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Mexico Amends Its Plan to Resume Economic Activity and Return to a “New Normal” in Three Phases

5.15.2020

This morning, after two previous publications, Mexico’s Secretary of Health published in Mexico’s Official Gazette another resolution amending the May 14th resolution, which designated companies performing mining, construction, and transportation equipment manufacturing activities as essential. Unfortunately, the text of today’s resolution is still ambiguous and raises several questions. An *interpretative translation* of the relevant provisions in the publication is as follows:

Companies performing essential activities will be allowed to start operations on June 1, provided, they comply with the following:

1. The preparation period begins on May 18, 2020. Companies or industries performing essential activities must submit sanitary security protocols per general guidelines established by the Secretaries of Health, Economy, and Labor;
2. The submission, application, and approval of the foregoing protocols must be made at the same time as companies prepare their measures for restarting operations;
3. During May 18 to June 1, 2020 period, companies will undertake the process of establishing health and safety protocols and mechanisms per safety sanitary guidelines published by the Secretaries of Economy and Labor, as well as with the Mexican Institute of Social Security;
4. If the process is concluded and approved before June 1, 2020, the Company or industry will be allowed to restart operations, and
5. It is clarified that this is a good faith agreement, however, non-compliance will result in the shutting down of the

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corresponding company or industry

In addition to the foregoing, auto and auto parts companies will need to apply the protocols required by the country of origin.

Today's resolution does not explicitly include a detailed description of the certification or submission process that companies (or industries) need to submit. It is unclear who approves the process, what exact information needs to be submitted and to whom, and whether the approval is industry or company-specific. However, the resolution clearly mentions in section IV that if the process is concluded **and** approved before June 1, 2020, the company or industry will be allowed to restart operations. Consequently, it can be reasonably inferred that an approval certificate of some sort may be necessary for a company or industry to start operations before June 1. Strangely enough is the fact that the resolution also mentions it is a good faith agreement, perhaps opening the door to an interpretation that it could be referring to a self-policing process.

Before today's resolution, companies performing mining, construction, and transportation equipment manufacturing activities were only allowed to undertake safety and hygiene measures during the May 18 – June 1 period. Those measures included: (1) the development of health protocols needed to restart operations, (2) personnel training, (3) reconfiguring workspaces and productive processes, (4) installing entry point screening filters, (5) workplace environment sanitization and hygiene actions, and (6) other measures published by the Secretary of Health from time to time.

This resolution amendment could provide a degree of relief for companies who were expecting to resume operations before June 1. However, more detail and guidance is necessary to complete or submit the safety and health protocols to the corresponding governmental agencies.

The Mexican president had previously promised to allow the auto industry to begin operations a few days before the U.S. started. The U.S. auto industry is expected to commence operations on May 18, consequently, the window for fulfilling that promise has closed. Industry associations in Mexico warned that the lack of startup synchronization between integrated supply chains in the U.S., Mexico, and Canada could cause significant disruption and losses to the industry.

All other non-essential business activities in Mexico will be able to resume operations until June 1, provided, the state where they operate is not coded under a "red" alert. For additional information regarding Mexico's color-coded alert system and restart plan, please refer to our May 14 and May 13 alerts.

This situation remains very fluid and Mexico could yet again change or add to its reopening plan. We will update this alert as soon as new developments arise.

For assistance in properly following Mexico's work guidance, or if you have any specific questions you would like us to address, please contact Raul Rangel, Co-Chair of the Butzel Long Mexico Team, and licensed in both New York and Mexico. We are here to assist you.

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