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# Brazil Energy Journal

ABANDONMENT AND DECOMMISSIONING



# Overview

Abandonment and decommissioning activities are a normal part of the life cycle of oil and natural gas fields, work usually done when production is no longer economically feasible and output has become insufficient to sustain operating costs. Such activities may include the final interruption of the facilities' operation, the permanent abandonment and razing of wells and the removal of facilities.

Acknowledging this reality, Brazil's exploration and production (E&P) contracts establish that contractors must carry out the decommissioning activities and present abandonment guarantees to cover the estimated costs. From a regulatory perspective, the decommissioning of E&P facilities must comply with specific rules issued by different entities, such as environmental entities, the Brazilian Navy and the National Agency of Petroleum, Natural Gas and Biofuels (ANP).

Around 2015, ANP initiated discussions and additional studies on decommissioning activities in Brazil to review and standardize the framework. With the subject increasingly important as the number of mature fields grows in Brazil.

In 2020, ANP published Resolution No. 817/2020, which was a milestone for the energy industry, consolidating and modernizing the technical regulation for decommissioning of E&P Facilities and making ANP's analysis more dynamic.

Later, ANP published Resolution No. 854/2021, reinforcing its commitment to promote legal certainty and clarity on the obligations and deadlines for the presentation of abandonment guarantees. ANP Resolution No. 854/2021 also expressly stated the acceptance of other types of abandonment guarantees and their specific requirements.

Moreover, the Decommissioning Facility Plans submitted by contractors to ANP are publically available, in compliance with the provisions of ANP Resolution No. 817/2020, making the procedure more transparent. ANP forecasts a investment of BRL 30,92 billion from 2021 until 2025 in decommissioning activities, pursuant to ANP's Painel Dinâmico de Descomissionamento de Instalações.



# Decommissioning Procedure

## *ANP Resolution No. 817/2020*

ANP Resolution No. 817/2020 was published on April 24, 2020, and modernized the legal framework for decommissioning in Brazil by establishing the Technical Regulation for Decommissioning of Exploration and Production Facilities.

The resolution was the result of a joint effort of ANP, the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA) and the Brazilian Navy. The purpose was to include in a single instrument the provisions for decommissioning facilities, promoting legal certainty, regulatory simplification and a more efficient proceeding, even though ANP Resolution No. 817/2020 is not a joint resolution.

This resolution also regulated the decommissioning in the assignment of contracts, the inclusion of the onshore area under contract in the production phase in the permanent offer, the disposal and reversal of assets, compliance of remaining obligations in the exploration phase and relinquishment of areas in the production phase.

Pursuant to the resolution, the contractor must explore all economically and environmentally feasible development options in order to maximize the recovery of the reservoir and avoid premature decommissioning of production facilities.

In this sense, ANP Resolution No. 817/2020 provides for a detailed procedure to be followed by the contractor, including specific documents to be prepared and submitted to ANP within the applicable deadlines.

In case there are facilities to be decommissioned by assignor under an assignment proceeding, assignor will be required to submit and updated Facility Decommissioning Plan with the assignment request. A deed of decommissioning must also be executed between assignor and ANP, as well as assignee in the capacity of consenting party.



# Decommissioning Procedure

## Documents & Deadlines

# 1

### ***Study to Justify Facility Decommissioning (EJD)***

Document describing the area to be relinquished and considering the properties of the reservoir, wells and facilities, together with the reasons for the decision to proceed with the decommissioning of facilities.

The EJD must be submitted together with the Conceptual Facility Decommissioning Plan (item ii below) for offshore facilities. The EJD submission requirement will be waived if a solution is applied to enable production to continue and maximize the recovery factor of the reservoir. The contractor must keep the EJD updated until the end of production.

ANP may request the EJD for onshore production facilities within 60 days from receiving the Executive Facility Decommissioning Plan. Then the contractor must submit the EJD within 90 days from ANP's request.

# 2

### ***Conceptual Facility Decommissioning Plan***

Document describing the scope of the decommissioning plan, including the content provided in items 1 to 4 and 5.4 of Annex III (offshore facilities) or items 1 to 4 and 8 of Annex IV (onshore facilities) of ANP Resolution No. 817/2020. The contractor must submit to ANP the Conceptual Plan within the following deadlines:

In the exploration phase:

**(a)** within 60 days after the end of the term of the contract or the communication of the termination of the contract by ANP.

**(b)** together with the notification of return of the area, in the event that the contractor decides to relinquish a part or all of the contracted area.

**(c)** at the time of the request for the long-term test authorization for the facilities used in the long-term test (TLD).

In the production phase:

- (a) Offshore facilities – within 5 years before the date scheduled for the end of production.
- (b) Onshore facilities – within 2 years before the date scheduled for the end of production.
- (c) Systems of Anticipated Production – when requesting authorization for anticipated production.

# 3

## ***Executive Facility Decommissioning Plan***

Document including information, projects and studies necessary to plan and execute the decommissioning of facilities. This document must be presented to ANP (i) within 24 months counted from the term of the TLD or the SPA, under the exploration phase; (ii) in cases of offshore facilities under the production phase, within 6 months counted from the approval of the Conceptual Decommissioning Plan; or (iii) in cases of onshore facilities in the production phase, within the deadline established by ANP when approving the Conceptual Decommissioning Plan. The contractor is not allowed to implement the Executive Decommissioning Plan prior to ANP's approval.

# 4

## ***Facility Decommissioning Report (RDI)***

Document presented by the contractor that describes all activities performed during the decommissioning of facilities. ANP may execute the abandonment guarantees provided for in the contracts, in the event of non-compliance with the Facility Decommissioning Plan of production facilities, verified by the analysis of the RDI or the partial reports, without prejudice to the sanctions stipulated in the applicable legislation. The RDI must be presented to ANP within 180 days counted from the implementation of the Executive Facility Decommissioning Plan.

## Transparency and Publicity

ANP Resolution No. 817/2020 requires ANP to disclose the Facility Decommissioning Plans submitted by contractors. As of the date of this Legal Update, 16 documents were made available by ANP on its website:

-  [Executive Facility Decommissioning Plan - Plataforma FPSO Polvo](#)
-  [Executive Facility Decommissioning Plan - Plataforma FPSO P-32](#)
-  [Conceptual Facility Decommissioning Plan - Plataforma FPSO Fluminense](#)
-  [Conceptual Facility Decommissioning Plans - Sistemas de Produção dos Campos de Marlim e Voador](#)
-  [Executive Facility Decommissioning Plan - FPSO Capixaba](#)
-  [Executive Facility Decommissioning Plan - Campo de Miranga Leste](#)
-  [Conceptual Facility Decommissioning Plan - FPSO Pioneiro de Libra – SPA 2](#)
-  [Executive Decommissioning Plan - Campo de Fazenda Sori](#)
-  [Executive Decommissioning Plan - Campo de Rio Ibiribas](#)
-  [Executive Decommissioning Plan - Campo de Fazenda Gameleira](#)
-  [Executive Decommissioning Plan - Campo de Paramirim do Vencimento](#)
-  [Executive Decommissioning Plan - Campo de Camaçari](#)
-  [Executive Decommissioning Plan - Campo de Beija Flor](#)
-  [Executive Decommissioning Plan - Campo de Rio Joanes](#)
-  [Conceptual/Executive Decommissioning Plan - Plataforma P-26](#)
-  [Conceptual Decommissioning Plan - Plataforma Aratum PART2](#)

# Abandonment Guarantees

## *ANP Resolution No. 854/2021*

On September 29, 2021, ANP published Resolution No. 854/2021, which provides the procedures for the presentation of financial guarantees to ensure the financial resources for decommissioning facilities in oil and natural gas production fields.

As a rule of thumb, the operator must present a financial guarantee or deed that ensures the decommissioning of facilities, already in place, within 180 days from the production start date of the field. The financial guarantee or deed may be presented in a way to compose the amount to be guaranteed annually, pursuant to the Progressive Allocation Model (MAP).

The total amount to be guaranteed must correspond to the estimated decommissioning cost, pursuant to the latest version of the approved Annual Work Plan (PAT). The types of guarantees accepted by ANP are detailed in the following pages.

ANP may also accept self-insurance by the contractor/concessionaire to guarantee the fulfillment of its decommissioning obligations by means of an extrajudicial guarantee, according to the total value of the obligation, defined in the MAP, and upon signature of an extrajudicial enforceable deed pursuant to the Brazilian Civil Procedure Code. ANP also sets forth a limited amount that can be guaranteed by the guarantor, based on the guarantor's net worth.

The financial guarantee or deed will be accepted at ANP's discretion, and ANP may, at any time, determine the replacement of a type of decommissioning guarantee or deed, whenever the technical evaluation concludes that such guarantee or deed is inefficient and inadequate in the specific case.



# Abandonment Guarantees

## *Types & Requirements*

### 1

#### ***Letter of credit***

ANP will accept letters of credit issued by financial institutions authorized to operate in Brazil, which have a risk rating certified by a credit risk rating agency with more than a thousand certifications, with a long-term rating greater than or equal to A- of Standard & Poors, on the national scale Brazil. Letters of credit issued by international banks or financial institutions will be accepted provided that the issuer has a long-term risk rating equal to or greater than AA- from Standard & Poors on the global scale, in addition to evidencing that it has affiliates in Brazil. The letter of credits must have a coverage of at least 30 months or until the contract expires.

### 2

#### ***Insurance bond***

Insurance bonds must (a) be issued by insurers authorized by the Brazilian Superintendence of Private Insurance (Susep) to operate in the country; (b) be issued by an insurer with a risk rating certified by a credit risk rating agency with more than a thousand certifications; and (c) have a long-term rating greater than or equal to A- from Standard & Poors, on the Brazilian national scale. Risk rating grades expressed on other scales, including the global scale, will be accepted provided they correspond to the grade expressed in the caput, using the equivalence of the risk classes of the main international risk rating agencies. The insurance bonds must have a coverage of at least 30 months or until the contract expires.

# 3

## ***Oil and natural gas pledge***

ANP will accept pledge agreements for oil and natural gas produced in the national territory for fields where (a) the first oil extraction occurred at least 2 years ago; (b) the production has been maintained for at least 2 years; (c) the proved developed reserves support the compromised production curve; and (d) the produced oil and natural gas are available for pledge for the guarantee period. The maximum pledged amount accepted by ANP is 50% the total annual production of oil and gas, including for contracts already in force.

# 4

## ***Corporate guarantee***

ANP Resolution No. 854/2021 lists several requirements that must be met for ANP to approve the corporate guarantee. Such requirements also vary from national companies to foreign companies in the position of guarantor. The guarantor must be a member of the same corporate group as the contractor/ concessionaire, or must have been a past holder of the respective field or cluster, for which the abandonment expenses will be covered by the corporate guarantee. The guarantor must evidence that it has a risk rate certified by a credit risk rating company with over a thousand certifications in specific segments, that are different from national companies to foreign companies. ANP also sets forth a limited amount that can be guaranteed by guarantor, based on guarantor's net worth. The 2P reserves of the field or cluster will also be taken into consideration by ANP, among other requirements and documents that must be presented to ANP.

# 5

## ***Provisioning fund***

ANP will only accept in this category the deposits made in a controlled account opened in a banking institution authorized to operate in Brazil that has a risk rating certified by a credit risk rating agency with more than a thousand certifications, with the & Poor's triple A long-term, on the Brazil national scale.

# Legal Framework

Decommissioning and abandonment activities are governed by a complex set of rules and regulations issued by different entities. We note below the main agencies and some key regulations on the subject.



**Entity:** National Agency of Petroleum, Natural Gas and Biofuels – ANP

**Department(s):** Development and Production Superintendence (SDP), Exploration Superintendence (SEP), Bidding Promotion Superintendence (SPL), Operational Safety and Environment Superintendence (SSM/ANP).

**Rules and Regulations:**

ANP Resolution No. 817/2020: Provides for the regulation, analysis and approval of the Facilities Decommissioning Plans (PDI) and Facilities Decommissioning Reports (RDI).

ANP Resolution No. 43/2007: Provides for the Operational Safety Regime for Oil and Natural Gas Drilling and Production Facilities – SGSO.

ANP Resolution No. 46/2016: Provides for the

Operational Safety Regime for the Integrity of Oil and Gas Wells – SGIP.

ANP Resolution No. 41/2015: Provides for the Technical Regulation for the Management System of Subsea System Operational Safety – SGSS.

ANP Technical Regulation No. 2/2011: Provides for the Technical Regulation for the Onshore Pipelines for the Transport of Petroleum, Byproducts and Natural Gas – RTDT.



**Entity:** Brazilian Institute for the Environment and Renewable Natural Resources – IBAMA

**Department(s):** Environmental Licensing Board, Environmental Licensing of Marine and Coastal Developments – General Coordination, Environmental Licensing of Oil and Gas – Offshore Production Coordination.

**Rules and Regulations:**

CONAMA No. 23/1994: Provides for the licensing of activities related to the exploration and production of liquid fuels and natural gas reservoirs.

CONAMA No. 237/1997: Provides for the concepts, requirements, and procedure for

obtaining environmental licensing and sets other provisions.

MMA Ordinance No. 422/2011: Provides for the procedures for federal environmental licensing of oil and natural gas exploration and production activities in the marine environment and in the onshore-offshore transition zone.



**Entity:** Brazilian Navy

**Department(s):** Research and Works in Waterways Department, Ports and Coasts Board.

**Rules and Regulations:**

NORMAM-07/DPC: Maritime authority regulations for naval inspection activities.

NORMAM-08/DPC: Maritime authority regulations for traffic and permanence of

vessels in Brazilian jurisdictional waters.

NORMAM-11/DPC: Maritime authority regulations for works, dredging, research and production of minerals under, over and along the margins of Brazilian jurisdictional waters.

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