

## Hydrocarbons reform is published in the Federal Official Gazette

On March 4, 2021, “**Decree reforming the Hydrocarbons Act**” was published in the Federal Official Gazette.

The bill was presented on March 26, 2021 by the Executive Branch and was subsequently discussed and approved by the Deputies Chamber with certain modifications; thereafter it was approved by the Senators Chamber without additional modifications.

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

The main points of the reform refer to:

- Minimum storage capacity of hydrocarbons.
- Constructive denial in the permit assignment procedure.
- Contraband of hydrocarbons.
- Suspension of permits.
- Revocation of permits in case of recurrence.

Specifically, the reform modifies the following:

- 1.- The permits that are granted to Petróleos Mexicanos, to other Productive Companies of the State and to private persons will be subject to demonstrating they have the storage capacity determined by the Ministry of Energy.
- 2.- The constructive approval for the authorization to assign permits when the deadline expires and the competent authority has not issued a decision changes to constructive denial.
- 3.- The sanctions change, complementing the existing monetary sanctions with the revocation of the operating permit for all subjects that engage in the following conduct more than once:
  - a) The breach 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, pipelines, facilities or equipment without the appropriate authorization.
- 4.- It authorizes the Ministry of Energy and the Energy Regulatory Commission to revoke the permits issued when their holders commit the crime of contraband of hydrocarbons, petroleum products or petrochemicals and this has been determined by a final ruling of the competent authority.
- 5.- It authorizes the authorities to suspend the permits issued in the terms established by the Hydrocarbons Act in the case of an imminent threat to national security, energy security or the national economy.

The reform also allows the authority that has issued the permit subject to the suspension to take over the administration and operation of the permit and use the personnel that the permit holder is using, contract a new operator or a combination of the two.

The mentioned suspension will have the duration the authority determines.

It is also established that for continuity in the operations, the authority may contract State Productive Companies for the management and control of the occupied, suspended, or intervened facilities.

Notwithstanding that certain permit holder rights were included by the Deputies Chamber in their changes to the bill (such as the right to a hearing in case of the suspension of a permit), the reform contains some provisions that have generated uncertainty for the permit holders and investors, in view of the fact that: (i) they could threaten the legal security of the permit holders; (ii) if the authority goes forward with the suspension of a permit, their operation could be taken over by PEMEX or the State productive companies; and (iii) they could threaten certain constitutional provisions and international treaties to which Mexico is a party.

Finally, we recommend that our clients and friends: (i) review the situation and the current state of their permits, since with the new rules governing sanctions, revocations and suspension of permits, it is vital that the permit holders are up to date in complying with all of their obligations; and (ii) contemplate the legal recourses available to challenge any impact they may suffer as a result of the reform.

In Von Wobeser we have an Industry Group focused on the Energy and Natural Resources industry with specialists in the most relevant areas of the sector (including Oil and Gas, Litigation, Arbitration, and others) ready to advise you and analyze your current situation, in order to comply with all your obligations, establish measures to mitigate the risks arising from the bill, and initiate any action to protect the rights of the permit holders.

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

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