

# LATIN AMERICAN REGION

## ENVIRONMENTAL QUARTERLY



APRIL 2011

### NOTES FROM THE LATIN AMERICAN PRACTICE GROUP

Greetings from the Latin American Practice Group! We are pleased to provide our first 2011 Latin American Region Environmental Quarterly, covering highlights from the first quarter of the year. We expect a dynamic legislative and regulatory year, once again. This installment covers the following regional developments:

- **Clean Air and Climate Change.** The region continues to gear up for implementing climate change mitigation and adaptation measures, including regulation of greenhouse gases. **Mexico** has granted jurisdiction to SEMARNAT, its national environmental agency, to address climate change and has proposed a new air regulation that would require inventories of greenhouse gases. **Colombia** has adopted two companion procedural rules that set the groundwork for implementing CDM projects.
- **Natural Resources Protection.** In a historic move, **Bolivia** has adopted “Pachamama” or Mother Earth legislation that grants Mother Earth “rights” akin to human rights, the first of its kind in the world. **Argentina** has moved forward to implement its controversial Glacier Protection Law. **Chile** has proposed a new cabinet-level ministry to create a Department of Biodiversity and Protected Areas charged with improving protection and conservation of biodiversity.
- **Energy Efficiency.** Energy efficiency issues continue to remain a priority for the region. **Brazil** and **Mexico** both have initiatives to phase out incandescent bulbs. The **Brazilian** standards setting entity, INMETRO, has proposed a unified system for energy efficiency labeling for products. **Uruguay** has moved forward with official announcements that it will begin enforcing its Energy Efficiency Law which requires certified labeling for energy-consuming products.
- **Superfund and Brownfields.** In what may be the first formal initiative on Brownfields within the region, **Puerto Rico** has adopted a law to encourage the economic development and environmental protection of abandoned properties. **Brazil’s** trend-setting industrial state, **São Paulo**, has moved to implement its so-called “Superfund” Law, creating one of the most robust regional contaminated site laws and that may well create a model within **Brazil** if not the region as a whole.
- **Watershed and Wetlands Protection.** Water quality and protection continue to remain a key regional issue. **Colombia** has granted expanded jurisdiction and obligations to its centralized environmental entities to institute flooding and watershed protection programs. The **Peruvian** legislature has pending a Wetlands Law to conserve and protect wetlands

**Note:** Please know that the Quarterly is designed to capture major developments and emerging regional trends and is not intended to not provide comprehensive coverage of all environmental initiatives. This edition covers highlights from January through March 2011.



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## ARGENTINA HIGHLIGHTS

### ARGENTINA APPROVES REGULATIONS IMPLEMENTING GLACIER PROTECTION LAW

Argentina has approved regulations implementing the controversial Glacier Protection Law (“Law”) adopted last year (*Decreto 207/2011, Reglamentación del Régimen de Presupuestos Mínimos para la Preservación de los Glaciares y del Ambiente Periglacial* or “Regulation”). The Law bans mining and industrial activities on or around the country’s glaciers, which are declared as “strategic fresh water reserves.” (Law, Arts. 1 and 6).

The Regulation establishes a number of specific objectives for the National Glacier Inventory (“Inventory”) required by Law. For example, it provides that the Inventory must implement appropriate methodologies for the efficient mapping and monitoring of glaciers in different regions of the country and provide for public access to the data that is collected. The Regulation also provides for a phased approach for development of the Inventory. The Inventory shall be undertaken in three phases as follows: (i) identification, mapping and characterization of glaciers; (ii) study of recent changes in selected glaciers; (iii) detailed studies of selected glaciers in different regions of the country. (Regulations, Arts. 4 and 5).

Various NGOs have been critical of the Regulation as only a partial implementation of the Law noting, in particular, its failure to identify priority areas that require immediate study.

#### **Reference Sources (in Spanish):**

- Glacier Protection Law, available at [www.bdlaw.com/assets/attachments/Argentina%20-%20Ley%2026-639.pdf](http://www.bdlaw.com/assets/attachments/Argentina%20-%20Ley%2026-639.pdf)
- Regulation Implementing Glacier Protection Law, available at [www.bdlaw.com/assets/attachments/Argentina%20-%20Resolution%2053.pdf](http://www.bdlaw.com/assets/attachments/Argentina%20-%20Resolution%2053.pdf)
- Clarín News Report, *Glaciers: Regulations for Law Issued, But in Partial Form*, available at [http://www.clarin.com/sociedad/Glaciares-reglamento-ley-forma-parcial\\_0\\_436756408.html](http://www.clarin.com/sociedad/Glaciares-reglamento-ley-forma-parcial_0_436756408.html)

### CONGRESS CONSIDERING NATIONAL BATTERY LAW

The Argentine Congress is considering a bill that would adopt a National Law for the Management of Batteries and Accumulators (Proyecto de Ley No. 1036-D-2011, *Ley Nacional de Gestión de Pilas y Acumuladores* or “Bill.”) The Bill’s objectives are to prevent the generation of battery wastes and facilitate recycling. (Bill, Art. 1) The Bill would apply to batteries and accumulators, independent of form, volume, weight, composition or use. (Bill, Art. 2) However, accumulators used in industrial contexts or in automobiles would not be within the scope of this measure. (Bill, Art. 2) The Bill would establish a comprehensive regulatory framework for the collection, treatment and recycling of batteries and accumulators. (Bill, Art. 1)

#### **Reference Source (In Spanish):**

- Bill to Adopt National Law for the Management of Batteries and Accumulators, available at [www.bdlaw.com/assets/attachments/Argentina%20-%20Battery%20Bill.pdf](http://www.bdlaw.com/assets/attachments/Argentina%20-%20Battery%20Bill.pdf)

## BOLIVIA HIGHLIGHTS

### BOLIVIA GRANTS “MOTHER EARTH” SAME PROTECTIONS AS THOSE PROVIDED TO PEOPLE UNDER HUMAN RIGHTS’ LAWS

Bolivia has enacted the first Law of Rights of Mother Earth, or as she is referred to by the indigenous populations, “Pachamama” (*Ley de Derechos de Madre Tierra, or, “the Law”*). The law



purports to grant the same protections to nature as those guaranteed to people under human rights laws. The Law, enacted by President Evo Morales in January, will establish a Ministry of Mother Earth and appoint an ombudsman in charge of monitoring industry and protecting communities. (Art. 10) The Law establishes several “basic environmental rights,” including: the right to life; the right to harmony; the right to clean air and clean water; and, the right to be free of pollution. (Art. 7) Several provisions require development of governmental policies to protect the environment from the adverse effects of development projects and human activities, with an emphasis on the need to protect harmony between Mother Earth and living beings, plants and animals alike, as well as the local communities. It is feasible that the new law could be used to challenge a number of industrial, extraction or development projects.

**Reference Sources (in Spanish and English):**

- Law of Rights of Mother Earth (in Spanish), available at [www.bdlaw.com/assets/attachments/Bolivia%20-%20Law%20of%20Rights%20of%20Mother%20Earth.pdf](http://www.bdlaw.com/assets/attachments/Bolivia%20-%20Law%20of%20Rights%20of%20Mother%20Earth.pdf)
- *Bolivia confers 11 rights to nature, equivalent to Human Rights* (April 11, 2011) (in Spanish), available at [www.bdlaw.com/assets/attachments/Bolivia%20-%20Bolivia%20confers%2011%20rights%20to%20nature%20equivalent%20to%20Human%20Rights.pdf](http://www.bdlaw.com/assets/attachments/Bolivia%20-%20Bolivia%20confers%2011%20rights%20to%20nature%20equivalent%20to%20Human%20Rights.pdf)
- Stephen Edwards, *UN document would give ‘Mother Earth’ same rights as humans* (April 13, 2011) (in English), available at [www.bdlaw.com/assets/attachments/Bolivia%20-%20UN%20Doc%20Would%20Give%20Mother%20Earth%20Same%20Rights.pdf](http://www.bdlaw.com/assets/attachments/Bolivia%20-%20UN%20Doc%20Would%20Give%20Mother%20Earth%20Same%20Rights.pdf)

## BRAZIL HIGHLIGHTS

### NATIONAL DEVELOPMENTS

#### BRAZIL FORMS COMMITTEE TO OVERSEE REVERSE LOGISTICS FOR END-OF-LIFE PRODUCTS

Taking a major step in the development of “reverse logistics” for various products under the new National Solid Waste Policy Law (*Política Nacional de Resíduos Sólidos*; Law No. 12305; the “Law”), on February 17, 2011, Brazil’s Ministry of Environment formally convened the “Orientation Committee for Implementation of Reverse Logistics Systems” (*Comitê Orientador para Implantação de Sistemas de Logística Reversa*; the “Orientation Committee”). The Law imposes producer take-back requirements for several product categories: pesticides, lubricants, tires, batteries, fluorescent lamps, electrical and electronic products, and a range of product packaging not yet fully defined. (Art. 33)

Under the Law’s first implementing regulation, Decree No. 7404, the Orientation Committee is empowered to decide several pivotal issues. Among the Orientation Committee’s broad powers are: (1) determining and applying criteria for evaluating the technical and economic viability of reverse logistics systems (Arts. 17, 21, 30, 34); (2) setting the priorities and timelines for products to be made subject to reverse logistics requirements, and for review of such requirements (Art. 34); (3) managing the rulemaking process for sectoral agreements or other reverse logistics regulations, and approving the resulting rules (Arts. 26, 29, 31); and (4) imposing restrictions on the composition and form of product packaging (Art. 34). The Orientation Committee is comprised of the ministers of: the Environment; Agriculture; Development, Industry and Trade; Budget and Taxation; and Health. Its next meeting is expected to held during June 2011.

**Reference Sources (in Portuguese):**

- Law No. 12305 of 2010, available at [www.bdlaw.com/assets/attachments/Brazil%20Law%2012305%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Brazil%20Law%2012305%20of%202010.pdf)
- Decree No. 7404 of 2010, available at [www.bdlaw.com/assets/attachments/Brazil%20Decree%207404%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Brazil%20Decree%207404%20of%202010.pdf)



## LAW TO REGULATE BRAZILIAN DEEPWATER OIL DEVELOPMENT AND FUND SOCIAL AND ENVIRONMENTAL PROGRAMS

On December 22, 2010, outgoing President Luiz Inácio Lula da Silva signed Law No. 12351 (the “Law”), on the exploration and production of oil, natural gas and other hydrocarbons, under a production-sharing regime, in “pre-salt” areas (*dispo e sobre a exploração e a produção de petróleo, de gás natural e de outros hidrocarbonetos fluidos, sob o regime de partilha de produção, em áreas do pré-sal*). The recently discovered offshore oil deposits are known as “pre-salt” because they are located beneath a thick layer of salt, which itself is deep beneath the floor of the ocean outside the continental shelf.

The Law outlines a bidding process to be conducted by Brazil’s National Petroleum Agency in which foreign companies may compete to enter into production-sharing contracts with the Brazilian government. (Arts. 13-17) According to the Law, bids on lease blocks will be judged solely by the quantity of oil offered to the government. (Art. 18) Successful bidders will be required to form consortia with the national oil company, Petrobras, to develop their leases (Arts. 4, 19-26), and will pay royalties and a “signing bonus” to the government (Art. 42). With few details, the Law lists 33 essential clauses that production-sharing contracts must include. (Art. 29)

The Law directs a portion of the required payments to the capitalization of a “Social Fund” (*Fundo Social*) intended to fight poverty and enhance development by supporting projects in the areas of education, culture, sports, public health, science and technology, environment, and climate change mitigation and adaptation. (Arts. 47-49) The Social Fund is to be managed by a “Deliberative Council” (*Conselho Deliberativo do Fundo Social*), although the Law leaves most details of the council’s composition and authority to be established through a future executive decree. (Art. 58)

### **Reference Sources (in Portuguese):**

- Law No. 12351 of 2010, available at [www.bdlaw.com/assets/attachments/Brazil%20Law%2012351%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Brazil%20Law%2012351%20of%202010.pdf)

## BRAZIL PHASES OUT INCANDESCENT LIGHT BULBS

On January 6, 2011, the Brazilian ministries of Mines and Energy, Science and Technology, and Development, Industry and Trade published a joint regulation (*Interministerial Portaria No. 1007*; the “Regulation”) that schedules a series of mandatory minimum efficiency standards for incandescent light bulbs to go into effect over a five-year period. The Regulation presents the phased standards in two tables, one for each of Brazil’s predominant voltages, 127 and 220. The standards are based on wattage, with bulbs divided into seven classes, and denominate efficiency in terms of lumens per watt. The first new standards take effect June 30, 2012 and cover only the two highest wattage classes, 101-150W and 150W+. On June 30 of each year through 2016, increasingly rigorous standards take effect, covering more classes of bulbs. The standards appear to exceed the efficiency of incandescent bulbs on the market, and may be unattainable, so the likely effect of the Regulation is to prohibit the sale of most incandescent bulbs in Brazil. The Regulation exempts certain types of bulbs, including small, low wattage bulbs ( $\leq 40W$  and 45mm diameter), halogens, and those used for many specialized applications such as traffic lights, automobiles, and medical equipment.

### **Reference Sources (in Portuguese):**

- Interministerial Portaria No. 1007 of 2010, available at [www.bdlaw.com/assets/attachments/Brazil%20Internministerial%20Portaria%201007%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Brazil%20Internministerial%20Portaria%201007%20of%202010.pdf)



## ANVISA BANS SIXTH PESTICIDE, METHAMIDOPHOS, UNDER REEVALUATION PROCESS

On January 17, 2011, Brazil's National Health Surveillance Agency (*Agência Nacional de Vigilância Sanitária*; "ANVISA") published Resolution No. 1, banning the pesticide methamidophos from sale after December 31, 2011, and from all use in Brazil after June 30, 2012. ANVISA indicates its finding that methamidophos presents a risk to human health due to toxic effects on the endocrine, immune and nervous systems and on reproduction and fetal development. (Preamble)

Methamidophos is the sixth substance banned under a pesticide reevaluation process that ANVISA initiated in 2008 to examine 14 active ingredients that had been banned in other countries. The five substances that ANVISA previously banned under the process are acefate, cihexatin, endosulfan, fosmete and trichlorphon. The other substances under review are abamectine, carbofuran, glyphosate, forate, lactofen, methyl parathion, paraquate and tiram. ANVISA conducted a similar pesticide reevaluation in 2002, which resulted in bans of four ingredients.

### **Reference Sources (in Portuguese):**

- ANVISA Resolution RDC No. 1 of 2011, available at [www.bdlaw.com/assets/attachments/ANVISA%20Resolution%20RDC%201%20of%202011.pdf](http://www.bdlaw.com/assets/attachments/ANVISA%20Resolution%20RDC%201%20of%202011.pdf)
- ANVISA Resolution RDC No. 10 of 2008, available at [www.bdlaw.com/assets/attachments/ANVISA%20Resolution%20RDC%2010%20of%202008.pdf](http://www.bdlaw.com/assets/attachments/ANVISA%20Resolution%20RDC%2010%20of%202008.pdf)
- ANVISA Resolution RDC No. 48 of 2008, available at [www.bdlaw.com/assets/attachments/ANVISA%20Resolution%20RDC%2048%20of%202008.pdf](http://www.bdlaw.com/assets/attachments/ANVISA%20Resolution%20RDC%2048%20of%202008.pdf)

## BRAZIL ADOPTS COMBINED RATING SYSTEM FOR VEHICLE EMISSIONS AND FUEL EFFICIENCY

Brazil's environmental enforcement agency, IBAMA, and National Institute of Metrology, Standardization and Industrial Quality (*Instituto Nacional de Metrologia, Normalização e Qualidade Industrial*; "INMETRO") have formed a program to rate the environmental profile of automobiles under a single classification of combined environmental indicators (*classificação única decorrente da união dos indicadores ambientais*). A jointly signed regulation (*IBAMA Joint Portaria No. 2*) takes the results of two existing systems, IBAMA's "Green Seal" (*Nota Verde*) pollutant emissions rating, and INMETRO's fuel efficiency labeling program (*Programa Brasileiro de Etiquetagem Veicular*) to assist consumer choice by grading vehicles on a five-tier scale, from A to E.

### **Reference Sources (in Portuguese):**

- IBAMA Joint Portaria No. 2 of 2010, available at [www.bdlaw.com/assets/attachments/IBAMA%20Joint%20Portaria%202%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/IBAMA%20Joint%20Portaria%202%20of%202010.pdf)

## INMETRO PROPOSES ENERGY EFFICIENCY LABELING CERTIFICATION RULE

The Brazilian National Institute of Metrology, Standardization and Industrial Quality (*Instituto Nacional de Metrologia, Normalização e Qualidade Industrial*; "INMETRO") has issued for public comment a draft regulation (*INMETRO Portaria No. 138/2011*; the "Proposal") for the energy efficiency labeling of products. Whereas Brazil already requires several products to bear such labels, the Proposal would establish a unified system of "General Requirements of Labeling with a Demonstration of Efficiency through the Mechanism of Certification" (*Requisitos Gerais de Etiquetagem com Demonstração da Eficiência através do Mecanismo de Certificação*; "RGCE"). The Proposal does not address technical issues associated with efficiency testing, but instead is devoted to procedures for certification, sampling, quality assurance, and maintenance or renewal



of certifications. INMETRO will accept comments on the Proposal for 60 days following its date of publication, March 21, 2011.

**Reference Sources (in Portuguese):**

- INMETRO Portaria No. 138 of 2011, [www.bdlaw.com/assets/attachments/INMETRO%20Portaria%20138%20of%202011.pdf](http://www.bdlaw.com/assets/attachments/INMETRO%20Portaria%20138%20of%202011.pdf)

## BRAZILIAN STATE DEVELOPMENTS

### SÃO PAULO AMENDS PRODUCT TAKE-BACK REGULATION, EXPANDS SCOPE AND EXTENDS DEADLINE FOR SETTING QUOTAS

In a resolution (No. 131) published on December 31, 2010, São Paulo's State Secretariat of the Environment (*Secretaria de Estado do Meio Ambiente*; "SMA") amended its previous resolution (No. 24) requiring producer take-back of many end-of-life products. The amended resolution extends the timetable for setting take-back quotas from December 31, 2010 to March 31, 2014, and adds an annex that defines the category of covered "electro-electronic products" with a long list similar to that of the EU's WEEE Directive. Products subject to take-back in São Paulo now include all common household appliances and electronics, in addition to the previously covered batteries, fluorescent lamps, tires, lubricant containers and filters, and several categories of product packaging. SMA's authority to impose product take-back requirements comes from São Paulo's State Solid Waste Policy Law (No. 12300/2006) and its implementing regulation (Decree No. 54645/2009), which predate the federal reverse logistics program currently being developed under the National Solid Waste Policy Law (No. 12305/2010). The state and federal laws overlap in coverage but differ in several particulars.

**Reference Sources (in Portuguese):**

- Law No. 12305 of 2010, available at [www.bdlaw.com/assets/attachments/Brazil%20Law%2012305%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Brazil%20Law%2012305%20of%202010.pdf)
- São Paulo Law No. 12300 of 2006, available at [www.bdlaw.com/assets/attachments/Sao%20Paulo%20Law%2012300%20of%202006.pdf](http://www.bdlaw.com/assets/attachments/Sao%20Paulo%20Law%2012300%20of%202006.pdf)
- São Paulo Decree No. 54645 of 2009, available at [www.bdlaw.com/assets/attachments/Sao%20Paulo%20Decree%2054645%20of%202009.pdf](http://www.bdlaw.com/assets/attachments/Sao%20Paulo%20Decree%2054645%20of%202009.pdf)
- São Paulo SMA Resolution No. 24 of 2010, available at [www.bdlaw.com/assets/attachments/Sao%20Paulo%20SMA%20Resolution%2024%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Sao%20Paulo%20SMA%20Resolution%2024%20of%202010.pdf)
- São Paulo SMA Resolution No. 131 of 2010, available at [www.bdlaw.com/assets/attachments/Sao%20Paulo%20SMA%20Resolution%20131%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Sao%20Paulo%20SMA%20Resolution%20131%20of%202010.pdf)

### SÃO PAULO PROPOSES IMPLEMENTING REGULATION FOR "SUPERFUND-LIKE" SITE REMEDIATION LAW

On February 2, 2011, São Paulo's environmental enforcement agency, the Environmental Sanitation Technology Company (*Companhia de Tecnologia de Saneamento Ambiental*; "CETESB"), posted for public comment a proposed decree (the "Proposed Regulation") to implement its 2009 law (No. 13577; the "Law") on "standards and procedures for the protection of soil quality and management of contaminated sites" (*diretrizes e procedimentos para a proteção da qualidade do solo e gerenciamento de áreas contaminadas*). The Law has drawn comparisons to the U.S. Superfund law as it similarly creates a fund, the State Fund for Prevention and Remediation of Contaminated Sites (*Fundo Estadual para Prevenção e Remediação de Áreas Contaminadas*; "FEPRAC"), to enable remediation of sites prior to the assignment of liability.

The Proposed Regulation elaborates on the remediation process set forth in the Law, under which potentially contaminated sites are identified and entered in a Registry (*cadastro*), then investigated, classified and remediated. Among the new features that the Proposed Regulation



would add is the designation “critical contaminated site” (*area contaminada crítica*), defined as a site that, due to the damage and risk present, causes “unrest in the population or conflicts among the actors involved” (*inquietação na população ou conflitos entre os atores envolvidos*). (Art. 65) Such sites would be subject to intervention by CETESB using FEPRAC resources. As with the U.S. Superfund, such expenditures from FEPRAC would be recoverable from parties ultimately deemed legally responsible for the site or its contamination. (Art. 71) The public comment period on the Proposed Regulation ended March 15, 2011, and publication of a final version is anticipated in the near future.

**Reference Sources (in Portuguese):**

- São Paulo proposed decree, available at [www.bdlaw.com/assets/attachments/Sao%20Paulo%20proposed%20FEPRAC%20regulation.pdf](http://www.bdlaw.com/assets/attachments/Sao%20Paulo%20proposed%20FEPRAC%20regulation.pdf)
- São Paulo Law No. 13577 of 2009, available at [www.bdlaw.com/assets/attachments/Sao%20Paulo%20Law%2013577%20of%202009.pdf](http://www.bdlaw.com/assets/attachments/Sao%20Paulo%20Law%2013577%20of%202009.pdf)

## RIO DE JANEIRO ENHANCES ENFORCEMENT OF ENVIRONMENTAL LAW

Rio de Janeiro’s environmental agency, the State Environmental Institute (*Instituto Estadual do Ambiente*; “INEA”) has issued new rules intended to streamline enforcement. INEA Resolution No. 28 lists the actions and documents required of environmental agents, providing bulletized instructions to increase efficiency and decrease omissions in paperwork. The new rules are, in effect, a manual of administrative procedures, describing the required steps in investigations of potential violations and the criteria, authorization and effects of available punitive actions.

**Reference Source (in Portuguese):**

- Rio de Janeiro INEA Resolution No. 28 of 2010, available at [www.bdlaw.com/assets/attachments/Rio%20de%20Janeiro%20INEA%20Resolution%2028%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Rio%20de%20Janeiro%20INEA%20Resolution%2028%20of%202010.pdf)

## CHILE HIGHLIGHTS

### CHILE DEVELOPS PROGRAM TO CONVERT CFC-CONTAINING REFRIGERATION EQUIPMENT

In April 2011, the Ministry of the Environment initiated the application process for the Program “Incentives for End Users to Convert CFC [chlorofluorocarbons]-containing Equipment” (*Programa Incentivos a Usuarios Finales Para la Reconversión de Equipos a Base de CFCs*, “the Program”), targeting small business owners who want to convert their store’s refrigeration equipment. The Program will cover 90% of the costs of removing ozone-depleting CFCs from refrigeration equipment found in commercial grocery stores, minimarts, and similar establishments, and replacing them with other substances that are not harmful to the ozone layer. To apply, the owner of CFC-containing refrigeration equipment must contact the Program’s appointed refrigeration engineer, and must complete the application form by May 31, 2011. The Program is available to merchants in Antofagasta, Coquimbo, Valparaíso, Libertador Bernardo O’Higgins, Bío Bío, Araucanía, Los Lagos and rural communities surrounding the Metropolitan Region.

**Reference Sources (in Spanish):**

- Ministry of Health Supports Business Owners with the Conversion of CFC-containing Refrigeration Equipment (*ChileCrece* article, April 12, 2011), available at [www.bdlaw.com/assets/attachments/Chile%20-%20Ministerio-del-medio-ambiente-reconversion-refrigeracion.pdf](http://www.bdlaw.com/assets/attachments/Chile%20-%20Ministerio-del-medio-ambiente-reconversion-refrigeracion.pdf)
- Final Plan to Eliminate CFCs from the Service Industry in Chile, available at [www.bdlaw.com/assets/attachments/Chile%20-%20articles-50073\\_recurso\\_1.pdf](http://www.bdlaw.com/assets/attachments/Chile%20-%20articles-50073_recurso_1.pdf)



- Program Application Form, available at [www.bdlaw.com/assets/attachments/Chile%20-%20articles-50073\\_recurso\\_2.pdf](http://www.bdlaw.com/assets/attachments/Chile%20-%20articles-50073_recurso_2.pdf)

## PROPOSAL TO ESTABLISH A DEPARTMENT OF BIODIVERSITY AND PROTECTED AREAS AND A NATIONAL SYSTEM OF PROTECTED AREAS

On January 26, 2011, President Sebastián Piñera submitted the “Proposed Law to Create a Department of Biodiversity and Protected Areas and a National System of Protected Areas” (*Mensaje N. 595-358 de S.E., El Presidente de La Republica, con “Proyecto de Ley que crea el Servicio de Biodiversidad y Áreas Silvestres Protegidas y el Sistema Nacional de Áreas Silvestres Protegidas”* or “Proposed Law”) to the Legislature.

The Proposed Law is intended to streamline Chile’s authority to regulate and respond to problems related to biodiversity; currently, responsibilities are divided, and information is maintained separately, among several ministries and services. (Proposed Law, Section I, General Background.) The Proposed Law would address these issues by: (1) creating a Department of Biodiversity and Protected Areas within the Ministry of the Environment (Art. 3-11); (2) establishing a National System of Protected Areas and specifying categories for protection (Art. 12-53); (3) increasing protections and conservation of species in order to preserve biodiversity; (Art. 54-59); (4) creating a system for monitoring compliance with the regulations and attaching penalties and/or sanctions for violations that occur within, and outside of, Protected Areas (Art. 60-70); and (5) modifying existing laws that regulate the protection of biodiversity and protected areas (Art. 71-86). The Proposed Law is currently undergoing the first round of constitutional review.

### **Reference Sources (in Spanish):**

- Proposed Law to Create a Department of Biodiversity and Protected Areas and a National System of Protected Areas, available at [www.bdlaw.com/assets/attachments/Chile%20-%20Message%20595-358.pdf](http://www.bdlaw.com/assets/attachments/Chile%20-%20Message%20595-358.pdf)

## COLOMBIA HIGHLIGHTS

### MINAMBIENTE PROPOSES TERMS OF REFERENCE FOR ENVIRONMENTAL IMPACT STUDIES FOR A RANGE OF PROJECTS

In keeping with its robust and progressive approach to environmental regulation, the MinAmbiente published a suite of proposed terms of reference for preparing environmental impact studies. The terms of reference provide detailed instructions for developing impact studies and require information regarding a range of subject matter, from the core project description, geology and hydrogeology, water quality, use of natural resources, air quality impacts, socioeconomic impacts, management plans and contingency plans, among others. New terms of reference were proposed for the following types of activities: construction and operation of airport terminals, highways, mining, open-pit gold mining, exploitation of construction materials, development of coastal control and protection, and construction of dams and reservoirs (with specific requirements for those over 200 million cubic meters of water). Environmental impact studies are required as part of the application for an environmental license under Law 99 de 1993. The environmental license regulations were recently revised (*see Latin American Region Environmental Quarterly*, Beveridge & Diamond, P.C., October 2010, available at <http://www.bdlaw.com/assets/attachments/October%202010%20LAR%20Environmental%20Quarterly.pdf>).

### **Reference Sources (in Spanish):**

- *Propuesta de Términos de Referencia para la elaboración del Estudio de Impacto Ambiental*





- (EIA) para la construcción de presas, represas y embalses, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20EIA%20-%20construccion%20de%20presas\\_represas%20y%20embalses.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20EIA%20-%20construccion%20de%20presas_represas%20y%20embalses.pdf)
- *Propuesta de los Términos de Referencia para la elaboración del Estudio de Impacto Ambiental (EIA) para los proyectos relacionados a continuación:*
    - para la construcción y operación de terminales aéreas, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20term\\_ref\\_const\\_operacion\\_terminales\\_aereos.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20term_ref_const_operacion_terminales_aereos.pdf)
    - para proyectos de construcción de carreteras, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20term\\_ref\\_construccion\\_carreteras.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20term_ref_construccion_carreteras.pdf).
    - para proyectos de explotación de minería, available at [www.bdlaw.com/assets/attachments/Colombia%20-term\\_ref\\_explotacion\\_minera.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-term_ref_explotacion_minera.pdf)
    - para la explotación de oro a cielo abierto, available at [www.bdlaw.com/assets/attachments/Colombia%20-term\\_ref\\_explotacion\\_oro\\_cielo\\_abierto.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-term_ref_explotacion_oro_cielo_abierto.pdf)
    - para la construcción de presas, represas y embalses con capacidad mayor a 200 millones de metros cúbicos de agua, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20term\\_ref\\_construccion\\_embalses.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20term_ref_construccion_embalses.pdf)
    - para la explotación de materiales de construcción, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20term\\_ref\\_explotacion\\_material\\_construccion.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20term_ref_explotacion_material_construccion.pdf)
    - para obras de control y protección costera, available at [www.bdlaw.com/assets/attachments/Colombia%20-term\\_ref\\_erosion\\_costera.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-term_ref_erosion_costera.pdf)

## CITY OF BOGOTÁ PUBLISHES PROGRAM FOR MINIMIZING, REUTILIZING AND RECYCLING PLASTIC BAGS

Stopping short of a full ban, the City of Bogotá recently adopted a city-wide program for minimizing, reusing and recycling plastic bags. The program intends to capture all actors in the life-cycle of plastic bags, from producers of bags, to product vendors, to consumers. (Art. 2). The program covers polyethylene, polypropylene, and other types of plastic bags used by vendors at the point of sale to package products for clients. (Art. 1). Commercial establishments will be required to use bags that include information about minimizing, reusing and recycling the plastic bags and large commercial centers will be required to submit management plans to demonstrate program implementation. (Art. 6). The overall goal of the program is to phase out plastic bags over time, without, at least for now, an effort to completely eliminate them.

### **Reference Sources (in Spanish):**

- *Resolución No. 0289 de 17 de febrero 2011, por la cual se establece el programa de racionalización, reutilización y reciclaje de bolsas en el Distrito Capital*, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20resolucion\\_0829\\_Bolsas.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20resolucion_0829_Bolsas.pdf)

## COLOMBIA ENVIRONMENT MINISTRY DELEGATES NEW AUTHORITIES TO CARs

Citing to environmental emergencies and natural phenomena caused by El Niño and the need to improve governmental responses to flooding and drought conditions, the Ministry of Environment passed a decree to modify Law 99 of 1993 to grant additional authorities to the Corporaciones Autonomas Regionales (“CARs”). The CARs are regional regulatory bodies granted significant licensing authority in Colombia’s decentralized environmental administration under Law 1993.

Much of the Decree is directed towards fine-tuning administrative and financing aspects of the CARs. Perhaps most notably, Decree No 141 of 2011, grants a series of new obligations to the CARs, including management of flooding risks in watershed basins and some limited jurisdiction to act within territorial seas. (Art 9). It also requires the CARs to prepare in



the near-term a series of maps of environmental risks, identification of flood zones, and development of plans for restoring flooded areas, among others. (*Transitorios*).

**Reference Sources (in Spanish):**

- *Decreto No. 141 de 2011, por el cual se modifican los artículos 24, 26, 27, 28, 29, 31, 33, 37,41,44,45,65 Y 66 de la Ley 99 de 1993, y se adoptan otras determinaciones*, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20dec\\_141.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20dec_141.pdf)

## COLOMBIA FINALIZES CLEAN DEVELOPMENT MECHANISM (CDM) PROCEDURAL REQUIREMENTS UNDER CLIMATE CHANGE CONVENTION

In steps to further implement its ratification of the Climate Change Convention and Kyoto Protocol, Colombia's Ministry of the Environment recently adopted two companion resolutions to prepare the country to implement projects under the Clean Development Mechanism (CDM). Resolution 2733 and 2734 together set forth a complex set of procedural requirements for engaging in CDM Projects, including the approval of CDM Activity Programs, development of coordinating bodies manage CDM Activity Programs and projects, and approval of projects for reducing greenhouse gases under the CDM projects.

**Reference Sources (in Spanish):**

- *Resolución 2733, Por la cual se adoptan los requisitos y evidencias de contribución al desarrollo sostenible del país y se establece el procedimiento para la aprobación nacional de programas de actividades (PoA) bajo el Mecanismo de Desarrollo Limpio (MDL) y se reglamenta la autorización de las entidades coordinadoras*, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20Res2733.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20Res2733.pdf)
- *Resolución 2734, Por la cual se adoptan los requisitos y evidencias de contribución al desarrollo sostenible del país y se establece el procedimiento para la aprobación nacional de proyectos de reducción de emisiones de gases de efecto invernadero que optan al Mecanismo de Desarrollo Limpio – MDL y se dictan otras disposiciones*, available at [www.bdlaw.com/assets/attachments/Colombia%20-%20Res2734.pdf](http://www.bdlaw.com/assets/attachments/Colombia%20-%20Res2734.pdf)

## COSTA RICA HIGHLIGHTS

### BILL WOULD PROVIDE FOR ENVIRONMENTAL MONITORING OF TRANSBOUNDARY AQUIFERS

Costa Rica's legislature is considering a bill that would provide for environmental monitoring of transboundary aquifers (*Proyecto de Ley, Monitoreo Ambiental de Acuíferos Transfronterizos, Como Medida Preventiva, Expediente No. 18.026* or "Bill"). The Bill is intended to prevent contamination and overexploitation of strategic water reserves and avoid potential conflicts between Costa Rica and neighboring countries. (Bill, Preamble).

The Bill would require the construction of monitoring wells at both the northern and southern borders of the country. (Bill, Art. 1) Funding for the project would be provided by the Ministry of Environment, Energy and Telecommunications (MINAET). (Bill, Art. 6) A monthly report by specialized professionals of results obtained from the monitoring wells would need to be provided to all responsible agencies. (Bill, Art. 2) In addition to these monitoring activities, complete hydrogeologic studies of the aquifers would need to be completed. (Bill, Art. 5)

**Reference Sources (in Spanish):**

- *Bill Providing for Environmental Monitoring of Transboundary Aquifers*, available at [www.bdlaw.com/assets/attachments/Costa%20Rica-%20Transboundary%20Bill.pdf](http://www.bdlaw.com/assets/attachments/Costa%20Rica-%20Transboundary%20Bill.pdf)



## COSTA RICA CREATES NEW MARINE PROTECTED AREA AROUND COCOS ISLAND

Costa Rican President Laura Chinchilla Miranda has created a greatly expanded new marine protected area around Cocos Island, an island more than 300 miles off the coast of Costa Rica and currently a UNESCO World Heritage Site is known for the abundance of sharks that live in its waters. The protected area, Area Marina de Manejo Montes Submarinos, would extend about one million hectares around the island. The measure is intended to protect the underwater mountains that support endangered and threatened marine species.

### **Reference Sources (in Spanish):**

- Press Release, Office of the Presidency, Costa Rica available at [www.bdlaw.com/assets/attachments/Costa%20Rica%20-%20Press%20Release.pdf](http://www.bdlaw.com/assets/attachments/Costa%20Rica%20-%20Press%20Release.pdf)

## MEXICO HIGHLIGHTS

### MEXICAN CONGRESS AMENDS FRAMEWORK ENVIRONMENTAL LAW TO COVER CLIMATE CHANGE

In late January, Mexico's Congress adopted two streamlined amendments that effectively grant SEMARNAT, Mexico's environmental agency, authority to regulate greenhouse gases and address climate change. The first decree simply clarifies that an "emission" is the liberation of all substances, regardless of physical state, or any other type of energy, coming from a source. (Art. 3) (*Decreto por el que se adiciona una fracción XVII al Artículo 3 de la Ley General del Equilibrio Ecológico y la Protección al Ambiente.*) The second decree is broader in scope and declares the development of climate change mitigation and adaptation plans in the national public interest, creates a definition of climate change, and specifically grants to SEMARNAT, states and municipalities, jurisdiction to develop and implement climate change mitigation and adaptation activities. Arts 2, 6, 7, 8 (*Decreto por el que se reforman y adicionan diversas disposiciones de la Ley General del Equilibrio Ecológico y la Protección al Ambiente.*) Together, these legislative changes eliminate any jurisdictional questions regarding whether Mexican governmental authorities are in a position to implement Mexico's ambitious climate change mitigation strategies.

### **Reference Sources (in Spanish):**

- *Decreto por el que se adiciona una fracción XVII al Artículo 3 de la Ley General del Equilibrio Ecológico y la Protección al Ambiente*, available at [www.bdlaw.com/assets/attachments/Mexico%20-%20Decree%20Clarifying%20Emission.pdf](http://www.bdlaw.com/assets/attachments/Mexico%20-%20Decree%20Clarifying%20Emission.pdf)
- *Decreto por el que se reforman y adicionan diversas disposiciones de la Ley General del Equilibrio Ecológico y la Protección al Ambiente*, available at [www.bdlaw.com/assets/attachments/Mexico%20-%20Decree%20amending%20General%20Ecologic%20Environment%20Law.pdf](http://www.bdlaw.com/assets/attachments/Mexico%20-%20Decree%20amending%20General%20Ecologic%20Environment%20Law.pdf)

### SEMARNAT PROPOSES COMPREHENSIVE NEW AIR REGULATIONS TO INCLUDE GREENHOUSE GAS INVENTORIES

SEMARNAT has proposed new air regulations to implement Mexico's framework environmental law, the *Ley General del Equilibrio Ecológico y la Protección al Ambiente*. These new regulations will repeal and replace the existing regulations, adopted in 1988.

The proposed laws, available at the COFEMER website together with an extensive regulatory impact statement, would significantly expand the types of sources that are regulated as stationary sources. (Art. 3). Stationary sources are required to comply with maximum permissible



emissions limits, install pollution control equipment, obtain operating permits, and comply with emissions reporting standards, among other key requirements. (Arts. 5-6). The regulation also establishes a mobile source reduction program and vehicular verification program. (Arts. 78-81). Finally, the new regulations create air shed protection programs that would allow SEMARNAT to create separate emissions limits for “saturated” atmospheric zones as well as emissions trading mechanisms. Federal, state, and municipal governments will also be required to implement airshed management programs in saturated zones, creating the potential for SIP-like programs and more stringent requirements designed to reduce overall emissions. Art. 58-64. The Regulation does not establish any specific emissions limits for any pollutants, which are left to SEMARNAT’s norm setting process.

Perhaps most notably, the program lays the groundwork for regulating greenhouse gases as emissions for which pollution controls must be established. A new national air emission inventory is proposed that specifically includes greenhouse gases (as well as criteria contaminants, their precursors, and priority toxics). (Art. 56.) Together with two new laws that amend the LGEEPA to recognize climate change and the need for regulating greenhouse gases, Mexico is moving quickly towards have the legal framework in place to implement numerous climate change mitigation activities and regulatory standards.

**Reference Sources (in Spanish):**

- Proposed Air Regulation, *Proyecto de Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en Materia de Prevención y Control de la Contaminación de la Atmósfera*, available at [www.bdlaw.com/assets/attachments/Mexico%20-%20Reglamento%20Atmosfera.pdf](http://www.bdlaw.com/assets/attachments/Mexico%20-%20Reglamento%20Atmosfera.pdf)

## MEXICO CHAMBER OF DEPUTY BILL WOULD REGULATE LIGHTING EFFICIENCY

Mexico’s Chamber of Deputies recently passed a bill to amend Mexico’s Law on Sustainable Development of Energy (*Ley para el Aprovechamiento Sustentable de la Energía* or “LASE”). Although the bill points to the inefficiencies of incandescent lighting, it does not go so far as to ban traditional bulbs altogether. Rather, the bill requires development of a national strategy to substitute energetically inefficient lamps with those with greater energy efficiency (Art.7). The bill prohibits import, distribution or marketing of any lamps that fail to comply with the energy efficiency standards, once set. (Art. 34). The bill now goes to the Senate.

**Reference Source (in Spanish):**

- *Decreto que Reforma la Ley para el Aprovechamiento Sustentable de la Energía*, available at [www.bdlaw.com/assets/attachments/Mexico%20-%20LASE%20Amendment.pdf](http://www.bdlaw.com/assets/attachments/Mexico%20-%20LASE%20Amendment.pdf)

## NEW CHAMBER OF DEPUTY BILL WOULD REGULATE ELECTRONIC WASTES IN MEXICO

Mexico’s Green Party recently proposed a bill to amend the existing federal Waste Law. The Bill seeks to streamline the existing jurisdictional divide in which e-wastes are subject to the state and federal authorities. The federal government, namely SEMARNAT (Secretary of Environment), would have jurisdiction over all electronic product wastes and those electronic process wastes considered hazardous (Art. 7). States would be left with jurisdiction over non-hazardous electronic process wastes (Art. 19(VIII)). Large quantity generators, producers, importers, exporters and distributors of certain waste electronic products would be required to formulate and implement Waste Management Plans (Art. 28, 30Bis).

SEMARNAT would also be charged with developing a national program to address historic and orphan e-wastes (Art. 100 Quinquies). Historic waste would cover equipment not subject



to a Management Plan under Article 30 Bis, and orphan wastes would be those for which a manufacturer cannot be identified, is not known, or is no longer in business (*Id.*).

**Reference Source (in Spanish):**

- *Proyecto Ley Que Reforma y Adiciona Diversas Disposiciones de la Ley General para la Prevencion y Gestion Integral de los Residuos*, available at [www.bdlaw.com/assets/attachments/Mexico%20-%20Bill-E-Waste\\_Regulation\\_2011.pdf](http://www.bdlaw.com/assets/attachments/Mexico%20-%20Bill-E-Waste_Regulation_2011.pdf)

## PERU HIGHLIGHTS

### CONGRESS CONSIDERING BILL TO PROVIDE INCENTIVES FOR ENVIRONMENTAL COMPLIANCE

Peru's Congress is considering a bill to provide incentives for environmental compliance (*Proyecto de Ley No. 04631/2010-CR, proponiendo Ley de Incentivo al Cumplimiento de Normas Ambientales* or "Bill"). The Bill would provide for a National System of Environmental Registry that would include information on all persons engaging in economic activities subject to environmental control. (Bill, Arts. 2 and 3)

Specifically, the registry would identify persons based on whether they were: (i) in compliance with environmental norms, (ii) in noncompliance with environmental norms or (iii) had been sanctioned for environmental infractions. Persons identified as being in compliance with environmental norms would receive a Certificate of Environmental Excellence from the Ministry of Environment. (Bill, Art. 2). Holders of such certificates would receive three additional points in any public tenders, competitions or awards. Persons in noncompliance or sanctioned for noncompliance with environmental norms would not be eligible for selection. (Bill, Art. 4)

**Reference Source (in Spanish):**

- Bill to Provide Incentives for Environmental Compliance, available at [www.bdlaw.com/assets/attachments/Peru%20-%20Law%204631.pdf](http://www.bdlaw.com/assets/attachments/Peru%20-%20Law%204631.pdf)

### BILL WOULD ADOPT WETLANDS LAW

A bill currently being considered by Peru's Congress would adopt a Wetlands Law (*Proyecto de Ley de Humedales*, No. 04726/2010-CR or "Bill"). The purpose of the Bill is to establish a legal framework for protection and conservation of wetlands in order to achieve, among other things, ecological, economic and cultural benefits. (Bill, Art. 1) Under the Bill, the use of wetlands could only occur if authorized by the competent authority. (Bill, Art. 9)

The National Service of Protected Natural Areas (SERNANP) would have jurisdiction over wetlands. (Bill, Art. 5) SERNANP would be charged with creating a national inventory of wetlands, approving master plans for wetlands and ensuring compliance. (Bill, Art. 6) Master plans for wetlands would be developed by a representative of SERNANP in collaboration with regional and local governments, local residents and private and public institutions associated with the wetlands. (Bill, Art. 7)

**Reference Source (in Spanish):**

- Bill to Adopt Wetlands Law, available at [www.bdlaw.com/assets/attachments/Peru%20-%20Bill%20on%20Wetlands.pdf](http://www.bdlaw.com/assets/attachments/Peru%20-%20Bill%20on%20Wetlands.pdf)



## BILL WOULD AMEND WASTE LAW TO DEFINE ROLE OF REGIONAL GOVERNMENTS

Peru's Congress is considering a bill to amend its waste law to define the role of regional governments in waste management services. (*Proyecto de Ley No. 4620/2010-CR, Que Modifica el Artículo 9 del Decreto Legislativo 1065 Que Modifica la Ley No. 27314, Ley General de Residuos Sólidos* or "Bill"). The Bill would require regional governments to provide technical support to municipalities with the goal of improving the provision of waste management services. (Bill, Statement of Objectives). Regional governments would be required to: (i) develop a Regional Plan for Environmental Management of Solid Wastes in coordination with the municipalities under their jurisdiction; (ii) exercise oversight over the provision of waste management services within their jurisdiction and (iii) promote local private investment in waste management services. (Bill, Art. 1) The Bill is an attempt to address the lack of adequate sanitation services particularly in small municipalities in Peru.

### **Reference Source (in Spanish):**

- Bill to Amend Waste Law, available at [www.bdlaw.com/assets/attachments/Peru%20-%20Law%204620.pdf](http://www.bdlaw.com/assets/attachments/Peru%20-%20Law%204620.pdf)

## CONGRESS CONSIDERING BILL TO PROHIBIT DREDGING AND USE OF HEAVY MACHINERY IN AMAZON REGION

A bill that would ban dredging and the use of heavy machinery in the Amazon Region is being considered by the Peruvian Congress (*Proyecto de Ley No. 4687/2010-PE, Ley Que Prohíbe el Uso de Dragas y Equipos Similares en la Amazonia Peruana* or "Bill"). The ban would apply in four departments - Loreto, Ucayali, Madre de Dios and San Martín as well as jungle areas in seven other departments. (Bill, Art. 3) Noncompliance with the ban would be subject to various sanctions including the immediate seizure or demolition of equipment. (Bill, Art. 4) The Bill is the latest measure by Peru's government intended to shut down illegal gold mining operations that have resulted in the carving up of riverbeds and mercury contamination in the Amazon.

### **Reference Source (in Spanish):**

- Bill to Prohibit Dredging and Use of Heavy Machinery in Amazon Region, available at [www.bdlaw.com/assets/attachments/Peru%20-%20Law%204687.pdf](http://www.bdlaw.com/assets/attachments/Peru%20-%20Law%204687.pdf)

## PUERTO RICO HIGHLIGHTS

### AGREEMENT BETWEEN THE PUERTO RICAN TOURISM COMPANY, DEPARTMENT OF SOLID WASTES, AND U.S. EPA TO PROMOTE "GREEN TOURISM"

On April 5, 2011, the U.S. Environmental Protection Agency (EPA) entered into a "first of its kind" Memorandum of Understanding (MOU) with the P.R. Department of Solid Wastes and P.R. Tourism Company to promote environmentally sustainable practices in P.R.'s tourism and hospitality industries. The MOU creates a framework the three agencies can use to encourage businesses in the tourism and hospitality industries in P.R. to incorporate sustainable practices into their operations. The MOU also sets forth specific "green" practices that participating companies should aspire to achieve, including: solid waste reduction, greater emphasis on reuse and recycling; use of "clean vehicles" in fleets; green buildings (materials and design); develop program to measure progress, along the lines of an EPA EnergyStar certification; promote water efficiency; and, protect existing vegetation and landscapes.



**Reference Source (in English):**

- U.S. EPA News Release, First of its Kind Agreement between EPA, *Puerto Rico Tourism Company and Puerto Rico Solid Waste Authority Will Promote Green Tourism*, available at [www.bdlaw.com/assets/attachments/Puerto%20Rico%20-%20First%20of%20its%20Kind%20Agreement.pdf](http://www.bdlaw.com/assets/attachments/Puerto%20Rico%20-%20First%20of%20its%20Kind%20Agreement.pdf)

**LAW PASSED TO ENCOURAGE ECONOMIC DEVELOPMENT, ENVIRONMENTAL CONSERVATION OF ABANDONED PROPERTIES AND AREAS**

On February 22, 2011, Puerto Rico enacted the “Law for the Interactive Registration of Public Property with the Opportunity for Economic Development or Conservation and Protection” (Law No. 19, P. del S. 415, *Ley del Registro Interactivo de Propiedades Públicas con Oportunidad de Desarrollo Económico o Conservación y Protección*; “the Law”), which created a Registry for abandoned public properties. (Law No. 19, Art. 1) The Law is intended to address the proliferation of abandoned buildings and structures, viewed as causing significant adverse impacts to the economy in urban centers and in zones of significant ecological value. (Law No. 19, Art. 2) The goal of the Law is to create economic opportunities by encouraging either the development of abandoned properties located in urban areas, or the conservation and protection of areas of significant ecological value where other structures are located. *Id.* By creating a Registry, each abandoned building or structure can be evaluated for its potential economic or ecological value, and a plan can be implemented to achieve this value. *Id.* The three government agencies responsible for oversight and implementation of the Law – the Industrial Development Company, Land Administration, and the Land Authority – have 60 days from when the Law was passed to identify and register properties as abandoned, and within 180 days must recommend a Strategic Plan of Action for each property. (Law No. 19, Art. 4-6)

The Plan must specify: whether economic development or environmental conservation is appropriate for each property and their justifications for the selected option; an analysis of the actual situation; general and specific objectives; short and long-term goals; strategies; projects, programs or activities, and who or what will be responsible for them; costs and financing; and, conclusions. (Law No. 19, Art. 6) The Plan must also take into consideration: zones of ecological importance; historic preservation; economic, industrial and commercial development; mixed income housing developments; tourism; rehabilitation of the urban center; and, the conservation of agricultural lands. (Law No. 19, Art. 7)

**Reference Source (in Spanish):**

- Law No. 19 (P. del S. 415), available at [www.bdlaw.com/assets/attachments/Puerto%20Rico%20-%20ley-19-18-Feb-2011.pdf](http://www.bdlaw.com/assets/attachments/Puerto%20Rico%20-%20ley-19-18-Feb-2011.pdf)

**URUGUAY HIGHLIGHTS**

**URUGUAYAN ENERGY AUTHORITY PREPARES TO ENFORCE EFFICIENCY LABELING REQUIREMENTS FOR CFLS, WATER HEATERS AND REFRIGERATORS**

Uruguay’s Energy and Water Services Regulatory Unit (*Unidad Reguladora de Servicios de Energía y Agua*; “URSEA”) will begin enforcing new energy efficiency labeling requirements for compact fluorescent light bulbs, effective August 31, 2011. (Ministry of Industry, Energy and Mining [*Ministerio de Industria, Energía y Minería*; “MIEM”] Decree No 428/2009; URSEA Resolution 99/2011) Labeling becomes mandatory for electric water heaters on April 1, 2012 (MIEM Decree No 430/2009; MIEM Decree No 131/2011), and for refrigerators on May 5, 2012 (MIEM Decree No 329/2010).

Under the 2009 Energy Efficiency Law (No. 18597; *referente al uso eficiente de la energía*), all



energy-consuming products are potentially subject to efficiency labeling. (Art. 12) Uruguay requires that such labeling be certified by an accredited certification body. (MIEM Decree No. 429/2009, Art. 4) Under a March 23, 2011 decree, URSEA will collaborate with customs service to enforce the new labeling requirements at the time of import. (MIEM Decree No. 116/2011)

In addition to the categories already covered by labeling regulations, the Uruguayan Technical Standards Institute (*Instituto Uruguayo de Normas Técnicas*; “UNIT”) has published labeling standards for several more product classes, including electric washing machines, clothes dryers, air conditioners, and incandescent light bulbs. Energy efficiency labeling of these products remains voluntary in the absence of a regulation requiring it.

**Reference Sources (in Spanish):**

- Uruguay Law No. 18597 of 2009, available at [www.bdlaw.com/assets/attachments/Uruguay%20Law%2018597%20of%202009.pdf](http://www.bdlaw.com/assets/attachments/Uruguay%20Law%2018597%20of%202009.pdf)
- Uruguay MIEM Decree No 428 of 2009, available at [www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20428%20of%202009.pdf](http://www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20428%20of%202009.pdf)
- Uruguay MIEM Decree No 429 of 2009, available at [www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20429%20of%202009.pdf](http://www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20429%20of%202009.pdf)
- Uruguay MIEM Decree No 430 of 2009, available at [www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20430%20of%202009.pdf](http://www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20430%20of%202009.pdf)
- Uruguay MIEM Decree No 329 of 2010, available at [www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20329%20of%202010.pdf](http://www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20329%20of%202010.pdf)
- Uruguay MIEM Decree No 116 of 2011, available at [www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20116%20of%202011.pdf](http://www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20116%20of%202011.pdf)
- Uruguay MIEM Decree No 131 of 2011, available at [www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20131%20of%202011.pdf](http://www.bdlaw.com/assets/attachments/Uruguay%20MIEM%20Decree%20131%20of%202011.pdf)
- Uruguay URSEA Resolution 99 of 2011, available at [www.bdlaw.com/assets/attachments/Uruguay%20URSEA%20Resolution%2099%20of%202011.pdf](http://www.bdlaw.com/assets/attachments/Uruguay%20URSEA%20Resolution%2099%20of%202011.pdf)

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