ENVIRONMENTAL

WHAT CHANGES WITH FEDERAL DECREE 11,080/22

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Federal Decree 11,080/22 entered into force on May 24, 2022, amending provisions set forth in Federal Decree 6,514/08, one of the most relevant environmental regulatory instruments currently in force. Among other aspects, the decree establishes administrative sanctions for activities deemed harmful on the environment and the federal administrative process to investigate such violations.

Some changes aimed solely at the standardization of Federal Decree 6,514/08, thus they did not substantially alter its content. This is the case of Article 10, Par. 6, and Article 20, Par. 1, which did not modify obligations set forth therein by Federal Decree 6,686/08, related to imposition of fines and the period sanctions are considered as valid, respectively.

Other amendments, however, significantly altered the Decree's provisions, especially related to administrative processes for the investigation of environmental violations; the environmental conciliation hearing; and the possibility of converting the fine into services of preservation, improvement and recovery of environmental quality, in addition to some environmental sanctions.

The following table presents amendments introduced by Federal Decree 11,080/22 and its comparison to the original provisions outlined in Federal Decree 6,514/08.

It is possible to observe that Federal Decree 11,080/22 implemented several new provisions that directly impact the progress of administrative processes established to investigate environmental violations in the federal sphere. Therefore, it is expected that federal environmental authorities are going to adapt to these new provisions in the coming months.

§ 1. After the deadline set forth in the*caption* of art. 113 expires, fines will be subject to monetary updating until their effective payment, without prejudice to the application of interest on late payment and other charges, as provided by law.

§ 2. The amount of the consolidated environmental fine shall not exceed the limit provided for in *caption*, with the provisions of Paragraph 1.

§ 6. At the time of the judgment of the infraction notice, the environmental authority must, in case the infraction notice is valid, confirm or modify the value of the fine perday, decide the period of its application and consolidate the amount due by the wrongdoer for further execution.

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I – the application of triple fine in the event of the same violation; or

II - double fine in case of a separate violation.

§ 1. The aggravation shall be determined in the procedure for the new violation, which shall be, by copy, the previous infraction notice and the trial that confirmed it.

§ 2. Before the trial of the new offence, the environmental authority shall verify the existence of a previous infraction

I – the application of triple fine in the event of the same violtation; or

II – double fine in the case of a separate violation.

§ 1. The aggravation shall be determined in the procedure for the new violation, making available a certificate with information on the previous infraction notice and the final decision who confirmed it.

§ 2. Once there is a final decision regarding a

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> **Art. 5**. The penalty may be applied, through the issuance of an infraction notice, for administrative infractions of lesser harm to the environment, guaranteeing the right of the wrongdoers to fully defend themselves.

§ 1. Administrative infractions of less harm to the environment are considered those in which the maximum fine combined do not exceed the amount of BRL 1,000.00 (thousand reais), or that in the case fine are applied per unit of measure, the applicable fine does not exceed the value referred to.

§ 4. At the time of the judgment of the infraction notice, the environmental authority must, in case the infraction notice is valid, confirm or modify the value of the fine perday, decide the period of its application and consolidate the amount due by the wrongdoer for further execution.

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§ 1. After the deadline set forth in the*caption* of art. 113 expires, fines will be subject to monetary updating until their effective payment, without prejudice to the application of interest on late payment and other charges, as provided by law.

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§ 4. At the time of the judgment of the infraction notice, the competent authority must, in case the infraction notice is valid, confirm or modify the amount of the fine perday, decide the period of its application and consolidate the amount due by the wrongdoer, for further execution.

Art. 9. The amount of fines established by this Decree will be periodically corrected, based on the indexes established in the applicable legislation, with a minimum of BRL 50.00 (fifty reais) and a maximum of BRL 50,000,000.00 (fifty million reais).

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Art. 10. The daily fine will be applied whenever the infraction is carried out over a prolonged time.

§ 6. At the time of the judgment of the infraction notice, the environmental authority must, in case the infraction notice is valid, confirm or modify the value of the fine perday, decide the period of its application and consolidate the amount due by the wrongdoer for further execution.

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> **Art. 11.** The committing of a new environmental offence by the same wrongdoer, within a period of five years, counted from the issuance of a previous infraction notice duly confirmed at the judgment referred to in Art. 124, implies:

I – the application of triple fine in the event of the same violation; or

II - double fine in case of a separate violation.

§ 1. The aggravation shall be determined in the procedure for the new violation, which shall be, by copy, the previous infraction notice and the trial that confirmed it.

§ 2. Before the trial of the new offence, the environmental authority shall verify the existence of a previous infraction notice confirmed at trial for the purpose of applying the aggravation of the new penalty.

§ 3. After the trial of the new infraction, the penalty will not be aggravated.

§ 4. Once the infraction notice has been found to be confirmed, the environmental authority shall:

I - aggravate the penalty as provided for in*caption*;

II - notify the wrongdoer to file its defense against the aggravation of the penalty within ten days; and

III – judge the new infraction considering the aggravation of the penalty.

§ 5. The provisions of § 3 does not apply for the purpose of increasing the amount of the fine, as provided in the arts. 123 and 129.

> **Art. 13.** They will revert to the National Environmental Fund – FNMA twenty percent of the amount collected in payment of fines imposed by the Union, and this percentage may be changed, at the discretion of the collecting agencies (Writing given by Decree No. 6,686/2008).

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> **Art. 11.** The committing of a new environmental offence by the same wrongdoer, within a period of five years, counted from the date on which the administrative decision condemning it for a previous offence has become final, will involve:

I – the application of triple fine in the event of the same violtation; or

II – double fine in the case of a separate violation.

§ 1. The aggravation shall be determined in the procedure for the new violation, making available a certificate with information on the previous infraction notice and the final decision who confirmed it.

§ 2. Once there is a final decision regarding a previous infraction notive, the wrongdoer will be notified to file its defense, within 10 days, against the possibility of aggravation of the penalty.

§ 3. In the case of recidivism, the competent authority shall increase the penalty in the form of paragraphs I and II of the c*aption*.

§ 4. The aggravation of the penalty for recidivism cannot be applied after the judgment referred to in Art. 124.

§ 5. The adoption of one of the legal solutions provided for in paragraph "b" of paragraph II of Paragraph 1 of Article 98-A shall not exclude the accounting of the violation committed for the purposes of application of the provisions of this article.

> **Art. 13.** They will revert to the National Environmental Fund – FNMA twenty percent of the amount collected in payment of fines imposed by the Union, and this percentage may be changed, at the discretion of the collecting agencies (Writing given by Decree No. 6,686/2008).

Sole Paragraph. The allocation of surplus amounts to the percentage established in the *caption* to funds administered by other federal entities will depend on the conclusion of a specific instrument between the collecting body and the fund manager, under the provisions of Article 73 of Law No. 9,605 of 1998.

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Art. 20. The restrictive penalties applicable to natural or legal persons are: **I –** suspension of registration, license or authorization; **II -** cancellation of registration, license or authorization; **Iii** – loss or restriction of tax incentives and benefits; **Iv** – loss or suspension of participation in financing lines in official credit institutions; and **V –** prohibition of contracting with the public administration. **§ 1** The environmental authority shall fix the period of validity of the penalties provided for in this Article, observing the following deadlines: **I –** up to three years for the penalty provided for in item V; **II** – up to one year for other sanctions.	**Art. 20.** The restrictive penalties applicable to natural or legal persons are: **I –** suspension of registration, license or authorization; **II -** cancellation of registration, license or authorization; **Iii** – loss or restriction of tax incentives and benefits; **Iv** – loss or suspension of participation in financing lines in official credit institutions; and **V –** prohibition of contracting with the public administration. **§ 1** The authority shall fix the period of validity of the penalties provided for in *caption*, observing the following deadlines: **I –** up to three years for the penalty provided for in item V; **II** – up to one year for other sanctions.
N/A	**Art. 54-A.** Acquire, mediate, transport or market product or by-product of animal or plant origin produced on an area subject to irregular deforestation, located within a conservation unit, after its creation: Fine of BRL 500.00 (five hundred reais) per kilogram or unit.
Art. 82. Prepare or present information, study, report or environmental report totally or partially false, containing misleading information or omission, whether in the official control systems, in licensing, forest concession or any other environmental administrative procedure: Fine of BRL 1,500.00 (one thousand and five hundred reais) to BRL 1,000,000.00 (one million reais).	**Art. 82.** Prepare or present information, study, report or environmental report totally or partially false, containing misleading information or omission, whether in the official control systems, in licensing, forest concession or any other environmental administrative procedure: Fine of BRL 1,500.00 (one thousand and five hundred reais) to BRL 1,000,000.00 (one million reais). **Single paragraph.** If violation of provisions set forth in the *caption* involves movement or generation of credit in an official system for controlling products of forestry origin, the fine will be increased BRL 300.00 (three hundred reais) per unit, kilo, coal meter or cubic meter.
Art. 93. The infractions provided for in this Decree, except those set out in this Subsection, when they are committed or affect a conservation unit or their buffer zone, they shall have the amounts of their respective fines applied in double, except for cases where the determination to increase the value of the fine is greater than this.	**Art. 93.** The offenses provided for in this Decree, when they affect or are committed in a conservation unit or in their buffer zone, will have the amounts of their respective fines applied in double, except for cases where the determination to increase the value of the fine exceeds this or the hypotheses in which the conservation unit configures elementary type.
Art. 95-A. Conciliation should be stimulated by the federal environmental public administration, in accordance with the established rite in this Decree, to close federal administrative proceedings related to the investigation of administrative infractions for conduct and activities harmful to the environment.	**Art. 95-A.** Conciliation and adherence to one of the legal solutions provided for in point "b" of paragraph II of Paragraph 1 of Art. 98-A shall be stimulated by the federal environmental public administration, in accordance with the provisions outlined in this Decree, to close federal administrative proceedings related to the investigation of administrative infractions for conduct and activities harmful to the environment.

N/A

Art. 96. Once the occurrence of an environmental administrative infraction has occurred, an infraction notice will be issued, from which the wrongdoer should be notified, ensuring its right for a full defense.

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§ 4. Notification shall be replaced by an electronic subpoena, when the wrongdoers agree with this procedure and available technology

confirms its receipt.

Art. 95-B. The procedure for the adoption of one of the legal solutions provided for in point "b" of paragraph 1(II) of Article 98-A shall be established in a separate regulation enacted by the environmental entity responsible for investigating the environmental violation.

§ 1. The uptake of the *caption* will be admitted only in the event of a consolidated environmental fine.

§ 2. In the event of adhering to the conversion of the fine into environmental services, the discount will be in accordance with the stage at which the process is found at the time of the application, in accordance with the provisions of § 2 of art. 143.

§ 3. The payment of the consolidated environmental fine will be interpreted as adhering to the legal solution and will imply the immediate closure of the administrative process, in accordance with conditions laid down in the regulation enacted by the environmental entity responsible for investigating the environmental violation.

Art. 96. Once the occurrence of an environmental administrative infraction has occurred, an infraction notice will be issued, from which the wrongdoer should be notified, ensuring its right for a full defense.

§ 4. Notiifcations will be replaced by an electronic subpoena, in accordance with the provisions of the specific legislation.

§ 5. The notification referred to in this

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I –present a defense, in accordance with the provisions of Articles 97-A and Art. 113;

II - request an environmental conciliation hearing in accordance with article 97-A; or

III – immediately adhere to one of the legal solutions provided for in point "b" of paragraph II of Paragraph 1 of Article 98-A, in the form of articles 97-A and art. 97-B.

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> **Art. 97-A.** At the time of the issuance of the infraction infringement, the wrongdoer will be notified to, willingly, attend to the public authorities' facility on a scheduled date and time, in order to participate in an environmental conciliation hearing.

§ 1. The deadline referred to in Article 113 is suspended by the scheduling of the environmental conciliation hearing and its course will begin from the date the hearing is held.

§ 2. The overlap of Paragraph 1 shall be without prejudice to the effectiveness of any administrative measures.

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> **Art. 97-A.** The wrongdoer may, within twenty days, counting from the date it is notified of the issuance of an infraction notice:

I – request an environmental conciliation hearing;

II - request immediate adherence to one of the legal solutions provided for in point "b" of paragraph II of Paragraph 1 of Article 98a; or

III - present its defense.

§ 1. The application for participation in an environmental conciliation hearing will interrupt the deadline for offering the defense.

§ 2. The interruption of the period referred to in Paragraph 1 shall not prejudice the effectiveness of any administrative measures applied.

§ 3. The following shall be considered as a withdrawal of interest in participating in an environmental conciliation hearing:

I – the non-submission of the application for participation in an environmental conciliation hearing;

II - the presentation of defense; and

III - immediate adherence to one of the legal solutions provided for in paragraph "b" of paragraph II of Paragraph 1 of Art. 98-A.

§ 4. Prior to the designated environmental conciliation hearing, the wrongdoer may adhere to one of the legal solutions provided for in point "b" of paragraph 1 (1) of Article 98-A.

§ 5. The adherence to one of the legal solutions provided for in paragraph "b" of paragraph II of Article 1 of Article 98-A shall be accepted only after the consolidation of the fine in the context of the preliminary analysis of the environmental assessment.

§ 6. The process will only be submitted to the Environmental Conciliation Center if, within the deadline established in the *Caption*, the wrongdoer requires the holding of an environmental conciliation hearing or requests the adherence to one of the possible legal solutions to shelve the process.

	Art. 97-B. The application for immediate adherence to one of the legal solutions provided for in paragraph "b" of paragraph II of Paragraph 1 of Article 98-A shall contain:
	I - the irrevocable and irrevocable confession of the debt, indicated by the wrongdoer, arising from an environmental fine consolidated on the date of the application;
	II - the withdrawal of judicial or administrative challenge the environmental action or to proceed with any challenges or administrative appeals and lawsuits that have as their object the infraction notice; and
N/A	**III -** the waiver of any claims of law on which administrative actions and legal actions referred to in item II may be substantiated.
	Single paragraph. In the event of an environmental action challenged in court, the wrongdoer shall submit, at the time of the application *Caption*, copy of the protocol of the application for termination of the respective case with a resolution of the merits, addressed to the competent court, based on point "c" of item III of the caput of art. 487 of Law No. 13,105 of March 16, 2015 – Code of Civil Procedure.
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Art. 98. The infraction notice, any terms of application of administrative measures, the supervisory report, and the notification referred to in Art. 97-A will be forwarded to the Environmental Conciliation Center.	**Art. 98.** The infraction notice, any terms of application of administrative measures, the supervisory report and the document proving the notification of the wrongdoer will be forwarded to the sector responsible for the processing of the environmental violation.
Single paragraph. The inspection report shall be drafted by the agent and shall contain:	**Single paragraph**. The inspection report shall be drafted by the agent and shall contain:
I – the description of the circumstances leading to the finding of the environmental violation and the identification of the authorship;	**I –** the description of the circumstances leading to the finding of the environmental violation and the identification of the authorship;
Ii – recording the situation by photographs, videos, maps, terms of declaration or other means of proof;	**Ii** – recording the situation by photographs, videos, maps, terms of declaration or other means of proof;
Iii – the criteria used to set the fine above the minimum limit, where appropriate; and	**Iii** – the criteria used to set the fine above the minimum limit, where appropriate;
Iv – any other information considered relevant.	**Iv** – the justified indication of the incidence of aggravating or mitigating circumstances, in the light of the criteria established by the environmental entity; and
	V – other information considered relevant.

Art. 98-A. The Environmental Conciliation Center will consist of at least two effective employees, being at least one of them a member of the of the body or entity of the environmental public administration responsible for the drafting of the infraction notice.

§ 1. The Environmental Conciliation Center is responsible for:

I – carry out the preliminary analysis of the violation for:

a) validate the infraction notice after the federal general attorney's statement;

b) declare null the infraction notice that presents a defect that could not be adjusted;

c) decide on the maintenance of the implementation of the administrative measures related to Article 101 and on the application of the other sanctions related to Article 3; and

II - hold the environmental conciliation hearing to:

a) explain to the wrongdoer the reasons that led to the issuance of the infraction notice;

b) present the possible legal solutions for shelving the process, such as the discount for payment, installment and conversion of the fine into services of preservation, improvement and recovery of the quality of the environment;

c) decide on public policy issues; and

d) approve the option of the certificate by one of the solutions referred to in point "b".

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§ 2. The members of the Environmental Conciliation Center will be nominated by the Minister of the State for the Environment and the highest official from the public environmental authority.

§ 3. The work carried out within the Environmental Conciliation Center may not be chaired by an employee who is a member of the agency or the entity of the federal environmental authority responsible for the issuance of the infraction notice.

§ 4. The Environmental Conciliation Center integrates the structure of the body or entity of the federal environmental authority responsible for the issuance of the infraction notice.

Art. 98-A. The Environmental Conciliation Center shall be composed of at least two effective employees from the federal environmental authority responsible for the issuance of the infraction notice.

§ 1. The Environmental Conciliation Center is responsible for:

I – carry out the preliminary analysis of the violtation for:

a) validate the infraction notice;

b) declare null and void the infraction notice that presents a defect that could not be adjusted;

c) decide on the maintenance of the implementation of the administrative measures related to Article 101 and on the application of the other sanctions related to Article 3;

d) consolidate the value of the environmental fine, in accordance with the provisions of Article 4; and

II - hold the environmental conciliation hearing to:

a) explain to the wrongdoer the reasons that led to the issuance of the infraction infringement;

b) present the possible legal solutions for the shelving of the process, which are:

1. the discount for payment of the fine;

2. the installment of the fine; and

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3. the conversion of the fine into preservation services, from improvement and from recovery of the quality of the environment;

c) decide on public policy issues; and

d) approve the option of the certificate by one of the solutions referred to in point "b".

§ 2. The members of the Environmental Conciliation Center will be nominated by the highest official from the public environmental authority.

§ 3. Revoked.

§ 4. The Environmental Conciliation Center integrates the structure of the body or entity of the federal environmental authority responsible for the issuance of the infraction notice.

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Art. 98-B. Environmental conciliation will take place at a single hearing, in which the acts provided for in item II of Article 1 of Article 98-A will be carried out, aiming at shelving the administrative process for the investigation of the environmental administrative infraction.

§ 1. The non-attendance of the wrongdoer to the environmental conciliation hearing shall be interpreted as a lack of interest in reconciling and will initiate the deadline for submitting the defense against the infraction notice, pursuant to Art. 113.

§ 2. The wrongdoer may present justification for his non-attendance to the environmental conciliation hearing, accompanied by the respective evidence, within two days, from the date scheduled for the hearing.

§ 3. It is the exclusive discretion of the Environmental Conciliation Center to recognize as valid the justification set forth in § 2 and schedule a new date for the environmental conciliation hearing, with the return of the deadline for offering the defense.

§ 4. There is no appeal against the rejection of the justification of paragraph 2.

§ 5. As long as the wrongdoer agrees, the environmental conciliation hearing may be held by electronic means, in accordance with the guidelines and criteria established in joint decree issued by the Minister of State for the Environment and the high officials from the federal environmental authority.

§ 6. Exceptionally, the environmental conciliation hearing may be dispensed or designated a supplementary hearing, in accordance with situations outlined in a joint decree issued by the Minister of State for the Environment and the the high officials from the federal environmental authority.

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Art. 98-B. Environmental conciliation will take place at a single hearing, in which the acts provided for in item II of Article 1 of Article 98-A will be carried out, aimed at shelving the administrative process for the investigation of the environmental administrative infraction.

§ 1. The non-attendance of the wrongdoer to the designated environmental conciliation hearing shall be deemed as a lack of interest in reconciling and the deadline for submitting the defense against the infraction notice will fully restart, in accordance with article 113.

§ 2. The wrongdoer may present justification for his non-attendance to the environmental conciliation hearing, accompanied by the respective evidence, within two days, from the date scheduled for the hearing.

§ 3. It is at the exclusive discretion of the Environmental Conciliation Center to recognize as valid the justification set forth in § 2 and schedule a new date for the environmental conciliation hearing, restarting the deadline for offering the defense.

§ 4. There is no appeal against the rejection of the justification of paragraph 2.

§ 5. The environmental conciliation hearing is Held preferably by videoconference, in accordance with the guidelines and criteria established regulation of the federal environmental authority investigating the environmental violation.

§ 6. Exceptionally, at the initiative of the public administration, the environmental conciliation hearing may be dispensed or designated a supplementary hearing, in accordance with situations regulated by the federal environmental authority investigating the environmental violation.

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Art. 98-D. In the event of failure of the environmental conciliation hearing by non-attendance or lack of interest in reconciling, the wrongdoer may choose to adhere to one of the legal solutions which refer to paragraph 1 (b) of paragraph II of Article 1 of Article 98-A, in accordance with applicable discount percentages according to the stage at which the proceedings are found.

Single paragraph. The provisions of the *Caption* also applies to the wrongdoer who has not pleaded for the conversion of the fine on the basis of Decree No. 9,179 of October 23, 2017, the administrative proceedings of which are still pending final judgment on October 8, 2019.

Art. 98-D. In the event of failure of the environmental conciliation hearing, non-attendance or lack of interest in reconciling, the wrongdoer may opt for one of the legal solutions foreseen in the paragraph "b" of paragraph II of Paragraph 1 of Article 98-A, in accordance with the applicable discount percentages applicable to each solution according to the stage at which the process is found.

§ 1. The provisions of the *Caption* also apply to the infraction notice issued in accordance with the previous legal regime and the fine of which is pending definitive constitution on the date of publication of Decree No. 11,080 of May 24, 2022.

§ 2. In the case provided for in Paragraph 1, the application for adhering to the legal solution shall comply with the provisions of Article 97-B.

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Art. 99. The infraction notice which presents a defect may, at any time, be validated by the authority, by order of the executive order, after the pronouncement of the federal attorney general's office acting with the respective administrative unit of the entity responsible for thereof.

Single paragraph. The procedure may be annulled from the procedural stage in which the defect was produced, reopening a new deadline for defense.

Art. 99. The infraction notice that presents a defect may, at any time, be validated by the authority.

Single paragraph. The procedure may be annulled from the procedural stage in which the defect was produced, reopening a new deadline for defense.

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Art. 100. The infraction notice which presents a defect shall be declared null and void by the competent authority which will determine the shelving of the cases, after the pronouncement of the federal attorney general's office acting with the respective administrative unit of the entity responsible for the infraction notice.

Art. 102. Animals, products, by-products, instruments, pieces, and vehicles of any nature referred to in item IV of Article 72 of Law No. 9,605 of 1998 shall be subject to seizure, as established in item I of Art. 101, unless justified.

Single paragraph. The seizure of products, by-products, instruments, parts, and vehicles of any kind provided for in the *Caption* are independent of its manufacture or exclusive use for the practice of illicit activities.

Art. 113. The wrongdoer may, within twenty days, from the date of the notification, submit a defense against the infraction notice, whose fluency may be suspended until the date of the environmental conciliation hearing.

§ 1. In the event of failure of the environmental conciliation hearing, by failure to attend or by lack of interest in reconciling, the deadline for offering the defense restarts.

§ 2. The discount of thirty percent provided for in § 2 of Art. 3 and Article 4 of Law No. 8,005 of March 22, 1990 shall be applied whenever the wrongdoer chooses to pay the fine, the installment allowed.

Art. 116. The defendant may be represented by a lawyer or attorney legally constituted, to do so, it must attach its power of attorney to the defense.

Single paragraph. The wrongdoer may request a period of up to ten days for filing its power of attorney

Art. 119. The authority may request the production of evidence necessary for its conviction as well as technical opinions, specifying the object to be clarified.

Art. 120. The evidence proposed by the wrongdoer, when impertinent or unnecessary may be denied by the authority.

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Art. 100. The infraction notice which presents a defect shall be declared null and void by the authority.

Art. 102. Animals, products, by-products, instruments, pieces, and vehicles of any nature referred to in item IV of Article 72 of Law No. 9,605 of 1998 shall be subject of seizure, as established in Item I of Art. 101, unless justified.

§ 1. The seizure of products, by-products, instruments, parts, and vehicles of any kind provided for in the Caoption are independent of its manufacture or exclusive use for the practice of illicit activities.

§ 2. In the event that the person responsible for the administrative violation or the holder or owner of the property is indeterminate, unknown or of indefinite domicile, the notification of the seizure will be carried out through the publication of its statement in the Official Gazette.

Art. 113. The wrongdoer may submit, within twenty days, from the date of notification, a defense against the infraction notice, in accordance with the provisions of § 1 of Art. 97-A.

§ 1. In the event of failure of the environmental conciliation hearing, by failure to attend or by lack of interest in reconciling, the count of the deadline for submitting a defense to which the *Caption* will restart entirely.

§ 2. The discount of thirty percent provided for in § 2 of Art. 3 and Article 4 of Law No. 8,005 of March 22, 1990 shall be applied in the event that the wrongdoer opts for payment of the fine in cash.

Art. 116. The defendant must be represented by a lawyer and attach the respective power of attorney to the defense, under penalty of the environmental authority not receiving the defense.

Single paragraph. The lawyer shall present the power attorney provided for in the *Caption*, within fifteen days, extendable for the same period by decision of the authority.

Art. 119. The sector responsible for the instruction and the authority may request the production of evidence necessary for the conviction, as well as technical opinions, specifying the object to be clarified.

Art. 120. The evidence deemed to be illicit, impertinent, or unnecessary proposed by the wrongdoer will be denied by the authority.

Art. 122. Once the investigation has been closed, the wrongdoer shall have the right to present its final submissions within a maximum period of ten days.

Single paragraph. The authority shall notify the wrongdoer by post with acknowledgment of receipt or by another valid means that ensures the certainty of its notification, for the purpose of presenting its final submissions.

Art. 122. Once the investigation has been closed, the wrongdoer shall have the right to present its final submissions within a maximum period of ten days.

Single paragraph. The authority shall notify the autuado, for the purpose of presenting its final submissions:

I – by post with acknowledged receipt;

II – by electronic notification, in accordance with the provisions of § 4 of Art. 96; or

III – by another valid means that ensures the certainty of notification.

Art. 123. The decision of the authority is not binding on the penalties imposed, or the amount of the fine, and may, in a motivated decision, reduce, maintain or increase its value, respecting the limits established in the environmental legislation in force.

Single paragraph. The authority shall notify the wrongdoer to present its final submissions, by post with acknowledged receipt or by other valid means that ensure the certainty of its notification, in cases where the procedural instruction indicates the aggravation of the penalty related to Art. 11.

Art. 123. The decision of the authority is not binding on the penalties imposed, or the amount of the fine, and may, in a motivated decision, reduce, maintain or increase its value, respecting the limits established in the environmental legislation in force.

Single paragraph. In the event that the possibility of aggravation of the penalty is identified, after the closure of the procedural investigation, the wrogndoer shall be notified, so that it can present, within ten days, its final submissions, before the judgment, proposed by Art. 124:

I – by post with acknowledged receipt;

Ii – by electronic notification, in accordance with the provisions of § 4 of Art. 96; or

Iii – by other valid means that ensure the certainty of notification.

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Art. 127. The decision given by the authority shall be appealed within twenty days.

§ 1. The appeal will be addressed to the competent authority, which has five days to reconsider its decision or to submit it to its superior.

§ 2. The competent environmental authority shall indicate, in its own act, the higher authority which shall be responsible for the judgment of the appeal referred to in *Caption.*

Art. 127. The decision given by the authority shall be appealed within twenty days.

§ 1. The voluntary appeal will be addressed to the competent authority who delivered the trial at the first instance, which has five days to reconsider its decision or to forward it to the competent authority, who will be responsible for the trial in the second and final administrative instance.

§ 2. The competent environmental authority shall indicate, in its own act, the higher authority which shall be responsible for the judgment of the appeal referred to in *Caption.*

§ 3. The wrongdoer may exercise, within the period referred to in the *Caption*, the option provided for in Paragraph 2 of Article 148, which will characterize the waiver of the right to appeal.

Art. 127-A. The authority which issued the decision related to the defense shall appeal to the higher authority in the cases to be defined by the environmental authority.

Art. 127-A. The judgment issued at the first instance shall be subject to the necessary review in the hypotheses established in the regulation of the competent authority.

Art. 129. The superior authority responsible for the judgment of the appeal may confirm, modify, annul or revoke, in whole or in part, the appealed decision.

§ 1. The appeal shall be brought by a declaration in the decision itself.

§ 2. In the case of a fine, the appeal will only be applicable in the hypotheses to be defined by the environmental authority.

Art. 129. The authority responsible for the judgment of the appeal may confirm, modify, annul or revoke, in whole or in part, the appealed decision.

Art. 130. The decision given by the higher authority shall be appealed to CONAMA within 20 days.

§ 1. The appeal referred to in this article shall be addressed to the higher authority which issued the decision in the appeal, which, if it does not reconsider it within five days, and after prior examination of admissibility, shall forward it to the President of CONAMA.

§ 2. The judging authority with CONAMA may not modify the penalty applied to aggravate the applicant's situation.

§ 3. The appeal brought in the manner provided for in this article shall not have suspensive effect, except for the penalty of fine.

§ 4. In the event of a fair fear of injury of difficult or uncertain redress, the authority or the immediately superior authority may, in a letter or at the request of the applicant, give suspensive effect to the appeal.

§ 5. The environmental body or entity shall discipline the requirements and procedures for the processing of the appeal provided for in *Caption* of this article.

Article 130 was revoked.

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Art. 132. After the trial, CONAMA will return the proceedings to the environmental agency of origin, so that it can notify the interested party, giving knowledge of the decision.

Article 132 was revoked.

Art. 133. If CONAMA confirms the infraction notice, the wrongdoer shall be notified in accordance with Article 126.

Single paragraph. The fines will be subject to monetary updating from the drafting of the infraction notice until its effective payment, without prejudice to the application of interest on late payment and other charges, as provided by law.

Article 133 was revoked.

Art. 139. This law creates the Program for the Conversion of Environmental Fines issued by members of the National Environment System (SISNAMA).

Single paragraph. The simple fine can be converted into services for the preservation, improvement and recovery of the quality of the environment, except for fines arising from environmental violations that have caused human deaths.

Art. 139. This law creates the Program for the Conversion of Environmental Fines issued by organs and entities of the Union that are members of the National Environment System (SISNAMA).

Single paragraph. The competent authority, pursuant to § 4 of Article 72 of Law No. 9,605 of 1998, may convert the simple fine into services for the preservation, improvement and recovery of the quality of the environment, except for fines arising from environmental violations that have caused human death and other hypotheses provided for in the regulation of the environmental authority responsible for investigating the environmental violation.

Art. 140. Services for preservation, improvement and recovery of the quality of the environment, actions, activities and works included in projects with at least one of the following objectives are considered:

I – recovery:

a) degraded areas for biodiversity conservation and conservation and improvement of environmental quality;

b) essential ecological processes;

c) of native vegetation for protection; and

d) aquifer recharge areas.

(...)

IX – ensuring the survival of species of native flora and wild fauna kept by the federal body or entity issuing the infraction notice; or (...)

Art. 140-A. The organs or entities of the federal environmental public administration of which this Section is treated may carry out administrative procedures of competition to select projects submitted by bodies and public or private entities, for the execution of the services of which art. 140 is treated, in public or private areas.

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Art. 142. The wrongdoer may request the conversion of fine that deals with this Section:

I – to the Environmental Conciliation Center, at the environmental conciliation hearing; (...)

Art. 140. Services for preservation, improvement and recovery of the quality of the environment, actions, activities and works included in projects with at least one of the following objectives are considered:

I – recovery:

a) degraded areas for biodiversity conservation and conservation and improvement of environmental quality;

b) ecological processes and ecosystem services considered as essential;

c) of native vegetation;

d) aquifer recharge areas; and

(e) degraded or deserted soils.

(...)

IX - guarantee of survival and recovery and rehabilitation actions for species of native flora and wildlife by public institutions or non-profit organizations; or (...)

Article 140-A was revoked.

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Art. 142. The wrongdoer may request the conversion of fine that deals with this Section:

I – to the Environmental Conciliation Center, by means of an application for adherence to, within the period laid down in *Caput* 97-A or until the date of the designated environmental conciliation hearing; (...)

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> **Art. 142-A.** The conversion of the fine will take place by means of one of the following modalities, to be indicated in each case by the federal environmental public administration:

I – implementation of projects for the preservation, improvement and recovery of the quality of the environment, dealing with, at least, one of the items I to X of the *Caption* of art. 140; or

II - by adhesion to a previously selected project, as outlined in Art. 140-A, and items I to X of the *Caption* of Art. 140 (Writing given by Decree No. 9,760/2019).

§ 1. The federal environmental public administration will indicate the project or part of the service to be implemented.

§ 2. For the hypothesis provided in item II of the*Caption,* the authority must set forth the procedures necessary for their operationalization.

§ 3. The projects referred to in Paragraph 1 shall be implemented as a matter of priority in the State in which the violation occurred.

> **Art. 143.** The value of the costs of preservation, conservation, improvement and recovery services of the quality of the environment will be equal to or greater than the amount of the fine converted.

(...)

§ 2. The Environmental Conciliation Center, the authority or the higher authority, when deferring the request for conversion, shall apply the discount of:

I – sixty percent, when the application is submitted at the environmental conciliation hearing; (...)

§ 7. The amount resulting from the discount may not be less than the legal minimum amount applicable to the violation.

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> **Art. 142-A.** The conversion of the fine will take place through one of the following modalities:

I – by implementation, under the responsibility of the wrongdoer, of preservation service projects, from improvement and from recovery of environmental quality that contemplates, at least one of the objectives of which treats the *Caption* of art. 140; or

Ii – by adhering to a previously selected project paragraph 3 and which includes at least one of the objectives of the *Caption* of art. 140.

§ 1. The federal environmental public administration will indicate the project or part of the service to be implemented.

§ 2. For the modalities laid down in*Caption,* the authority will set forth the regulation necessary for their operationalization.

§ 3. The body or environmental entity responsible for investigating the environmental violation may carry out selection processes to choose projects submitted by public or private bodies and entities, aimed at executing the services of art. 140, observing the procedure provided for in the legislation.

§ 4. The wrongdoer will bear the costs necessary for the effective implementation of the environmental service described in the selected project.

§ 5. The adoption, in whole or in part, of the approved project will be provided for in a regulation of the body or environmental entity responsible for investigating the environmental violation.

> **Art. 143.** The value of the costs of preservation, conservation, improvement and recovery services of the quality of the environment will be equal to or greater than the amount of the fine converted.

(...)

§ 2. The Environmental Conciliation Center, the authority or the higher authority, when deferring the request for conversion, shall apply the discount of:

I – sixty percent, when the application is submitted within the time limit set out in *Caption* of Art. 97-A or until the environmental conciliation hearing; (...)

§ 7. In the event that the penalty comminated has minimum and maximum intervals, the amount resulting from the discount shall not be less than the minimum amount applicable to the infringement.

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Art. 145. It is incumbent upon the Environmental Conciliation Center, the judging authority or the higher authority to decide on the request for conversion of the fine, depending on the time of its presentation, in accordance with the provisions of Article 142.

§ 1. The Environmental Reconciliation Center, the authority or the higher authority shall consider the peculiarities of the specific case, the offender's background and the deterrent effect of the environmental fine, and may, in a motivated decision, whether or not to defer the request for conversion made by the wrongdoer, in accordance with the provisions of Article 141 and the guidelines established in joint decree of the Minister of State for the Environment and the maximum leaders of the organs and entities of the federal environmental public administration.

§ 2. In the event of acceptance of the application for conversion, the wrongdoer shall be requested to sign the term of commitment related to Article 146:

a) by the Environmental Conciliation Center, during the conciliation hearing; or

b) by the authority or the higher authority, upon notification.

Art. 146. In the event of a decision in favor of the application, the parties shall sign a term of commitment, which shall establish the terms of the conversion of a fine for the period of execution of the approved project or its quota-part in the project chosen by the federal authority.

§ 1. The term of commitment shall contain the following mandatory clauses:

(...)

VI - compensation for damage arising from the environmental violation, existing case; e (...)

Art. 148. The wrongdoer who has pleaded for the conversion of a fine under the Decree No. 9,179, of 2017, in any of its modalities, may, within two hundred and seventy days, counted from October 8, 2019:

I - request the readjustment of the request for conversion of fine for execution as provided for in Art. 142-Aa, guaranteed the discount of sixty percent on the amount of the consolidated fine; or

II - give up the request for conversion of fine, guaranteed the faculty to opt for one of the other possible legal solutions to terminate the process, such as the discount for payment and the installment of the fine.

Single paragraph. The expiration of the period of which the caput deals without any manifestation of the wrongdoer implies tacit withdrawal of the request for conversion of fine, in which case the federal environmental public administration body issuing the fine should notify you about the continuation of the administrative process.

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Art. 145. It is incumbent upon the Environmental Conciliation Center, the judging authority or the higher authority to decide on the request for conversion of the fine, depending on the time of its presentation, in accordance with the provisions of Article 142.

§ 1. The Environmental Reconciliation Center or the authority competent will consider the peculiarities of the specific case, the offender's background and the deterrent effect of the environmental fine and, in a motivated decision, may whether or not to defer the request for conversion made by the wrongdoer, in accordance with the provisions of Article 141 and the guidelines established in regulation of the environmental body or entity responsible for investigating the environmental violation.

§ 2. In the event of acceptance of the application for conversion, the wrogndoer shall be requested to sign the term of commitment related to Article 146:

I - by the Environmental Conciliation Center, in the chances of adhering to the solution in the environmental conciliation hearing; or

II - by the authority or the higher authority, upon notification.

Art. 146. In the event of a decision in favor of the application, the parties shall sign a term of commitment, which shall establish the terms of the conversion of a fine for the period of execution of the approved project or its quota-part in the project chosen by the federal authority.

§ 1. The term of commitment shall contain the following mandatory clauses:

(...)

VI - environmental regularization and compensation for damage arising from the environmental violation, according to regulations; e (...)

Art. 148. To the wrongdoer which, under the previous legal regime, has pleaded in a timely manner, the conversion of the fine, the 60 percent discount on the value of the consolidated fine is guaranteed in the assessment of its application by the competent authority.

§ 1. At the time of the judgment of the infraction notice or appeal, the competent authority shall assess the request for conversion of a fine into a single decision.

§ 2. After the request mentioned in Caption, the wrongdoer will be requested to confirm, within twenty days, his interest in the conversion of the fine.

§ 3. The expiration of the period set forth in paragraph 2 without the manifestation of the wrongdoer will imply tacit withdrawal of the request for conversion of fine, in which case the process will follow its regular flow.

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N/A	**Art. 149-A.** The provisions of Article 11 apply to the infraction notices issued from the entry into force of Decree No. 11,080 of 2022.