

Guidelines Regulating Exploration and Development Plans

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Just over three years ago, the first-ever regulation on the procedure to prepare, submit and evaluate hydrocarbons exploration and development plans was approved by Mexico's upstream regulator, the National Hydrocarbons Commission (*Comisión Nacional de Hidrocarburos*) (**CNH**). A few weeks ago, the Guidelines regulating Exploration and Development for the Extraction of Hydrocarbons Plans (the **New Guidelines**) were published in the Federal Register (*Diario Oficial de la Federación*).

Under the transitory clauses of the New Guidelines the former regulation: the Guidelines regulating the procedure to file, approve and supervise the performance of Exploration and Development for Extraction of Hydrocarbons Plans, as well as its amendments, published in the Federal Register on November 13, 2015, are repealed.

This new piece of upstream regulation deals with the filling, approval and, as appropriate, any modifications and supervision of exploration and development for the extraction of hydrocarbons plans (the "**Plans**"), as well as appraisal, pilot, work and transition (provisional) programs and their corresponding budgets.

Among the most relevant provisions of the New Guidelines *vis-à-vis* the superseded regulation are the following:

(i) they consider new concepts such as Early Production, Transition Program, Development or Extraction Area, among others;

(ii) the payment of governmental fees (*derechos y aprovechamientos*) to review and resolve applications now includes programs (including Appraisal) but the amounts of these fees is left to future determinations by the CNH, in accordance with applicable law;

(iii) improvement of the process to approve, modify and follow up on the Plans by:

(a) Reducing the time to approve the Plans or programs, as follows:

- Exploration Plans: 85 calendar days down from 120;
- Changes to Plans: term not to exceed 35 business days down from 120 calendar days;
- Work Program and Budget: 20 business days;
 - It also establishes differences between Contracts with and without cost recovery.
- Changes to the Work Program and Budget: 15 business days;
 - In case of changes to the Work Program and Budget for Contracts without cost recovery, the Operator shall only provide a notice to the CNH.
- Appraisal Programs: 40 business days; and

- Transition Programs: up to 30 business days.

(b) Establishing that the activities considered under the Exploration Plans must be consistent with the maturity stage of the Contract or Entitlement Area, and the possibility of encompassing all or part of the Exploration Process, which includes, the evaluation of oil and gas potential, reserve incorporation and characterization and delineation of a discovery; and

(c) Clearly establishing that a Transition Program may be applicable to Pemex's farmouts regulated by the CNH, as well as to oil and gas exploration and extraction contracts awarded as a result of a standard bid process. Further, these Transition Programs may contemplate Early Production activities;

(iv) The Transition Programs will be in force for a period of 1 year with the possibility of renewing its validity for additional year;

(v) Performance indicators are included. For Development for Extraction plans, the indicators include production, use of natural gas, major repairs, drilled wells, well completion, operation expenses and investments; and

(vi) If as part of the exploration activities, the Operator identifies areas where there may be natural accumulations of hydrocarbons, the Operator shall file, within the following 15 business days, a Hydrocarbons Prospective Appraisal Report (*Informe de Evaluación del Potencial de Hidrocarburos*).

In general, the New Guidelines describe in greater detail the content, approval and modification process for each type of Plan or program, including a new chapter dedicated to unconventional resources.

Furthermore, the following legal provisions are repealed and/or revoked:

(i) the forms contained in Annex IV to Resolution CNH.E.02.002/17 (whereby certain official forms to deliver information or documents were issued);

(ii) Articles 21, 22, 23, 24 and 25 of the Guidelines for the analysis and appraisal of the Nation's prospective and contingent resources and the exploratory process and its follow-up (*Lineamientos para el análisis y evaluación de los recursos prospectivos y contingentes de la nación y del proceso exploratorio y su seguimiento*); and

(iii) the Criteria to determine the Extraction Areas associated to Contract and Entitlement Areas (*Criterios para determinar el Área de Extracción asociada a Áreas Contractuales y de Asignación*). The content of this Criteria is now included in Annex II to the New Guidelines.

Any Operator that pursuant to its Contract or Entitlement is required to file for approval its Plans, Appraisal Programs, Transition Programs or amendments thereto within the period between the effective date of the New Guidelines and 60 business days thereafter, has the right to decide whether such documents will be filed either under the terms of the New Guidelines or the previous regulation.

Finally, the transitory provisions establish that the New Guidelines are effective on the business day following its publication in the Federal Register (*i.e.* April 15, 2018). Any filings related to approval or modification of Plans, will be resolved under the regulation that was effective on the filing date. It is also clarified that any reference to an "Appraisal Plan" or "Provisional Plan" in a Contract or Entitlement shall be understood as an "Appraisal Program" and "Transition Program" under the New Guidelines, respectively.

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