

WEEE and RoHS in Latin America and the Caribbean



Compliance & Risks
Webinar
19 June 2019

Keith E. Ripley
Temas Actuales LLC
www.temasactuales.com
keith.e.ripley@gmail.com

WEEE Regulation at a Glance in LAC

Legend:

Red = Law or regulation directly regulating WEEE

Yellow = Broader waste instrument applied to WEEE





Argentina – WEEE – National (1)



- No national WEEE law yet.
- Two WEEE bills pending, one in each chamber of Congress. No WEEE bill has yet won approval by both chambers, and last one that passed Senate (years ago) died in Chamber of Deputies.
- An EPR bill in the Chamber of Deputies would include WEEE.



Argentina – WEEE – National (2)



- Environment Ministry Resolution 522/2016 on “Special Wastes of Universal Generation” (REGU) declared WEEE to be a REGU, called for Ministry to formulate a REGU strategy based on the principle of “post-consumer responsibility” (EPR), with the producer providing and financing integrated environmental management of end-of-life REGU.
- Environment Secretariat (successor to Ministry) issued 17 May 2019 Resolution 189/2019 implementing the strategy.
 - Calls for producers, organizations, institutions, municipalities and other jurisdictions that foresee REGU management that foresees inter-jurisdictional or international movement to submit plans for Sustainable Management Systems to the Secretariat that meet minimum contents detailed in the resolution. **NOTE:** most WEEE systems operating in Argentina presently involve some inter-provincial movement or exports to third countries.
 - Secretariat will publish the plans in the Official Bulletin, so local jurisdictions involved are identified and can intervene.
 - Local jurisdictions in charge of approving the local component of the System and overseeing local implementation.
 - Secretariat must issue permits for interjurisdictional movements of REGU until a traceability system is put into place.

Argentina – WEEE – Provinces (1)



WEEE Laws Adopted



Legend

Red = existing WEEE laws directly affecting producers, importers and/or distributors

Dark Green = existing WEEE laws with no discernible impact on producers, importers and/or distributors



Argentina – WEEE – Provinces (2)



- WEEE laws in 5 provinces + CABA, but only 2 (PBA, Chaco) affect producers/importers directly.
- Most existing provincial laws make WEEE collection a provincial responsibility and/or are of “digital divide” type – promote refurbishing of old EEE for sale or donation to improve access to computers.
- Key provisions of 2011 Province of Buenos Aires (PBA) law vetoed by governor, and implementing rules never issued.
- Not all implementing rules for Dec. 2013 Chaco law issued yet.



Bolivia - WEEE



- General Regulation implementing Law 755 on the Integrated Management of Wastes (Supreme Decree 2954) issued 19 Oct. 2016. Regulation added WEEE to scope of EPR provisions.
- Under the Decree, producers & distributors subject to EPR must:
 - inscribe in a registry established by the Environment Ministry MMAyA;
 - draw up 5-year Compliance Programs for the integrated management of their post-consumer products;
 - present the proposed Compliance Programs to the Ministry for approval;
 - implement the Program once approved.
- MMAyA, in coordination with the Ministry of Production Development and Plural Economy, is supposed to develop, via Ministerial Resolutions, further implementing regulations for EPR and the strategy for its gradual implementation.



Brazil – WEEE – National (1)



- 2010 National waste law (PNRS) requires take-back of EEE, among other sectors, either through regulation, sectoral agreement or “term of commitment” (TC, an agreement negotiated with a particular party or set of parties). Environment Ministry officials have long favored sectoral agreements and have concluded them in all target sectors except EEE and medicines. Medicines now targeted for decree.
- Negotiations toward national EEE sectoral agreement underway since 2013, with several stumbling blocks along the way.
- Bolsonaro Administration so far has not abandoned pursuit of EEE sectoral agreement, but instead of one is now seeking two: one covering small and consumer electronics (similar to the São Paulo accord), the other on household appliances (washers, refrigerators, etc.), and then later (at date undetermined) seek other agreements covering the other sectors such as vending machines, electric tools, control instruments, medical instruments, based on lessons learned from the early implementation of the first two EEE agreements.



Brazil – WEEE – National (2)



- One of the stumbling blocks in the sectoral agreement negotiations has been how to handle “free riders” – sub-sectors or individual companies that choose not to participate in the sectoral agreement [some EEE sectors have even resisted participating in the sectoral agreement negotiations].
- To remedy this, MMA published on 23 October 2017 Decree 9.177/2017 on reverse logistics which in a nutshell says that all manufacturers, importers, distributors and merchants of products covered by PNRS’ reverse logistics provisions that do not participate in a sectoral agreement or a TC covering their products will have to set up their own take-back systems meeting the same obligations agreed to in sectoral agreement with the federal government, and to sign a TC with the government codifying their commitment.
- In September 2018 government authorized the States of Alagoas, Amazonas, Bahia, Espírito Santo, Paraná, Pernambuco, Rio de Janeiro, Santa Catarina & São Paulos to exempt from value-added tax (ICMS) electronic products & components (and their transport) that are part of a take-back system under the terms of the PNRS. Currently only SP has a system that qualifies.
- Currently 4 WEEE-specific bills pending in Congress, 4 broader take-back bills affecting WEEE also pending.



WEEE – Brazil – States



A Confusing Mosaic

States with Broad WEEE Laws



States with Computer Waste Laws



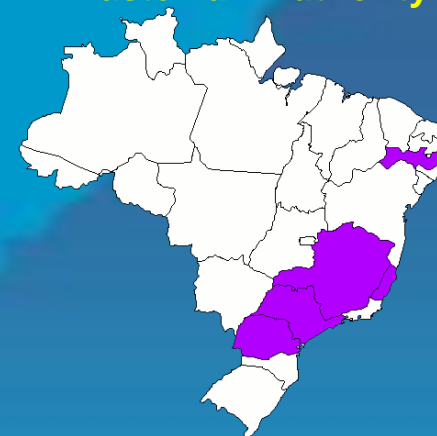
State Waste Laws with
EPR Provisions Targeting
Electro-Electronics



States with Reverse Logistics
Waste Law Covering EEE



States with Broad
Waste Law Authority



Temas Actuales LLC



Brazil – WEEE – States (2)



- CE, GO, RO, SE waste laws have EPR provisions on electronics;
- BA, DF, RJ & RS have PNRS-style waste laws with take-back provisions explicitly covering WEEE.
- AL PNRS-style waste law calls for take-back of categories in PNRS (which would include WEEE)
- AM PNRS-style waste law with take-back provisions to have product scope for take-back defined in the implementing decree; WEEE coverage likely.
- MA, MS, MT, PB, PE & PR have computer waste laws;
- AC, AM, ES & SP have broader WEEE laws.
- SP has concluded a WEEE sectoral agreement; MG, MS, PR seeking one.



Brazil – WEEE – States (3)



- **São Paulo State's** Environment Secretariat (SMA) Resolution 45 mandated take-back agreements for 9 product categories, including electro-electronic products & their components, via TCs between SMA/environment agency CETESB and sectoral associations, groups of companies or third-party organization representing sector. Companies not participating in a sectoral TC for their products must also implement take-back and meet targets set by CETESB that are proportional to the targets set for TC participants.
- In June 2016 CETESB set rules for environmental licensing of take-back operations, ruled that WEEE shall not be considered to be hazardous waste as long as it is being managed in steps that do not involve the separation of their components.
- ABINEE and the state chamber of commerce, Fecomercio-SP, signed a 4-yr TC involving EEE on 16 October 2017 covering “household electronics” (see box). Under the agreement, adherents agree to set up collection points at stores, & in some cases special spots selected apart from stores, at every city in the state with 80,000 or more inhabitants (at last census there are 95 such municipalities in that state). Pick-up and management (recovery, dismantling, recycling, treatment, proper disposal of unrecoverable parts) will be handled by “Green Electron,” a third party take-back organization created by ABINEE.

Personal computers for household use (desktops, notebooks, netbooks, laptops, tablets, notepads, e-readers)
IT accessories (CPU, mouse, keyboard, screens, monitors, modems, scanners, media players, external drives)
Cell phones
Cell phone accessories (chargers, adapters, cameras, etc.)
Headphones and loudspeakers
Digital cameras, security cameras, webcams & similar items
Smartwatches, electronic sports equipment and accessories, other "wearables"
Printers/copiers for household use
Printer accessories (ink or toner cartridges)
Videogames and portable game consoles; virtual reality goggles
Phones, answering machines, intercoms, fax machines and similar items



Chile – WEEE (1)



- Law 20.920 on EPR and Recycling published 01 June 2016.
 - Imposes EPR for “priority products” (which includes WEEE, batteries, packaging) by requiring producers to establish and finance individual or collective take-back Management Systems.
 - Additional EPR obligations are eco-design and limits on hazardous substances in products. They will be further defined in implementing regulations.
 - Authorizes Environment Ministry to establish collection quotas and additional take-back program criteria, such as labeling, transparency requirements.
 - Priority products not covered by a management system will be banned.
 - Producers must register the management system with Chile's Contaminant Emissions and Transfers Registry (RETC), with its associated periodic reporting requirements.
- Regulation on procedures for decrees setting targets and obligations for priority waste streams published on 30 November 2017.



Chile – WEEE(2)



- On 14 June 2017 MMA published a regulation requiring producers of products encompassed in the Law's priority waste streams (so including EEE) to report to the RETC certain data, including
 - quantity (units, cubic meters or tons) of products marketed in the country during the prior calendar year;
 - any collection, recovery and disposal activities carried out in the same period, and its cost;
 - quantity (units, cubic meters or tons) of product waste collected waste, recovered and eliminated in the same period;
 - an indication of whether collection and recovery is done individually by the producer or in association with other producers.



Chile – WEEE(3)



- A specific implementing decree on WEEE is due to be proposed for public consultation during 2019.
- The proposal's publication may be delayed until a draft general regulation on eco-design and labeling (originally slated for release in 2018) is released for public comment, since the WEEE decree is supposed to include eco-design and labeling elements.



Colombia – WEEE (1)



- Resolution 1512/2010 on the integrated management of computers and peripherals implementation continues.
 - Requires establishment of nationwide producer take-back system through creation of collection points; can be either individual or collective.
 - Management plans that guarantee minimum management standards required to be approved by MinAmbiente.
 - Minimum quotas for covered equipment: 40% in 2019, increasing to 50% in 2021.
 - Annual implementation reports due by 31 March.
 - Resolution not affected by 2013 WEEE law.



Colombia – WEEE (2)



- Law 1672/2013 covers all WEEE. Implementing decree 284/2018 issued in February 2018, entered into effect on 15 February 2019. EEE producers are required to:
 - register with the Ministry of Commerce, Industry and Tourism (MinCIT) and provide information annually relevant to their WEEE management systems;
 - submit to the National Environmental Licensing Authority (ANLA) for its review and approval a plan for a system of WEEE collection and management, which must follow guidelines and requirements to be laid down by the Environment Ministry in a separate regulatory instrument (binding resolution);
 - provide “the necessary means” to guarantee that the user or consumer WEEE manager or interested authority has available and accessible to them information on any component or substance hazardous to health or the environment present in their EEE. MinCIT will set the rules on the means (via labeling, packaging or manuals) by which producers must provide required information to users/consumers..
 - design and implement strategies directed at users and consumers of their products to achieve efficient return and collection of WEEE from their equipment, as well as information and awareness campaigns regarding the proper take-back and management of WEEE;
 - prioritize among WEEE recovery alternatives the promotion of using components, parts or materials salvaged from WEEE in economic and productive cycles.



Colombia – WEEE (3)



The Decree will be supplemented by several binding resolutions. Environment Ministry Resolution 76/2019 issued in Jan. 2019 sets terms of environmental impact assessments that must be submitted for environmental licensing of WEEE collection and management systems. Other expected:

- a MinCIT resolution regarding the EEE producers registry and annual information declarations. On 24 January 2019 MinCIT released the draft of this resolution for public comment until 07 February 2019. According to the draft, one year after the resolution's adoption all manufacturers, importers, assemblers, remanufacturers or other party introducing into the Colombian market electrical and electronic equipment, regardless of the sales method used (even if online or electronic sale), would have to inscribe into the Registry of EEE Producers (RPCAEE). The final version of this resolution is expected to be released shortly.
- a MinCIT resolution regarding on information to be provided to users, consumers and WEEE managers;
- an Environment Ministry resolution on providing an indicative list of WEEE [The Ministry is expected to stick to the EU Directive's list of categories and subcategories]. This resolution is overdue and is expected to be released for public comment shortly;
- a MinCIT/Environment Ministry resolution on the control of imports of used EEE and WEEE.



Costa Rica - WEEE



- According to Decree 38272-S on Special Wastes, producers/importers of all covered special wastes, including those under Electronic Waste Decree (35933-S), were to form or join a registered Compliance Unit (CU) by 24 September 2014. The registered CU must submit a waste plan, file annual compliance reports, ensure collected special wastes are managed in strict compliance with legislation in force, and guarantee management targets are met.
- **Until Decree 35933-S is amended, EEE products affected are those listed in 35933-S.**
- Most EEE multinationals use the Association of Businesses for the Integrated Management of Electronic Wastes (ASEGIRE) as their CU.

EEE Covered by Decree 35933-S

monitors
portable & desktop computers & accessories
batteries for portable computers, cell phones & UPS
chargers
scanners
cell phones
printers
photocopiers
multifunctionals
PDAs
calculators
routers
multimedia players



Ecuador - WEEE



- 31 Jan. 2013: Environment Ministry (MAE) adopted Ministerial Accord (AM) 190, providing guiding principles, policy axes, general guidelines, key terms and definitions regarding WEEE.
- AM 191 adopted at same time with specific rules for cell phones.
- AM's providing specific rules for other EEE categories were supposed to follow, but never appeared.
- In September 2016 MAE circulated for comment an ambitious draft AM that would not only cover the 10 categories contained in the EU's WEEE Directive, but also batteries & end-of-life vehicles (ELVs). A final version was never published. Reportedly the new government is reconsidering the whole approach.



Mexico - WEEE



- General Law on Waste includes “technological wastes” among special management wastes requiring submission of waste management plans for approval.
- Official Mexican Norm (NOM) 161-SEMARNAT-2011 adopted in Feb. 2013 defines "technological wastes" subject to Waste Law's requirement to submit waste management plans to cover, *inter alia*: computers; LCD & plasma displays; portable AV players; cables for electronics; printers; copiers; multifunctionals.
- Baja California state adopted electronic waste law in June 2016 to amend the state's waste law to:
 - add a broad definition of “electronic wastes”;
 - authorize the Executive Branch to expedite state environmental norms to regulate the integrated management of electronic wastes.



Peru - WEEE



- Supreme Decree 001-2012-MINAM of 27 June 2012 required IT, telecom & consumer electronics to submit WEEE management plans by 27 June 2013.
 - Supreme Decree 200-2015-MINAM of 11 August 2015 required the 8 other WEEE categories to submit a plan to the Production Ministry by 11 August 2016.
 - Legislative Decree 1278 of Dec. 2016 created a new Law on Integrated Management of Solid Wastes to replace the General Law on Solid Wastes adopted in 2000.
 - This necessitated publishing for public comment in March 2019 a draft decree on WEEE aligned with the new Law. Producers would be required to:
 - Design and implement e-waste management systems;
 - Submit updated e-waste management plans, including collection targets in accord with national goals set by MINAM;
 - Receive, at no cost, e-waste from customers;
 - Inform customers regarding the need and opportunity to return e-waste;
 - Inform operators of which components contain hazardous substances; and
 - Report annually on their activities.
- IT, telecom & consumer electronics would be required to meet minimum collection targets for 16% in 2020 rising 3% per year afterward, while large and small appliances would have a 7% target for 2020, rising 3% per year afterward. For other 6 categories, targets would be voluntary (for now).








Uruguay - WEEE



- Executive Branch in June 2018 sent draft waste law to legislature that would require EPR for set of “special wastes” which includes “electro-electronic wastes.”
- EEE manufacturers/importers would be required to register with MVOTMA in order to sell in Uruguayan market.
- EEE retailers and points of sale to consumer would be required to take back end-of-life (EOL) EEE.
- Manufacturers/importers would be required to set up take-back systems gathering EEE collected by retailers and bear the cost of proper management of their EOL EEE.

RoHS Initiatives in LAC

-  Several Argentine federal/provincial WEEE measures/proposals include provisions calling for reducing original RoHS 6.
-  Brazilian voluntary technical standard ABNT IECQ 080000:2010 may be made mandatory by reference in laws/regulations. 2010 Normative Instruction on Green Procurement requires electronics purchased by state entities to be certified RoHS compliant. Effort by National Chemical Safety Council to draft RoHS measure shelved by Bolsonaro Administration for now.
-  Chilean EPR law includes RoHS as EPR obligation; implementing decree on WEEE expected to include explicit provisions modelled after EU Regulation.
-  Colombia's WEEE law calls for producers to reduce or substitute harmful components or materials – may be used as basis for RoHS implementing measure.
-  Ecuador's AM 190 (WEEE policy framework) signals intent to block equipment containing persistent organic pollutants (POPs) (PFOS, DBEs, pentaBDE, octaBDE).





Thank You!

Temas Actuales LLC