



Licensing Requirements Activities in the Petroleum Industry

Under the Law of the Republic of Azerbaijan "On licenses and permissions" dated 15 March 2016 ("Law"), certain oilfield activities performed in potentially hazardous premises can require specific permission (statutory permits or/licenses). The state control over oil and gas activities is aimed to ensure that companies are technically eligible and qualified to perform oilfield services up to required standards.

Obtaining the statutory license is one the important issues to be considered by companies interested in doing business and investing in oilfield industry of Azerbaijan. Here are 6 common myths we heard about statutory licenses:

1. Existing Production Sharing and Host Government Agreements provide relief from obligation to obtain licenses and permits.

There is a misconception that companies working under existing PSA and HGAs are exempt from statutory licenses and permits required for carrying out certain operations. The Law applies to all parties carrying out activities subject to licensing regardless the regime they operate under.

2. The contractor's licenses and permits authorize its subcontractors to render identic services.

The holder of the license and permit can use the license only in its name and solely for its own operations. Licenses are generally non-transferable, meaning that cannot be granted to third parties (*some exceptions may apply*).

3. Lawyer is the only person who should identify whether licensing requirements apply.

The Law generally lists the types of activity, which may fall under licensing requirements using such definitions as "potentially dangerous" "hazardous substances" "production activity" "technical facilities", "exploitation", etc. Only in close collaboration with engineers and technical specialists, which are aware of operational specifications, legal professionals can make proper conclusion on application of licensing requirements to company's operations.

4. Licenses can be obtained in the course of business operations subject to licensing.

Business must obtain relevant license or permit before the commencement of an activity which is subject to license or permit. It is worth noting that according to the Law of the Republic of Azerbaijan "On public procurement" dated 28 December 2018, only companies holding relevant license or permit for performance of certain activities (where apply) can participate in public tenders.

5. The company has never been audited for the subject of holding statutory licenses, so no liability applies.

Carrying out a business activity which is subject to licensing requirement without holding the relevant license is considered as an illegal business and entails imposition of administrative penalty in the amount from 2 up to 4 times of profit made from such an activity. Such a violation may result in criminal prosecution should the profit made from such business exceed AZN 20,000.

6. International business licenses enable to perform the licensable activities in Azerbaijan.

Licenses obtained outside Azerbaijan can be essential and helpful in successful conduct of business in Azerbaijan. However, they cannot be considered as a replacement of statutory license. Business is still required to obtain a license stipulated by law of the country it is operating in.

Please feel free to contact our legal specialists to raise your questions and comments.

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