Hot Topics in Brazilian Environmental Law

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Latin American Region Environmental Roundtable
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Overview

• National profile
• Rio+20
• Climate change
• Deforestation
• Air regulations
• Water regulations
• Contaminated sites
• Reverse logistics
GDP Growth

* Figures & rankings based on IMF estimates.
Energy Independence

• Self-sufficient since 2006
  – Ethanol
  – Biodiesel
  – “Pre-salt” oil fields (100 billion barrels)
  – Dams (30 planned by 2020)
  – Wind
  – Nuclear

• 2010 Ten-year energy expansion plan
São Paulo

**State**
- Population: ~42 million
- GDP: ~1 trillion
- Would rank 16th globally

**City**
- Population: ~20 million
- 5,644 high-rise buildings
- Longest traffic jam: 295 km
- 50 million air travelers
- Largest helicopter fleet
- 6th most billionaires
Rio+20

• UN Conference on Sustainable Development: June 13-22, 2012

• Rio “Green Stock Exchange”:
  – Cap-&-trade for air emissions
  – Water effluent discharges
  – “Legal reserves” (Forest Code)
Climate Change

- Federal Climate Change Law:
  - Sectoral approach: inventories, plans, targets

- State Climate Change Laws:
  - São Paulo: slowly assigning tasks to agencies
  - Rio de Janeiro: carbon intensity / productivity
  - Rio Grande do Sul: linked to federal provisions

- Pre-Salt Oil “Social Fund”:
  - mitigation & adaptation
Forests

- New Forest Code (May 25, 2012)
  - Covers all native vegetation
  - Registration of “legal reserves” (20-80% of property)
  - Requires reforestation in some cases
  - Amnesty provisions; “regularization”

- Enforcement: Decree 6514/2008
- “Operation Agata”
- International supply chain issue: illegal iron / steel
“Brazilian Water Decade”

- 2005-2015 (March 22, 2005)
- Period of policy & program development
- Fees for water use & discharge (CNRH Res. 48; March 21, 2005)
- Implementation by hydrographic basin committees
- National Water Regulation (CONAMA Res. 357; March 17, 2005):
  - Classify water bodies
  - Effluent standards
Federal Effluent Standards

- CONAMA Resolution 430 (May 2011)
- New nationwide effluent standards
- Industry self-monitoring & testing (May 2014)
Air
Federal Emission Standards

• **First round**: sources licensed after Jan. 2, 2007
  – 13 categories (include boilers)
  – Several pollutants: PM, NOx, SOx, CO, lead, fluoride, ammonia

• **Second round** (Dec. 2011): pre-2007 sources
  – Staggered deadlines: immediate to 15 years
  – Agencies must establish limits for sources not covered
São Paulo “Non-Attainment”

- Emissions Reduction Plan (Jan. 2013): will require offsets for major new sources / modifications
- Applies in “saturated” & “near-saturated” areas
- Major source / modification thresholds:
  - PM: 100 tpy
  - NOx: 40 tpy
  - SOx: 250 tpy
  - CO: 100 tpy
  - VOCs: 40 tpy
- São Paulo emissions trading market (on BOVESPA)
Soil
São Paulo “Superfund”

- Remediation procedures (2002)
- “Superfund” (FEPRAC) Law (13577/2009)
  - “Legally responsible”: cause; own; operate; control; benefit
  - “Technically responsible”: consultant
- Registry of Contaminated Sites
  - 2011: 4131 sites (78% gas stations; 14% industrial; 3% dump sites; 5% miscellaneous)
- Draft regulation (2011):
  - duty to investigate;
  - “critical sites” to remediate & litigate
Federal Remediation Standards

- Broad, general provisions for pollution liability
- National Waste Law includes remediation in municipal & facility waste management plans
- CONAMA Resolution 420/2009: non-binding guidelines for states & municipalities
- Modeled on São Paulo’s procedures
- ABNT Technical standards (2011-12)
Remediation in Other States

- Minas Gerais: Inventory of Contaminated Sites (2011): 490 sites

- Rio de Janeiro: urban port re-development

Yellow Pins = potentially contaminated industrial sites in downtown Rio de Janeiro port district.
Products
Federal “Reverse Logistics”

- Reverse logistics: integrated model
  - Packaging (pesticides, lubricants, hazardous substances); batteries; tires; bulbs; electronics
- Sectoral agreements rulemaking process
  - Orientation Committee
  - First notice (lubricants, Dec 2011)
  - Public consultation (May 2012)
- Packaging: reusable or recyclable
São Paulo Producer Responsibility

- 2009 regulation authorizes SMA to list products
- SMA Resolution 24 & 131 (2010) – revoked
- SMA Resolution 38 (Aug 2011)
  - 60-day deadline for management proposals
  - Wide range of consumer products
- First agreements announced (Feb 2012)
Obrigado!

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