

LAW 12,305, OF 2 AUGUST 2010

Institutes the National Policy on Solid Waste; alters Law No. 9,605 of 12 February 1998; and makes other provisions.

I, **THE PRESIDENT OF THE REPUBLIC**, hereby inform that the National Congress has enacted and I sanction the following Law:

TITLE I

GENERAL PROVISIONS

CHAPTER I

OBJECT AND SCOPE

Art. 1. This Law institutes the National Policy on Solid Waste, its principles, objectives and instruments, and sets forth guidelines in relation to integrated management and solid waste management (including hazardous ones), generators' responsibilities and applicable economic instruments.

Para. 1. This Law shall apply to all individuals and legal entities, ruled by Private or Public Law, which are either directly or indirectly responsible for the generation of solid waste, and develop actions related to integrated management or solid waste management.

Para. 2. This Law does not apply to radioactive waste, which shall be regulated by specific legislation.

Art. 2. In addition to the provisions outlined herein, provisions of Laws No. 11,445, of 5 January 2007, 9,974, of 6 June 2000, and 9,966, of 28 April 2000, and the norms established by bodies of the National Environment System (hereinafter referred to as Sisnama), the National Sanitary Surveillance System (hereinafter referred to as SNVS), the Unified System of Animal and Plant Health (hereinafter referred to as Suasa) and the National System of Metrology, Standardization and Industrial Quality (hereinafter referred to as Sinmetro) also apply to solid waste.

CHAPTER II

DEFINITIONS

Art. 3. For the purposes of this Law, the following definitions apply:

I – sectorial agreement : act of contractual nature entered into between the Public Authority and manufacturers, importers, distributors or sellers, aiming at implementing shared responsibility for certain product's life cycle;

II – contaminated area: place where there is contamination caused by the regular or irregular disposal of any substances or waste;

III – contaminated orphan site: sites where the responsible parties cannot be identified or personalized;

IV – product's life cycle: series of stages involving a product's development, collection of raw material and supplies, productive process, consumption and final disposal;

V – selective waste collection: collection of solid wastes identified by their constitution and composition;

VI – social control: set of mechanisms and procedures that guarantee society's access to information and participation in the formulation, implementation and assessment processes of public policies related to solid waste;

VII – final environmentally-adequate destination: waste discarding that comprises reuse, recycling,

composting, energy recovery and utilization, or other forms of disposal permitted by Sisnama, SNVS and Suasa competent bodies, including final destination, observing specific operational norms in a way to avoid damage or risks to public health and minimize adverse environmental impacts;

VIII – final environmentally-adequate disposal: orderly waste discarding in landfills, observing specific operational norms in a way to avoid damage or risks to public health and minimize adverse environmental impacts;

IX – solid waste generators: individuals or legal entities, ruled by Private or Public Law, whose activities – including consumption standards – generate solid waste;

X – solid waste management: set of actions carried out, either directly or indirectly, during collection, transport, transshipment, treatment and final environmentally-adequate destination of waste, in accordance with a municipal integrated-management plan or a solid waste management plan, as required herein;

XI – solid waste integrated management: set of actions aimed at finding solutions for solid waste, considering political, economic, environmental, cultural and social dimensions, with social control and under the premise of sustainable development;

XII – reverse logistics: a social-economic development instrument defined by a set of actions, procedures and means intended for the feasibility of collection and restitution of solid waste to the entrepreneurial sector, or other final environmentally-adequate destination;

XIII – sustainable consumption and production standards: production and consumption of goods and services to meet the needs of current generations and allow for better life standards without compromising environmental quality and care for future generations;

XIV - recycling: transformation of solid waste, involving the alteration of physical, physical-chemical or biological properties into supplies or new products, in compliance with conditions and standards established by the Sisnama competent bodies, and also SNVS and Suasa if applicable;

XV - waste: solid residues that, after all available and economically-feasible technological treatment and recovery attempts, present no possibility other than final environmentally-adequate disposal;

XVI – solid waste: material, substance, object or goods discarded as a result of human activities in society, whose final disposal is carried out, supposed to be carried out, or must be carried out in solid or semi-solid states, also including gas-contained recipients and liquids whose particularities make it impracticable for them to be discharged in public sewage dumps or water bodies, or require technically or economically-unfeasible solutions in light of the best technology available;

XVII – shared responsibility over products' life cycle: set of individualized and connected duties from manufacturers, importers, distributors and sellers, consumers and holders of public cleaning and solid waste management services in order to reduce impacts on human health and environmental quality resulting from products' life cycle under the terms herein;

XVIII - re-utilization: process of using solid waste without their biological, physical or physical-chemical transformation, in compliance with the conditions and standards established by Sisnama competent bodies, and also SNVS and SUASA if applicable;

XIX - public cleaning and solid waste management services: set of activities outlined in Art. 7 of Law No. 11,445, of 2007.

TITLE II

NATIONAL POLICY ON SOLID WASTE

CHAPTER I

GENERAL PROVISIONS

Art. 4. The National Policy on Solid Waste encompasses the set of principles, objectives, instruments, guidelines, goals and actions adopted by the Federal Government, either individually or in cooperation with

the states, the Federal District, municipalities or private third parties aiming at the integrated and environmentally-adequate management of solid waste.

Art. 5. The National Policy on Solid Waste is part of the National Environmental Policy and is coordinated with the National Policy on Environmental Education, regulated by Law No. 9,795, of 27 April 1999, with the Federal Policy on Basic Sanitation, regulated by Law No. 11,445, of 2007, and with Law No. 11,107, of 6 April 2005.

CHAPTER II

PRINCIPLES AND OBJECTIVES

Art. 6. The principles of the National Policy on Solid Waste are as follows:

I – prevention and precaution;

II – polluter-pays principle and protector-receiver principle;

III - a systemic view of solid waste management, considering environmental, social, cultural, economic, technological and public health variables;

IV – sustainable development;

V – eco-efficiency, through conciliation between the supply of qualified goods and services that satisfy human needs and bring about better standards of living at competitive prices and the reduction of the environmental impact and consumption of natural resources at a level equivalent to the planet's estimated support capacity, at least;

VI – cooperation among the different levels of the Public Authority, the entrepreneurial sector and other segments of society;

VII – shared responsibility over products' life cycle;

VIII – recognition of recyclable and reusable solid waste as an economic asset with social value that generates jobs and income and promotes active citizenship;

IX – respect to local and regional diversities;

X – society's right to information and social control;

XI – reasonability and proportionality.

Art. 7. The objectives of the National Policy on Solid Waste are as follows:

I – protection of public health and environmental quality;

II – non-generation, reduction, reutilization, recycling and treatment of solid waste, as well as final environmentally-adequate waste disposal;

III – incentive to the adoption of sustainable standards of production and consumption of goods and services;

IV – adoption, development and improvement of clean technologies as a way to minimize environmental impacts;

V – reduction of volume and danger potential of hazardous waste;

VI – incentive to recycling, aiming at fostering the use of raw material and supplies derived from recyclable and recycled material;

VII – integrated management of solid waste;

VIII – coordination among different levels of government and the entrepreneurial sector with the purpose of establishing technical and financial cooperation for the integrated management of solid waste;

IX – continued technical capacity in solid management;

X – regularity, continuity, functionality and universalization of urban cleaning and solid waste management services with the adoption of managerial and economic mechanisms that ensure cost recovery of the services rendered as a way to guarantee its operational and financial sustainability, in compliance with Law No. 11,445, of 2007;

XI – governmental purchases and hiring should prioritize:

a) recyclable and recycled products;

b) goods, services, and works that consider criteria which are compatible with socially and environmentally sustainable consumption standards;

XII – engagement of waste-pickers collecting reusable and recyclable material in actions that involve shared responsibility over products' life cycle;

XIII – incentive to the implementation of a product's life cycle assessment;

XIV – incentive to the development of environmental and entrepreneurial management systems intended for the improvement of productive processes and reuse of solid waste, including energetic recovery and use;

XV – incentive to environmental labels and sustainable consumption.

CHAPTER III

INSTRUMENTS

Art. 8. The instruments of the National Policy on Solid Waste are described below:

I – solid waste plans;

II – annual solid waste inventories and declaratory system;

III – selective collection, reverse logistics and other tools related to the implementation of shared responsibility over products' life cycle;

IV – incentive to the creation and development of cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material;

V – environmental, sanitary and agricultural monitoring and enforcement;

VI – technical and financial cooperation between public and private sectors for research and development of new products, methods, processes and management technologies, recycling, reuse, waste treatment and final environmentally-adequate disposal;

VII – scientific and technological research;

VIII – environmental education;

IX – fiscal, financial and credit incentive;

X – the National Environmental Fund and the National Scientific-Technological Fund;

XI – the National Solid Waste Management Information System (hereinafter referred to as Sinir);

XII – the National Basic Sanitation Information System (hereinafter referred to as Sinisa);

XIII – environmental councils and health councils, if applicable;

XIV – municipal collegiate deliberative bodies intended for the social control of urban solid waste services;

XV – the National Record of Hazardous Waste Operators;

XVI – sectorial agreements;

XVII – instruments of the National Environmental Policy, when applicable:

a) environmental quality standards;

b) the Federal Technical Record of Potentially Polluting Activities or Activities Using Natural Resources;

c) the Federal Technical Record of Environmental Defense Instruments;

d) environmental impact assessments;

e) the National Environmental Information System (hereinafter referred to as Sinima);

f) licensing and review of potentially or effectively polluting activities;

XVIII – terms of commitment and conduct adjustment;

XIX – incentive to the adoption of consortia or other forms of cooperation among federated entities aiming at increasing utilization and reducing the costs involved.

TITLE III

GUIDELINES APPLICABLE TO SOLID WASTE

CHAPTER I

PRELIMINARY PROVISIONS

Art. 9. When managing solid waste, the following priority shall be observed: non-generation, reduction, reutilization, recycling, solid waste treatment and final environmentally-adequate waste disposal.

Para. 1. Technologies for the energetic recovery of urban solid waste may be used, provided that technical and environmental feasibility are proven, and a toxic-gas-emissions-monitoring program approved by the relevant environmental body had been implemented.

Para. 2. The National Policy on Solid Waste and local Policies on Solid Waste in the states, the Federal District and municipalities shall be compatible with provisions outlined in this Article's introduction and Para. 1, as well as with other guidelines established herein.

Art. 10. The Federal District and municipalities are responsible for the integrated management of the solid waste generated in their respective territories, with no prejudice to control and enforcement attributions of Sisnama, SNVS and Suasa's federal and state bodies, and notwithstanding the generator's responsibility for waste management, as outlined herein.

Art. 11. The states, in compliance with guidelines and other determinations set forth herein, shall be responsible for:

I – promoting the integration of organization, planning and execution stages of public functions of common interest related to solid waste management in metropolitan regions, urban agglomerations and micro-regions, under the terms of the state supplementary law anticipated in Para. 3. of Art. 25 of the Federal Constitution;

II – controlling and inspecting the activities of pollution generators subject to environmental licensing by the SISNAMA environmental body.

Sole Paragraph. The state shall support and prioritize municipal initiatives of associated and shared solutions between 2 (two) or more municipalities.

Art. 12. The Federal Government, the states, the Federal District and municipalities shall jointly organize and keep the National Solid Waste Management Information System (Sinir) coordinated with Sinisa and Sinima.

Sole Paragraph. The states, the Federal District and municipalities are responsible for providing all information about waste under their scope of competence to Sinir at such a time and in such a manner as the regulation may determine.

Art. 13. For the purposes of this Law, solid waste is identified as follows:

I – sources:

- a) domestic waste: generated from domestic activities in urban residences;
- b) waste resulting from urban cleaning services: generated from sweeping, cleaning of public areas and streets, and other public cleaning services;
- c) urban solid waste: listed in topics “a” and “b”;
- d) waste from commercial establishments and service providers: waste generated by those activities, except for the ones referred to in topics “b”, “e”, “g”, “h” and “j”;
- e) waste resulting from public sanitation services: waste generated by those activities, except for those referred to in topic “c”;
- f) industrial waste: waste generated in productive processes and industrial facilities;
- g) medical waste: waste generated by health services, as defined by regulations or in norms established by Sisnama or SNVS bodies;
- h) civil construction waste: waste generated in construction sites, refurbishments, reforms and demolitions in the civil construction industry, including the ones resulting from site preparation and excavation for civil construction;
- i) agricultural waste: waste generated in agroforestry and cattle-raising activities, including supplies used in those activities;
- j) transport waste: waste generated in ports, airports, customs, bus stops, railways and borders;
- k) mining waste: waste generated in research, extraction or processing in mining activities;

II – hazard potential:

- a) hazardous waste: is waste that, according to a law, regulation or technical norm, poses substantial risks to public health or environmental quality due to their inflammability, corrosivity, reactivity, toxicity, pathogenicity, carcinogenicity, teratogenicity and mutagenicity;
- b) non-hazardous waste: those not included in topic “a” above.

Sole Paragraph. In conformity with the provisions on Art. 20, waste referred to in topic “d” of item I of this Article's introduction, if characterized as non-hazardous, may, due to its nature, composition or volume, be compared to domestic waste by the municipal public authority.

CHAPTER II

SOLID WASTE PLANS

Section I

General Provisions

Art. 14. The following are solid waste plans:

- I – the National Plan on Solid Waste;
- II – the state plans on solid waste;
- III – micro-regional, metropolitan and urban plans on solid waste;
- IV – inter-municipal plans on solid waste;
- V – municipal plans on integrated management of solid waste;
- VI – solid waste management plans.

Sole Paragraph. Broad publicity of solid waste plans as well as social control of its formulation, implementation and operationalization is guaranteed in compliance with provisions set forth in Law No. 10,650, of 16 April 2003, and Art. 47 of Law No. 11,445, of 2007.

Section II

The National Plan on Solid Waste

Art. 15. The Federal Government shall formulate the National Plan on Solid Waste under the coordination of the Ministry of the Environment, to be valid for an undetermined time frame, with a 20 (twenty)-year horizon, to be updated every 4 (four) years, with the following minimum content:

- I – definition of the current situation of solid waste;
- II – proposition of scenarios, including international and macroeconomic trends;
- III – reduction, reuse, recycling and other targets aiming at reducing the quantity of waste and residues subject to final environmentally-adequate disposal;
- IV – targets for the energetic use of gases generated in final solid waste disposal units;
- V – targets for the elimination and recovery of dump yards, associated to the social inclusion and economic emancipation of waste-pickers collecting reusable and recyclable material;
- VI – programs, projects and actions to accomplish expected targets;
- VII – norms and technical conditions for access to Federal Government's funds, for obtaining permission or to access funds that are, either directly or indirectly, managed by a federal entity, when they are intended for actions or programs of interest of the solid waste area;
- VIII – measures to encourage and permit the regionalized management of solid waste;
- IX – guidelines for planning and other activities regarding solid waste management in integrated-development regions established by a supplementary law, as well as for areas with special tourist interest;
- X – norms and guidelines for the final disposal of waste and, when applicable, residues;
- XI – means to be used for control and inspection, at the national level, of implementation and

operationalization, with social control guaranteed.

Sole Paragraph. The National Plan on Solid Waste shall be prepared through a process of social mobilization and participation, which shall include public hearings and consultations.

Section III

State Plans on Solid Waste

Art. 16. The formulation of state plans on solid waste, under the terms outlined herein, is conditional for states to be entitled to Federal Government's funds, or funds controlled thereby, which are intended for undertakings and services related to the management of solid waste, or to be incremented by incentives or financing from federal credit entities or support for this purpose.

Para. 1. Access to funds referred to in this Article's introduction shall be prioritized to states considered as micro-regions as per Art. 25 Para. 3 of the Federal Constitution, to integrate organization, planning and execution stages of actions under the responsibility of adjacent municipalities in the management of solid waste.

Para. 2. Supplementary rules on the access to the Federal Government's funds under the terms of this Article shall be established by a regulation.

Para. 3. In conformity with the responsibility of generators under the terms herein, micro-regions instituted under the terms of Para. 1 shall comprise activities such as selective collection, recovery, recycling, final treatment and destination of urban solid waste, management of civil construction waste, transportation, health and agrosilvopastoral services waste, or other waste, according to micro-regional peculiarities.

Art. 17. State plans on solid waste shall be formulated to be valid for an undetermined time frame, with a 20 (twenty)-year horizon, to be updated every 4 (four) years, with the following minimum content:

I – definition, including the identification of the main waste flows in the state and its socioeconomic and environmental impacts;

II – proposition of scenarios;

III – reduction, reuse, recycling and other targets aiming at reducing the quantity of waste and residues subject to final environmentally-adequate disposal;

IV – targets for the energetic use of gases generated in solid waste final disposal units;

V – targets for the elimination and recovery of dump yards, associated to the social inclusion and economic emancipation of waste-pickers collecting reusable and recyclable material;

VI – programs, projects and actions to accomplish expected targets;

VII – norms and technical conditions of access to state funds, for obtaining permission or to access funds that are, either directly or indirectly, managed by a federal entity, when they are intended for actions or programs of interest of the solid waste area;

VIII – measures to encourage and permit the associated or shared management of solid waste;

IX – guidelines for planning and other activities regarding solid waste management in metropolitan regions, urban agglomerations and micro-regions;

X – norms and guidelines for the final disposal of waste and, when applicable, residues, under the terms of provisions established at national level;

XI – forecast, according to other territorial planning instruments, especially economic-ecological zoning and coastal zoning of:

- a) favorable zones for the location of solid waste treatment units or final waste disposal units;
- b) degraded areas due to inadequate disposal of solid waste or waste to be used for environmental recovery;

XII – means to be used for control and inspection, at the national level, of its implementation and operationalization, with social control guaranteed.

Para. 1. In addition to the state plans, states can draft micro-regional solid waste plans, as well as specific plans intended for metropolitan regions or urban agglomerations.

Para. 2. The formulation and implementation, by the states, of solid waste micro-regional plans, or plans by metropolitan regions or urban agglomerations according to Para. 1 must compulsorily have the participation of the municipalities involved and do not exclude any of the municipalities' prerogatives outlined in this Law.

Para. 3. In conformity with the responsibility of generators under the terms herein, the solid waste micro-regional plan shall meet state-plan requirements and establish integrated solutions for selective collection, recovery and recycling, treatment and final destination of urban solid waste and, all micro-regional peculiarities considered, other types of waste.

Section IV

Municipal Plans on Integrated Management of Solid Waste

Art. 18. The formulation of the municipal integrated plan on solid waste, under the terms outlined herein, is conditional for the Federal District and municipalities to be entitled to Federal Government's funds, or funds controlled thereby, which are intended for undertakings and services related to urban cleaning and the management of solid waste, or to be incremented by incentives or financing from federal credit entities or support for this purpose.

Para. 1. Access to Federal Government's funds referred to in the Article's introduction shall be prioritized to municipalities that:

I – opt for associated inter-municipal solutions for the issue of solid waste management, including the formulation and implementation of an inter-municipal plan; or voluntarily participate in micro-regional plans on solid waste referred to in Art. 16, Para. 1;

II – implement selective collection with the participation of cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material, set up by low-income people.

Para. 2. Supplementary rules on the access to the Federal Government's funds under the terms of this Article shall be established by a regulation.

Art. 19. The municipal plan on integrated management of solid waste shall have the following minimum contents:

I – definition of the status of solid waste generated within the respective territory, including the origin, volume, waste characterization and final destination and disposal adopted;

II – identification of favorable areas for the final environmentally-adequate waste disposal, in compliance with the master plan referred to in Art. 182, Para. 1 of the Brazilian Constitution, and environmental zoning, if any;

III – identification of possibilities for the implementation of associated or shared solutions with other municipalities, considering, under the criteria of economy of scale, proximity with established locations and ways to prevent environmental risks;

IV – identification of solid waste and generators subject to a specific management plan under the terms of Art. 20 or a reverse logistics system under the terms of Art. 33, in compliance with the provisions herein and enforcement regulation, as well as norms established by SISNAMA and SNVS bodies;

V – operational procedures and minimum specifications to be adopted in public urban cleaning and solid waste management services, including final environmentally-adequate waste disposal and in compliance with Law No. 11,445, of 2007;

VI – operational and environmental performance indicators of public urban cleaning and solid waste management services;

VII – rules for transportation and other stages of solid waste management outlined in Art. 20, in accordance with norms established by Sisnama and SNVS bodies and other pertinent provisions outlined in federal and state legislation;

VIII – definitions of responsibilities for implementation and operationalization, including stages of solid waste management planning referred to in Art. 20 under the control of the public authority;

IX – capacity-building programs and actions towards implementation and operationalization;

X – environmental education programs and actions that promote the non-generation, reduction, reuse, and recycling of solid waste;

XI – programs and actions for the participation of interested groups, particularly cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material, set up by low-income people, if any;

XII – mechanisms for the creation of business, job and income sources by valuing solid waste;

XIII – a system to calculate the costs of urban cleaning and solid waste management, as well as the method of collection for these services, in compliance with Law No. 11,445, of 2007;

XIV – targets for the reduction, reuse, selective collection and recycling, among others, aiming at reducing the quantity of waste subject to final environmentally-adequate disposal;

XV – description of ways and limits of participation by the Public Authority in selective collection and reverse logistics, in compliance with provisions in Art. 33, and other actions related to shared responsibility by products' life cycle;

XVI – means to be used for control and enforcement, at local level, of implementation and operationalization of solid waste management plans referred to in Art. 20 and reverse logistics systems anticipated in Art. 33;

XVII – preventive and corrective actions to be practiced, including monitoring programs;

XVIII – identification of environmental liabilities related to solid waste, including contaminated areas and respective correction measures;

XIX – periodicity of reviews, in compliance with the validity of the municipal multi-year plan.

Para. 1. The municipal plan on integrated management of solid waste may be inserted in the basic sanitation plan outlined in Art. 19 of Law No. 11,445, of 2007, in compliance with the minimum established under the items of this Article's introduction and provisions of Para. 2.

Para. 2. The municipal plan on integrated management of solid waste shall have a simplified content, under the terms of the regulation, for municipalities with less than 20,000 (twenty thousand) inhabitants.

Para. 3. The provision set forth in Para. 2. does not apply to the following municipalities:

I – those in areas of especial tourist interest;

II – those in areas with undertakings or activities with significant environmental impact at regional or national levels;

III – those covering Protected Areas, either total or partially.

Para. 4. The existence of a municipal plan on integrated management of solid waste does not exempt the municipality or the Federal District of issuing environmental licensing for landfills or other operational infrastructure or facilities that are part of public urban cleaning and solid waste management services by the Sisnama competent body.

Para. 5. In defining responsibilities under the terms of item VIII of this Article's introduction, it is forbidden to assign the waste management stages referred to in Art. 20 to the public urban cleaning and solid waste management service, contrary to the respective environmental license or norms established by Sisnama bodies, and, SNVS bodies if applicable.

Para. 6. In addition to the provisions outlined in items I to XIX of this Article's introduction, the municipal plan on integrated management of solid waste shall consider specific actions aiming at the rational use of environmental resources, the struggle to avoid squandering and the reduction in the generation of solid waste, to be developed within the scope of the public administration bodies.

Para. 7. The contents of the municipal plan on integrated management of solid waste shall be made available for Sinir under the terms of the regulation.

Para. 8. The lack of a municipal plan on integrated management of solid waste cannot be used to stop the installation or operationalization of undertakings or activities which are duly licensed by the competent bodies.

Para. 9. The municipality that opts for associated inter-municipal solutions for solid waste management under the terms of the regulation, provided that the inter-municipal plan meets the requirements set forth in items I to XIX of this Article's introduction, may be exempt from formulating a municipal plan on integrated management of solid waste .

Section V

Solid Waste Management Plan

Art. 20. The following are subject to the formulation of a solid waste management plan:

I – solid waste generators outlined in clauses “e”, “f”, “g” and “k” of Art. 13 item I;

II – commercial or service-rendering establishments that:

a) generate hazardous waste;

b) generate waste which, even if not classified as hazardous due to its nature, composition or volume, is not compared to domestic waste by the municipal public authority;

III – civil construction companies, under the terms of the regulation or norms established by Sisnama bodies;

IV – those responsible for terminals and other facilities referred to in Art. 13 item I clause “j” and transport companies, under the terms of a regulation or norms established by Sisnama bodies, and SNVS, if applicable;

V – those responsible for agrosilvopastoral activities, if required by a competent Sisnama, SNVS or Suasa body.

Sole Paragraph. In accordance with the provision set forth in Chapter IV of this Title, specific requirements in relation to the hazardous waste management plan shall be established by a regulation.

Art. 21. The solid waste management plan shall have the following minimum content:

I – description of the undertaking or activity;

II – definition of generated or managed solid waste, with waste source, volume and characterization, including related environmental liability;

III - in compliance with norms established by Sisnama, SNVS and Suasa bodies, and the municipal plan on integrated management of solid waste, if any:

a) a description of the ones responsible for each stage of solid waste management;

b) definition of operational procedures related to stages of solid waste management under the generator's responsibility;

IV – identification of associated or shared solutions with other generators;

V – preventive or corrective actions to be executed in incorrect management situations or accidents;

VI – goals and procedures related to minimizing solid waste management, and, in compliance with norms set forth by Sisnama, SNVS and Suasa bodies, goals and procedures related to reutilization and recycling;

VII – actions related to shared responsibility for products' life cycle, if applicable, under the terms of Art. 31;

VIII – corrective measures for environmental liabilities related to solid waste;

IX – periodicity of reviews, in compliance, if applicable, with the validity of the respective operation license under the responsibility of Sisnama bodies.

Para. 1. The solid waste management plan shall comply with the provision of the municipal plan on integrated management of solid waste of the respective municipality, without prejudice of the norms set forth by Sisnama, SNVS and Suasa bodies.

Para. 2. The lack of a municipal plan on integrated management of solid waste does not exempt the formulation, implementation or operationalization of the solid waste management plan.

Para. 3. The following shall be established by a regulation:

I – norms on the enforceability and contents of the solid waste management plan in relation to the performance of cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material;

II – simplified criteria and procedures for the presentation of solid waste management plans for microenterprise and small-sized enterprise, according to definitions of Supplementary Law No. 123, of 14 December 2006, Art. 3, items I and II, provided that the activities developed thereby do not generate hazardous waste.

Art. 22. A duly qualified technician shall be appointed for the formulation, implementation, operationalization and monitoring of all stages of the solid waste management plan, including control of final environmentally-adequate waste disposal.

Art. 23. Those responsible for solid waste management plans shall keep complete and updated information on the implementation and operationalization of the plan under their responsibility available to the competent municipal body, the Sisnama licensing body and other authorities.

Para. 1. Without prejudice to other applicable requirements, a declaratory system shall be implemented in order to achieve the provision outlined in this Article's introduction, on an annual basis, according to the regulation.

Para. 2. The information referred to in this Article's introduction shall be passed on by public bodies to Sinir under the terms of a regulation.

Art. 24. The solid waste management plan is part of the environmental licensing process of the undertaking or activity by the competent body of Sisnama.

Para. 1. Approval of the solid waste management plan of undertakings and activities that do not require an environmental license is subject to the competent municipal authority.

Para. 2. During the environmental licensing process subject to approval by a Sisnama federal or state body, as referred to in Para. 1 above, the competent municipal body shall be assured the opportunity to be heard, particularly in relation to final environmentally-adequate waste disposal.

CHAPTER III

GENERATORS AND PUBLIC AUTHORITY'S RESPONSIBILITIES

Section I

General Provisions

Art. 25. The Public Authority, the business sector and the society are responsible for the effectiveness of actions taken towards assuring compliance with the National Policy on Solid Waste, guidelines and other determinations established herein and in the regulation.

Art. 26. The holder of public urban cleaning and solid waste management services is responsible for organizing and rendering those services in compliance with the respective municipal plan on integrated management of solid waste, Law No. 11,445, of 2007, the provisions herein and the regulation.

Art. 27. Individuals or corporate bodies referred to in Art. 20 are responsible for the complete implementation and operationalization of the solid waste management plan approved by the competent body under the terms of Art. 24.

Para. 1. The hiring of services such as collection, storage, transport, transshipment, treatment and final environmentally-adequate waste disposal does not exempt individuals or corporate bodies referred to in Art. 20 from accountability over damages caused by the inadequate management of respective waste or debris.

Para. 2. In the cases covered by Art. 20, the stages under the responsibility of the generator which are eventually carried out by the Public Authority shall be duly compensated by the relevant individuals or corporate bodies, in compliance with the provision of Art. 19 Para. 5.

Art. 28. The responsibility of domestic solid waste generators shall cease with the adequate waste disposal for collection or, in the cases covered by Art. 33, with restitution.

Art. 29. The Public Authority shall act subsidiarily with a view to minimize or cease damages immediately after having taken notice of a deleterious event for the environment or public health related to the management of solid waste.

Sole Paragraph. Those who cause the damages shall fully compensate the Public Authority for expenses resulting from measures outlined in this Article's introduction.

Section II

Shared Responsibility

Art. 30. It is hereby instituted shared responsibility for products' life cycle, to be implemented in an individualized and integrated manner, involving manufacturers, importers, distributors and sellers, consumers and holders of public urban cleaning and solid waste management services, in accordance with duties and procedures outlined herein.

Sole Paragraph. Shared responsibility for products' life cycle aims at:

I – making the interests of social and economic agents, entrepreneurial, market and environmental management processes compatible by developing sustainable strategies;

II – promoting the use of solid waste, directing them to their productive chain or other productive chains;

III – reducing the generation of solid waste, squandering, pollution and environmental damages;

IV – fostering the use of less aggressive and more sustainable supplies;

V – fostering market development, production and consumption of by-products from recycled and recycling material;

VI – providing for the efficiency and sustainability of productive activities;

VII – fostering good practices of socio-environmental responsibility.

Art. 31. Notwithstanding the obligations outlined in the solid waste management plan and aiming at strengthening shared responsibility and its objectives, manufacturers, importers, distributors and sales people's responsibilities include:

I – investment in the development, manufacturing and market placing of products which:

a) are able, after being used by the consumer, to be reused, recycled, or disposed in an environmentally-adequate form;

b) are manufactured in a way that generate less solid waste;

II – promote awareness on ways to avoid, recycle and eliminate their products' solid waste and respective by-products;

III – collection of leftovers and debris after use, as well as subsequent final environmentally-adequate disposal for products which are object of reverse logistics under the terms of Art. 33;

IV – commitment to, whenever agreements are entered into with municipalities, participate in actions outlined in the municipal plan on integrated management of solid waste, for products not included in the reverse logistics system.

Art. 32. Packaging shall be manufactured with material that can be reused or recycled.

Para. 1. The relevant parties shall ensure that packaging:

I – follows the required dimensions in terms of volume and weight in order to protect the contents and product marketability;

II – is projected in a way that allows for reuse in a technical and viable way, compatible with the requirements applicable to the products contained therein;

III – is recycled, if reuse is not possible.

Para. 2. A regulation shall provide on cases which, for technical or economic reasons, do not allow the application of provisions set forth in this Article's introduction.

Para. 3. This Article applies to those who:

I – manufacture packaging or provide material for packaging manufacturing;

II – puts packaging and packaging material into circulation, regardless of their stage in the commerce chain.

Art. 33. Manufacturers, importers, distributors and sellers of the products below are compulsorily required to frame and implement reverse logistics systems upon receiving products from consumers not using public urban cleaning and solid waste management services:

I – pesticides, their residues and packaging, as well as other products whose packaging constitute hazardous waste, in compliance with solid waste management rules outlined by law or regulation, norms

established by Sisnama, SNVS or Suasa bodies or technical norms;

II – cells and batteries;

III - tires;

IV – lubricant oils, their residues and packaging;

V – fluorescent, sodium and mercury vapor, and mixed light lamps;

VI – electric-electronic appliances and their components.

Para. 1. Under the provisions of a regulation or sectorial agreements entered into by the Public Authority and the entrepreneurial sector, the systems outlined in this Article's introduction shall be applied to products sold in plastic, metallic or glass packaging, and to other products and packaging, considering the degree and extension of their impact on public health and the environment.

Para. 2. The definition of products and packaging referred to in Para. 1 above shall take into consideration technical and economic feasibility of reverse logistics, as well as the degree and extension of the impact of waste they generate on public health and the environment.

Para. 3. Without prejudice to specific requirements established by law or regulation, norms established by Sisnama and SNVS bodies or sectorial agreements and terms of commitment entered into between the Public Authority and the entrepreneurial sector, manufacturers, importers, distributors and sellers of products referred to in items II, III, V and VI or products and packaging referred to in items I and IV of this Article's introduction and Para. 1. are in charge of taking all necessary steps to ensure the implementation and operationalization of the reverse logistics system under their responsibility, in accordance with the terms of this Article, and may, among other actions:

I – implement purchasing procedures of used products or packaging;

II – establish drop-off points for reused and recyclable waste;

III – work together in partnerships with cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material, in cases outlined in Para. 1.

Para. 4. Consumers shall return products and packaging referred to in items I to VI of the Article's introduction, and other products or packaging subject to reverse logistics to sellers or distributors, as per Para. 1.

Para. 5. Sellers and distributors shall return products and packaging delivered to them under the terms of Para. 3 and 4 to manufacturers or importers.

Para. 6. Manufacturers or importers shall arrange for the final environmentally-adequate disposal of products and packaging collected or delivered, with final environmentally-adequate waste disposal under the terms established by Sisnama's competent body, and the municipal plan on integrated management of solid waste, if any.

Para. 7. If the holder of public urban cleaning or solid waste management services, by a sectorial agreement or term of commitment entered into with the entrepreneurial sector, takes charge of activities under the responsibility of manufacturers, importers, distributors and sellers in reverse logistics of products and packaging referred to in the Article, actions by the Public Authority shall be duly compensated in accordance with the form agreed previously between the parties.

Para. 8. Except for consumers, all participants of reverse logistics shall keep updated, complete information of projects under their responsibility available to the competent municipal body and other authorities.

Art. 34. Sectorial agreements or terms of commitment referred to in item IV of the introduction of Art. 31 and in Para. 1 of Art. 33 may have scope at national, regional, state or municipal levels.

Para. 1. Sectorial agreements or terms of commitment entered into at national level prevail over those

entered into at regional or state level, which, in turn, prevail over those entered into at municipal level.

Para. 2. When competing rules apply, under the terms of Para. 1, agreements with lesser geographical scope may broaden, but never soften, environmental-protection measures outlined in sectorial agreements and terms of commitment with higher geographical scope.

Art. 35. Whenever a selective collection system is established by the municipal plan on integrated management of solid waste and in the application of Art. 33, consumers are compulsorily required to:

I – pack solid waste adequately and in a differentiated way;

II – adequately separate reusable and recyclable waste for collection and delivery.

Sole Paragraph. The municipal Public Authority may establish economic incentives to consumers who participate in the selective collection system referred to in this Article's caput, under the terms of a municipal law.

Art. 36. Within the scope of shared responsibility on products' life cycle and in compliance with the municipal plan on integrated management of solid waste, if any, the holder of public urban cleaning and solid waste management services is responsible for:

I – adopting procedures to re-utilize reusable and recyclable solid waste generated from public urban cleaning and solid waste management services;

II – establishing a selective collection system;

III – coordinating measures with economic and social agents towards reincorporating reusable and recyclable solid waste generated from public urban cleaning and solid waste management services to the productive cycle;

IV – carrying out activities defined by a sectorial agreement or term of commitment under the terms of Art. 33 Para. 7, by means of compensation by the entrepreneurial sector;

V – implementing a composting system for organic solid waste and coordinating with economic and social agents ways to use the end result;

VI – provide for the final environmentally-adequate disposal of waste and debris generated from public urban cleaning services and solid waste management services.

Para. 1. In order to comply with the provisions in items I to IV of this Article's introduction, the holder of public urban cleaning and solid waste management services shall prioritize the creation and operation of cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material formed by low-income people, and engage their service.

Para. 2. Hiring individuals as per Para. 1. above does not require a bidding process, under the terms of item XXVII of Art. 24 of Law No. 8,666, of 21 June 1993.

CHAPTER IV

HAZARDOUS WASTE

Art. 37. The installation and operation of undertakings or activities that generate or operate with hazardous waste can only be authorized or licensed by the competent authorities if the holder proves to have technical and economic capacity to provide the necessary management to those kinds of waste.

Art. 38. Legal entities operating hazardous waste at any management stage are compulsorily required to register in the National Registering of Hazardous Waste Managers.

Para. 1. The registering referred to in this Article's introduction shall be coordinated by the federal Sisnama's competent body and implemented jointly by federal, state and municipal authorities.

Para. 2. For registering purposes, legal entities referred to in this Article's introduction shall have a technical person responsible for managing hazardous waste, either from their own staff or otherwise hired, with proper qualification, whose personal details shall be updated in the registering.

Para. 3. The registering referred to in this Article's introduction is part of the Federal Technical Registering of Potentially Polluting Activities and Activities Using Natural Resources and the information system mentioned in Art. 12.

Art. 39. The legal entities referred to in Art. 38 are required to formulate a hazardous solid waste management plan and submit it to the Sisnama's competent body and, if applicable, the SNVS, in compliance with the minimum established in Art. 21 and other requirements provided by in a regulation or technical norms.

Para. 1. The hazardous solid waste management plan referred to in this Article's introduction may be inserted in the waste management plan referred to in Art. 20.

Para. 2. The legal entities referred to in Art. 38 are required to:

I – keep an updated and easily available record of all procedures related to the implementation and operationalization of the plan referred to in this Article's introduction;

II – inform, on an annual basis, the Sisnama's competent body, and if applicable, the SNVS, on the quantity, nature and temporary or final destination of waste under their responsibility;

III – adopt measures intended to reduce the volume and hazard of waste under their responsibility, as well as improve their management;

IV – immediately inform the relevant bodies on accidents or other occurrences related to hazardous waste.

Para. 3. Whenever requested by Sisnama and SNVS's competent bodies, access shall be granted for facilities inspection and procedures related to the implementation and operationalization of the hazardous waste management plan.

Para. 4. In case control is exercised by Sisnama and SNVS's federal or state bodies, information on the content, implementation and operationalization of the plan referred to in this Article's introduction shall be passed on to the Public Municipal Authority, under the terms of a regulation.

Art. 40. In licensing undertakings or activities which operate with hazardous waste, the Sisnama licensing body may request a public liability insurance cover damages caused to the environment or public health, in compliance with coverage rules and maximum limits established by regulation.

Sole Paragraph. The provisions of this Article's introduction shall consider enterprise size, under the terms of a regulation.

Art. 41. Notwithstanding the initiatives of other government levels, the Federal Government must structure and keep instruments and activities intended for the promotion of the decontamination of contaminated orphan sites.

Sole Paragraph. If, after the decontamination of an orphan site, carried out with Federal Government funds or other funds, those responsible for contamination are identified, they shall fully refund the Public Authority.

CHAPTER V ECONOMIC INSTRUMENT

Art. 42. The Public Authority may introduce inductive measures and credit lines to meet, on a priority basis, the following initiatives:

I – prevention and reduction of solid waste generation in the productive process;

II – development of products with less impacts on human health and environmental quality during their life

cycle;

III – implementation of physical infrastructure and purchase of equipment for cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material created by low-income individuals;

IV – development of solid waste management projects with an inter-municipal nature, or, under the terms of item I of the introduction of Article 11, regional nature;

V – constitution of selective collection systems and reverse logistics;

VI – decontamination of contaminated areas, including orphan sites;

VII – development of research towards achieving clean technologies applicable to solid waste;

VIII – development of environmental management and entrepreneurial systems intended for the improvement of productive processes and waste reuse.

Art. 43. In supporting or granting incentives to meet the guidelines herein, official credit institutions may establish different access criteria for recipients of the National Financial System for productive investments.

Art. 44. The Federal Government, the states, the Federal District and municipalities, within the scope of their competences, might institute norms aiming at granting fiscal, financial or credit incentives, in compliance with the limitations of Supplementary Law No. 101, of 4 May 2000 (Fiscal Responsibility Law) to:

I – industries and entities dedicated to reuse, treatment and recycling of solid waste produced within the national territory;

II – projects related to responsibility over products' life cycles, particularly those in partnership with cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material formed by low-income individuals;

III – companies working with urban cleaning and related activities.

Art. 45. Public consortia constituted under the terms of Law No. 11,107, of 2005, aiming at decentralization and rendering of public services involving solid waste have priority in obtaining incentives from the Federal Government.

Art. 46. Compliance with the terms herein shall be taken into effect in accordance with Supplementary Law No. 101, of 2000 (also known as Fiscal Responsibility Law), as well as guidelines and objectives of the respective multi-year plan, goals and priorities established by laws on budget guidelines and within the limit of annual budgetary laws.

CHAPTER VI

PROHIBITIONS

Art. 47. The following final destination or disposal of solid wastes are prohibited:

I – casting solid waste in beaches, oceans or any bodies of water;

II – casting *in natura* solid waste outdoors, except for mining waste;

III – incinerating solid waste outdoors or in recipients, facilities and equipment not licensed for this purpose;

IV – other forms prohibited by the Public Authority.

Para. 1. In case of sanitary emergencies, outdoor solid waste incineration may be carried out, provided that it is authorized and accompanied by competent bodies of Sisnama, SNVS, and, if applicable, Suasa.

Para. 2. Basins for the decantation of industrial or mining waste, provided that they are impermeable and

licensed by the Sisnama relevant body, shall not be considered as bodies of water for the purposes of the provisions of item I of this Article's introduction.

Art. 48. The following activities are prohibited in areas of final solid waste disposal:

I – use of disposed waste as feedstock;

II – material separation and collection, in compliance with the provision of Art. 17 item V;

III – pet breeding;

IV – construction of temporary or permanent housing;

V – other activities prohibited by the Public Authority.

Art. 49. The importation of hazardous solid waste, as well as waste whose characteristics cause damages to the environment, public, animal and vegetation health, is prohibited, even if waste is used for treatment, reform, reuse or recovery.

TITLE IV

FINAL AND TEMPORARY PROVISIONS

Art. 50. The lack of the regulation outlined in Para. 3 Art. 21 does not prevent the performance of cooperatives or other forms of association of waste-pickers collecting reusable and recyclable material under the terms herein.

Art. 51. Notwithstanding the obligation of compensating damages regardless of fault, actions or omissions by individuals or corporate bodies that lead to insubordination of the provisions herein or its enforcement regulation, subject offenders to sanctions defined by Law, particularly Law No. 9,605, of 12 February 1998, which “provides on criminal and administrative sanctions applicable to conducts and activities harmful to the environment, and makes other provisions”, and by its enforcement regulation.

Art. 52. Compliance with the provisions outlined in the introduction of Article 23 and Art 39 Para. 2 herein is considered an obligation of relevant environmental interest for the purposes of Art. 68 of Law No. 9,605, of 1998, without prejudice of the enforcement of other applicable sanctions at criminal and administrative levels.

Art. 53. Art. 56 Para. 1 of Law No. 9,605, of 12 February 1998, shall hereinafter read as follows:

“Art. 56.

Para. 1. The same penalties shall apply to:

I – whoever abandons products or substances referred to in the introduction or uses them in disagreement with environmental and safety norms;

II – whoever deals with, packs, stocks, collects, transports, reuses, recycles or provides for the final disposal of hazardous waste in disagreement with norms established by law or regulation.

.....” (NR)

Art. 54. In compliance with the provisions of Art. 9 Para. 1, final environmentally-adequate waste disposal shall be implemented within up to 4 (four) years after the date of publication hereof.

Art. 55. Provisions of Arts. 16 and 18 shall enter into force 2 (two) years after the publication hereof.

Art. 56. Reverse logistics related to products outlined in the introduction of Art. 33 items V and VI shall be implemented progressively, according to a schedule established by a regulation.

Art. 57. This Law shall enter into force on the day of its publication.

Brasília, 2 August 2010; 189th year of the Independence and 122th year of the Proclamation of the Republic.

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The text above does not substitute the one published in the Official Gazette on 3.8.2010