

**Forestry Development Authority**  
**Regulation No. 109-07**  
**Regulation on Penalties**

WHEREAS, the National Forestry Reform Law of 2006 establishes a transparent framework for the use, management, and protection of forest resources that balances the commercial, community, and conservation priorities of the Republic; and

WHEREAS, the imposition of prompt, fair, and proportionate punishment for violations of the law is necessary to ensure widespread compliance with legal requirements, deter wrongdoing in the forest sector that has in the past directly harmed the Republic, and instill broad public confidence in the process of forest sector reform; and

WHEREAS, a system that allows the Authority to impose administrative penalties for certain forestry violations will help to ensure efficient administration and enforcement of the law, as well as wise use of the resources of the Republic; and

WHEREAS, the National Forestry Reform Law of 2006 authorizes the Forestry Development Authority to issue regulations and other rules necessary to implement the law (Section 19.1(a)), specifically including regulations to establish forestry-related offenses and penalties not expressly provided for under the National Forestry Reform Law of 2006 (Section 20.9(a)); to address the resolution of disputes and levying of penalties for offenses (Section 19.1(l)); and to establish procedures for dispute resolution with respect to the management of Forest Resources (Section 17.1);

NOW, THEREFORE, the Forestry Development Authority does hereby rule and regulate as follows:

**PART ONE: DEFINITIONS; PURPOSE AND EFFECT; ANNUAL ENFORCEMENT REPORT**

**Section 1. Definitions**

In this Regulation, the following terms have the meaning indicated, unless the context otherwise requires:

- (a) Authority: Forestry Development Authority.
- (b) Board: Board of Directors of the Forestry Development Authority.
- (c) Dollars: United States dollars, or the equivalent in Liberian dollars as of the date of the violation.
- (d) Managing Director: Managing Director of the Forestry Development Authority.
- (e) Penalty: May include a term of imprisonment; imposition of a monetary fine; imposition of an administrative penalty; or forfeiture of property. This term does *not* include additional remedies that may also be available to the Authority under law, such as, without limitation, termination of a contract, modification of the terms of a permit, and injunctive relief.

Other terms used in this Regulation have the meaning provided in the National Forestry Reform Law of 2006, as amended.

## **Section 2. Purpose and Effect**

(a) This Regulation implements Chapter 20 of the National Forestry Reform Law of 2006.

(b) Except as expressly provided, this Regulation does not limit the right of the Authority or any court to enforce any provision of any law, regulation, related agreement, permit, license, or order, and to pursue all remedies available under law, including, without limitation, injunctive relief and modification of the terms of agreements, permits, and licenses.

## **Section 3. Annual Enforcement Report**

(a) Annually, the Authority shall publish the enforcement report required by Section 20.11 of the National Forestry Reform Law of 2006.

(b) The Authority shall make the report freely available on the Internet and, upon request by any person, the Authority shall provide paper or electronic copies of the report at no charge.

## **Sections 4 to 20. Reserved**

# **PART TWO: INFORMATION AND EVIDENCE; REFERRALS**

## **Section 21. Gathering and Protection of Evidence to Support Penalties**

When a person has committed a violation, the Authority shall use best efforts to gather and protect information and evidence tending to prove the violation, especially where the information or evidence tends to show any of the following:

(a) That the violation was committed knowingly or with gross negligence, under Section 20.7(b) of the National Forestry Reform Law of 2006.

(b) That the violation resulted in damage to Forest Resources or the Environment, under Section 20.7(c) of the National Forestry Reform Law of 2006.

(c) That the violation was a continuing offense, under Section 20.8(a) of the National Forestry Reform Law of 2006.

(d) That the violator is a repeat offender, under Section 20.8(b) of the National Forestry Reform Law of 2006.

## **Section 22. Referral to Ministry of Justice**

(a) Except as provided in Subsection (b) of this Section, the Authority shall promptly refer violations of the National Forestry Reform Law of 2006 and its regulations to the Ministry of Justice for enforcement. The Authority shall use best efforts to provide such assistance as the Ministry of Justice may reasonably require to investigate and prosecute referred matters.

(b) In lieu of making a referral, the Authority may resolve the violation through the assessment of an administrative penalty under Part Four of this Regulation.

**Sections 23 to 30. Reserved**

**PART THREE: REPORTING AND INVESTIGATION OF VIOLATIONS**

**Section 31. Violations of Forestry Laws and Regulations**

(a) Authority staff shall promptly notify the Managing Director of:

(1) Any offense committed under Section 20.1(b) of the National Forestry Reform Law of 2006.

(2) Any violation of the regulations, codes, guidelines, or manuals issued by the Authority.

(3) Any other violation of the laws of the Government of Liberia as they relate to the forest sector.

(b) The Managing Director shall promptly investigate any offense or violation brought to his attention by Authority staff under Subsection (a) of this Section, or by any other person, and notify other Government agencies or ministries as necessary.

(c) The Managing Director shall promptly report all allegations of violations resulting in physical injury or significant economic harm to employees of contract Holders to the Ministry of Justice and the Ministry of Labor.

**Section 32. Other Penalties and Offenses**

The Authority may from time to time establish new Forestry-related offenses and penalties.

**Sections 33 to 40. Reserved**

**PART FOUR: ASSESSMENT OF ADMINISTRATIVE PENALTIES**

**Section 41. Generally**

The Authority may impose an administrative penalty for an offense, rather than referring the offense to the Ministry of Justice, if all of the following conditions are satisfied:

(a) The offense did not result in physical injury to any person;

(b) The offense did not significantly harm the interests of a local community;

(c) The offense did not result in damage to Forest Resources or the Environment exceeding 10,000 United States dollars in value;

- (d) The violator consents to imposition of the administrative penalty; and
- (e) The conduct giving rise to the offense does not support a felony criminal charge.

#### **Section 42. Amount of Penalty**

The total amount of the administrative penalty may not exceed the amount prescribed by Section 20.9(b) of the National Forestry Reform Law of 2006.

#### **Section 43. Issuance of Notice of Penalty Assessment**

(a) To assess an administrative penalty, the Managing Director shall provide for personal service of a written notice of penalty assessment on the violator.

(b) A notice of penalty assessment shall, for each violation—

- (1) Describe the nature of the violation with reasonable particularity;
- (2) Indicate the total amount of the penalty for the violation;
- (3) Explain that each day of a continuing violation constitutes a separate violation;
- (4) Indicate when the penalty payment is due;
- (5) State that the violator may, within thirty days of receipt of the notice of penalty assessment, make a written request to the Managing Director for an administrative hearing; and
- (6) Advise the violator of his or her right to an appeal.

#### **Section 44. Payment; Request for Hearing**

(a) Within 30 days of receiving the notice of penalty assessment, the violator shall—

- (1) Tender payment to the Authority;
- (2) Submit a written request for an administrative hearing; or
- (3) Tender payment together with a written request for a hearing, in which case payment will be accepted as conditional upon a final decision.

(b) The Managing Director shall promptly acknowledge to the violator and the Board, in writing, all payments received.

(c) When the violator requests a hearing, the penalty assessment is deemed stayed as of the date of the request, pending service on the violator of a final, written decision or other settlement of the matter.

(d) A violator waives the right to a hearing when—

- (1) The violator provides a written waiver of hearing to the Managing Director;
- (2) The violator fails to request a hearing within 30 days of receiving a notice of penalty assessment; or
- (3) The violator fails to attend a scheduled administrative hearing of which the violator had written notice.

#### **Section 45. Appeal**

Within ten days of receipt of notice of a final, written decision of the Managing Director, the violator may file a notice of appeal in a court of the Republic with competent jurisdiction. The violator shall also file a copy of the notice of appeal with the Managing Director.

#### **Section 46. Referral**

If the violator fails to pay an administrative penalty within 60 days of receipt of a notice of penalty assessment (where no hearing was requested), or within 60 days after receipt of a final, written decision (where a hearing was requested), and has not filed a notice of appeal, the Managing Director shall request that the Ministry of Justice begin an action to recover the amount of the assessment, together with interest and any additional fine that may be lawfully assessed for non-compliance.

#### **Sections 47 to 50. Reserved**

### **PART FIVE: REPEALS AND EFFECTIVE DATE**

#### **Section 51. Repeals**

The following provisions are repealed:

- (a) Regulation No. 1, Section 7, concerning penalties for waste of forest resources.
- (b) Regulation No. 3, Section 24, concerning penalties for waybill and scaling violations.
- (c) Regulation No. 4, Section 7, concerning penalties for unpermitted forestry operations.
- (d) Regulation No. 14, Section V, concerning penalties for non-compliance with export rules.
- (e) Regulation No. 17, Section III, concerning penalties with respect to Niangon logs.
- (f) Regulation No. 18, Section III(2), concerning penalties for export of logs from banned tree species.
- (g) Regulation No. 19, Section IV(b), concerning penalties with respect to charcoal production and export.
- (h) Regulation No. 25, Section VI, concerning penalties for disturbing wildlife, protected species, and protected areas.

(i) Regulation No. 26, Section VIII(a), (d), concerning penalties for pit sawing.

**Section 52. Effective Date**

(a) This Regulation is effective on September 11, 2007.

(b) The Authority shall announce this Regulation and make it available to the public and the media.

**SIGNED:**

**Managing Director  
Forestry Development Authority**