

In this issue:

- **Climate Change** - regulation in São Paulo / State Policy in Pernambuco / emissions registry
- **Specially Protected Areas** - changes in Forestry Code / legal reserve / unconstitutionality of Santa Catarina Code / new conservation areas
- **Forestry Resources** - forestry reposition in the State of São Paulo
- **Environmental Licensing** - simplified procedures in São Paulo / Cattle Raising in State of Pará
- **Water Resources** - springs in State of São Paulo / groundwater exploitation in Ribeirão Preto, SP
- **Cultural Heritage** - administrative violations
- **Solid Waste** - National Policy / small landfills / special waste in Curitiba, PR
- **Sanitation** - regulation of National Policy
- **Biodiversity** - access to genetic heritage
- **Agribusiness** - encouraging better environmental practices / soy certification
- **Environmental Police Power** - embargo of activities
- **Atmospheric Emissions** - air quality and pollutants in the State of São Paulo
- **Green Cup** - Ministerial Working Group
- **Global Links** – UK

Climate Change

State of São Paulo. Important provisions of the State Policy on Climate Change have been regulated by State Decree No. 55,947, of June 24, 2010.

Among other items, such regulation includes (i) the creation of the **Management Committee** that will monitor the performance of the programs established under the Decree; (ii) the creation of the **State Council on Climate Change**, an advisory board composed by representatives of the State, municipalities and civil society, which aims to monitor the implementation of the State Policy on Climate Change and may establish Thematic Commissions with assignment to propose rules, policies and programs to fight climate change; (iii) guidelines for the preparation of the Strategic Environmental Assessment and Ecological-Economic Zoning; (iv) the proposal, by the São Paulo State Environmental Company (the *Companhia Ambiental do Estado de São Paulo*, or “CETESB”), by December 2010, of environmental **performance standards for products** sold in the State, especially for heating and cooling systems, lighting and vehicles, which should be gradually adopted in public purchases; (v)

the possibility of establishing **limits for the emission** of greenhouse gases as a requirement in the environmental licensing process, based on the overall and sectoral targets (to be defined) etc.

The Decree also addresses important **State Plans**, such as (i) the **Sustainable Building Plan**, which aims to insert social and environmental criteria in developments and engineering services hired by the government; (ii) the **Energy Plan**, which shall include measures to reduce emissions of the electric sector and to expand renewable energy sources; (iii) the **Sustainable Transportation Plan**, which shall prioritize investments in railways, waterways, cycleways and pipelines; (iv) the **Green Economy Credit Plan**, which contemplates the establishment of credit lines for the implementation of actions aiming emission reductions; and (v) the **Reminiscent Forests Plan**, which seeks to encourage the preservation and restoration of riparian forests and forest fragments, upon payment to landowners. ■

State of Pernambuco. On June 17, 2010 the **State Policy on Climate Change** (State Law No. 14,090) has been adopted. Among other aspects that shall be highlighted are the promotion of the **reduction of greenhouse gases (GHG) emissions** in the **power generation** sector, the establishment of **criteria on environmental performance and GHG emissions** for public purchases of vehicles and in the hiring of transport services, the establishment of GHG emissions limits and the imposition of **requirements in the environmental licensing** of projects with significant environmental impact that include the presentation of a GHG **emission inven-**

tory and the adoption of a **mitigation plan.** ■

Emissions Registry. On June 22, 2010 the **Public Registry of Greenhouse Gases** has been launched as one of the initiatives adopted by the Brazilian GHG Protocol Program, which is coordinated by the Center for Sustainability Studies of the Getúlio Vargas Foundation (“GVCes”, in Portuguese). The Registry consists of an online platform for the **disclosure of greenhouse gases emissions inventories** prepared in accordance with the methodology adopted by the GHG Protocol Program. In this first year, 35 companies from **various sectors** (mining, steel, petrochemical, agricultural, electric energy, financial services, pulp and pa-

per etc.) with productive activities in Brazil have reported their inventories (based on 2009 data). The public registry allows a **better management** of greenhouse gases emissions per sector and the **monitoring** of the performance of companies in this area by any interested citizen. The platform can be accessed through the site www.fgv.br/ces/registro. As reported in former issues of this Bulletin, the public registry of emissions has been adopted as an **instrument of specific different legislation**, such as the National Policy and the States Policy on Climate Change in São Paulo and Minas Gerais, as well as the bills on this matter that are under discussion in the States of Rio Grande do Sul and Espírito Santo. ■

Specially Protected Areas

Forestry Code. On July 06, 2010, the Special Commission formed in the Chamber of Deputies to review a set of several Bills that propose to amend or revoke the current Brazilian Forestry Code (Federal Law No. 4,771/1965) has approved the report of Federal Deputy Aldo Rebelo in the form of the substitutive Bill as amended by the complementary vote. The matter has been addressed in the issue of this Bulletin dated June 11, 2010, when the Rapporteur has presented his report. Among the **amendments made to the report** is the exclusion of the

possibility given to States and to the Federal District concerning the possibility of reducing the minimum size established for permanent preservation areas. ■

Legal Reserve. In a recent ruling (Special Appeal No. 1.173.316-SP), the Superior Court of Justice understood once again that the **obligation to recover** the legal reserve area is enforceable regardless of the (non-)existence of native vegetation in the rural property, even if the deforestation has been performed by a previous owner. The Superior Court also declared that the **exploitation of the area delimit-**

ited as legal reserve must cease immediately and that the 30-year maximum term established by the Forestry Code is for the recovery of the area and not for the full ceasing of exploitation. The ruling was published on June 29, 2010. ■

State of Santa Catarina. On June 18, 2010 the Federal General Attorney has issued his legal opinion on the Direct Claims of Unconstitutionality (*Ações Diretas de Inconstitucionalidade*) Nos. 4252 and 4253, both filed by the Green Party, questioning the constitutionality of the **State Environmental Code** of Santa Catarina (State Law No.

➔ provisions of the State Code that were challenged are related to the **reduction of permanent preservation areas and their use**. The Federal General Attorney understood that the State Law invaded the federal authority to establish general environmental rules (in this case, the same matter is already addressed otherwise by Federal Law No. 4,771/1965 – the Brazilian Forestry Code). ■

States of Bahia, Espírito Santo and Maranhão. Four new federal conservation

areas have been created in the **State of Bahia**, including three National Parks (covering, among others, the municipalities of Aratata, Una, Guaratinga and Boa Nova) and a Wildlife Refuge (covering, among others, the municipalities of Manoel Vitorino and Dario Meira). In addition, the limits of the Pau-Brasil National Park have been expanded. The Decrees (non-numbered) were published on June 14, 2010.

Two new federal conservation areas have also been created in

the **State of Espírito Santo**, including an Environmental Protection Area and a Wildlife Refuge, both of them covering the municipalities of Aracruz, Fundão and Serra (including territorial waters).

In the **State of Maranhão**, in the municipality of Cinelândia, the Extractive Reserve of Ciriaco had its limits expanded. The Decree (non numbered) was published on June 18, 2010. ■

Forestry Resources

State of São Paulo - Forestry Replacement. Pursuant to Resolution No. 55 of the State Secretariat of the Environment (“SMA”), published on June 11, 2010 the **deadline for registration** in the electronic system of **forestry replacement**, by individuals and legal entities that exploit, use, consume or transform **forest products and by-products** has been **postponed** to July 31, 2010. The obligation to register is part of the State Program of Forestry Replacement (State Law No. 10,780/2001). Among the industrial activities that require the replacement are the **production of pulp and paper**, the **preparation of timber** extracted from planted forests, the **consumption of firewood and charcoal** as energy source and the **consumption of raw wood** from planted forests in civil construction. ■

Environmental Licensing

State of São Paulo – simplified procedure. Resolution No. 56 of the State Secretariat of the Environment (the *Secretaria de Estado do Meio Ambiente*, or “SMA”), published on June 11, 2010, revoked the SMA Resolution No. 50/2010, which simplified the procedure for environmental licensing of certain activities, exempting them from the submission of the Environmental Impact Assessment (EIA) and its Report as well as the Preliminary Environmental Report for purposes of environmental licensing, as reported in the issue of this Bulletin of June 11, 2010.

According to the new Resolution, the **simplified procedures** remain applicable to those activities, but will require the presentation of a **document of characterization of the enterprise** (“MCE”, in Portuguese) or **simplified environmental**

assessments for the start-up of the licensing procedure. The Resolution will enter into force after 45 days of its publication. ■

State of Pará – cattle raising. Rule No. 1,436 of the State Secretariat of the Environment, published on June 15, 2010 regulates the procedures established for the environmental licensing process of cattle raising in **properties larger than 300 ha**. The Rule establishes a list of documents required for the start-up of the process, such as the legal reserve registration term, a commitment to maintain permanent preservation areas and maps of the property. ■

Water Resources

State of São Paulo. Resolution SMA No. 61 has been published on June 25, 2010. Such Resolution set guidelines for the **Payment for Environmental Services** Project for the **Protection of Springs** (regulated by State Decree No. 55,947/2010). The Project aims to reward actions oriented to the **conservation of water sources for public water supply located in watershed areas**. Such actions include measures to eliminate degradation factors (animal raising, erosion etc.), the planting of native species and other measures that stimulate natural recovery. The amount to be paid to the owner depends on factors such as the stage of regeneration of the vegetation around the spring, its flow and location. ■

Municipality of Ribeirão Preto, SP. The State Council for Water Resources (the *Conselho Estadual de Recursos Hídricos*, or “CRH”), aiming to tackle the problem of the lowering of the **Guarani Aquifer** caused by overexploitation of its waters, endorsed on June 19, 2010 the Resolution No. 2 of the Rio Pardo Watershed Committee, which established **Areas of Temporary Restriction and Control for the impoundment and use of groundwater** in the Municipality of Ribeirão Preto, covering its urban region and urban expansion region. The Area in question was further subdivided into three zones, with different requirements regarding the distance of wells from contaminated areas, surface water bodies and existing wells. The restrictions will be valid for two years, when they may then be renewed, if necessary. ■

Cultural Heritage

Rule No. 187 of the National Historical and Artistic Heritage (the *Instituto do Patrimônio Histórico e Artístico Nacional*, or “IPHAN”), published on June 11, 2010, established **procedures for the investigation of administrative violations** involving conducts against the **built cultural heritage** under the **protection of the Federal Government**, as well as the **imposition of penalties** and the applicable appeals. Pursuant to the Rule, the unauthorized intervention in the neighboring area that reduces or prevents the visibility of the listed building and its destruction, demolition or mutilation are examples of administrative offenses. The penalties can range from a fine up to the demolition of the illegal construction. ■

Solid Waste

On July 7, 2010 the Senate has approved **the National Policy of Solid Waste** in the form of the Chamber of Deputies substitute Bill No. 354/1989. As highlighted in the issue of this Bulletin of March 11, 2010 the Bill establishes the **shared responsibility for the lifecycle of products** covering manufacturers, importers, distributors, traders and consumers, as well as the mandatory implementation of **reverse logistics** for manufacturers, importers, distributors

and traders of pesticides, batteries, tires, lubricating oil, fluorescent lamps, electronic products and components. The Bill depends now on the sanction or veto by the Brazilian President. ■

Rule No. 15,849:2010 of the Brazilian Association of Technical Standards (the *Associação Brasileira de Normas Técnicas*, or “ABNT”), which provides **guidelines on location, design, implementation, operation and closure of small land-**

fills for final disposal of urban solid waste, will **enter into force** on July 14, 2010. The Standard aims to adapt the guidelines to smaller landfills, which were so far subject to a single standardization, regardless of the size (NBR 8,419:1992 and NBR 13,896:1997). Pursuant to the Rule, small landfills are those which receive **up to 20 tons** of urban solid waste on a **daily basis**. Among other aspects, the Rule establishes that the landfill must be located 📍

Sanitation

➔ at least 200 m away from any watercourse and must have operational capacity of at least 15 years. The Rule also imposes the monitoring of local surface and groundwaters. ■

Municipality of Curitiba, PR. Municipal Law No. 13,509, published on June 15, 2010 established the **special disposal of tires, batteries and accumulators, lamps, color packaging, solvents, lubricant oils and electric equipment and components.** Pursuant to such Law the disposal of such waste to public collection is forbidden. According to the Law, domestic manufacturers and importers, distributors and retailers of such products are responsible for collecting them at the collection points and for the **environ-**

mentally appropriate disposal. The Law also requires that **domestic manufacturers and importers** of products sold in the Municipality that generates the special waste in question must be registered with the Municipality within 180 days. They also must prepare (the Law has not determined the term) a Waste Management Plan (individual or collective) for the environmentally appropriate disposal, which must include, among others, the operating procedures of segregation, transportation and disposal, the establishment of operational performance indicators etc. Moreover, **retailers** must provide consumers with collecting points, in which consumers must dispose their special waste. ■

Federal Decree No. 7,217, published on June 22, 2010 has regulated the **national guidelines for sanitation** (Federal Law No. 11,445/2007). Among others, the Decree establishes the possibility of **simplified environmental licensing** for domestic sewage treatment facilities and facilities that treat the effluent resulting from water treatment, as well as the establishment of **progressive goals for the quality of the effluents generated** in such treatment installations. Both of such aspects shall be regulated by the Brazilian Council for the Environment (“CONAMA”, in Portuguese) and by the National Council of Water Resources (“CNRH”, in Portuguese). ■

Biodiversity

Pursuant to its Resolution No. 17, of July 1st, 2010 the National Council for Scientific and Technological Development (the *Conselho Nacional de Desenvolvimento Científico e Tecnológico*, or “CNPq”) established criteria for the **registration of institutions** that perform activities in the biological area and requirements to their **access to samples of genetic heritage** components and for sending them to institutions headquartered in Brazil or abroad.

Among others, the Resolution determines that institutions must demonstrate their **technical skills** and that they have adequate facilities for handling the relevant sample. Any public or private institution prior registered with CNPq may require the specific registration for the access in question.

With regard to the research project to be submitted, it should contain, among others, studies about the **impact on the sampled population** in the case of

endemic or endangered species, the **expected results** in connection with the information accessed and the research **funding sources.** ■

Agribusiness

Agricultural and Cattle Raising Plan. In June/2010, the Ministry of Agriculture, Cattle Raising and Supply has published the 2010-2011 Agricultural and Cattle Raising Plan. The Plan is highlighted by the **encouraging of better environmental practices**, such as the creation of the **Low Carbon Agriculture Program** ("ABC", in Portuguese), which aims to finance the implementation of low carbon agriculture practices (such as the recovery of preservation areas and integration systems of cattle raising and agriculture), and the **Sustainable Production Incentive Program** ("PRODUSA", in Portuguese), which aims to stimulate the recovery of produc-

tive areas through restoration of soil. The Plan can be found entirely in [http://www.agricultura.gov.br/images/ MAPA/arquivos_portal/ Plano_Internet2010_2011.pdf](http://www.agricultura.gov.br/images/MAPA/arquivos_portal/Plano_Internet2010_2011.pdf). ■

Soy. During its Fifth International Conference, held in São Paulo on June 10, 2010 the Round Table on Responsible Soy Association (RTRS) has approved the final version of the **Principles and Criteria for Responsible Soy**, which aims to provide standards to **voluntary certification** of producers of **any kind of soybeans and every scale of production**. According to the Principles and Criteria, the fol-

lowing requirements, among others, shall be observed: the **legal compliance** with all applicable laws, the full right to use the property (e.g. must not be inside conservation areas or indigenous lands), the compromise of **continuous improvement**, the improvement of the **quality of surface and groundwater, soil good management practices** to prevent erosion, non-use of chemicals listed in the Stockholm and Rotterdam Conventions etc. Producers, industries, financial institutions and entities of organized civil society participate in the initiative. ■



Round Table on Responsible Soy Association

Environmental Police Power

Rule No. 17 of the Brazilian Institute for the Environment and Renewable Natural Resources ("IBAMA") was published on July 13, 2010. Pursuant to such Rule, which regulates the **procedure of embargo of undertakings and activities of public interest** due to administrative violations, the embargo will be imposed only when the continuity of the activity represents an **imminent risk of damage or deterioration of the environment or public health**. Pursuant to the Rule, the imposition of the embargo penalty requires the **prior authorization of the President of IBAMA** when such penalty refers to an undertaking or activity that is subject to IBAMA's environmental licensing jurisdiction. ■

Atmospheric Emissions

State of São Paulo. Resolution No. 68 of the State Secretariat of the Environment (the *Secretaria de Estado do Meio Ambiente*, or "SMA"), published on July 3, 2010 has classified as "saturated" or "becoming saturated" the State sub-regions considering the **air quality and specific pollutants** (particulate materials, sulfur dioxide, carbon monoxide, nitrogen dioxide and ozone).

Pursuant to State Decree No. 8,486/1976, the São Paulo State Environmental Company (the *Companhia Ambiental do Estado de São Paulo*, or

"CETESB") may establish **specific requirements for activities in operation** considering targets and programs for pollution control or **even prohibit the installation of new pollution sources**. ■

Green Cup

On June 16, 2010 pursuant to Rule No. 223, the Ministry of Environment established a Working Group to propose and coordinate actions for the **environmental sustainability of the 2014 World Cup**. Among other tasks, the Group will identify priority conservation areas in the regions close to the host cities and propose measures to meet the tour-

istic demand, propose strategies for strengthening the licensing bodies to meet the demand of environmental licensing of undertakings, to survey the measures that were adopted by the countries that have recently hosted the World Cup, to identify priority projects to be licensed etc. The Group will be composed by representatives of the Minis-

try of the Environment, the Brazilian Institute for the Environment and Renewable Natural Resources ("IBAMA", in Portuguese), the Chico Mendes Institute for the Conservation of Biodiversity ("ICMBio", in Portuguese) and the National Water Agency (the *Agência Nacional de Águas*, or "ANA"). ■

Global Links



United Kingdom - REACH. In June 2010, the UK Health & Safety Executive (HSE) announced the first two substances that it will trace through the supply chain in order to identify companies that have failed to register substances in accordance with their obligations under REACH, the **EU chemicals regime**. The substances are ammonium dichromate and methylene diphenyl diisocyanate (MDI). Ammonium dichromate's uses include production of pigments, magnetic tapes and chemicals. MDI's uses include production of rigid polyurethane foams. The HSE has said that it will announce more target substances during 2010. Companies using the substances identified by the HSE will need to ensure that they have complied with registration requirements.

Registration for existing substances that had not been pre-registered began in December 2008. The next significant deadline for registration is 1 December 2010. By that date, pre-registered existing substances should have been registered when supplied at: (i) more than 1,000 tonnes per annum; (ii) more than 100 tonnes per annum and classified as very toxic to aquatic organisms; (iii) more than one tonne per annum and classified carcinogens, mutagens or reproductive toxicants. ■

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