

Modifications to Import and Export Regulations for Fuels

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On December 26, 2020, the Ministry of Commerce published new regulations in the Federal Gazette that apply to certain goods whose importation and exportation falls under the jurisdiction of the Mexican Ministry of Energy (“SENER”) (the “Regulations”). The Regulations entered into effect on December 28, 2020.

As to the importation of fuels and hydrocarbons, the Regulations abrogate certain prior regulations, denominated “Regulations that establish the classification and codification of the hydrocarbons and fuels whose import and export is subject to a Previous Permit”, issued on December 29, 2014, as modified on December 20, 2015; September 8, 2017; December 3, 2017, and on February 22, 2019 (the “Abrogated Regulations”). The Regulations do not terminate the previous permits granted under the Abrogated Regulations, and those previous permits will be valid through their respective expiration dates.

In contrast to the Abrogated Regulations, the Regulations establish rules for new permits (the “Permits”) (a) 1-year Permits for the importation and exportation of fuels and certain other hydrocarbons, with up to two one-year renewals,¹ (b) eliminates the 20-year permit option allowed under the Abrogated Regulations, and (c) provides for new 5-year Permits which may be renewed once for a like period.

The Regulations establish various new requirements to file for an import Permit, among which are the following: (i) a document declaring, under oath, that the applicant has complied with all administrative, tax, and customs obligations; (ii) a document stating the final use and destination of the imported goods; and (iii) a monthly projection of the importation costs and the desired volume of goods to be imported during the term of the permit.² In addition, commercialization and distribution permit holders that sell gasoline, diesel, or jet fuel to service stations or final users, must demonstrate compliance with the obligations of the Fuels Minimum Storage Public Policy.³

To file for a 5-year Permit, in addition to the requirements set forth above, the Permit applicant must also (i) demonstrate that its contractual commitments have a duration of at least 5 years and (ii) that they own storage and/or transportation infrastructure for the goods to be imported or that they are developing new infrastructure or expanding their existing facilities. The Permit applicant must also hold the necessary permits from the Energy Regulatory Commission for storage and transportation activities.

Under the Regulations, SENER has a period of 12 business days⁴ to render a decision on a Permit application. If it does not do so, the Permit application will be deemed to have been denied, without prejudice to the Permit applicant filing a new application. As part of its evaluation of Permit applications, the Regulations allow SENER to consult with other federal governmental agencies, the state-owned oil company (*Petróleos Mexicanos*), and industry associations, to assess the necessity of the Permit in light of national production and needs.

In addition, the Regulations establish a new monthly reporting obligation on Permit holders and provide that all Permits granted by SENER are non-transferable.

To read en español, click [here](#).

¹ Under the Abrogated Regulations, 1-year Permits could be renewed for up to three one-year periods.

² The Regulations give SENER the right to adjust the Permit applicant's desired volume to the amount SENER considers was demonstrated in the Permit application.

³ Through agreements with a storage permit holder or the purchase of tickets, in accordance with the provisions of the Fuels Minimum Storage Public Policy issued on December 12, 2017 and its modifications published on November 29, 2018 and December 6, 2019.

⁴ The Regulations establish a period of 5 business days for SENER to request additional information, in this case, the Permit applicant will have 10 business days to address the requirement. Thus, the review and evaluation process can take up to 27 business days.