

Brazil's ANP Allows Extensions of Contractual Deadlines and Establishes E&P Procedures (COVID-19)

On April 20, 2020, Brazil's National Agency of Petroleum, Natural Gas and Biofuels ("ANP") published Resolution No. 815/2020, which provides for the extension of deadlines related to oil and natural gas exploration and production contracts ("Resolution 815"), and Resolution 816/2020, which defines procedures to be adopted by entities regulated by the ANP that work in the exploration and production of oil and natural gas, during the emergency public health situation caused by COVID-19 ("Resolution 816").

Resolution 815

Resolution 815 allowed contractors, upon submission of expression of interest in writing, to extend, for a period of nine months, the following deadlines, provided for in the oil and natural gas exploration and production contracts: (i) end date of the current exploratory period for effective contracts that do not have suspended deadlines; (ii) end date of the current exploratory period for suspended contracts that become effective again by December 31, 2020; (iii) critical dates already established for in effective Discovery Appraisal Plans ("PAD"), already approved by the ANP, such as decision points and PAD end date; (iv) critical dates already established for suspended PADs that become effective again by December 31, 2020, such as decision points and PAD end date; and (v) deadline for declaration of commerciality of PAD in Postponement of Declaration of Commerciality.

In relation to the hypotheses of items (iii), (iv) and (v) above, it will be possible to change only the deadlines schedule related to the PAD, maintaining unchanged the activities committed and approved under the PAD.

The extension of the deadlines associated with the PAD provided by Resolution 815 does not encompass the extension of the maximum term of the Long Term Test (TLD) approved by the ANP.

Contractors that are interested in the extension must fully meet the following requirements:

Contractual Term object of Extension Request	Requirements
End date of the current exploratory period for effective contracts	For contracts with an end date of the current exploratory period by May 31, 2020, the operator must jointly submit: (i) Expression of Interest in the extension by three days prior to the end of the current exploratory period and (ii) Financial Guarantee(s) corresponding to the portion of the PEM not yet certified as fulfilled, with an expiration date of one hundred and eighty days longer than the new end date of the exploratory period.
	For contracts with an end date of the current exploratory period between July 1, 2020 and July 31, 2020, the operator must jointly submit: (i) Expression of Interest in the extension by fifteen days prior to the end of the current exploratory period and (ii) Financial Guarantee(s) corresponding to the portion of the PEM not yet certified as fulfilled, with an expiration date of one hundred and eighty days longer than the new end date of the exploratory period.
	For contracts with an end date of the current exploratory period between August 1, 2020 and December 31, 2020, the operator must jointly submit: (i) Expression of Interest in the extension by thirty days prior to the end of the current exploratory period and (ii) Financial Guarantee(s) corresponding to the portion of the PEM not yet certified as fulfilled, with an expiration date of one hundred and eighty days longer than the new end date of the exploratory period.
End date of the current exploratory period for effective contracts	For contracts with an end date of the current exploratory period as of January 1, 2021, the operator must jointly submit: (i) Expression of Interest in the extension by ninety days prior to the end of the current exploratory period and (ii) Financial Guarantee(s), by thirty days prior to the end of the current Exploratory Period, corresponding to the portion of the PEM not yet certified as fulfilled, with an expiration date of one hundred and eighty days longer than the new end date of the exploratory period.
Critical Dates of effective PADs already approved	For critical dates of PADs already approved that end by May 31, 2020, the operator must submit an expression of interest in the extension by three days prior to the first critical date.
	For critical dates of PADs already approved that end as of June 1, 2020, the operator must submit an expression of interest in the extension by fifteen days before the first critical date.
Current Exploratory period in force for suspended contracts	The operator must submit jointly: (i) Expression of Interest in the extension by thirty days after the date on which it was

that become effective again by December 31, 2020	notified about the end of the suspension and (ii) Financial Guarantee(s) corresponding to the portion of the PEM not yet certified as fulfilled, with a validity period of one hundred and eighty days longer than the new end of the exploratory period.
Suspended PADs that become effective again by December 31, 2020	The operator must submit an expression of interest in the extension by thirty days after the date on which it was notified of the end of the suspension.
PAD on Postponement of Declaration of Commerciality	The operator must submit an expression of interest in the extension by fifteen days before the final date for Declaration of Commerciality.

Resolution 816

Resolution 816 confirmed the measures related to Development and Production and to Production Inspection provided for in Orders 92/2020/SDP and 262/2020/NFP, which were addressed in our previous [legal update](#). In addition to general guidelines, Resolution 816 included specific guidelines on (i) communication, (ii) technical data, (iii) contracts in the exploration phase, (iv) development and production, (v) measurement of production, (vi) operational safety and environment, (vii) government take, (viii) research, development and innovation and (ix) local content.

Communication

Operators must report to the ANP: (i) cases of suspected and confirmed coronavirus, per production unit; (ii) the impacts generated in drilling and production activities; (iii) the impacts generated on the security of operations and the measures adopted to contain the spread of COVID-19; (iv) any changes in the operational routines that may compromise totally or partially the national supply of oil and natural gas; (v) the number of normal and reduced personnel on board (POB), when there is a situation of change in units to the minimum effective number necessary for safe operation; and (vi) the numbers of the emergency response structure (EOR), normal and reduced, when there is a situation of change in the units to the minimum effective number necessary for safe operation.

These communications must be submitted with the respective action plans, aiming at the continuity of the provision of services.

Technical Data

Resolution 816 suspended the terms of the adhesion contracts for accessing data from the ANP Exploration and Production Database (BDEP). Only technical data used to comply with the Minimum Exploratory Program (PEM) will be received.

Exploration Phase Contracts

The deadline for submission of information of the Annual Work Program and Annual Work Budget (PAT/OAT) of the contracts signed in 2020 has been extended to October 31, 2020. Submission of information related to Monthly Well Status may occur every two months for contracts in the exploration phase, as well as for contracts in the production phase.

The financial guarantees regarding pecuniary amounts of Work Units fulfilled through acquisition of raw seismic data will be reduced and/or returned based on ANP's approval.

Development and Production

In accordance with Order No. 92/2020 of the Development and Production Department (see our [legal update](#)), of April 7, 2020, Resolution 816 established the: (i) suspension of the deadline for submission of reviews of Development Plans and Annual Work, Budget and Production Programs, except if the submission is expressly required by the ANP; (ii) extension of the deadlines for concessionaires' response regarding ANP requests to the Monthly Production Bulletin to 60 days — deadlines for submission of the Monthly Production Bulletin are not changed; (iii) authorization for postponement of activities provided for in the Annual Work and Budget Program (PAT) to be carried out in 2020 up to one year, without the need to review such programs; and (iv) authorization for extraordinary burning of up to 100,000 m³/day of natural gas in small production fields.

In addition, Resolution 816 suspended, for concessions with marginal areas contracts, the deadline for the compliance with the Initial Work Program (PTI) and its Declaration of Commerciality.

Production Measurement

Following Order No. 262/2020 of the Measurement of Oil and Natural Gas Production Inspection Center (see our [legal update](#)), of April 7, 2020, Resolution 816 suspended deadlines for certain operational procedures, such as those applicable to: (i) collection of oil samples and natural gas at tax measurement, appropriation and custody transfer points; (ii) calibration of primary elements — oil and natural gas measurement systems; (iii) calibration of secondary elements for temperature and pressure measurement, as well as measurement tapes and thermometers associated with tanks; (iv) inspection of components of the measurement systems encompassed in the Technical Regulation for Measurement of Oil and Natural Gas; (v) verification of flow meters for flare gas; and (vi) tests of wells exclusively located in onshore fields.

Operational Safety and Environment

Resolution 816 allows the term extension of internal audits cycle of each facility, relating to the following technical regulations for operational safety: (i) Well Integrity Management System (SGIP); (ii) Subsea Systems Operational Security Management System (SGSS); (iii) Technical Regulation of Onshore Pipelines (RTDT); (iv) Structural Integrity Management System (SGI); and (v) Operational Safety Management System (SGSO).

The performance of oil and natural gas exploration and production activities that are not essential to guarantee the national supply are subject to the execution of risk analysis according to the emergency scenario due to COVID-19.

Government Takes

The deadline for submission of the compositional analysis of natural gas was extended to 30 days after the end of Resolution 816 term, for the purpose of valuing the natural gas reference price ("PRGN"). During the term of Resolution 816, the calculation of the PRGN will be carried out based on the last compositional analysis of the natural gas delivered to the ANP.

Research, Development and Innovation ("RD&I")

Resolution 816 extended to September 30, 2020 (i) the deadline to make RD&I investments, to fulfill the obligations generated by the petroleum companies in the reference year of 2019 and (ii) the application of the Balance of Unapplied Resources (SRN) assessed on June 30, 2019. The deadline for delivery of the Annual Consolidated Report (RCA) for the reference year of 2019 was also extended to December 30, 2020.

Local content

For cases in which the original deadline for submission of the last Local Content Report was the period between March 1, 2020 and June 30, 2020, Resolution 816 postponed the deadline to the first business day of July 2020. It also extended the deadlines for submission of the Quarterly Expenditure Reports to the fifteenth business day of August 2020, which calculation period corresponds to the expenses incurred in the first quarter of 2020.

Procedural deadlines

Resolution 816 suspended the procedural deadlines for the entities to submit answers in administrative sanctioning proceedings, provided that they do not require urgent processing. However, the suspension does not exempt the agents from complying with contractual and legal obligations that are not suspended by Resolution 816. Notifications that expressly provide the need for compliance even during the term of Resolution 816 are not included by this suspension. Likewise, deadlines and proceedings regarding government takes will not be suspended.

Effectiveness

Resolution 816 will remain effective until December 31, 2020 and, if the conditions of public calamity that caused its publication change, the ANP may revoke it, in whole or in part, granting, when necessary to guarantee legal certainty, a period for the reestablishment of obligations affected by this resolution.

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