

National Solid Waste Policy – Brazil

English version - Alexandre Pereira

FOREWORD

The millions of people worldwide who make a living collecting, sorting, recycling, and selling materials that someone else has thrown away are referred to by many different terms in different regions. These include scavengers, recyclers, reclaimers, ragpickers, binners, and waste pickers. At the First World Conference of Waste Pickers, held in Colombia in 2008, a provisional consensus was reached to use the generic term “waste picker” in English (but, in specific contexts, to use the term preferred by the local waste picking community). While an international consensus is still to be reached amongst activists, waste specialists, membership-based organizations (MBOs) and non-governmental organizations (NGOs), the term waste pickers has been adopted and put into use by WIEGO as a useful generic term that suits the purposes of current global networking.

However, in the contexts where specific terms have been agreed upon WIEGO uses the local term. Brazil has created a specific term in its National Classification of Occupations for the occupation of reclaimer of recyclables – “*catador de material reciclável*”. These informal workers collect recyclables not refuse as household waste collection is done by formal workers as this is a mandatory service performed by municipalities either with municipal workers and/or outsourced to private companies. In this translated version of the National Solid Waste Law the Portuguese term “*catador*” or “*catadores*” is thus used.

Sonia Dias - WIEGO’s waste specialist

Source: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/l12305.htm

Presidency of the Republic

Civil House

The Undersecretary of Legal Affairs

Law nº 12,305, 2 August 2010.

Regulation: This law establishes the Brazilian National Policy on Solid Waste; it amends the Law nº 9,605, February 12, 1998; and gives other matters.

THE PRESIDENT OF THE REPUBLIC - the National Congress decrees and I sanction the following Law:

TITLE I - GENERAL PROVISIONS

CHAPTER I – AIMS AND APPLICATION

Art. 1st. - This Law establishes the Brazilian Solid Waste Policy, providing its principles, objectives and instruments, as well as the guidelines relating to the integrated solid waste management municipal plan, including hazardous waste, the responsibilities of the waste generators and the public authorities, and the relevant economic instruments.

§ 1st - Are subject to observance of this Law the individuals or legal entity, public or private, directly or indirectly responsible, by the generation of solid waste and those who develop actions related to the integrated solid waste management municipal plan.

§ 2nd - This Law does not apply to radioactive waste, which is regulated by specific legislation.

Art. 2nd. - In addition to the provisions of this Law, applying also to solid waste the Laws nº 11,445, of January 5, 2007, 9,974, June 6, 2000, and 9,966, April 28, 2000, the norms established by the National Environmental System (SISNAMA), National Health Surveillance System (SNVS), Unified System of Attention to the Agricultural Sanity (SUASA) and National metrology system, Standardization and Industrial Quality (SINMETRO).

CHAPTER II - DEFINITIONS

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

I-Sectoral agreement: act of contractual agreement between the public authorities and manufacturers, importers, distributors or traders, with a view to the implementation of shared responsibility for the product life-cycle;

II-Contaminated area: any place where there is contamination caused by disposal, regular or irregular, of any substance or residues;

III-Orphan contaminated area: any contaminated area where responsibility for disposal is not identifiable or individualised;

IV-Product life-cycle: any series of steps involving product development, obtaining raw materials and inputs, the process of production, consumption and final disposal;

V-Selective collection: solid waste collection previously segregated according to composition and characterisation;

English version - Alexandre Pereira

VI-Social control: any set of mechanisms and procedures to ensure transfer of information to society and participation in the processes of formulation, implementation and evaluation of public policies related to solid waste;

VII-Environmentally sound destination: waste disposal including reuse, recycling, composting, recovering and energy recovery or other destinations allowed by SISNAMA, SNVS and SUASA, among them the final disposal, observing specific operational standards to avoid damage or hazards to public health and safety, and to minimize adverse environmental impacts;

VIII-Environmentally sound disposal: orderly distribution of waste in landfills, observing specific operational standards to avoid damage or hazards to public health and safety and to minimize adverse environmental impacts;

IX-Solid waste generators: individuals or legal entities, public or private, which generate solid waste through their activities, including consumption;

X-Solid waste management: any set of actions carried out, directly or indirectly, in the stages of collection, transport, transfer, treatment and environmentally sound disposal of solid waste and environmentally sound disposal of refuse, according to the integrated solid waste management municipal plan or solid waste management plan, required in the form of this Law;

XI-Integrated solid waste management: any set of actions directed towards the search for solutions for solid waste, to consider the political, economic, environmental, cultural and social factor, with social control and under the premise of sustainable development;

XII-Reverse logistics: any instrument for economic and social development characterized by a set of actions, procedures and means for facilitating the collection and reuse of solid waste in the business sector, to reuse in its lifecycle or other productive cycles, or other environmentally appropriate final disposal;

XIII-Sustainable patterns of production and consumption: production and consumption of goods and services to meet the needs of current generations and allow better living conditions without compromising environmental quality, and to meet the needs of future generations;

XIV-Recycling: any solid waste transformation process which involves the alteration of its physical, physico-chemical or biological properties, with a view to processing inputs or new products, in compliance with the conditions and standards established by competent bodies of SISNAMA and, if applicable, the SNVS and SUASA;

XV-Refuse: any solid waste, without any other possibility than the environmentally sound final disposal, having exhausted all possibilities for treatment and recovery by technological processes available and economically viable;

XVI-Solid waste: any material, substance, object or good disposed resulting from human activities in society, whose final destination proposes to proceed or whether it is obliged to proceed in solid or semisolid states, as well as gases and liquids within containers, whose peculiarities make impossible its launch in the network of public sewers or water bodies, or require technical solutions or economically unviable solutions in the face of best available technology;

XVII-Shared responsibility for the product lifecycle: any set of individualized and chained assignments of manufacturers, importers, distributors and traders, consumers and holders of public services of urban cleaning and solid waste management, to minimize the volume of solid waste and refuse generated, as well as to reduce the impacts to human health and environmental quality arising from the product life-cycle in accordance with this Law;

XVIII-Reuse: any recovery process for solid waste without biological, physical or physico-chemical transformation, observing the conditions and standards established by competent bodies SISNAMA and, if applicable, the SNVS and SUASA;

XIX-Urban cleaning and solid waste management public service: any set of activities provided for in Art. 7 of Law N° 11,445, of 2007.

TITLE II - NATIONAL POLICY ON SOLID WASTE

CHAPTER I - GENERAL PROVISIONS

Art. 4th. - The National Policy on Solid Waste brings together the set of principles, goals, instruments, guidelines, targets and actions adopted by the Federal Government, alone or in cooperation with States, Federal District, Municipalities or particulars, with a view toward integrated management and environmentally sound solid waste management.

Art. 5th. - The National Policy on Solid Waste is part of the national policy for the environment and articulates, with the National Policy on Environmental Education, regulated by Law n° 9,795, April 27, 1999, the National Policy on Basic Sanitation, regulated by Law n° 11,445, of 2007, and with the Law n° 11,107, April 6, 2005.

CHAPTER II - THE PRINCIPLES AND OBJECTIVES

Art. 6th. - Principles of The National Policy on Solid Waste:

I-The prevention and precaution;

II-The polluter-pays and the protector-receiver principle;

III-The systemic vision, for solid waste management, to consider environmental, social, cultural, economic, technological and public health variables;

IV-Sustainable development;

V-The eco-efficiency, from matching supply, competitive prices, qualified goods and services that satisfy human needs and produce quality of life while reducing environmental impact and consumption of natural resources at a level at least equivalent to the estimated support capacity of the planet;

VI-Cooperation between the different spheres of the Government, the business sector and other segments of society;

VII-The shared responsibility for the product life cycle;

VIII-The recognition of solid waste as an economic good of social value, which generates income and citizenship;

IX-Respect for local and regional diversity;

X-The right of society to access information and exert social control;

XI-The reasonableness and proportionality.

Art. 7th. - Goals of The National Policy on Solid Waste:

I-Protection of public health and environmental quality;

II-Non-generation, reduction, reuse, recycling and treatment of solid waste, as well as environmentally sound waste disposal;

III-Stimulate the adoption of standards of sustainable production and for consumption of goods and services;

IV-Adoption, development and improvement of clean technologies as a way of minimizing environmental impacts;

V-Volume and reduction of the dangers of hazardous waste;

VI-Encouraging the recycling industry to encourage the use of raw materials and inputs derived from recyclable and recycled materials;

VII-Integrated solid waste management;

VIII-Communication between the different spheres of Government, and the business sector, with a view to technical and financial cooperation for integrated solid waste management;

IX-Continuing technical training in the area of solid waste;

X-Regularity, continuity, functionality and universalisation of the provision of the public services urban cleaning and solid waste management, with adoption of managerial and economic mechanisms to ensure cost recovery of services provided, to ensure their operational and financial sustainability, pursuant to Law n° 11,445, of 2007;

XI-Priority acquisitions and Government contracts for:

A) Recycled and recyclable products;

B) Goods, services and works which consider criteria consistent with standards of consumption that's is socially and environmentally sustainable;

XII-Integration of the *catadores* of reusable and recyclable materials in actions involving the shared responsibility in the product life cycle;

XIII-Stimulating implementation of product life-cycle assessment;

XIV-Incentives to develop environmental management systems and enterprises focused on improving production processes and the reuse of solid waste, including the recovery of energy;

XV-Incentives for environmental labelling and sustainable consumption.

CHAPTER III - THE INSTRUMENTS

Art. 8th. - Among others, the instruments of the National Policy on Solid Waste are:

I-Solid Waste Plans;

II-Inventories and the annual declaratory system of solid waste;

III-The recycling collection, reverse logistics systems and other tools related to the implementation of shared responsibility for the product life-cycle;

IV-Incentives for the establishment and development of cooperatives or other forms of associations of catadores of reusable and recyclable materials;

V-The environmental surveillance and monitoring, health and agriculture;

VI-Financial and technical cooperation between the public and private sectors for the development of research on new products, methods, processes and management technologies, recycling, reuse, waste treatment and environmentally sound waste disposal;

VII-The scientific and technological research;

VIII-Environmental education;

IX-Fiscal incentives, financial and credit;

X-The National Environmental Fund and the National Fund for scientific and technological development;

XI-The National Solid Waste Information System (SINIR);

XII-The National System for Information on Basic Sanitation (SINISA);

XIII-The environment councils and, where applicable, the health councils;

XIV-The municipal council bodies for the social control of municipal services of solid waste management;

XV-The national registry of operators for hazardous waste;

XVI-Sectoral agreements;

XVII-Where applicable, the instruments of the National Policy on the Environment, including:

- A) Environmental quality standards;
- B) The Federal Technical Registry of potentially polluting activities and/or activities using environmental resources;
- C) The Federal Technical Registry of Activities and Instruments of Environmental Defence;
- D) The evaluation of environmental impacts;
- E) The National Information System for the Environment (SINIMA);
- F) Licensing and reviewing effective or potentially polluting activities;

XVIII-The terms of engagement and the conduct adjustment terms;

XIX-Incentive to adoption of consortia or other forms of cooperation between the federated entities, with a view to increase of scales of recovery and reduction of the costs involved.

TITLE III - THE GUIDELINES APPLY TO SOLID WASTE

CHAPTER I - PRELIMINARY PROVISIONS

Art. 9th. - The solid waste management should observe the following hierarchy: non-generation, reduction, reuse, recycling, solid waste treatment and environmentally sound disposal.

§ 1st - Technologies can be used for energy recovery of municipal solid waste, provided that they have proven technical and environmental viability and with the deployment of an emission monitoring program for toxic gas emissions approved by the environmental authorities.

§ 2nd - The National Policy on Solid Waste and the Solid Waste Policies of the States, the Federal District and the Municipalities will be compatible with the provisions of the *caput* and in § 1st of this article and with the guidelines established in this Law.

Art. 10th. - It is for the Federal District and the Municipalities to organise the integrated management of the solid waste generated within their territories, without prejudice to the powers of control and monitoring of the Federal and State bodies of the SNVS and SISNAMA SUASA, as well as the responsibility of the generator for the waste management, as set forth in this Law.

Art. 11th. - In compliance with the guidelines and other regulations established in this Law and its regulation, States should:

I-Promote the integration of the organization, planning and execution of public functions of common interest related to solid waste management in metropolitan areas, conurbations and micro-regions, in accordance with the complementary State Law provided in § 3 of Art. 25 of the Federal Constitution;

II-Control and supervise the activities of waste generators subject to environmental licensing by the State organ SISNAMA.

Sole paragraph. The role of the State in the form of the *caput* must support and prioritize the initiatives of the Municipality or consortiums or shared solutions between 2 (two) or more Municipalities.

Art. 12th. - The Union, States, Federal District and the Municipalities should jointly organise and maintain the National Solid Waste Management Information System (SINIR), articulated with SINISA and SINIMA.

Sole paragraph. It is for the States, the Federal District and the Municipalities to provide the federal agency responsible for coordinating the SINIR all necessary information on waste under their sphere of competence, in the manner and on the periodicity set out in the regulations.

Art. 13th. - For the purposes of this Law, solid waste has the following classification:

I-As regards its origin:

- A) Household waste: those originating from domestic activities in urban residences;
- B) The urban cleaning waste originating from sweeping, the cleaning of public places and public streets, and other urban cleaning services;
- C) Municipal solid waste: included in sub-items "a" and "b";
- D) Waste from commercial establishments and service providers: those generated in these activities, except those mentioned in the sub-items "b", "e", "g", "h" and "j";
- E) Waste from public services of basic sanitation: those generated in these activities, except those mentioned in the sub-item "c";
- F) Industrial waste: those generated by production processes and industrial installations;

- G) Healthcare waste: those generated by health services, as defined in regulations or standards set by SISNAMA and SNVS;
- H) Construction: the waste generated in the construction, reform, repair and demolition of construction works, including those resulting from the preparation and excavation of land for civil works;
- I) Agroforestry: the waste generated by the agricultural and silvicultural activities, including those related to inputs used in these activities;
- J) Waste transport services: the waste originating in ports, airports, customs terminals, road and rail terminals and border crossings;
- K) Mining waste: those generated by research activity, extraction or processing of ores;

II-As regards its hazardousness:

- A) The hazardous wastes: which, by reason of characteristics of flammability, corrosivity, reactivity, acute toxicity, pathogenicity, carcinogenicity, teratogenicity and mutagenicity, present significant risk to public health or environmental quality, in accordance with Law, regulation or technical standard;
- B) Non-hazardous waste: those not covered under sub-item "a".

Sole paragraph. Respecting the provisions of Art. 20, the waste mentioned in the sub-items "d" of item I of *caput*, whether characterized as non-hazardous waste, can, by reason of their nature, composition or volume, be assimilated to household waste by municipal public power.

CHAPTER II - SOLID WASTE PLANS

Section I - General Provisions

Art. 14th. - Are solid waste plans:

I-The National Plan of Solid Waste;

II-The State Plans of Solid Waste;

III-The micro-regional plans of solid waste and solid waste plans of metropolitan areas or urban agglomerations;

IV-Inter-municipal plans of solid waste;

V-The integrated solid waste management municipal plans;

VI-The solid waste management plans.

Sole paragraph. Is ensured wide publicity to the contents of the plans of solid waste, as well as social control in its formulation, implementation and operationalization, subject to the provisions of the Law n° 10,650, April 16, 2003, and Art. 47 of Law n° 11,445, of 2007.

Section II - National Solid Waste Plan

Art. 15th. - The Union should establish, under the coordination of the Ministry of the Environment, the National Solid Waste Plan, effective for an indeterminate period and horizon of 20 (twenty) years, being updated every 4 (four) years, taking as minimum content:

I-Diagnosis of the current situation of solid waste;

II-Proposition of scenarios, including international and macroeconomic trends;

III-Goals of the reduction, reuse, recycling, among others, in order to reduce the amount of waste, and the refuse sent to environmentally sound disposal;

IV-Targets for the energy use of gases generated in the units for final disposal of solid waste;

V-Targets for the closure and recovery of dump sites, linked to the social inclusion and economic emancipation of the catadores of reusable and recyclable materials;

VI-Programs, projects and actions to meet the targets set;

VII-Technical standards and requirements for access to resources of the Union, to obtain consent or for access to resources administered, directly or indirectly, by federal entity, if these are intended for actions and programs of interest to solid waste;

VIII-Measures to encourage and facilitate the regionalised solid waste management;

IX-Guidelines for planning and other solid waste management activities of integrated development regions established by complementary Law, as well as to the areas of special tourist interest;

X-Standards and guidelines for the final disposal of the refuse, and when applicable, of waste;

XI-Means to be used for the control and surveillance, at the national level, of their implementation and operationalization, ensuring social control.

Sole paragraph. The national plan should be prepared by solid waste mobilization process and social participation, including the holding of hearings and public consultations.

Section III - State Solid Waste Plans

Art. 16th. - The drafting of the State Plan of Solid Waste, as provided by this Law, is a condition for States to have access to Federal resources, or controlled by it, intended for projects and services related to solid waste management, or to be benefited by incentives or financing of federal credit entities or promotion credit for such purposes. (Term)

§ 1st - Prioritize access to resources of the Union mentioned in the *caput* States constituting micro-regions, according to § 3rd Art. 25 of the Federal Constitution, to join the organization, the planning and execution of the actions by neighbouring municipalities on solid waste management.

§ 2nd - The following should be established in additional standard regulations on access to Union resources in the form of this article.

§ 3rd - Respecting the generators' responsibility under this Law, the micro-regions imposed as provided in § 1st cover activities of selective collection, recovery and recycling, treatment and final disposal of municipal solid waste, waste management of civil construction, transport services, health services, agroforestry or other wastes, in accordance with micro-regional peculiarities.

Art. 17th. - The State solid waste plan will be elaborated for validity for an indeterminate period, covering the entire territory of the State, with horizon of action of 20 (twenty) years and reviews every 4 (four) years, and having as minimum content:

I-Diagnosis, including the identification of the main waste streams in the State and its social, economic and environmental impacts;

II-Proposition of scenarios;

III-Targets of reduction, reuse, recycling, among others, in order to reduce the amount of waste and the refuse sent to environmentally sound disposal;

IV-Targets for the recovery of energy from gases generated in the units of the solid waste final disposal;

V-Targets for the closure and recovery of dump sites, linked to the social inclusion and economic emancipation of the catadores of reusable and recyclable materials;

VI-Programs, projects and actions to meet the targets set;

VII-Technical standards and requirements for access to State resources, to obtain consent or for the access of resources administered, directly or indirectly, by State entities, for the actions and programs of interest to solid waste;

VIII-Measures to encourage and facilitate the Consortium or shared management of solid waste;

IX-Guidelines for planning and other solid waste management activities of metropolitan areas, conurbations and micro-regions;

X-Standards and guidelines for the disposal of refuse and, when applicable, of waste, in compliance with the provisions laid down at the national level;

XI-Prediction, in accordance with the other territorial planning instruments, especially the ecologic-economic zoning and coastal zoning, of:

- A) The favourable zones for the location of units of solid waste treatment or refuse disposal;
- B) Degraded areas due to improper disposal of solid waste or refuse to be objects of environmental recovery;

XII-The means to be used for the control and surveillance, at the State level, of their implementation and operationalization, ensuring social control.

§ 1st - In addition to the State Plan of Solid Waste, States may set micro-regional plans for solid waste, as well as specific plans directed to metropolitan regions or to urban agglomerations.

§ 2nd - Drafting and the implementation by the States of micro-regional solid waste plans, or plans for metropolitan areas or urban agglomerations, in accordance with the provisions of § 1st, give themselves necessarily with the involvement of the Municipalities involved and do not exclude or replace any of the prerogatives over the Municipalities envisaged by this Law.

§ 3rd - Respected generators' responsibility under this Law, the micro-regional plan of solid waste must meet the envisaged State plan and establish integrated solutions for the selective collection, recovery and recycling, treatment and final disposal of solid urban waste and, considering the peculiarities micro-regional areas, other types of waste.

Section IV - Integrated Solid Waste Management Municipal Plans

Art. 18th. - The development of the integrated municipal solid waste management plan, under the terms established by this Law, is a condition for the Federal District and the Municipalities which access the resources of the Union, or controlled, intended for projects and services related to cleaning and urban solid waste management, or to benefit from incentives or financing of federal entities or promotion credit for such a purpose. (Term)

§ 1st - Prioritize access to resources of the Union mentioned in the *caput* of the Municipalities:

I-Opt for inter-municipal consortium solutions for solid waste management, including the development and implementation of an inter-municipal plan, or that fall voluntarily within micro-regional solid waste plans mentioned in the § 1st Art. 16;

II-Deploy segregated collection with the participation of cooperatives or other forms of associations of catadores of reusable and recyclable materials formed by low-income individuals.

§ 2nd - Complementary standards on the access to the resources of the Union will be established in the regulations, under this Article.

Art. 19th. - The integrated solid waste management municipal plan has the following minimum content:

I-Diagnosis of the situation of the solid waste generated within its territory, containing the origin, volume, waste characterization and the forms of appropriation and final provisions adopted;

II-Identification of areas favourable for environmentally sound disposal of refuses, observed in the master plan contemplated in § 1st Art. 182 of the Federal Constitution and environmental zoning, if any;

III-Identification of possibilities for deploying consortium solutions, or shared with other Municipalities, considering the criteria of economy of scale, the proximity of the established sites and ways to prevent environmental risks;

IV-Identification of solid wastes and the generators are subject to specific management plans pursuant to Art. 20 or the reverse logistics system in the form of Art. 33, in compliance with the provisions of this Law and its regulations, as well as the norms established by the SISNAMA and SNVS;

V-Minimum specifications and operational procedures to be adopted in the public services of urban cleaning and solid waste management, including the environmentally sound disposal of refuse, and observed the Law n°11,445, of 2007;

VI-Operational and environmental performance indicators of public services for urban cleaning and solid waste management;

VII-Rules for transportation and other solid waste management steps contemplated in Art. 20, in compliance with the norms established by the SISNAMA and SNVS and other relevant provisions of federal and State legislation;

VIII-Definition of responsibilities regarding implementation and operationalization, including those stages of the solid waste management plan mentioned in the Art. 20 the position of public power;

IX-Technical training programs and actions aimed at its implementation and operationalization;

X-Environmental education programs and actions that promote the generation, not the reduction, reuse and recycling of solid waste;

XI-Programmes and actions concerning the participation of interested groups, particularly of cooperatives or other forms of associations of catadores of reusable and recyclable material formed by from low-income individuals, if any;

XII-Mechanisms for the creation of sources for business, employment and income, through solid waste recovery;

XIII-System for calculating the costs of providing public services of urban cleaning and solid waste management, as well as the form of payment for these services, observed the Law n° 11,445, of 2007;

XIV-Targets of reduction, reuse, recycling and recycling, among other, in order to reduce the amount of refuse sent to environmentally sound disposal;

XV-Description of the configuration and the limits of local government participation in selective collection and in reverse logistics, respected the provisions of Art. 33, and other actions relating to the shared responsibility for the product life-cycle;

XVI-The means to be used for the control and surveillance, at the local, the implementation and operationalization of the solid waste management plans mentioned in the Art. 20 and reverse logistics systems provided in Art. 33;

XVII-Preventative actions and correctives to be practiced, including a monitoring program;

XVIII-Identification of environmental liabilities related to solid waste, including contaminated areas, and respective measures taken;

XIX-Periodicity of its review, noted as a priority, the duration of the multi-annual plan.

§ 1st - The integrated solid waste management Municipal plan can be inserted into the basic sanitation plan provided in Art. 19 of Law n° 11,445, of 2007, respective of the minimum content provided for in items of *caput* and subject to the provisions of § 2nd, all of this article.

§ 2nd - To Municipalities with fewer than 20,000 (twenty thousand) inhabitants, integrated municipal solid waste management will have simplified content, in the form of regulations.

§ 3rd - The provisions of § 2nd does not apply to Municipalities:

I-Members of special tourist interest areas;

II-Inserted into the area of influence of enterprises or activities with significant environmental impact of regional or national scope;

III-Whose territory covers totally or partially protected areas.

§ 4th - Existence of the integrated solid waste management municipal plan does not exempt the Municipality or the Federal District from the environmental licensing of landfills and other infrastructure and operational facilities, members of public service urban cleaning and solid waste management, by the competent body of the SISNAMA.

§ 5th - Definition of responsibilities in the form of item VIII of the *caput* of this article, it is forbidden to assign to public service of urban cleaning and solid waste management for waste management steps mentioned in the Art. 20 on disagreement with the respective environmental license or with rules set by the SISNAMA and, if applicable, the SNVS.

§ 6th - In addition to the provisions set in sections I to XIX of the *caput* of this article, the municipal plan of integrated solid waste management will include specific actions to be carried out within the bodies of the public administration, with a view to the rational use of environmental resources, to combat all forms of waste and the minimization of the generation of solid waste.

§ 7th - Content of the municipal plan of integrated solid waste management will be available for the SINIR, in the form of regulations.

§ 8th - The lack of an integrated solid waste management municipal plan cannot be used to prevent the installation or the operation of projects and activities properly licensed by competent bodies.

§ 9th - Pursuant to regulation, the Municipality that opts for inter-municipal consortium solutions for solid waste management, ensuring that the inter-municipal plan satisfies the requirements set in items I to XIX of the *caput* of this article, can be excused the provision of the integrated solid waste management municipal plan.

Section V - The Solid Waste Management Plan

Art. 20th. - Are subject to preparation of solid waste management plan:

I-Solid waste generators listed in sub-items "e", "f", "g" and "k" of item I of Art. 13;

II-The commercial establishments and of provision of services which:

A) The generate hazardous waste;

B) Generate waste which, even characterized as non-hazardous waste, by its nature, composition or volume, will not be treated as household waste by municipal public power;

III-Construction companies, in accordance with regulation or standards set by the SISNAMA;

IV-Responsible for the terminals and other facilities mentioned in the sub-item "j" of item I of Art. 13 and under regulation or standards set by the SISNAMA and, if applicable, the SNVS, transport undertakings;

V-Those responsible for agroforestry activities, if required by the competent body, or SNVS, SISNAMA or SUASA.

Sole paragraph. Subject to the provisions of Chapter IV of this title, should be set by regulations, with specific requirements relating to hazardous waste management plan.

Art. 21st. - The solid waste management plan has the following minimum content:

I-Description of the project or activity;

II-Diagnosis of solid waste generated or administered, containing the origin, volume, and the characterization of residues, including environmental liabilities related to them;

III-Subject to the norms established by the SISNAMA, SNVS and SUASA and, if any, the integrated solid waste management municipal plan:

A) Explanation of those responsible for each stage of waste management;

B) Definition of operational procedures relating to solid waste management steps processes under the responsibility of the generator;

IV-Identification the solutions coordinated or shared with other generators;

V-Preventive and corrective actions to be performed in case of incorrect management situations or accidents;

VI-Targets and procedures related to the minimization of the generation of solid waste and, in compliance with the norms established by the SISNAMA, SNVS and SUASA, to re-use and recycling;

VII-If applicable, actions concerning the responsibilities shared during the product life cycle, in the form of Art. 31;

VIII-Measures implemented regarding environmental liabilities related to solid waste;

IX-Periodicity of its revision, observed, if applicable, the period of validity of the respective operation license in charge of the organs of the SISNAMA.

§ 1st - The solid waste management plan will meet the provisions of the integrated solid waste management municipal plan of the respective Municipality, without prejudice to the rules set by the SISNAMA, SNVS and SUASA.

§ 2nd - Existence of the integrated solid waste management municipal plan of does not preclude the development, implementation or operationalization of the solid waste management plan.

§ 3rd - Regulation should be established in:

I-Rules on the enforceability and content of the Solid Waste Management Plan on the performance of cooperatives or other forms of association of catadores of reusable and recyclable materials;

II-Criteria and simplified procedures for presentation of solid waste management plans for micro and small enterprises, as well as those defined in sections I and II of Art. 3rd Supplementary Law n° 123, December 14, 2006, provided that the activities pursued by them does not generate hazardous waste.

Art. 22nd. - For the formulation, implementation, operationalization and monitoring of all stages of the solid waste management plan, including the control of the environmentally sound disposal of refuse, for which will be appointed a duly qualified technician.

Art. 23rd. - Those responsible for the solid waste management plan will keep the complete information about the implementation and operationalization of the plans under their responsibility updated and available to the competent municipal body, the licensor of SISNAMA and other authorities.

§ 1st - To achieve the provisions of the *caput*, without prejudice to other applicable requirements by the authorities, which will implement a declaratory system with a minimum one-year frequency, per regulation.

§ 2nd - Information mentioned in the *caput* should be repassed by public agencies to SINIR, per regulation.

Art. 24th. - The solid waste management plan is an integral part of the environmental licensing process of the enterprise or activity run by the competent body of SISNAMA.

§ 1st - In the enterprises and activities not subject to environmental licensing, the adoption of a solid waste management plan is the responsibility of the competent municipal authority.

§ 2nd - In the environmental licensing process mentioned in the § 1st in charge of Federal or State body of SISNAMA, hearing should be ensured by the competent municipal body, in particular with regard to environmentally sound waste disposal.

CHAPTER III - RESPONSIBILITIES AND PUBLIC POWER GENERATORS

Section I - General Provisions

Art. 25th. - The public authorities, the business sector and the community are responsible for the effectiveness of actions directed to ensure compliance with National Policy on Solid Waste and guidelines and other regulations established in this Law and its regulations.

Art. 26th. - The holder of the public services of urban cleaning and solid waste management is responsible for the organisation and provision of these services, directly or indirectly, observed in the municipal plan for integrated solid waste management, Law n° 11,445, of 2007, and the provisions of this Law and its regulations.

Art. 27th. - The individual or legal entity mentioned in Art. 20 are responsible for the implementation and full operationalization of the solid waste management plan approved by the competent body in the form of Art. 24.

§ 1st - Hiring of services of collection, storage, transport, transfer, treatment or final disposal of solid waste, or refuse disposal, does not exempt the individual or legal entity mentioned in Art. 20 of the liability for damages that may be caused by improper management of their waste or refuse.

§ 2nd - In cases covered by Art. 20, the steps under the responsibility of the generator that are taken by the Government will be properly paid for by the individuals or companies responsible, subject to the provisions of § 5th Art. 19.

Art. 28th. - The household solid waste generator has ceased its responsibility for providing waste suitable for the collection or, in the cases covered by Art. 33, with the return.

Art. 29th. - It is incumbent upon the public authorities to act, in the alternative, in order to minimize or stop damage as soon as they becomes aware of events harmful to the environment or to public health related to solid waste management.

Sole paragraph. Those responsible for the damage will fully compensate the Government for costs arising from actions undertaken in the form in the *caput*.

Section II - Shared Responsibility

Art. 30th. - Shared responsibility is hereby established by the product life-cycle, to be implemented individually and chained, including manufacturers, importers, distributors and traders, consumers and holders of public offices of urban cleaning and solid waste management, depending on the tasks and procedures provided in this section.

Sole paragraph. The shared responsibility for the product life cycle aims to:

I-Reconcile interests between the economic and social agents and the business management and marketing processes with environmental management and sustainable developing strategies;

II-To promote the utilization of solid wastes, directing them to their supply chain or for other productive chains;

III-To reduce the generation of solid waste, the waste of materials, pollution and environmental damage;

IV-Encourage the use of inputs of less aggressive to the environment and promote greater sustainability;

V-Stimulate the development of the market, and the production and consumption of products derived from recycled and recyclable materials;

VI-Provide that productive activities achieve efficiency and sustainability;

VII-Incentivize good practices of social and environmental responsibility.

Art. 31st. - Without prejudice to the obligations set out in the solid waste management plan and to strengthen the shared responsibility and the goals, of manufacturers, importers, distributors and merchants, who have responsibilities that encompass:

I-Investment in the development, manufacturing and marketing of products:

- A) To enable, post consumption, the re-use, recycling or other forms of environmentally adequate destination;
- B) Whose manufacture and use generate the lowest amount of solid waste;

II-Disclosure of information regarding ways to prevent, recycle and eliminate the waste associated with their respective products;

III-Reclaim products and the waste remaining after use, as well as subsequent environmentally sound final disposal, in the case of products of subject to the reverse logistics system in the form of Art. 33;

IV-Commitment, when signed agreements or terms of appointment with the Municipality, to participate in the actions provided for in the integrated municipal solid waste management plan in the case of products not yet included in the reverse logistics system.

Art. 32nd. - Packaging should be manufactured from materials that allow reuse or recycling.

§ 1st - It is duty of the respective responsible parties to ensure that packages are:

I-Restricted in volume and weight to the dimensions required for content protection and commercialization of the product;

II-Designed to be reused in a technically feasible manner and compatible with the requirements applicable to the product they contain;

III-Recycled, if reuse is not possible.

§ 2nd - The regulation will establish the cases where, for technical or economic reasons, is not feasible to implement the provisions of the *caput*.

§ 3rd - Attendance of this article is the responsibility of whosoever:

I-Manufactures packages or provides materials for the manufacture of packaging;

II-Puts into circulation packaging, materials for the manufacture of packaging or packaged products, at any stage of the trade chain.

Art. 33rd. - Are required to structure and implement reverse logistics systems, upon return of the products after consumer use, independently of the public service urban cleaning and solid waste management, manufacturers, importers, distributors and marketers of:

I-Pesticides, their residues and packaging, as well as other products whose packaging after use, constitutes hazardous waste, subject to the hazardous waste management rules set out in Law or regulation, in standards set by the SISNAMA, SNVS and SUASA, or technical standards;

II-Batteries;

III-Tires;

IV-Lubricating oils, their waste and packaging;

V-Fluorescent bulbs, sodium and mercury vapour bulbs, and mixed-light bulbs;

VI-Electrical and electronic products and their components.

§ 1st - In the form of provisions in regulation or in sector agreements and terms of engagement signed between public authorities and the business sector, the systems mentioned in the *caput* should be extended to products marketed in plastic, metal or glass packaging, and other products and packaging, considering, as a priority, the degree and extent of the impact to public health and the environment of the waste generated.

§ 2nd - Definition of products and packaging mentioned in the § 1st considers the technical and economic feasibility of reverse logistics, as well as the degree and the extent of the impact to public health and the environment of the waste generated.

§ 3rd - Without prejudice to any specific requirements set by Law or regulation, in standards set by the SISNAMA and SNVS, or in sector agreements and terms of engagement signed between public authorities and the business sector, it is up to manufacturers, importers, distributors and marketers of the products mentioned in the sections II, III, V and VI, or of the products and packaging as mentioned in the items I and IV of the *caput* and § 1st, taking all necessary measures to ensure the implementation and operationalization of the reverse logistics system under their charge, as established in this article may, among other measures:

I-Implement procedures for the purchase of products or packaging used;

II-Provide reusable and recyclable waste delivery stations;

III-To act in partnership with cooperatives or other forms of association of catadores of reusable and recyclable materials, in the cases mentioned in the § 1st.

§ 4th - After use, consumers should return the products and the packaging mentioned in the items I to VI of the *caput* and other products or packages subject to the reverse logistics in the form of § 1st, to traders or distributors.

§ 5th - Marketers and distributors should return to the manufacturers or importers of products any packaging collected or returned in the form of § 3rd and 4th.

§ 6th - Manufacturers and importers provide environmentally sound disposal of the products and packaging collected or returned, being sent to environmentally sound disposal, as established by the competent bodies of the SISNAMA and, if any, by the integrated solid waste management municipal plan.

§ 7th - If the holder of the public service urban cleaning and solid waste management, according to the sectoral agreement or the term of commitment signed with the business sector, undertakes activities which are the responsibility of manufacturers, importers, distributors and merchants in reverse logistics systems of products and packaging mentioned in the this article,

the actions of the public authorities should be duly remunerated, in the form agreed between the parties.

§ 8th - With the exception of consumers, all participants in reverse logistics systems will keep the competent municipal body and other authorities updated and informed with complete information on the implementation of the actions under their responsibility.

Art. 34th. - The sector agreements or terms of commitment mentioned in the section IV of the *caput* of the Art. 31 and in § 1st Art. 33 may have national, regional, state or municipal scope.

§ 1st - Sectoral agreements and terms of commitment signed nationwide have prevalence over those signed regionally or state wide, and those signed municipally .

§ 2nd - Application of competing rules according to § 1st, agreements with smaller geographical range can expand, but not slow, constant environmental protection measures in the sector agreements and terms of commitment signed with greater geographical coverage.

Art. 35th. - Where separate collection systems established by the integrated solid waste management municipal plan and in the application of Art. 33, consumers are required to:

I-Package properly and differentiate between the solid waste generated;

II-Make properly available the re-usable and recyclable solid waste for collection or return.

Sole paragraph. The municipal public authority may establish economic incentives for consumers who participate in a separate collection system as mentioned in the *caput*, in the form of municipal Law.

Art. 36th. - In the context of shared responsibility for the product life cycle, it is incumbent upon the holder of public services of urban cleaning and solid waste management, to observe, if any, the integrated solid waste management municipal plan:

I-Adopt procedures to recover the reusable and recyclable solid waste from urban cleaning public services and solid waste management;

II-Establish selective collection system;

III-Articulation with economic agents and social measures to facilitate the return to the productive cycle of reusable and recyclable solid waste from urban cleaning services and solid waste management;

IV-To carry out the activities defined by sectoral agreements or terms of commitment in the form of § 7th Art. 33, upon proper remuneration for the business sector;

V-Implement a composting system for organic solid waste and articulate with the economic agents and socially appropriate methods to use the compost produced;

VI-Provide environmentally sound disposal for refuse from the urban cleaning public services and solid waste management.

§ 1st - To ensure compliance with the provisions set out in sections I to IV of the *caput*, the holder of public services of urban cleaning and solid waste management will prioritize the organisation and functioning of cooperatives or other forms of association of catadores of reusable and recyclable materials formed by low-income individuals, as well as their recruitment.

§ 2nd - Contract provided in § 1st bidding is dispensable, pursuant to subsection XXVII of Art. 24 of the Law n^o 8,666, June 21, 1993.

CHAPTER IV - HAZARDOUS WASTE

Art. 37th. - The installation and operation of enterprises or activities that generate or operate with hazardous waste can only be authorized or licensed by the competent authorities if the responsible can prove, at least, technical and economic capacity, in addition of the necessary conditions to management the waste.

Art. 38th. - Legal entities operating with hazardous waste, at any stage of their management, are required to register with the National Registry of Hazardous Waste Operators.

§ 1st - Register mentioned in the *caput* should be coordinated by the competent federal body SISNAMA and deployed jointly by the Federal, State and Municipal authorities.

§ 2nd - For the registration, legal entities mentioned in the *caput* must rely on technical responsible for managing hazardous waste, from your their own staff or contractors, qualified, whose data will be kept up-to-date in the register.

§ 3rd - The Register mentioned in the *caput* is an integral part of the Federal Technical Registry of Potentially Polluting Activities and/or bodies that use Environmental Resources and the information system mentioned in Art. 12.

Art. 39th. - The individuals mentioned in the Art. 38 are obliged to compose a hazardous waste management plan and submit it to the competent body of the SISNAMA and, if applicable, to meet the minimum content SNVS set out in Art. 21 and other requirements laid down in regulations or technical standards.

§ 1st - The hazardous waste management plan mentioned in the *caput* may be inserted into the waste management plan mentioned in Art. 20.

§ 2nd - It is for the individuals mentioned in Art. 38:

I-Keep an updated and easily accessible record of all procedures related to the implementation and operationalization of the plan mentioned in the *caput*;

II-Report annually to the competent body of the SISNAMA and, if applicable, the SNVS, about the quantity, the nature and the temporary or final disposal of waste under their responsibility;

III-To adopt measures to reduce the volume and the hazardousness of waste under their responsibility, as well as to improve their management;

IV-To inform immediately the competent organs on the occurrence of accidents or other claims related to hazardous waste.

§ 3rd - Whenever requested by competent body of the SISNAMA and SNVS, will be ensured access for inspection of facilities and procedures related to the implementation and operationalization of the hazardous waste management plan.

§ 4th - In case of control over Federal or State body of SISNAMA and SNVS, information about the content, implementation and operationalization of the plans mentioned in the *caput* should be passed to the Municipal public authority, in the form of regulations.

Art. 40th. - In the environmental licensing of enterprises or activities that operate with hazardous waste, the licensor of the SISNAMA may require the purchase of civil liability insurance for damage caused to the environment or to public health, observing the rules on coverage and maximum contracting established by regulation.

Sole paragraph. The provisions in the *caput* should consider the size of the company, according to regulation.

Art. 41st. - Without prejudice to the other spheres of Government initiatives, the Federal Government should establish and maintain instruments and activities aimed at promoting the decontamination of orphan areas.

Sole paragraph. If, after decontamination of the orphan site carried out using Federal Government resources or those of another entity of the Federation, if those responsible for the contamination are identified, they will provide compensation for the full value spent by the Government.

CHAPTER V - FINANCIAL INSTRUMENTS

Art. 42nd. -The Government could institute measures and induce credit lines to meet priority initiatives:

I-Prevention and reduction of the generation of solid waste in the production process;

II-Development of products with lower impacts on human health and environmental standards in their life cycle;

III-Implementation of infrastructure and equipment acquisition for cooperatives or other forms of association of catadores of reusable and recyclable materials formed by low-income individuals;

IV-Developments of projects for inter-municipal solid waste management or in accordance with item I of the *caput* of the Art. 11, regional;

V-Structuring of selective collection systems and reverse logistics;

VI-Decontamination of contaminated areas, including orphan areas;

VII-Research aimed at developing clean technologies applicable to solid waste;

VIII-Development of environmental management systems and enterprises focused on the improvement of production processes and waste recovery.

Art. 43rd. - In promoting or granting of credit incentives designed to meet guidelines of this Law, the official credit institutions may establish special criteria for beneficiaries' access to credit from the National Financial System for productive investments.

Art. 44th. - The Union, States, Federal District and the Municipalities, within the framework of their jurisdictions, may establish standards with the aim of granting tax, financial or credit incentives, subject to the limitations of the Complementary Law n° 101, May 4, 2000 (Fiscal Responsibility Law), to:

I-Industries and entities engaged in reuse, treatment and recycling of solid waste produced in the national territory;

II-Projects related to responsibility for product life cycle, primarily in partnership with cooperatives or other forms of association of catadores of reusable and recyclable materials formed by low-income individuals;

III-Companies dedicated to urban cleaning and related activities.

Art. 45th. - The public consortiums constituted according to Law n° 11,107, 2005, aiming to achieve decentralization and provision of public services involving solid waste, have priority for receiving incentives offered by the Federal Government.

Art. 46th. - The attendance to the provisions of this chapter should be effected in accordance with the Complementary Law n° 101 of 2000 (Fiscal Responsibility Law), as well as with the guidelines and objectives of the multiannual plan, the goals and priorities established by the laws of budgetary directives and on limits available provided by the annual budget laws.

CHAPTER VI - THE PROHIBITIONS

Art. 47th. - The following forms of destination or final destination for solid waste or refuse are prohibited for:

I-Release on beaches, in the sea or any bodies of water;

II-Launch *in natura* or open dump, excepting mining waste;

III-Burning in the open or in containers, non-licensed facilities and equipment for this purpose;

IV-Other forms sealed by the Government.

§ 1st - When sanitary emergencies are declared, the burning of waste in the open can be performed, provided that it is authorized and accompanied by competent bodies of the SISNAMA, SNVS and, when applicable, of SUASA.

§ 2nd - If proper waterproofing is ensured, the settling basins of waste and industrial or mining waste, duly licensed by the competent organ of the SISNAMA, are not considered water bodies for the purposes of subsection I of *caput*.

Art. 48th. - The following activities are prohibited in the areas for disposal of waste or refuse:

I-Use of waste disposed as food;

II-Waste picking, in compliance with the provisions in item V of the Art. 17;

III-Farming of domestic animals;

IV-Establishment of temporary or permanent housing;

V-Other activities forbidden by the Government.

Art. 49th. - It is prohibited to import hazardous solid waste and refuse, as well as any solid waste which characteristic can cause damage to the environment, public health and animal and plant health, unless for treatment, refurbishing, reuse, recycling or recovery.

TITLE IV - TRANSITIONAL AND FINAL PROVISIONS

Art. 50th. - The absence of regulations provided in § 3rd Art. 21 should not preclude the actions under this Law, of cooperatives or other forms of association of catadores of reusable and recyclable materials.

Art. 51st. - Without prejudice to the obligation of, regardless of the existence of fault, to repair the damage caused by the action or inaction of individuals or legal entities that means non-observance to the precepts of this Law or its regulations subjected violators to the penalties provided in Law, in particular those set in Law n° 9,605, February 12, 1998, which "provides for

criminal penalties and administrative provisions derived from actions and activities harmful to the environment, and other matters", and in its rules.

Art. 52nd. - The observance of the provisions of the *caput* of the Art. 23 and in § 2nd Art. 39 of this Law considered relevant to environmental interest obligations for the purposes of Art. 68 of Law n° 9,605, 1998, without prejudice to the application of other sanctions in penal and administrative spheres.

Art. 53rd. - The § 1st Art. 56 of Law n° 9,605, February 12, 1998, should take effect as follows:

"Art. 56th

§ 1st - The same penalties apply to those who:

I-Abandon products or substances mentioned in the *caput* or use them at odds with environmental or safety standards;

II-Manipulates, packages, stores, collects, transports, reuses, recycles or provides final disposal to hazardous waste in a different manner from that established in Law or regulation.

....." (NR)

Art. 54th. - Environmentally sound disposal, subject to the provisions of § 1st Art. 9th, should be employed up to 4 (four) years after the date of publication of this Law.

Art. 55th. - Pursuant to Arts. 16 and 18 enter into force 2 (two) years after the date of publication of this Law.

Art. 56th. - The reverse logistics relating to products that, in items V and VI of the *caput* of the Art. 33, will be implemented progressively according to the schedule established in the regulations.

Art. 57th. - This Law should enter into force on the date of its publication.

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

LUIZ INÁCIO LULA DA SILVA
Rafael Tan Favetti
Guido Mantega
José Gomes Temporão
Miguel Jorge
Izabella Monica Vieira Teixeira
Joao Reis Santana Filho
Marcio Fortes de Almeida
Alexander Ramos P