
Provisions to verify the compliance with national content obligations

Mexico City Office

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The Ministry of Economy released the draft of “Provisions to verify the compliance with national content obligations of Assignment Holders and Contractors, in respect of Exploration and Production activities within the national territory”, for public consultation at the official webpage of the National Commission of Regulatory Improvement. The main purpose of the draft is to establish: (i) the rules to verify the actual compliance with the obligations related to national content, (ii) the different procedures that the Ministry of Economy is able to conduct; and (iii) the effects and consequences derived from the audits.



The Ministry of Economy (“SE”) released the draft of “Provisions to verify the compliance with national content obligations of Assignment Holders (*Asignatarios*) and Contractors, in respect of Exploration and Production activities within the national territory (the “**Draft of Provisions**”)”, for public consultation at the official webpage of the National Commission of Regulatory Improvement (“**CONAMER**” per its Spanish Acronym).

The main purpose of the Draft of Provisions is to establish the rules to verify the actual compliance with the obligations related to national content. To that end, the SE shall verify the measurement of the national content rate filed by the Assignment Holders and Contractors in the National Content Report referred to in the 2017 Provisions to submit information of national content by Assignment Holders, Contractors and title Holders in respect of the hydrocarbons industry activities (*Disposiciones para que los Asignatarios, Contratistas y permisionarios proporcionen información sobre contenido nacional en las actividades que realicen en la industria de hidrocarburos*) (the “**2017 Provisions**”).

Upon the verification of measurement, the SE may undertake two kinds of audits: (i) an office audit (*Verificación de Gabinete*), which is performed through written documentary requirements addressed to the Assignment Holder or Contractor; and (ii) a field audit or verification visit (*Visita de Verificación*), in which SE’s officials visit the place of business indicated in the verification order. Following the formal proceedings, the SE should render a final decision within the term of 18 months following the beginning of the audit.

An important aspect of the Draft of Provisions is that the audits to verify the compliance with national content obligations may be performed directly by the SE or through an independent third party.

In the event that the audited party fails to provide evidence supporting the information laid down in the National Content Report, the national content related to such specific activity shall be equal to zero and, thus, deducted from the overall rate informed by the relevant Assignment Holder or Contractor. Same consequence shall operate if SE is not able to verify the national content information for any reason.¹

In connection with the time-bar to perform an audit, the Draft of Provisions allows SE to undertake it within the 5 years following the filing of the National Content Report.²

¹ This latter hypothesis is deemed too broad and excessive as it goes beyond the control of the Assignment Holder or Contractor.

² Such term is nevertheless not congruent with the 18-month term established in the 2017 Provisions for keeping and storing information related with national content obligations.



If the SE determines that the Assignment Holder or Contractor failed to comply with the national content obligations (*i.e.*, it did not provide evidence supporting the filed National Content Report), the SE will give notice to the National Hydrocarbons Commission to proceed in accordance with the Hydrocarbons Law and the relevant Assignment or Exploration and Production Contract.

The Transitional Provisions of the draft provide that such instrument will come into force on the immediate business day following its publication in the Federal Official Gazette (*Diario Oficial de la Federación*).

The Draft of Provisions is currently available for public consultation at the official webpage of CONAMER. We will be happy to assist you if you are interested in sending comments or revisions to the document.

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