

Brazilian Institute for the Environment and Renewable  
Natural Resources

Order No. 59-N, of 3 June 1994

The President of the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA) in exercise of the powers delegated thereto by Article 24, of the Regimental Structure approved by Decree No. 78, of 5 April 1991 and Art. 83, sections II and XIV, of the Internal Regulations approved by GM/MINTER Order 445, of 16 August 1989, and in light of the provisions of Laws 8.005, of 22 March 1990, 8.383, of 30 December 1991; and 4771 of 15 September 1965; Art. 14 and subsequent provisions of Decree-Law 289, of 28 February 1967 and Art. 55 and subsequent provisions of Decree-Law 221, of 28 February 1976, hereby resolved to:

Art. 1. Approve the standards and procedures to be observed in administrative proceedings for the collection of monetary penalties and other debts owed to IBAMA.

Chapter I. Monetary Penalties and Collection

Art. 2. The procedure for administrative collection of monetary penalties shall be initiated by drawing up the notice of violation.

Art. 3. The notice of violation shall be drawn up on official printed materials in conformance with the approved model and shall contain no corrections or erasures that cast doubt on the validity of the document.

Art. 4. Every notice of violation, after being drawn up, shall constitute an administrative file.

Art. 5. The notice of violation drawn up by the authorized Agencies shall be forwarded within no more than 5 (five) days of being drawn up to the Office of the State Superintendent of IBAMA (SUPES).

Art. 6. The recipient of the notice must present a defense or pay the amount of the fine prior to the date on which payment is due or be subject to liability for delays and registration in default.

1. The date on which payment is due referred to in the lead paragraph of this article shall be:

(a) the fifteenth (15th) day as from the day following that on which the notice of violation was drawn up; and

(b) the twenty-second (22nd) day as from the day following that on which the corresponding sole collection document (SCD) was issued by IBAMA, in cases of repeat offenses.

2. The amount of the fine shall be decreased by 30% (thirty percent) if payment is made prior to the date on which payment was due.

3. Following payment of the fine in the manner specified in this article, the file shall be filed, not including any review of the defense or any other claim made by the violator in respect of the corresponding fine.

4. Where payment is not made nor a defense presented in the manner specified in this article, the debt incurred as a result of the fine shall be consolidated in the manner

provided for in this order and the collection shall be renewed by means of an "administrative notification" document.

#### Chapter II. Defense and Appeal

Art. 7. Any defense shall be presented to SUPES or the decentralized units of SUPES within fifteen (15) days after the date on which the notice was drawn up.

Sole paragraph. After the defense is presented, it shall be reviewed by the Division of Legal Affairs within ten days of receipt of the file.

Art. 8. The authorized Agencies shall forward any defense received, properly processed, to IBAMA within five (5) days of receipt.

Art. 9. It is the responsibility of the State Superintendent and of the Federal District to make a final determination on the file within ten (10) days of receipt of the notice, which shall be maintaining, adjustment or dismissal of the file concerned.

1. For the purposes of this order, adjustment shall mean the act of rendering the amount of the fine compatible with the events that gave rise thereto, such as, inter alia, volume, area, quantity, type, and location.

2. A final determination for dismissal of a fine of more than R 5.000,00 (five thousand reals), properly adjusted, may be appealed "ex-officio" by the president of IBAMA.

Art. 10. It is the responsibility of IBAMA to notify the violator of any decision made. In the event that the notice of violation is maintained, the 30% (thirty percent) decrease of the adjusted value of the debt shall be guaranteed, if for payment, until the fifth (5th) working day following notification of the decision.

Art. 11. The decision may be appealed voluntarily within fifteen (15) days as from the day immediately following the date of receipt of the notification.

#### Chapter III. Repeat Offense

Art. 12. Any specific violator who during the 12 (twelve) months immediately prior has been penalized by non-appealable administrative decision for violation to the same regulatory provision shall be liable for a repeat offense.

1. Upon verification that the violator is a repeat offender, the period for presentation of a defense shall be reopened.

2. A new form shall not be completed for the notice of violation resulting from the specific repetition.

3. The repeat offense referred to in this article must take place within no more than twelve (12) months of the date of the notice of violation serving as the basis for the repetition.

Art. 13. Where a specific repeat offense of the violator is confirmed, the fine relating to the notice of violation shall be increased by 100% (one hundred percent) with respect to the original value, properly adjusted, as from the date on which it was due.

Art. 14. If the recipient of the notice makes the increased payment relating to the specific repeat offense prior to the date on which it was due, the amount shall be reduced by 30% (thirty percent).

#### Chapter IV. Monetary Adjustments and Increases

Art. 15. The amounts of taxes, obligations, and monetary penalties recorded in the schedule of fees of IBAMA and other debts owed to the Treasury shall be expressed in Reals, as specified by Law No. 8.880 of 27 May 1994, published in the Official Journal of the Union of 28 May 1994.

Sole paragraph. In the case of the amendment of legislation laying down provisions relating to national currency and indices, IBAMA shall make adjustments for purposes of the collection of the amounts referred to in this article.

Art. 16. Debt consolidation shall mean any and/or all operations altering the original value on the basis of the proper legal monetary adjustments and increases.

Art. 17. The following increases shall be made for late payment of debts owed to IBAMA:

(a) 1% (one percent) interest on late payment per calendar month or fraction thereof, on the adjusted value of the debt, from the date on which payment was due until the date of payment thereof;

(b) 20% (twenty percent) late fine, reduced to 10% (ten percent), on the adjusted value of the debt, if the payment was made up to 30 (thirty) days after the date on which it was due;

Art. 18. The consolidation of the outstanding debt installments not paid in full, for purposes of registration in Default, shall be the difference between the consolidated original value and the installments paid with the proper adjustments.

#### Chapter V. Payment of Debt in Installments

Art. 19. The amounts that are overdue and unpaid as of the due date may be divided in up to twelve (12) installments.

Art. 20. The request for payment in installments shall be addressed to the Superintendent of IBAMA who shall make a decision within five (05) working days.

Art. 21. The installment shall be formalized through a "term of commitment" on the proper form to be filled out either manually or electronically.

1. The installment term of commitment shall be approved by verification of payment of the first installment.

2. The amount of each installment shall be expressed in Reals, with up to two decimal divisions, and the amount of the initial installment shall be adjusted in a manner such that the sum of the installments corresponds to the total debt;

3. The amount of each installment shall be not less than R 15,00 (fifteen Reals).

Art. 22. Late payment on two installments, whether or not consecutive, or on the final payment, shall result in the automatic cancelation of the installment agreement.

Sole paragraph. The balance due on a cancelled installment agreement shall not be the subject of a new installment agreement.

#### Chapter VI. Registration in Default

Art. 23. After exhausting all amicable methods of collection without the debt having been paid, the file shall be forwarded to the Legal Affairs Division for registration in default in the outstanding debts of the Treasury and promotion of fiscal enforcement.

Art. 24. The following forms shall be generated for purposes of registration of debts in default to the Treasury:

- (a) registration of default;
- (b) certificate of default;
- (c) notice of collection of outstanding debt;
- (d) DUA with the consolidated value of the debt.

Sole paragraph. Electronic issuance of the documents referred to in the paragraph above shall be the responsibility of the Attorney General, of the Division of Legal Affairs of SUPES, where there are terminals permitting access to the SIGS or of the Debt and Tax Collection Unit.

Art. 25. The inclusion and termination of the outstanding debt in the Integrated System for Financial Administration of the Union (SIAFI) shall be effected by the Finance Department in the central office thereof and by the Finance Unit in SUPES.

#### Chapter VII. Collection Control

Art. 26. It is prohibited to issue certificates, records, licenses, permits and to render other services offered by IBAMA to natural or legal persons with debts registered in Default to the Treasury.

#### Chapter VIII. General and Transitional Provisions

Art. 27. For the purposes of the provisions of Article 37 of Law No. 4.771, of 15 September 1965, the Offices of the State Superintendents of IBAMA shall maintain in their offices an updated list of debtors registered in default or in judicial collection, for information to the archives of the Real Property Registry.

Art. 28. Where the violator was summoned in a place other than the place of residence thereof, the collection proceeding shall be initiated in SUPES by the federative unit in which the violation occurred. Upon completion of the administrative collection stage, the file shall be remitted to SUPES where the violator resides for registration in default to the Treasury and fiscal enforcement.

Sole paragraph. Where a defence is presented, it shall be reviewed by the Division of Legal Affairs of SUPES in whose jurisdiction the violation occurs.

Art. 29. Upon termination of the debt, the file shall be

archived in the Office of the Superintendent in which the notice of violation originated.

Art. 30. The entry of the notice of violation relating to the specific repetition in the SIGS shall be the responsibility of:

(a) the Debt and Tax Collection Unit, in SUPES where it has no computer system;

(b) in the Inspection Unit, in SUPES where it has a computer system.

Art. 31. The Order shall become effective as from 1 July 1994.

Art. 32. Order No. 042, of 10 April 1992 and any other provisions inconsistent herewith are hereby repealed.

Nilde Lago Pinheiro