

REGULATORY OVERVIEW OF THE CHILEAN ENERGY SECTOR - APRIL 2021¹

POLITICAL CONSTITUTIONAL

FUNDAMENTAL RIGHTS

The Article 19 N° 24 establishes that the State has the absolute, exclusive, inalienable and indefeasible dominion of all mines, including the salt mines and the deposits of coal and hydrocarbons and other fossil substances, notwithstanding the property of the persons on the lands in whose entrails they were located.

MINISTRY OF ENERGY

The MINENERGÍA is the highest collaborative body of the President of the Republic in the tasks of government and administration of the energy sector. Its main functions are to prepare and coordinate plans, policies and standards for the proper functioning and development of the energy sector, to ensure its compliance and give advice to the Government on all matters related to the energy sector, considering all types of primary and secondary energy source.

It was created by Law N° 20.402 of 2009 that modifies Decree Law N° 2.244/1978.

NATIONAL COMMISSION OF ENERGY

The CNE is a decentralized public institution with its own capital and full capacity to acquire and exercise rights and contract obligations, whose communications with the President of the Republic are channeled through the MINENERGÍA. It is responsible for analyzing prices, tariffs and technical standards to which the production, generation, transport and distribution of energy companies must adhere. All of the above, to provide a sufficient and safe service, compatible with the most economical operation.

It was created by Law N° 20.402 of 2009 that modifies Decree Law N° 2.244/1978.

SUPERINTENDENCY OF ELECTRICITY AND FUELS

The SEC is a functionally decentralized service, whose purpose is to supervise compliance with legal and regulatory norms as well as technical standards on the generation, production, storage, transportation and distribution of fuels, gas and electricity; services provided with current regulations and without danger to people or things.

It was created by Law N° 18.410 of 1985.

NATIONAL OIL COMPANY

ENAP is a company owned by the State of Chile, with legal capacity and its own assets, which relates to the President of the Republic through the MINENERGÍA. Its main purpose is the exploration, production, refining and commercialization of hydrocarbons and their derivatives. In addition, ENAP may participate in companies that develop activities related to the generation of power and exploration and exploitation of geothermal energy. It was created by Decree with Force of Law N° 1 of 1987.

NATIONAL COMMISSION OF NUCLEAR ENERGY

It is an organism of autonomous administration of the State, which relates with the Government through the MINENERGÍA. Its functions, among others, include addressing issues related to the peaceful uses of atomic energy; to regulate, supervise and control relevant nuclear and radioactive facilities throughout the country; and to advise the Government on matters related to nuclear energy.

It is the only entity empowered to conclude legal acts related to lithium. It represents the State of Chile in matters regarding the exploitation of grantable substances that are accompanied by lithium, being able to request their separation.

It was created by Law N° 16.319 of 1965.

NATIONAL ELECTRICAL COORDINATOR

The Coordinator is a technical and independent organism, in charge of the coordination of operation of the interconnected facilities of the SEN that operate interconnected among themselves.

It was incorporated in the LGSE by means of Law N° 20.936 of 2016.

PANEL OF EXPERTS

The Panel of Experts is an autonomous collegiate organism whose function is to solve the discrepancies and conflicts that arise as a result of the application of electrical and gas legislation.

It was incorporated in the LGSE by means of Law N° 19.940 of 2004.

ENERGY SUSTAINABILITY AGENCY

The Energy Sustainability Agency (ex AChEE) is a non-profit, private-law legal entity whose purpose, among other matters, is to promote, strengthen and consolidate the efficient use of energy on a national and international level. It also seeks to implement public-private initiatives in the different sectors of energy consumption, contributing to the competitive and sustainable development of the country.

It was created in 2010, by virtue of Decree Law N° 2.244 of 1978.

National Energy Policy DS 148/2016 MINENERGÍA

The Chilean Energy Policy - Energy 2050 built through a participatory process, proposes a vision of the energy sector by 2050 that corresponds to a reliable, sustainable, inclusive and competitive sector; in order to move towards a sustainable energy in all its dimensions. To achieve this vision, the policy defines plans of action and goals for two horizons: 2035 and 2050.

The long-term energy policy will be updated in a participatory manner every 5 years.

Washington Convention DS 531/1967 MINRE

Also known as the Convention for the Protection of Flora and Fauna and the Scenic Beauties of America. Its objective is to protect all species and genres of the flora and fauna of the Americas from extinction and to preserve areas of extraordinary beauty. Among other matters, it establishes conditions for activities carried out in areas with some degree of official protection.

Ramsar Convention DS 771/1981 MINRE

Convention on Wetlands of International Importance, especially as Waterfowl Habitat. Its objective is to ensure the conservation of wetlands and their flora and fauna through long-range national policies, combined with coordinated international action to the activities carried out in these areas.

Indigenous and Tribal Peoples Convention 169 OIT DS 236/2008 MINRE

It refers to the human rights and civil liberties of indigenous and tribal peoples and their right to land and territory, health and education; it establishes the protection of the social, cultural, religious and spiritual values and practices proper to indigenous peoples; and, among other matters, establishes the obligation to consult indigenous communities on legislative and administrative measures that may directly affect them.

Paris Agreement DS 30/2017 MINRE

It has its origin in the United Nations Framework Convention on Climate Change that establishes measures for the reduction of emissions of greenhouse gases (GHG) through the mitigation, adaptation and resilience of ecosystems for the purposes of global warming. It will be applicable as of the year 2020, when the Kyoto Protocol expires. Chile committed to meet goals to reduce the increase in the intensity of GHG emissions per GDP, as established in the National Determined Contribution (NDC) of Chile.

LAWS

ELECTRICAL ENERGY

Electrical Services DFL 4/20.018/2007 MINECON

It regulates the following markets, in matters such as:

- **Generation:** Concessions, a system of annual quotas of injection of NCRE to the SEN, PMG and PMGD, rationing.

- **Transmission:** Concessions, open access, tenders, expansion, valuation and remuneration of transmission interconnections.

- **Distribution:** Concessions, open access, energy tenders for the supply of regulated customers, the price regime according to the type of customers and size of the electricity system, fare equity, distributed generation.

- **Coordination and operation of the SEN and the electricity market:** Security, operation and economic transfers, public information, international exchanges, ancillary services.

- **Medium Systems:** Those electrical systems whose installed generation capacity is greater than 1.5 MW and less than 200 MW.

RENEWABLE ENERGY²

Geothermal Energy Concessions LAW 19.657/2000 MINMINERÍA

It establishes that geothermal energy is a state own good, capable of being explored and exploited, after granting a concession, and it defines the rules for the granting of exploration and exploitation concessions.

Among other matters, it regulates the relationships between the geothermal energy concessionaires, the State, the owners of the surface land and the holders of rights over other natural resources as well as the obligations that concessionaires must respect and the sanctions applicable in case of non-compliance.

Tax Exemption for Solar Thermal Systems LAW 20.365/2009 MINHACIENDA

It establishes a transitory benefit for construction companies, through which they can deduct from their income tax payment a tax credit equivalent to all or part of the value of the Solar Thermal Systems destined for the heating of sanitary water, which are installed in new homes built until 2020.

FUELS

Registry of Owners of Fuel Facilities DFL 1/1979 MINMINERÍA

It establishes a registry where the owners of facilities that serve for the production, import, refining, transport, distribution, storage, supply, reclassification or that commercialize fuel derived from petroleum, liquid biofuels, combustible liquefied gases and all combustible gas, must register natural gas, gas network and biogas. This record is carried out by the SEC.

Gas Services DFL 323/1931 MININTERIOR

It regulates the transport, the gas distribution of the network; the marketing of gas; the system of gas network concessions and tariffs; the role of the State regarding these matters; and the criminal and infraction provisions.

Fuel Price Stabilization Mechanism LAW 20.765/2014 MINHACIENDA

It regulates the stabilization of domestic sales prices of fuels, such as automotive gasoline, diesel oil, compressed natural gas and liquefied gas. This regulation is achieved through increases and reductions in the specific taxes established by the fuel tax law.

NUCLEAR ENERGY

Nuclear Safety and Security LAW 18.302/1984 MINMINERÍA

It regulates activities related to the peaceful uses of nuclear energy and nuclear substances and radioactive materials. It establishes measures to prevent the misappropriation and illicit use of nuclear energy, substances and facilities.

Mining Concessions LAW 18.097/1982 MINMINERÍA

It regulates the substances that are susceptible to mining concession and those who are not. Non-concessible substances include, among others, liquid or gaseous hydrocarbons, lithium, deposits of any kind existing in maritime waters subject to national jurisdiction and reservoirs of any kind located, in whole or in part, in areas that according to the law, may be determined as important for national security with mining effects.

As required by the national interest, the lithium extracted and concentrates, derivatives and compounds thereof, may not be subject to any legal act except when they are executed or concluded by the Chilean Nuclear Energy Commission or with its prior authorization.

ENERGY EFFICIENCY

Energy Efficiency LAW 21.305/2021 MINENERGÍA

It establishes the implementation every five years of a National Energy Efficiency Plan addressing matters of national interest. Large consumers mandate active energy management. It establishes that homes, buildings for public use, commercial and office buildings must have an Energy Qualification to obtain the final or definitive reception. It mandates the setting of energy efficiency standards for the fleet of new vehicles.

ENERGY INSTITUTIONALITY

ELECTRICITY SECTOR

GENERATION

Small Generation Media DS 88/2020 MINENERGÍA

It establishes that the Small Generation Means synchronized to the electrical system, whose surplus power available to the electrical system does not exceed 9 MW, have the option of selling energy at instantaneous marginal cost, being able to access the new price stabilization mechanism and sell your surplus power at the node price. In addition, it regulates the interconnection procedure, the operation and coordination of these means of generation; and the other matters necessary for the adequate development of small generation.

Capacity Transfers between Generation Companies DS 62/2006 MINECON

It regulates the transfers of capacity between generation companies, which are determined from the generation capacity that is compatible with the sufficiency and with the existing peak demand engagements

Determination and Payment of Compensations for Unavailability DS 31/2017 MINENERGÍA

It regulates the compensations that coordinated electricity companies must pay in case of unavailability of the electricity supply.

Hydraulic Pump Stations Without Hydric Variability DS 128/2016 MINENERGÍA

It regulates the treatment for pumping facilities without hydric variability as electricity storage systems coordinated by the Coordinator, as well as their technical characteristics.

Tenders for the Provision of Annual Energy Blocks with NCRE DS 29/2014 MINENERGÍA

It establishes the conditions and characteristics of the annual public tender processes for the provision of energy blocks from NCRE means and the applicable rules to materialize and operate the awarded projects.

MEDIUM SYSTEMS

Medium Systems Operation and Management DS 23/2015 MINENERGÍA

It establishes the provisions applicable to electrical systems which installed generation capacity is between 1.5 MW and 200 MW, named Medium Systems.

Recovery and Expansion of Medium Systems DS 229/2005 MINECON

It establishes the conditions and requirements for current installations in Medium Systems to qualify as generation facilities or transmission facilities and makes provision for the cost and demand calculation methodology.

TRANSMISSION

Long-Term Energy Planning DS 134/2017 MINENERGÍA

It regulates the procedure applicable to long-term energy planning in order to determine the scenarios for the transmission system planning, subject to the provisions of the LGSE.

Determination of Preliminary Corridors for New Transmission Projects DS 139/2017 MINENERGÍA

It establishes the procedure applicable to the determination of alternative and preliminary corridors for those new transmission projects that may require it and the determination of the final layout, security corridors and the constitution of electrical easements in case of determining corridors

Qualification, Valuation, Pricing and Remuneration of Transmission Facilities DS 10/2020 MINENERGÍA

It establishes the provisions applicable to the processes of qualification, valuation, pricing and remuneration of the facilities of the transmission systems.

COORDINATION AND OPERATION OF THE SEN

Coordination of the Operation DS 125/2019 MINENERGÍA

It complements the LGSE regarding the obligations of the Coordinator, as well as the planning and programming of the operation.

Supply Security Plans Requirements DS 97/2008 MINECON

It regulates, among other matters, the circumstances under which a Supply Security Plan is required to the Coordinator. The plan will be a set of measures to be fulfilled by the Coordinator, aiming at ensuring the supply of the relevant electrical system and the prevention of deficit situations or reducing to a minimum level the risk of them within a given period of time. The plan shall also take into consideration, where applicable, a proper handling of the hydrological resources of a system and/or the optimal use of the available consumables for thermal plants.

International Exchanges of Electrical Services DS 142/2017 MINENERGÍA

It establishes the requirements, terms and procedures for energy export and import applications and other electrical services, from and to the electrical systems located within the national territory.

Independent Coordinator of the SEN DS 52/2018 MINENERGÍA

It establishes the provisions applicable to the organization, composition and operation of the Coordinator. It also regulates all the necessary matters for the Coordinator to exercise its duties and powers according to the provisions of the LGSE and other applicable regulations.

Ancillary Services DS 130/2012 MINENERGÍA

Ancillary Services are those services that allow the coordination of the operation of the National Electric System. The Coordinator, through the Ancillary Services, must preserve the security of the service and guarantee the most economical and quality operation for the electric system.

DISTRIBUTION

Concessions and Distribution DS 327/1998 MINMINERÍA

It regulates all those matters of the LGSE that are not entrusted to a special regulation. Currently those standards regarding concessions and electricity easements; security and quality of the electricity supply provided by electricity distribution companies; determination of the distribution component of the tariffs applicable to regulated customers, among others, remain valid.

Price Determination for Ancillary Services DS 341/2008 MINECON

It regulates the determination of prices for services derived from the electricity supply provided by distribution concessionaires as ancillary services, such as: leasing, installation; modification or reprogramming of electricity consumption measuring devices; installation, removal or capacity enlargement of electric connections; or review of electric projects.

Base Price Determination DS 86/2013 MINENERGÍA

It establishes the applicable rules for determining the energy and capacity prices that will be transferred from the concessionaires of the public service of distribution to their clients subjected to tariff regulation.

Energy Tender for Regulated Customer DS 106/2016 MINENERGÍA

It establishes the provisions applicable to bidding procedures for the supply of electrical energy, which have the purpose of making the public services concessionaires put in place energy supply agreements to supply the consumption of regulated customers located in their concession area with electrical systems of installed capacity greater than 200 MW.

Distributed Generation for Self-consumption (Netbilling) DS 57/2020 MINENERGÍA

It establishes the applicable provisions in the matter of distributed generation intended for self-consumption, in particular, the procedure to carry out the connection of generation equipment and the cost of the works, establish the limits to the connection and injections, measurements and valuation of injections and transfers of non-conventional renewable energy surpluses.

Technical Standard for Low-Voltage Consumption Facilities DS 115/2004 MINECON

This standard aims at establishing the minimum security conditions to be met by low-voltage consumption electrical facilities to safeguard people who operate or use them and preserve the environment where they have been built.

RENEWABLE ENERGY²

SECURITY

Tax Exemption of Thermal Solar Systems DS 331/2010 MINENERGÍA

It establishes complementary standards for implementing Law N° 20.365, that establishes a fiscal credit for building companies installing Thermal Solar Systems intended for warming sanitary water in new residences before 2020.

It also details the minimum requirements Thermal Solar Systems must meet, their installation and mandatory maintenance, as well as other matters entrusted by the law.

Geothermal Energy Concessions DS 114/2013 MINENERGÍA

It regulates the procedure and granting of geothermal energy exploration and exploitation concessions, as well as the control and compliance with the obligations derived from the concession, whether it is granted to explore or to exploit.

Safety of Biogas Facilities DS 119/2017 MINENERGÍA

It establishes minimum safety requirements that biogas facilities must comply with in the design, construction, operation, maintenance, inspection and definitive conclusion of operations, in which any of the stages associated with generation or consumption of biogas is carried out.

Quality Specifications for Biofuels DS 11/2008 MINECON

It contains quality definitions and specifications for the production, import, transport, storage, distribution and commercialization of bioethanol and biodiesel.

NUCLEAR ENERGY

Physical Protection of Radioactive Materials in First Category Radioactive Facilities DS 82/2020 MINENERGÍA

It establishes the provisions for the physical protection of radioactive materials that are produced, treated, manipulated, stored or used in first category radioactive facilities, in order to prevent and detect their misappropriation, and other illegal or unauthorized uses and acts in these facilities, and regulate the response in the event of the occurrence of such events.

Procedure for Applying a Tax Over Atmosphere Contaminating Emissions DS 18/2016 MMA

It regulates the obligations and procedures for identifying taxpayers who are obliged to pay the tax over emissions to the atmosphere of particulate material, Nitrogen Oxides, Sulfur Dioxide and Carbon Dioxide produced by facilities with boilers or turbines that, individually or as a group, have a thermal capacity greater than or equal to 50 MW, considering the maximum limit of the energetic value of fuel established in the Income Tax Law. It also establishes the administrative procedures required for its correct implementation.

Emission of Atmosphere Contaminants for Thermal Power Plants DS 13/2011 MMA

It seeks to control the emission to the air of Particulate Material (PM), Nitrogen Oxides (NOx), Sulfur Dioxide (SO2) and Mercury (Hg), aiming to prevent and protect people's health and the environment. This regulation is mandatory throughout the Chilean territory.

Specifications of the Quality of Fuels DS 60/2012 MINENERGÍA

It establishes gasoline quality specifications for spark ignition engines, Kerosene and Diesel Oil Grade B.

Concessions for the Distribution and Transportation of Gas DS 263/1995 MINECON

It regulates the procedure for the granting of Concessions for the Public Service of Network Gas Distribution and of Network Gas Transportation, the Requests for such Concessions, Operating Conditions; and the Expiration of Concessions before entering into exploitation.

Network Gas Service DS 67/2004 MINECON

It establishes dispositions that are applicable to the companies that distribute or supply network gas to the facilities of said companies, to those of the clients or consumers when these are necessary to carry out the supply, and to the relations of the distributing or supplying companies with the State and with the individuals. The aforementioned, whether or not they are public service concessionaires.

COMPLEMENTARY SPECIAL LEGISLATION

Water Regulation Code DFL 1122/1981 MINJUSTICIA

It regulates the right to use the water that is destined to the production of electrical energy. Likewise, it regulates hydroelectric plants that are governed by the provisions of the LGSE.

Maritime Concessions DFL 340/1960 MINHACIENDA

It regulates the maritime concessions granted on national public goods or fiscal goods whose control, supervision and oversight corresponds to the Ministry of National Defense, whatever the use to which the concession is destined and the place where the goods are located.

Marine Coastal Spaces of Native Peoples LAW 20.249/2008 MIDEPLAN

It establishes that the goods included in the coastal border that are under the supervision and administration of the Ministry of National Defense are susceptible to be declared as marine coastal spaces of native peoples.

Income Tax DL 824/1974 MINHACIENDA

It establishes, among other provisions, an annual tax for fiscal benefit that taxes air emissions of particulate matter, oxides of nitrogen, sulfur dioxide and carbon dioxide, produced by fixed sources that add a power greater than or equal to 50 MW thermal.

Incentives for Economic Development in Arica and Parinacota LAW 19.420/1995 MINHACIENDA

It grants a tax credit in favor of all those First Category taxpayers that invest in the provinces of Arica and Parinacota, destined to the production of goods or provision of services in said zones.

General Basis of the Environment LAW 19.300/1994 MINSEGREPS

It regulates the right to live in a pollution-free environment, the protection of the environment, the preservation of nature and the conservation of environmental heritage.

Among other matters, it establishes:

- Procedures to dictate quality standards and emission of pollutants.
- The Environmental Evaluation System of investment projects.
- The responsibility for environmental damage.
- The Ministry of Environment.
- The Council of Ministers for Sustainability.
- The Environmental Evaluation Service.
- The Superintendence of the Environment.

Acquisition, Administration and Disposition of State Goods DL 1.939/1977 MTyC

It establishes that State assets may be subject to destinations, concessions of use, affectations and leases.

Incentives for Economic Development in Extreme Zones LAW 19.606/1999 MININTERIOR

It grants a tax credit in favor of all those First Category taxpayers that invest in the extreme zones of the country, destined to the production of goods or provision of services in said zones.

ENERGY POLICY

INTERNATIONAL TREATIES

REGULATIONS

OTHER MATTERS

Regulation of the Expert Panel DS 44/2018 MINENERGÍA

It regulates the integration, operation, financing and facilities of the Expert Panel, as well as the procedures and other matters necessary for the proper exercise of their duties.

Procedure for Issuing Technical Standards on the Electrical Sector DS 11/2017 MINENERGÍA

It regulates the procedure for elaboration and amending technical standards governing technical matters related to security, coordination, quality, information and economic performance of the electrical sector. These standards are enacted by the CNE.

Procedure for determining other Means for the Generation of Non-Conventional Renewable Energies DS 20/2015 MINENERGÍA

It regulates the procedure for determining other means for the generation of NCRE, which use renewable energies for the production of electricity and diversify supply sources.

Safety of Electric Energy Consumption Facilities DS 8/2019 MINENERGÍA

It establishes the minimum requirements so that the performance of an installation that consumes electricity is in safe conditions for people and things.

Security of Electrical Facilities DS 109/2018 MINENERGÍA

It establishes the minimum security requirements to be met by electrical facilities devoted to the production, transportation, provision of ancillary services, storage and distribution systems of electrical energy. It also establishes the obligations of natural and legal persons that participate in these activities to develop them in a safe manner.

OTHER ABBREVIATIONS:

CNE National Commission of Energy
DFL Decree with Force of Law
DSE Supreme Decree
ENAP National Oil Company
LGSE General Law of Electrical Services
LNG Liquefied Natural Gas
LP Liquid Petroleum

LPG Liquefied Petroleum Gas
NCRE Non-Conventional Renewable Energy
PMG Small Generation
PMGD Small Distributed Generation
SEC Superintendence of Electricity and Fuels
SEN National Electrical System

Regulations with associated technical standards

giz Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Ministerio Federal de Medio Ambiente, Protección de la Naturaleza y Seguridad Nuclear

Ministerio de Energía

de la República Federal de Alemania

Gobierno de Chile

¹ This overview only includes the most relevant Chilean regulations, applicable to each of the areas of the Energy Sector. It therefore, does not represent the totality of Chilean regulation. The map shows current regulations as of April 15th, 2021. The dates associated with each law are those of its publication date and those of each regulation are those of its first publication in the Official Gazette, notwithstanding that its texts include subsequent modifications. Some abbreviations are with their original name in Spanish.
² The regulatory framework of the electricity sector applies entirely to non-conventional renewable and renewable energies.

MINISTRIES ABBREVIATIONS:
MIDEPLAN Ministry of Planning and Coordination
MINECON Ministry of Economy, Development and Reconstruction
MINENERGÍA Ministry of Energy
MINHACIENDA Ministry of Finance
MININTERIOR Ministry of Interior
MINJUSTICIA Ministry of Justice

MINMINERÍA Ministry of Mining
MINREL Ministry of Foreign Affairs
MINSEGREPS Ministry General Secretary of the Presidency
MMA Ministry of Environment
MTT Ministry of Transport
MTyC Ministry of Land and Colonization

