

Amendment of Public Policies regarding the Minimum Storage of Oil Products

December 2019

Authors: [Vicente Corta Fernández](#), [Francisco de Rosenzweig](#), [Jorge Kim](#), [Roberto Ríos Artigas](#), [José Daniel Franco](#), [Gustavo Neyra López](#)

Background

The constitutional energy reform of 2013 allowed private participation in the entire hydrocarbons value chain (*i.e.*, storage). Likewise, this energy reform was aimed at increasing energy security and the timely and sufficient supply of oil products, through a joint minimum storage obligation between the State and new market participants. Some of the aspects that define energy security include the development of infrastructure that enables the storage and transportation of products from the place of production to points of consumption, as well as improved responsiveness in case of an event that could cause a significant variation in the demand or supply of hydrocarbons.

The Hydrocarbons Law provides that the Energy Ministry (“**SENER**”) has the power to define public policies on energy matters that are applicable to storage levels and guarantee of supply of hydrocarbons and oil products in order to safeguard national interests and security. Thereby, on December 17, 2017, SENER issued the *Public Policies on the Minimum Storage of Oil Products* (“**Storage Policies**”). The Storage Policies provided, among other aspects: (i) the incentives for the development of the required storage infrastructure for oil products, ensuring supply in the Country, and (ii) the general guidelines that would contribute with the development of a reliable market for the supply of oil products.

Amendment of the Storage Policies

On December 6, 2019, SENER issued through the Federal Official Gazette, an agreement by which the Storage Policies are amended. The purpose of this agreement is to achieve effective compliance with the minimum inventory of oil products in national territory that will contribute with energy security. The following amendments should be noted:

- the obligation of minimum inventory for gasoline and diesel was reduced to 5 days, from 2020 until 2025 (previously, the Storage Policies provided for up to 13 days of minimum inventory by 2025);
- the obligation of minimum inventory days for jet fuel stored is reduced to (i) 1.5 days storage in airports and/or airfield, and (ii) 1.5 days storage as a monthly average located in any other storage terminal in national territory, from 2020 until 2025 (previously, the Storage Policy provided for up to 13 days of minimum inventory by 2025);
- it is clarified that the minimum inventory obligation exclusively applies to automotive diesel and not to other types of diesel (*i.e.*, industrial, agricultural diesel);
- the effective date of the minimum inventory requirement is postponed by 6 (six) months; thus, the effective date of minimum inventory is July 1, 2020, instead of January 1, 2020;

-
- the gasoline, diesel and jet fuel dealers and distributors ("**Obligated Parties**") who evidence that the storage capacity at the terminals that regularly supply service stations and end users through tanks is not sufficient to comply with at least 50% of the minimum inventory, are allowed to cover the remaining percentage in other terminals in national territory;
 - in the event of an unforeseeable emergency situation, the Obligated Parties may address the emergency situation through the use of the minimum inventory, without the need of a declaration by the Coordination Council of the Energy Sector;
 - the Obligated Parties that have contracted the storage capacity in terminals with an operation date set after July 1, 2020, must comply with the obligation of minimum inventory through the purchase of tickets; and
 - SENER will review the Storage Policies every 5 years, in order to determine the need to modify the minimum inventory days.

White & Case, S.C.
Torre del Bosque – PH
Blvd. Manuel Avila Camacho #24
11000 Ciudad de México
Mexico

T +52 55 5540 9600

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.