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Amendments to Provisions applicable to Industrial and Operational Safety and Environmental Protection Management System in the Hydrocarbons Sector ("SASISOPA")

On May 4 2020, the Ministry of Environment and Natural Resources Ministry ("SEMARNAT"), with the support of the National Agency for Industrial Safety and Environmental Protection of the Hydrocarbons Sector ("ASEA"), issued a decree to amend its General Provisions ("DACGs") regarding authorizations in respect of activities in the hydrocarbons sector (the "Decree").

The amendments implemented pursuant to the Decree are aimed at: (i) granting ASEA authority to monitor SASISOPA compliance; (ii) including obligations to natural gas and oil transporters and distributors who carry out high risk activities in accordance with article 146 of the General Law of Ecological Balance and Environmental Protection ("LGEEPA"); (iii) authorizing third parties to issue SASISOPA reports; (iv) requiring an "Enabling Document" as a prerequisite of SASISOPA application; (v) defining the stages for SASISOPA registration and for its implementation approval; (vi) clarifying the process to amend the SASISOPA, and (vii) including certain amendments to the general obligations to obtain SASISOPA approval.

The original publication of the DACGs on May 13, 2016 contained inconsistencies which forced regulated parties to file with ASEA consultations, criteria confirmations and even requests for amendments to the DACGs in an attempt to comply with their obligations thereunder. The foregoing resulted in the issuing by ASEA of a multiplicity of unorganized criteria over time, which created the need to compile and harmonize same by amending the DACGs.

(i) Changes to SASISOPA monitoring and reporting.

The Decree now requires regulated parties to monitor SASISOPA implementation on a daily basis and includes the obligation to provide half yearly monitoring reports to ASEA. Failure to comply with said obligations may result in penalties set forth in the LGEEPA and the ASEA law. This new obligations are mandatory to all regulated parties, including those already holding an approved SASISOPA.

(ii) SASISOPA obligation applicable to high risk natural gas and oil activities.

Since their original publication, the DACGs were not clear enough as to the activities requiring a SASISOPA. With the issuance of the Decree, the ASEA has provided more clarity in this respect and it now requires an "Enabling Document" for hydrocarbons sector activities, including for "*high risk*" pursuant article 146 of LGEEPA.

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With the issuance of the Decree, as a general rule, every regulated activity within the hydrocarbons sector, including transporters and distributors of natural gas, LP¹ gas and oil products, must now hold a SASISOPA.

(iii) Authorized third parties who may issue a SASISOPA Integration Report.

Since the initial implementation of SASISOPA, a key objective has been to decrease the administrative workload of ASEA. The foregoing was initially sought by delegating to third party experts the authority to approve the SASISOPA, but was not implemented adequately. The Decree introduces the concept of "Integration Report" under which a regulated party will be able to inform ASEA as to its compliance with this obligation through an authorized third party.

Likewise, authorized third parties are now allowed to issue SASISOPA compliance and monitoring reports.

(iv) Obligation to hold an "Enabling Document".

In order to register the integration of the SASISOPA, regulated parties must submit an Enabling Document which authorizes them to carry out the specific activity intended to be registered with ASEA. With the issuance of the Decree regulated parties must submit to ASEA all modifications, extensions or amendments approved in relation to the Enabling Document. Therefore any modification approved by CRE, CNH or SENER to the Enabling Document must be notified to ASEA to keep the SASISOPA current and in effect. All regulated activities with an Enabling Document require a SASISOPA.

Note that the Decree pays particular attention to hydrocarbon extractive activities, and requires that ASEA be informed of any of the following actions:

I. CNH approvals in respect of programs and their modifications.

II. CNH approvals in respect of changes to plans.

III. CNH approvals in respect of any plans, when the Mexico's State-owned production companies transfer the administration of Allocation Areas between their implementation units.

IV. CNH approvals in respect of plans and programs, when Mexico's State-owned production companies decide to incorporate Allocations to any of their implementation units.

V. CNH approvals of any plans and programs, when Mexico's State-owned production companies decide to migrate assignments to contracts between any of their implementation units.

VI. Changes or incorporation of drilling contractors.

VII. Closure, dismantling and/or decommissioning of projects".

(v) Definition of stages for SASISOPA registration and its implementation.

A relevant concern caused by the DACGs, as originally issued, was the lack of clarity as to when do projects require SASISOPA registration. The DACGs as originally issued simply stated that SASISOPA registration had to be obtained prior to commencing "any activity". The broadness of this term caused

¹ As of today this requirement is not mandatory for the natural gas or LP gas distributors. However, it is expected that specific rules will be issued shortly.

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confusion and in some projects resulted in an insurmountable obligation, in particular in respect of projects of which the information required for the SASISOPA implementation is unknown in their early stages.

The Decree now sets forth, as a general rule, the SASISOPA registration must be obtained prior to carrying out any activity related to site preparation and construction. However, the approval of the SASISOPA **implementation** must be obtained at the following times:

1. For the exploration and extraction of hydrocarbons, it is necessary to obtain SASISOPA approval prior to commencing the relevant exploration and construction activities.
2. For any other regulated activities, SASISOPA approval is required prior to commencing project operation.

Except for the above specific cases, as a general rule the Decree allows construction of hydrocarbon sector projects without SASISOPA implementation approval, thus facilitating their execution.

(vi) Clarifications to the SASISOPA amendment process.

The Decree sets forth a clear procedure to amend the SASISOPA integration registration and for its implementation approval, with specific time frames for reporting and providing guidance as to the content of relevant reports.

(vii) General Amendments to obtain the SASISOPA

Certain exhibits, requirements and information required for the application for a SASISOPA, and official forms related to the integration registration process to obtain the SASISOPA were also amended with the issuance of the Decree. These can be found in the exhibits of the Decree².

Should you require additional information on ASEA and the effects of the amendments to the Decree, do not hesitate to contact Hector A. Garza Cervera (hgarza@ritch.com.mx) José Enrique Cruz Lozano (ecruz@ritch.com.mx) or Christian Rosales Fuentes (croales@ritch.com.mx), members of the environmental and social impact practice at Ritch Mueller.

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² Please see https://dof.gob.mx/nota_detalle.php?codigo=5592736&fecha=04/05/2020.