

## **BRAZILIAN SPACE AGENCY**

### **ADMINISTRATIVE EDICT N. 05 OF FEBRUARY 21<sup>st</sup>, 2002<sup>1</sup>**

THE PRESIDENT OF THE BRAZILIAN SPACE AGENCY – AEB using the attribution vested in him by numeral XIII of article 3 of the Law n. 8.854, of February 10<sup>th</sup>, 1994, and bearing in mind the provision of article 8 of the RESOLUTION # 55/CSP/AEB, of October 24<sup>th</sup>, 2001, resolves:

Article 1. To approve the Regulation on procedures for the authorization to carrying out space launching operation on Brazilian territory, as provided for in the enclosure.

Article 2. The Office for Standards and Licensing – DNL/AEB – may enact complementary instructions aimed at the performance of technical and administrative actions pertaining to the execution of the procedures for the space launching operations on Brazilian territory.

Article 3. This Regulation shall enter into force on the date of its publication in the Union's Official Gazette.

MÚCIO ROBERTO DIAS

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<sup>1</sup> Free translation without legal value

## ENCLOSURE

### REGULATION ON PROCEDURES FOR THE AUTHORIZATION OF SPACE LAUNCHING OPERATION ON BRAZILIAN TERRITORY

#### CHAPTER I

##### GENERAL PROVISIONS

Article 1. The Brazilian Space Agency - AEB, a federal autarchy of civil nature, established by the Law n. 8.854, of February 10th, 1994, has the competence to issue authorization for carrying out space launching operation on Brazilian territory, as well as the control, follow-up and supervision of all operations.

Paragraph 1. Space Launching is the operation to place or attempt to place a launching vehicle and its payload in sub-orbital trajectory, in Earth orbit or otherwise in outer space.

Paragraph 2. The provisions of this Regulation do not apply to space launching operations that may be carried out by Brazilian governmental organisations or bodies.

Article 2. Authorization is the administrative act, within the competence of AEB, issued by a Resolution of its Higher Council, to operate a specific space launching on Brazilian territory, in compliance with the terms and conditions established in this Regulation and pertinent laws.

Sole Paragraph. As deemed by AEB, the authorization may contain restrictive or conditional clauses.

Article 3. The License for carrying out space launching activities is a requisite to formalise a request and grant an authorization.

Article 4. In order to be granted an authorization, the Licensee is required to contract an insurance company for covering damages to third parties that might be involved in each space launching operation, and noting that AEB shall establish the insurance's value.

Paragraph 1. The liability for damages due to space launching shall be settled in accordance with international space activity treaties and covenants of which Brazil is signatory, as well as other applicable norms, without prejudice to any contract that might have been celebrated between the parties that laid down rules for the accountability of financial obligations.

Paragraph 2. Damage is deemed to be the loss of human life, personal injuries or other health impairments, loss of State property or of natural or legal person's property, including intergovernmental organizations, as well as damages inflicted to the environment.

Article 5. The authorization shall be granted for a limited period of time, on a case by case basis, according to technical needs within the scope of each space launching operation.

Paragraph 1. The Licensee must present detailed documentation over the space launching operation project, as set forth in the provisions of paragraph 2 of article 9 of this Regulation,

and it shall strictly be abided by security norms established by AEB and respective launch center.

Paragraph 2. The space launching must take place within the license's validity granted to the operator for the execution of space activities on Brazilian territory.

Article 6. Each authorization shall be given an identification number for the means of control, follow-up and supervision.

Article 7. The space launching shall be controlled, followed-up and supervised by AEB.

Paragraph 1. AEB is allowed to enter into agreements with public or private organizations, or celebrate contracts with third parties for providing specialized technical services, as set forth in pertinent legislations.

Paragraph 2. AEB shall maintain the confidentiality of information attained as a result of its supervision and shall be committed to the authorized operator, its associated members, consortia, proxies and contracted parties, not to disclose such information to third parties, nor authorize that neither entity, public or private, that have entered into contracts or covenants with AEB disclose such information.

Article 8. The President of AEB, in accordance with the Department of Research and Development – DEPED, Air Force Command of Ministry of Defence, shall appoint a representative officer to be in charge of coordinating each authorized space launching, as follows:

- I. hold, at any time, the launching procedures whenever any security norm, or any other norm provided for the operation, is not being fulfilled or not accomplished;
- II. recommend the imposition of penalties whenever irregularities, ongoing mistakes or failures were detected, or when the representative certifies that the launching operation is in conflict with security norms or the public order.

Paragraph 1. The representative shall take notes, appropriately registered, of all occurrences as a result of performances undertaken by the authorized operator, in compliance with the launching operation under the representative's responsibility.

Paragraph 2. Decisions or necessary arrangements that might go beyond the scope of the representative's competence shall be proposed to AEB's pertinent authorities, in due time, so that appropriate measures can be taken.

## CHAPTER II

### OF PROCEDURES FOR AUTHORIZATION

Article 9. The authorization's procedure shall be started by opening an administrative process, duly instructed, registered and numbered, containing the application for authorization and pertinent documents filed away by the applicant, as they all must be eventually annexed to other relevant administrative acts and documents.

Paragraph 1. The Licensee shall register its application at AEB, noting that it is required a time lag of 120 (one hundred a twenty) days from the date of registering the request and the tentative date of launching.

Paragraph 2. The application must contain a brief and clear description of the intended authorization and be attached by the following documents:

- I. draft of a space launching service contract yet to be signed by the Licensee;
- II. space launching plan pointing out orbital data, trajectory and respective timetable;
- III. description of the launching vehicle pointing out propellants to be used in each stage;
- IV. description of payloads pointing out what they are being launched for, as well as their owners' identification;
- V. list of all legal person involved in the space launching along with their respective attributions;
- VI. proof of an insurance contract for space launching operation;
- VII. proof of payment of all due fees.

Paragraph 3. All documents attached to the application shall be presented in Portuguese, or in the applicant's original language, duly certified, along with its translation made by a certified translator.

Article 10. All documents shall be examined by AEB's designated officer in charge of supervising the corresponding licensing activities. The officer shall elaborate and present a report within 25 (twenty five) days, counted from the date of receiving the legal proceedings.

Paragraph 1. For issuing each authorization, a set of procedures is adopted before the competent Entity entrusted to make evaluations of environmental impact.

Paragraph 2. Incumbents of AEB's Offices shall render full support to the activities that fall within the designated officer's competence.

Paragraph 3. The Office for Standards and Licensing – DNL – shall function as a technical secretariat, as well as it might take all necessary steps in order to implement corrective measures to fulfil the designated officer's report's recommendations.

Paragraph 4. During the procedures for granting an authorization, if the applicant fails to comply with any measure determined by AEB's officer within 30 (thirty) days of being notified, the process will be automatically filed.

Paragraph 5. After the conclusion of the report as foreseen on the caput of this Article, the process shall be addressed to the Office for Standards and Licensing – DNL – and, if it is deemed necessary on a case by case basis, it might be submitted to others AEB's Offices, according to their respective competencies, whereas the Offices have the maximum of 30 (thirty) consecutive days to ultimately approve or make recommendations over the report.

Paragraph 6. After the Office for Standards and Licensing's evaluation, the process, duly instructed, shall be addressed to the President of AEB who must submit it to the final decision of the Higher Council, in its first subsequent meeting.

Article 11. The authorization for carrying out space launching activities shall be issued within 15 (fifteen) consecutive days after the date of its approval by AEB's Higher Council.

### CHAPTER III

#### OF ADMINISTRATIVE SANCTIONS

Article 12. The performance of space launching activities in discordance with the provisions of this Regulation shall subject the offender to the following penalties, asserted the due process of law:

- I. warning;
- II. temporary suspension of the authorization;
- III. revocation of the authorization.

Paragraph 1. The enforcement of penalties shall not exempt the offender from civil and criminal liabilities that might apply in virtue of the actions committed.

Paragraph 2. The penalties applied in this Article befall the competence of the Higher Council, whereas the President of AEB, *ad referendum* of the Council, may call for such penalties in urgent cases, with immediate effects.

Paragraph 3. For the actual implementation of penalties, the seriousness of the infraction shall be taken into account by means of assessment through administrative process.

Article 13. The authorization may be suspended or revoked:

- I. in case of misconduct of any established rule;
- II. when any of the space launching operation is being accomplished in a different manner of that authorized;
- III. whenever the license is suspended or revoked.

### CHAPTER IV

#### ADMINISTRATIVE APPEALS

Article 14. Appeal might be possible upon AEB in case of its negative decision on the granting or modification of authorization, or on those decisions determining the suspension and revocation of authorization or, yet, that imposed any penalty, as long as the appeal be sought within 15 (fifteen) consecutive days, counted from the date of issuance of the subpoena.

Sole paragraph. The appeal shall be addressed to the President of AEB by the authority whose sanctions were imposed, whereas the President of AEB might reconsider the decision within the time limit of 15 (fifteen) consecutive days, or, within the same period of time, the President might submit the appeal, duly instructed, to the Higher Council, as in the latter case, the decision shall be reached within 15 (fifteen) consecutive days, counted from the receiving date of the process.

Article 15. The subpoena referred to in Article 14 shall take place by means of publication in the official press, or by direct communication, if the representative of the party concerned is present at the time in which the decision was adopted.

## CHAPTER VI

### FINAL PROVISIONS

Article 16. The administrative acts related to the issuance of authorization and foreseen penalties provided for in this Regulation shall be formalised by means of a Resolution of AEB's Higher Council and published in the Union's Official Gazette.

Article 17. The President of AEB shall establish reference values for the collection of fees for the granting of authorization by means of administrative regulation and it shall be published in the Union's Official Gazette.

Article 18. AEB shall maintain a database for the purposes of registering authorizations for carrying out space launching activities on Brazilian territory.

Article 19. AEB shall establish and maintain a registry for registering space object launched to outer space from Brazilian territory.

Paragraph 1. The term "space object" comprises launch vehicle, its component parts and payload.

Paragraph 2. Shall be written down on the registry the following information about the space object:

- I. the name of launching State or States;
- II. general designation and function of the space object;
- III. date, time and venue of the space launching;
- IV. orbital basic parameters, including nodal period, inclination, apogee and perigee;
- V. owners' data and further information, if need be.

Paragraph 3. In the event of any alteration on the registry's data, it shall be given notice to AEB, especially if related to orbital parameters and return or the destruction of a space object.

Paragraph 4. The registry book's data are made public and a certificate containing its contents may be issued to an interested party, as long as it submits a written request and it proves it has collected all due fees fixed by AEB.

Article 20. It is elected the jurisdiction of Brasília-DF – the Court of Federal Justice – to settle all controversies regarding the provisions entrusted in this Regulation.