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DECREE NO. 9,888 OF JUNE 27, 2019

Provides for the definition of the annual mandatory targets of reduction in greenhouse gas emissions for commercialization of fuel under Law No. 13,576 of December 26, 2017, and creates the Committee of the Brazilian Biofuel Policy – RenovaBio Committee.

THE VICE-PRESIDENT OF THE REPUBLIC, in the exercise of the position of President of the Republic, by using the powers vested in him by art. 84, **main section**, item VI, sub-item “a”, of the Constitution, and considering the provisions in art. 6 of Law No. 13,576 of December 26, 2017,

HEREBY DECREES:

Article 1. This Decree provides for the definition of the annual mandatory targets of reduction in greenhouse gas emissions for commercialization of fuel under art. 6 of Law No. 13,576 of December 26, 2017, and creates the Committee of the Brazilian Biofuel Policy – RenovaBio Committee.

Article 2. The targets referred to in art. 1:

I – shall be defined by the National Council for Energy Policy – CNPE, for a period of at least ten years, pursuant to the provisions in this Decree;

II – shall emphasize the improvement of the carbon intensity of the Brazilian fuel matrix;
and

III – shall observe:

a) the international commitments to reduction in greenhouse gas emissions assumed by the Country and the sectorial actions within the scope of such commitments;

b) the availability of the offer of biofuels by producers and by importers holding the Certificate of Efficient Production of Biofuels;

c) the appreciation of the energy resources;

d) the evolution of national consumption of fuel and of the imports;

e) the protection of the interests of the consumer regarding price, quality, and offer of fuel;
and

f) the impact of fuel prices on inflation rates.

Sole paragraph. The establishment of the targets referred to in the **main section** shall consider the guidelines of the National Policy on Climate Change, implemented by Law No. 12,187 of December 29, 2009, and the proportion of the efforts for the reduction in greenhouse gas emissions in the various sectors of economy.

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Article 3. The amounts of the annual mandatory targets of reduction in greenhouse gas emissions and of the respective tolerance intervals shall be established in units of Decarbonization Credits.

Paragraph 1. The amounts referred to in the **main section** shall be determined annually based on the carbon intensity of the fuel market expected for the subsequent ten-year period recommended by the RenovaBio Committee to CNPE.

Paragraph 2. Each Decarbonization Credit unit shall correspond to one ton of an equivalent carbon dioxide, calculated based on the difference between the greenhouse gas emissions in the life cycle of a biofuel and the emissions of its alternative fossil fuel, established pursuant to regulation.

Paragraph 3. The right to primary emission of Decarbonization Credits referred to in Paragraph 2 of art. 13 of Law No. 13,576 of 2017 may be exercised for biofuel sales made as of December 24, 2019.

Article 4. The mandatory target referred to in art. 1 shall be detailed by the National Agency of Petroleum, Natural Gas, and Biofuels – ANP, for each year, in individual targets, applied to fuel distributors in proportion to their market share in the commercialization of fossil fuel in the previous year.

Article 5. The fuel distributor shall prove that it has achieved its individual target every year, as established by ANP.

Article 6. In case of full or partial failure to achieve the individual target, the fuel distributor shall be subject to a fine, to be imposed by ANP, in proportion to the failure, without prejudice to the applicable administrative, monetary, civil, and criminal sanctions.

Paragraph 1. The fine provided for in the **main section** shall be equivalent to the amount of the Decarbonization Credits that have not been purchased, taking into consideration the greatest monthly average of Decarbonization Credit quotations upon failure year.

Paragraph 2. Pursuant to Paragraph 1, if the amount obtained is:

I – less than one hundred thousand Reais (BRL100,000.00), that amount is imposed as fine; and

II – more than fifty million Reais (BRL50,000,000.00), that amount is imposed as fine.

Paragraph 3. The fine of each distributor may not exceed five percent of its annual revenue registered in the balance sheet of the two previous years, except for the case of item I of paragraph 2.

Article 7. CNPE may authorize a reduction in the individual target of the fuel distributor provided for in art. 8 of Law No. 13,576 of 2017, upon proof of purchase of biofuels through a long-term supply agreement.

Sole paragraph. The reduction referred to in the **main section** may not exceed twenty percent.

Article 8. ANP shall publish every year the percentage of achievement of the individual target by each fuel distributor and the administrative and monetary sanctions imposed.

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Article 9. ANP shall establish the criteria, the procedures, and the responsibilities for regulation and inspection of the Biofuel Certification and of the guarantee of Decarbonization Credit, which shall include, among other things:

I – accreditation, suspension, and cancellation of registration of the inspection company;

II – granting, renewal, suspension, and cancellation of the Certificate of Efficient Production of Biofuels;

III – emission of the Energy-Environmental Efficiency Rating; and

IV – definition, registration, and control of the sales of biofuels that may serve as guarantee to the primary emission of the Decarbonization Credits.

Paragraph 1. The guarantee referred to in item IV of the **main section** refers to the information required to ensure true emission of the Decarbonization Credits related to the marketed volumes of biofuels produced or imported and corresponding invoices and to the Certificates of Efficient Production of Biofuels granted, renewed, suspended, cancelled, or expired, with data of the producer or importer of biofuels, of the Energy-Environmental Efficiency Rating, of the effectiveness of the certificate, among other things.

Paragraph 2. ANP may hire a specialized supplier to prepare and manage a computerized system to register and control the sales referred to in item IV of the **main section**.

Paragraph 3. Pursuant to the definitions provided for in the applicable laws and regulations, ANP, in addition to biodiesel, ethanol, biomethane, and biokerosene, shall regulate other renewable fuel, in liquid, solid, or gaseous state, that may be used in internal combustion engines or for other types of power generation, in order to partially or fully replace fossil fuel.

Article 10. CNPE shall provide for the other acts required for the operation of the Brazilian Biofuel Policy – RenovaBio.

Article 10-A. The Ministry of Mines and Energy shall issue the regulation referred to in art. 17 of Law No. 13,576 of 2017.

Article 11. The Committee of the Brazilian Biofuel Policy – RenovaBio Committee is hereby established, within the scope of the Ministry of Mines and Energy.

Article 12. The RenovaBio Committee, pursuant to the objectives and foundations of the Brazilian Biofuel Policy, as provided for in art. 1 and art. 2 of Law No. 13,576 of 2017, is responsible for:

I – monitoring the supply and development of the production and of the market for biofuels, considering its importance for the regular standing of fuel supply;

II – monitoring the evolution of the biofuel production capacity of Certificate of Efficient Production of Biofuels holders;

III – monitoring the offer, demand, and prices of the Decarbonization Credits issued and negotiated in the marketing of biofuels;

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IV – preparing analyses and studies, directly or through contracts or partnerships, to support the determination of scenarios and projections to support the definition of the targets referred to in art. 1;

V – holding prior public consultation, as provided for in art. 12 of Law No. 13,576 of 2017, to annually recommend to CNPE the provisions in paragraph 1 of art. 3, pursuant to the provisions of art 2 of this Decree;

VI – monitoring and disclosing, preferably at an official website, the evolution of the carbon intensity rate of the Brazilian fuel matrix, compared to the annual mandatory targets of reduction in greenhouse gas emissions and tolerance intervals;

VII – evaluating and proposing preventive or corrective measures to properly achieve the targets referred to in art. 1; and

VIII – preparing and approving its internal regulations.

Article 13. The RenovaBio Committee shall be composed of representatives of the following bodies:

I – Ministry of Mines and Energy, who shall act as coordinator;

II – Ministry of Civil Affairs of the Presidency of the Republic;

III – Ministry of Economy;

IV – Ministry of Infrastructure;

V – Ministry of Agriculture, Livestock, and Food Supply;

VI – Ministry of Science, Technology, Innovation, and Communications; and

VII – Ministry of the Environment.

Paragraph 1. Each member of the RenovaBio Committee shall have an alternate, who shall replace him/her in case of absence and impairment.

Paragraph 2. The members of the RenovaBio Committee and respective alternates shall be appointed by the leaders of the bodies that they represent and designated by the Minister of State of Mines and Energy.

Paragraph 3. The Coordinator of the RenovaBio Committee may invite representatives of other bodies and entities of the federal, state, district, and city administration, of private institutions of the biofuel market, and technicians and specialists of the sector to participate in its meetings without voting right.

Paragraph 4. The expenses related to the participation of the invited representatives shall be on the account of budget allocations of the institutions that represent them.

Paragraph 5. The participation in the RenovaBio Committee shall be considered as unpaid provision of a relevant public service.

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Paragraph 6. The creation of sub-collegiate bodies by the RenovaBio Committee is prohibited.

Article 14. The RenovaBio Committee shall gather every six months, on an ordinary basis, and whenever called by the Coordinator, on an extraordinary basis.

Paragraph 1. The calls for meetings of the RenovaBio Committee shall specify the start time and maximum end time.

Paragraph 2. In case the maximum duration of the meeting exceeds two hours, a period of a maximum of two hours shall be specified for the votes.

Paragraph 3. The quorum of the meeting and of approval of the RenovaBio Committee shall be a simple majority of the members.

Paragraph 4. In addition to the ordinary vote, the Coordinator of the RenovaBio Committee shall be entitled to a casting vote in case of a tie.

Paragraph 5. The members of the RenovaBio Committee who are in Distrito Federal shall gather in person and the members who are in other states shall participate in the meeting by videoconference.

Paragraph 6. The disclosure of discussions in progress is prohibited without prior consent of the Minister of State of Mines and Energy.

Paragraph 7. The RenovaBio Committee shall publish the minutes of the meetings, the studies, and the technical notes prepared, preferably at an official website.

Article 15. Decree No. 9,308 of March 15, 2018, is hereby revoked.

Article 16. This Decree becomes effective on the date of its publication.