

April, 2020

SUBSECRETARY OF FISHING AND AQUACULTURE ESTABLISHES THE SUSPENSION OF TERM, PROCEDURES AND OTHER MEASURES

On March 31, 2020, the Subsecretary of Fishing and Aquaculture ("Subpesca") issued the Exempt Resolution N° 886 ("Res. 886") which provides the suspension of terms, procedures and other measures, as a consequence of the force majeure event caused by Covid-19.

The suspension is effective as of March 18, 2020 and until it is reversed by another act.

Terms and procedures subject to suspension.

According to Res. 886, the terms and procedures subject to suspension are the following:

a. Supreme Decree N°355-1995, Regulation on Management and Exploitation Areas of Benthic Resources

- 1.** Term of 8 months or its extension established in article 11, to submit the study of base situation of the area and the management and exploitation plan of benthic resources.
- 2.** Term of 6 months established in article 11 to submit a new management project.
- 3.** Term established in articles 17 and 19, or its extension, to submit the monitoring reports, whether on an annual or biennial basis.
- 4.** Term of 3 months established in article 18 paragraph 2, to respond the observations to the monitoring reports.
- 5.** Term of execution or its extension, of authorized management actions.

b. Advisory bodies and Citizen Participation

- 1.** Terms established in articles 8 and 9 of the General Law of Fishing and Aquaculture to submit applications in the formation or renewal of management committees.
- 2.** Term established in article 152 of the General Law of Fishing and Aquaculture to submit application in the renewal of the Zonal Fishing Councils.



If you have any questions regarding the matters discussed in this news alert, please contact the following attorneys or call your regular Carey contact.

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3. Term established in article 23 of the Supreme Decree N° 85-2003 of the Ministry of Economy, Development and Tourism, which approves the Regulation for the Election of the Directors of the National Fishing Council.
4. Term for the public consultation established in article 9 of the General Law of Fishing and Aquaculture.

c. Aquaculture matters

1. Term of article 12 paragraph 3 of Supreme Decree N° 290-1993 that approves the Aquaculture Concessions and Authorization Regulation, to submit overlap certificates.
2. Term of article 14 bis and 14 ter of Supreme Decree N° 290-1993 that approves the Aquaculture Concessions and Authorization Regulation for the presentation of information for evaluation or its extensions.
3. Terms established in articles 12 and 15 of Supreme Decree N° 113-2013 that approves the Regulation of the Public Registry of Aquaculture Concessions, for the application for registration in the registry of concessions and updating of registered legal entities.
4. Terms established in articles 13 paragraph 2 and 3, article 14, article 15 and article 21 of the Supreme Decree N°96-2015 that approves the Regulation of Aquaculture Activities in Management Areas and Exploitation of Benthic Resources.
5. Term of 2 months established in article 81 paragraph 4 of the General Law of Fishing and Aquaculture.

d. Law N° 21,192 of budget for the public sector for 2020 - Institutional Projects and Studies

1. Term to submit progress reports, pre final and final reports, or similar, of the projects and/or institutional studies, in connection with Subtitles 22, Gloss No. 6 and Subtitle 24, Item 03, Assignment 054, of the Subpesca budget.

e. Law No. 18,892 on General Fishing and Aquaculture Law - Declaration of Caducity and Sanctioning Procedures

1. Period of hearings granted by Subpesca to those affected in the procedures for the declaration of caducity regulated in Title XI of the Law.
2. Period of hearing granted by Subpesca to those affected in knowledge of the infringements regulated in article 118 ter. of the Law.

3. Caducity procedures started by Subpesca according the provisions of Title XI of the Law.
4. Complaint procedures regarding the caducity of the registration in the Artisan Registry before Subpesca, regulated in article 55, paragraph 2 of the Law.

f. Law No. 20,249 on Marine and Coastal Spaces of Native Communities and its Regulations

1. Term established in article 5 of Supreme Decree N° 134-2008 of the Ministry of Social Development, which approves the Regulation of Law N° 20,249, regarding the pronouncement of Subpesca to the request for coastal space.
2. Term established in article 11 of Law N° 20,249, for the submission of the management plan for coastal marine spaces.

g. Law 19,880 on Basis of Administrative Proceedings

1. Term established in article 31 to submit additional information in the initiation of administrative procedures.
2. Term granted in accordance to article 35 in relation to the trial period of administrative procedures.
3. Term established in article 43 on abandonment of administrative procedure.
4. Term established in article 59 to file an appeal. Res. 886 states that the suspension may not exceed 10 business days, after which the remaining term will be counted again to file administrative appeals.
5. Term established in articles 64 and 65, which regulate positive and negative silence.

II. Other measures

1. Regarding caducity procedures set forth in Title XI of the General Law on Fishing and Aquaculture, the interested parties must prove the force majeure event to the competent body. Exceptionally, the terms of caducity of the management and exploitation plans contained in letters b) and c) of article 144 of the General Law on Fishing and Aquaculture are suspended by operation of law.

2. Regarding the Benthic Resources Management and Exploitation Areas Regime, Subpesca may authorize the artisanal fishermen organizations that are owners of a management area, to carry out management actions not contemplated in the projects.
3. The collegiate advisory bodies of Subpesca may hold meetings by electronic means, even when their regulations do not contemplate it, provided that it is approved by majority of its members.
4. Regarding the administrative agreements with Subpesca under Law 19,886 and its Regulation, those agreements whose obligations cannot be fulfilled in the conditions agreed due to decisions of the authority, must continue to be paid to the contractor, given that this situation, as established by the General Comptroller of the Republic in Resolution N° 6.854, is out of the situation of force majeure by Covid-19. If the situation and exception continue, Subpesca is empowered to modify the agreements.
5. Regarding disciplinary procedures initiated under Title V of the Administrative Statute Law No. 18,834, investigators and prosecutors may order the suspension of said procedures, to the extent that they do not affect the success of the investigation.