

Mexican Companies; Formation Process Simplified

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Effective March 1, 2002, the formation process for Mexican companies should be faster and less complicated. The so-called "fast-track" process will also apply to existing Mexican companies wanting to modify their Bylaws.

Pursuant to recent modifications published by the Mexican Government the time frame and paperwork involved in the creation of a Mexican company, as well as the time for those Mexican companies wanting to amend their Bylaws (i.e. change in name, change in type of entity, etc.) has been significantly reduced.

According to the new rules, applications for new corporate names and applications to change corporate names should now be resolved (with approval or denial) within the same day the application is filed, provided the applications are filed before 11:00 am. Applications filed after such time must be resolved by the next working day. Failure from the Mexican Government to respond within such time frame will be considered an "automatic approval" of the application.

Such applications are filed with the Department of Foreign Affairs (DFA), and can either be filed at any of their authorized offices, or electronically from anywhere in Mexico. Electronically filed applications should also be answered by the DFA through the same electronic means.

The new "fast-track" rules also allow companies, mainly small and medium size, to begin operations in rather quick and simple formats. In order to benefit from such rules, a company needs to perform or conduct a "low risk" activity. There are 685 company activities (services and products) that can claim such "fast-track" benefits.

Under the "fast track" process, the Department of Labor will have one (1) day to resolve (with approval or denial) employees' training programs filed by the newly created companies. If the labor authorities fail to respond within such time, the program shall be deemed approved.

The Mexican Federal Tax I.D. registration process has also been shortened. According to the new rules, arrangements will be made by the Department of Finance to approve and issue Tax I.D. registration numbers "in one day at the latest" for those entities that are considered to have or perform "low risk" activities.

The criteria used to define a low risk activity includes all new entities that do not require a government concession, a special permit or a previous authorization from the Federal Government for their formation, or specific investment requirements such as banks, or companies operating in the telecommunications or mining industries. Please contact us, should you have any questions regarding the inclusion of your proposed new business in the above-mentioned criteria.

The new “fast-track” process also covers some permits and registrations with the Social Security Office; the Employee’s Housing Fund; the Employee’s Retirement Fund; the Health Department; and the Environmental Department. Additional rules relating to such areas should be made public in the near future.

It should be pointed out that new companies will be given a three (3) month grace period after beginning operations to file for any “other additional federal permits or applications”. The new rules also include provisions (overriding some federal laws) that prevent federal agencies from conducting inspections or imposing fines during the “grace period” for failure to obtain “other additional federal permits and applications”. However, the grace period does not apply to companies that require an operating notice from the Health Department, or to companies that are considered as hazardous waste generators.

Although the “fast-track” rules apply only to Federal Government agencies, we anticipate that State and Local authorities will soon try to match the same process. In the meantime, careful pre-operation planning should be followed with the State and Local authorities.

If you are planning to form a new business entity, or to modify your existing Mexican operations, you may benefit from these new rules. Please do not hesitate to contact us if you have any questions.

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