



# CNC NEWSFLASH


## **The importance of complying with Mexican health and safety regulations**

**#159** July - September 2022 | July 18, 2022

As a result of the COVID-19 pandemic, and as part of the 2022 Inspection Program issued by the Department of Labor and Social Welfare ("STPS" for its acronym in Spanish), which is aligned with the obligations assumed by Mexico under the USMCA, with at least 40,000 actions scheduled for this year, there has been a significant increase in safety and health inspection visits at Mexican workplaces to detect violations in terms of general working conditions, outsourcing and safety and hygiene. Inspections have also increased, due to the fact that the STPS inspectors realized that the majority of companies did not fully comply with applicable safety and health regulations when they were conducting extraordinary inspections to verify compliance with the guidelines related to COVID-19.

In many workplaces, this occurs due to the companies' ignorance of the labor, social security and tax amendments that have entered into force in terms of general working conditions and outsourcing, as well as the applicable Official Mexican Standards ("NOMS" for its acronym in Spanish) issued by the STPS, pertaining to such workplaces and the activity they carry out. Many companies that lease their facilities assume that it is the lessor who has the duty to comply with the amendments, provisions and NOMS in terms of safety and hygiene, which is only partially true, since the company, as employer of the employees and possessor of the facility, also has an obligation to comply with part of the above mentioned amendments, provisions and NOMS.

For purposes of compliance with applicable health and safety provisions and NOMS, the facilities, equipment, machinery and production processes must not only be analyzed from the perspective of their condition and technical characteristics, but also in accordance with the analysis of the work methodologies, organizational system and employees' skills for the jobs they perform. Thus, it is important that each company evaluate in terms of general working conditions, compliance with provisions related to the outsourcing reform, as well as its compliance with the applicable studies so that they are able to identify and analyze not only the risks that may lead to an accident or work related illnesses, but also those dysfunctional processes that may cause economic and productivity losses for the company.



As per the above, employers may through a preventive strategy detect risks, increase their response capacity in emergency situations, analyze safety conditions in facilities, update and improve processes and job descriptions for employees, identify deficiencies in its legal documents, and the equipment before any damage occurs and ensure greater availability of the facilities and the production process to achieve operational excellence. This will minimize the risks for the company and ensure it is in legal compliance and prepared for any inspection by the STPS.

It is worth noting that in most cases, at least five to twelve NOMS apply to each workplace in terms of health and safety matters. Also, each one of these can include at least 30 guidelines, and the sanctions and/or fines for violations in terms of general working conditions, outsourcing and safety and hygiene may be calculated for administrative offenses and for the number of employees affected, at a rate of between 50 and 50,000 times the value of the Mexican Measurement and Updating Unit (from \$4,811.00 Mexican pesos to \$4,811,000.00 Mexican pesos; or around \$250.00 to \$240,000.00 USD). Such lack of compliance could have severe consequences for companies. In response to this, CCN has developed a specialized area for audits that includes matters of Mexican general working conditions, outsourcing, health and safety matters with extensive experience and the ability to support our clients to provide and assessment of their facilities and a preventive diagnosis.

**Contact:**

Pablo Sáenz  
Partner  
psaenz@ccn-law.com.mx

Fernanda Magallanes  
Associate  
fmagallanes@ccn-law.com.mx

Fernando Govea  
Associate  
fgovea@ccn-law.com.mx