

Mexico's Environmental Agency for the Hydrocarbons Sector (ASEA) Issues Guidelines for Insurance Requirements

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On June 23, ASEA issued the Administrative Guidelines for Insurance Requirements applicable to exploration and production, crude oil treatment and refining, and gas processing activities in Mexico (the “**Guidelines**”). The Guidelines provide for obligatory insurance coverage in the following three basic categories regarding those activities: (i) civil liability, (ii) environmental liability, and (iii), when applicable, well control.

The Guidelines allow the operator to insure on the basis of either the monetary minimums in the Guidelines or a study of maximum probable loss (to be conducted by a third party authorized by ASEA). The per-event, annual aggregate amounts for civil and environmental liability insurance regarding exploration and production activities are as follows:

1. Onshore wells – US\$25 million to US\$100 million
2. Shallow water wells – US\$500 million
3. Deep water and ultra-deep water – US\$700 million

The operator must secure well control coverage (Operator Extra Expense coverage) in amounts calculated by multiplying a factor set forth in the Guidelines, by the amount of the relevant AFE for the type of well in question. The factors range from 1.5 to 6 times the relevant AFEs.

Operators that use vessels, jack-ups, boats, FPSOs and others must obtain protection and indemnity policies (P&I) for the amounts indicated in the Insurance Guidelines that range from US\$5 million to US\$1 billion.

Insurance coverage for environmental liability must include emergency response, containment of pollutants, mitigation of environmental impacts and damages, characterization of polluted sites, remediation, and environmental restoration or compensation.

Insurance pursuant to the Guidelines is not a safe harbor. It neither limits the operator’s obligation to employ best international practices in risk management, nor limits the operator’s liability for damages and losses (which may include lost profits) caused by it or its subcontractors and suppliers. The insurance must be primary, must be issued by insurers qualified in Mexico, and must contain a waiver of subrogation in favor of the government of Mexico. There is no mention of permissible deductibles or levels of self insurance in the Guidelines; and there are various reporting and registration requirements under the Guidelines.

ASEA must publish the Guidelines to calculate the insurance amounts under the alternative of the study of maximum probable loss, before July 24, 2016. The Guidelines became effective on June 24, 2016 and require operators to register their complying policies with ASEA within 60 calendar days.

For more information please contact one of the lawyers listed below.