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Client Alert

The Energy Regulatory Commission prepared a regulation to regularize some obligations, in order to enable the transfer of their permits.

- The Regulation will apply to those modification request by cession in process or if the permit holder wants to transfer the permit.
- The Regulation will only apply to service stations with a specific purpose of petroleum products, natural gas, or liquefied petroleum gas.
- The penalty payment for regularization will be \$1,556,100.00 Mexican pesos.
- Applications for regularization must be submitted until 31 March 2024

I. Content of the Regulation.

On 12 December 2023, the Energy Regulatory Commission (the "**Commission**") published on the portal of the National Commission for Regulatory Improvement (Comisión Nacional de Mejora Regulatoria) the preliminary draft of the "*Regulation by which the Energy Regulatory Commission establishes the procedure to regularize the unfulfilled obligations of permit holders and guarantee the continuity of service in the public interest, in the attention of applications for the cession of permits to sell petroleum products, natural gas or liquefied petroleum gas to the public through service stations for specific purposes, as referred to in Article 53 of the Hydrocarbons Law*" (the "**Preliminary Draft**"). The Preliminary Draft was assigned the file number **65/0017/121223**, which can be consulted [here](#).

The Preliminary Draft will apply to those permit holders who sell petroleum products, natural gas, or liquefied petroleum gas to the public through a service station for a specific purpose and who also have a pending application for modification by cession at the time that the Preliminary Draft comes into force, i.e. once it is published in the Official Registry.

The permit holder who wants to apply for the regularization will must make an under oath statement accepting the provisions of the Preliminary Draft, and in case the permit holder has an ongoing application to transfer or modify the permit must withdraw it, and comply with the regularization process first.





The regularization consists of a financial penalty of 15,000 times the UMA¹ (approximately 1,556,100.00 Mexican pesos), which, once paid, would be remedied, this action will allow to submit a new application to transfer or modify the permit to the Commission's Governing Body for consideration.

The Preliminary Draft takes as non-compliance the following: (i) failure to have and maintain insurance in force and (ii) failure to submit annual reports in compliance with the Official Mexican Standards.

Likewise, the Preliminary Draft establishes the following procedures for those permit holders who request the regularization:

“SEVENTH (Regularization procedure). This Regulation shall comply with the following procedure:

a) The interested party shall formulate a request including the following aspects:

- i. The withdrawal of the cession procedure, indicating the number of the entry shift.*
- ii. To state under oath that the interested party voluntarily adheres to this Regulation, in order to regularize the permit.*
- iii. This document must have the autographed signature of the legal representative accredited before this Commission.*

b) Within 10 working days following the submission of the application for regularization, the Legal Affairs Unit shall submit to the Hydrocarbons Unit its opinion.

c) The Hydrocarbons Unit shall notify to the permit holder about its decision and the obligations that have not been fulfilled.

Regarding the annual supervision payments for each fiscal year, the permit holders must make the corresponding payment, as well as the corresponding updates and surcharges, which will be validated by the Administration Unit of this Commission.

d) In order to safeguard the rights of the permit holder, if the permit holder deems it convenient, it may accept the imputation of non-compliance with obligations and, if applicable, make the statements in a period of 5 working days, following the notification referred to in paragraph c).

e) The Hydrocarbons Unit, with the support of the Legal Affairs Unit, shall notify the permit holder of the sanction in accordance with this Regulation within a period of no more than 15 working days.

¹ Unit of Measurement and Update (Unidad de Media y Actualización).





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f) Once the permit holder has been notified of the sanction(s), it must prove compliance with the sanction to the Commission within a period of no more than 20 working days from the day following notification of the sanction referred to in paragraph e) above.

g) The Hydrocarbons Unit, with the support of the Administration Unit, shall have a period of 15 working days after the permit holders submit the proof of compliance with the sanction to notify the permit holder whether or not the sanction has been duly complied with.

The regularization will not take effect until compliance with the sanction has been duly accredited”.

Finally, the first transitory provision of the Preliminary Draft establishes the deadline for the interested party to submit its regularization request until 31st March 2024, allowing the Commission's governing body to extend this deadline.

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This document is not legal advice. If you have any questions, please contact us.

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