

Comprehensive Waste Management Law (No. 8839)

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On 13 July, 2010, La Gaceta, the official newspaper, published the *Ley para la Gestión Integral de Residuos* (Comprehensive Waste Management Law); therefore, the Law has entered into force and is now mandatory. The Law's main objectives are: (I) safeguarding every person's right to enjoy both a healthy and ecologically balanced environment and public health; (II) promoting the development of a by-product markets, such as both recoverable materials and recycled, recyclable, and biodegradable products to: generate jobs, promote entrepreneurship, increase competitiveness, and ensure adequate use of resources to increase value to the nation's production and; (III) promoting both the creation and improvement of public and private infrastructure for selective waste collection, such as: transport, sorting, storage, recovery, treatment, and final disposal.

The Law is mandatory for all public and private entities that generate any kind of waste. Only existing special waste regimes are exempted from compliance with this Law.

The Ministry of Health and the corresponding Municipalities are the principal agencies enforcing this Law. These entities have the powers of directing, monitoring, evaluating and controlling waste management - and imposing fines - to ensure this Law's compliance.

The Ministry of Health has the power to inspect any company or person's facilities without notice. It can also suspend, revoke, or cancel any permit, license, authorization, or registration granted for undertaking the activity that was in breach of this Law.

This act classifies waste in three categories: (1) Ordinary Waste: ordinary household waste; (2) Special Management Waste: any waste that, because of its composition, transport requirements, storage conditions, use, recovery value, or any combination of, involves significant risks to health and the environment; and (3) Hazardous Waste: any waste that, because of either its chemical reactivity or its toxic, explosive, corrosive, radioactive, biological, bio-infectious, and inflammable characteristics or its exposure over time, may damage health and the environment. Each category of waste is subject to different management requirements.

The Law's Article 6 defines a producer of waste as "any person or entity that produces waste during any productive, agricultural, service, commercial, or consumption process." Articles 14 through 16 mandate that all waste producers must have a Comprehensive Waste Management Plan.

"Minor," "serious," and "very serious" administrative offences are penalized with fines that range from approximately US\$530 to US\$110,000.[1] These fines, depending on the type of offence for which they are collected, will help finance the Comprehensive Waste Management Fund created by this Law.

Finally, two new felonies are created: (1) illicit waste trafficking: which, depending on the type of waste, is punished by a 6-month to 15-year prison term; and (2) illegal waste disposal: which refers to abandoning or illegally depositing hazardous waste and is penalized with a 2 to 15-year prison term.

If you are interested in more detailed information regarding this law or any other environmental legislation matter, please do not hesitate to contact us.