temporary occupation.

The mentioned suspension will have the duration that the authority itself determines. However, it is established that the permit holder that objects to the continuity of the suspension may request its termination when it shows that the causes for that suspension have ceased, “provided the cause does originate from an unlawful act in the commercialization and/or Transport or alteration of the components of the fuel.”

The transitory articles of the bill establish, among other things, that: (i) the competent authority will revoke those permits that, on the date of the entrance into force of the Decree proposed, violate the storage requirement determined by the Ministry of Energy; and (ii) upon the entry into force of such Decree, the permits whose holders do not comply with the corresponding requirements or infringe provisions of the Hydrocarbons Act will be revoked.

Similarly, the third transitory article establishes that “those permit holders that could be harmed in their legal sphere and their rights may request the payment of any damages within the framework of the corresponding regulations.”

We recommend to our clients and friends that they review the current status of their compliance with their permits since, with the new regime of sanctions, revocations and suspensions of permits that is proposed through the mentioned bill, it is vital that the permit holders be up to date in complying with all of their obligations. We also consider that there are arguments that support that some of the provisions established in the reform generate legal insecurity, and are unconstitutional and violate international treaties. The permit holders should consider their options with respect to domestic defenses – amparos – and international defenses.

Von Wobeser has an Industry Group focused on the Energy and Natural Resources industry with specialists in the most relevant areas of the sector (including Oil & Gas, Litigation, Arbitration, among others) ready to assist you in analyzing your current situation to ensure you comply with all your obligations, establishing measures directed to mitigating the risks arising from the bill sent by the Executive branch, and filing any action to protect the rights of the permit holders.

For more information on our firm and our team, click [here](#). You may also contact our experts:

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