

Latest regulation updates on the energy sector.

Mexico City

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On November 10, 2020, the Energy Regulatory Commission (“CRE” per its Spanish acronym) published the Resolutions No. A/038/2020 (the “**Amendment Resolution**”) and A/039/2020 (the “**Repealing Resolution**”, and jointly with A/038/2020, the “**Resolutions**”) in the Federal Official Gazette (“DOF”).

On the one hand, the Amendment Resolution introduces a modification to the updating process of permits granted by the CRE. On the other, the Repealing Resolution revokes two previous resolutions (the A/074/2017 and A/010/2018, jointly the “**Repealed Resolutions**”), which contained a delegation of authority from the Commissioners to certain officers to process certain matters related to permits granted by the CRE.

This document analyzes the main aspects of these Resolutions.



The Amendment Resolution

As established by the CRE in a former resolution (No. A/043/2016), the permits granted by such authority require to be updated upon the occurrence of certain events. Some of them automatically give raise to the update, regardless of the permitted activity (*e.g.*, the change of shareholding structure or corporate name, among others); whereas other events apply only to certain specific permitted activities (*e.g.*, hydrocarbons, petroleum products, petrochemicals and bioenergetics; natural gas transportation through pipelines in self-supply modality; and power generation and supply).

In this regard, pursuant to the Amendment Resolution, the new process to update a permit, once the request is filed by the permit holder, is as follows:

- a) Each Administrative Unit of the CRE (depending on the permitted activity) shall undertake the analysis to determine the applicability of the update.
- b) Prior to the resolution, the corresponding Administrative Unit shall send to the Executive Secretariat the list of updating applications, in order to inform and, afterwards, obtain the favorable opinion or sign-off of the majority of the Commissioners, or otherwise, the corresponding justification to reject the permit update.
- c) The Executive Secretariat shall inform the Administrative Unit the decision in order to resolve and notify the corresponding permit updates.
- d) Each Administrative Unit shall inform to the Executive Secretariat the resolved and notified permit updates, in order to lay down the corresponding changes in the CRE's public record.

It is important to note that not all the events that require a permit update are subject to this new process. In fact, only 24 events (out of 42), which are listed in the Amendment Resolution, will follow this process. Therefore, the rest of events will have to follow the ordinary approval process of the CRE.

From the proceeding itself, it is noteworthy that the purpose of the Amendment Resolution is to reduce certain level of red tape to approve the permit updates. This is clear from items c) and d) above, as the amended process does not follow the ordinary decision-making proceeding followed by the CRE's Commissioners (through public, scheduled meetings with established agendas, quorum requirements, etc.), but rather reducing it to an approval of the Commissioners obtained by the Executive Secretariat.



The Repealing Resolution

The Repealing Resolution revokes two former resolutions whereby the Commissioners delegated authorities to subordinated officers. The first one is the resolution A/074/2017, which delegated authority on the CRE's Heads of (i) Natural Gas Unit; (ii) Petroleum Liquefied Gas Unit; and (iii) Petroleum Products Unit, to approve the suspension of certain regulated activities, as set forth in Article 84, section XII, of the Hydrocarbons Law.

The second one is the resolution A/010/2018, whereby the Commissioners delegated to the CRE's Head of the Electricity Unit the authority to approve modifications to the works commencement and completion dates, as well as to the commercial operation dates for power generation plants, and the authorizations on import and export of electricity.

In both cases, and since there are no further delegation of authorities on these matters, the CRE's Governing Body will reassume the approval of the permit modifications for the abovementioned events. This means that the applications filed by the permit holders will have to follow the ordinary decision-making procedure in order to be processed by the CRE.

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