ABS' Henrique Paula provides insight into the secondary laws – CNH, CRE, and ASEA – being used to implement Mexico's energy reforms.

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Insights into the Mexican energy reform decrees

The Mexican offshore, which saw limited activity over the last few decades, is now being viewed as one of the most potentially dynamic offshore theaters in the world. Since the decision was made to open Mexico to foreign and national investors, the country has been moving at a rapid pace to establish a welcoming regulatory framework that will appeal to potential operators.

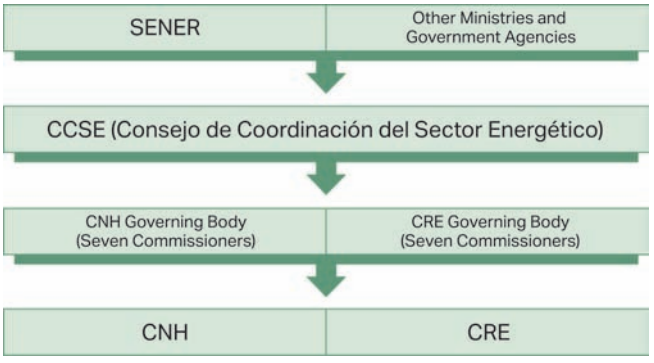
The energy reform was approved in 2013 and published in the Mexican Federal Register on December 21, 2013. Many government officials spoke of substantive and swift changes to the energy sector, and so far the reform appears to be "walking the talk." In July of 2014, the Mexican Senate approved a number of draft decrees or "secondary laws" for the implementation of the reform, which were approved by the Chamber of Deputies in early August and became law on August 12, 2014 (one day after publication in the Mexican Federal Register).

While the secondary laws include a number of decrees, the focus here is on the two that address hydrocarbon regulatory organizations and safety and environmental issues for the hydrocarbon sector. The objective is to provide an introduction to selected topics and issues addressed in:

- The Law of the Coordinated Regulatory Organizations for Energy Matters
- The Law of the National Agency of Industrial Safety and Environmental Protection for the Hydrocarbon Sector.

The significance of the first law is that it empowers the National Hydrocarbon Commission (CNH) to regulate the upstream sector and the Energy Regulatory Commission (CRE) to regulate the midstream sector. It also establishes 2 Councils, each with seven Commissioners, who will coordinate these agencies with the Department of Energy (SENER).

The second law creates a national agency of industrial safety and environmental protection for the hydrocarbon sector, which has been named the Safety, Energy and Environmental Agency (ASEA).



The coordination and relationships among the empowered organizations will be critical to the successful implementation of the new regulatory regime. Images from ABS.

Law of the Coordinated Regulatory Organizations for Energy Matters

The objective of the Law of the Coordinated Regulatory Organizations for Energy Matters is to regulate the organization and operation of coordinated regulatory organizations for energy matters and establish their competencies. It requires the CNH and CRE to act together in a coordinated way to regulate the upstream and midstream sectors, respectively. The downstream sector will require permits directly from SENER.

The law also establishes that CNH and CRE will have technical, operational, and management autonomy and that they will work in coordination with SENER. To facilitate coordination, CNH and CRE will rely on its own governing body made up of seven commissioners, including the governing body's president. The law states that commissioners will be appointed by the Mexican president and will be approved by the Senate. The commissioners will work with a new Energy Sector Coordination Council (CCSE), which will be responsible for coordinating between CNH and CRE with SENER and other branches/agencies of the Federal government. The CCSE membership will include the head of SENER, the two Presidents of the two governing bodies, the sub-secretaries of SENER, the Director General of the National Center for the Control of Natural Gas (CENAGAS), and the Director General of the National Center for Energy Control (CENACE).

CCSE will be responsible for fostering the energy policies established by SENER. This council also will make recommendations regarding energy policies, analyze proposals from CNH and CRE, establish operational rules for CNH and CRE, implement systems for sharing information coordination etc. The scope of CCSE excludes Productive State Companies (e.g., PEMEX).

CNH and CRE will a number of responsibilities, including:

- Publishing acts, resolutions, directives, regulations, etc., with technical, operational and management autonomy

- Conducting audits, verifications and inspections and take supervisory and enforcement actions
- Issuing permits, authorizations and apply sanctions
- Participating in international forums, organizations, associations in matters of the commission's competency (with the participation of the Department of Foreign Affairs), including entering in agreements with regulatory bodies of other countries
- Conducting and documenting inspections upon the request of SENER and other ministries
- Contracting services (consulting, studies, investigations etc.) that may be required in the performance of its activities
- Providing accreditation to third parties that will conduct activities such as supervision, inspection, verification, audits, and certification.

The ABS-classed Centenario semisub drilling unit, built in 2010, will be used by Pemex to drill in the deepwater Gulf of Mexico.

CNH will regulate and supervise the exploration and extraction of hydrocarbons, including collection at the production locations through integration with transportation and storage systems. This commission will tender, assign, and provide technical management of exploration and extraction contracts. These efforts will be conducted with a focus on accelerating the development of knowledge regarding the hydrocarbon potential in Mexico, elevating the long-term recovery of oil and gas, replenishing the reserves, and using the most appropriate technology. CNH will establish and manage the National Center of Hydrocarbon Information (CNIH). CNH's administration must follow the principles of transparency, honor, certainty, legalities, objectiveness, impartiality, effectiveness and efficiency.

CRE will regulate and promote efficient development of the transportation, storage, distribution, compression, liquefaction and regasification, and retailing of oil, natural gas, liquefied petroleum gas (LPG), petroleum products, and petrochemicals. CRE will have similar responsibilities related to bio-energy and electrical generation, transmission, and distribution.

ASEA

The Law of ASEA creates this agency under the Department of Environmental and Natural Resources (SEMARNAT) but with technical and management autonomy. The agency's objectives are to protect people, the environment and facilities in the hydrocarbon sector through regulation and supervision of:

- Industrial and operational safety
- Decommissioning and abandonment of facilities
- Integrated control of the residues and emissions of contaminants.

The law stipulates that ASEA must act based on effectiveness, efficiency, honesty, impartiality, objectiveness, productivity, professionalism, transparency, and social participation. ASEA is required to plan

ASEA will be responsible for establishing a number of minimum requirements

- The entire life cycle of the facilities, including abandonment and dismantling.
- Industrial safety, operational safety, and environmental policies.
- An evaluation of the physical and operational integrity of the facilities using procedures, tools, and methodologies that are widely recognized in the hydrocarbon sector.
- Risk evaluation, including hazard identification, analysis, evaluation, prevention measures, monitoring, mitigation, and valuation of the incidents, accidents and expected losses from distinct risk scenarios. Also, consider the consequences that these risks represent to the populations, environment, and facilities and structures within and in the vicinity of the industrials facilities.
- The identification and incorporation of the national and international best practices and standards regarding industrial safety, operational safety and environmental protection.
- Establish objectives, targets, and indicators to evaluate the performance of regulated company in the areas of industrial safety, operational safety and environmental protection as well as the implementation of the associated management system.
- The assignment of roles and responsibilities for the implementation, management and continuous improvement of the management system.
- A general plan for development and training in industrial safety, operational safety and environmental protection.
- The control of activities and processes
- The mechanisms for communication, dissemination of information and consulting, both internally and externally.
- Mechanisms for document control.
- The Contractor requirements regarding industrial safety, operational safety and environmental protection.
- The guidelines and procedures for accident prevention and emergency response.
- The procedures for recording, investigating, and analyzing incidents and accidents.
- The mechanisms to monitor, verify, and evaluate the implementation and performance of the management system.
- The procedures to conduct internal and external audits, including a tracking and following up with non-compliances.
- The legal aspects and internal/external standards of the activities of the regulated companies related to industrial safety, operational safety and environmental protection.
- Revision of the results of verifications.
- Periodic report on the performance regarding industrial safety, operational safety and environmental protection. ■

and conduct activities according to the law and under the planning guidelines of the President of Mexico and the programs established by the ministries that handle environmental and energy matters. The scope of ASEA will cover the entire hydrocarbon sector:

- Surface reconnaissance, exploration and extraction of oil and gas
- Treating, refining, wholesale, commercialization, transportation and storage of oil
- Processing, compression, liquefaction, decompression, regasification, storage, distribution and retailing of natural gas
- Transporting, storing, distributing and retailing LPG
- Transporting, storing, distributing and retailing petroleum products
- Pipeline transportation and petrochemical storage resulting from processing of natural gas and oil refining.

ASEA will work with other government organizations and competent entities to design national and international plans to prevent and respond to emergency situations in the hydrocarbon sector. Additionally responsibilities include:

- Defining technical measures that will be included in protocols for emergencies that involve critical risk (i.e., imminent danger that requires immediate action) or other situations that can result in damage to people and the environment
- Developing the basis and criteria for regulated entities to adopt as best practices for industrial safety, operational safety and environmental protection. This includes decommissioning and abandonment of facilities, site restoration, and integral control of residues and emission of contaminants.

One of the key elements of the law is that ASEA will require companies working in Mexico to implement a management system. These companies will have to establish in all legal agreements with subcontractors a management system that complies with ASEA requirements in any instance when activities involve risk.

The road forward

ABS began carrying out surveys in Mexico in 1898 with non-exclusive surveyors and established a legal entity in 1967. The first jackup rig ever built in Mexico, *Swecomex' Independencia 1*, was classed by ABS, which classes more than 85% of the rigs operating offshore Mexico today. As Mexico works to develop an attractive regulatory environment that will draw foreign investment – and the necessary technologies for developing challenging and complex deepwater fields – ABS is committing its decades of experience and specialized resources to assist in developing the regulations that will govern Mexico's offshore exploration and development. ■

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