

ENVIRONMENTAL RADAR

March 2022

Legislation (State and Federal)

FEDERAL

RenovaBio

Changes published to regulate CBIO

In Ordinance No. 622/GM/MME, the Ministry of Mines and Energy (MME) announced it is organizing a Public Consultation on a proposal to review Ordinance No. 419/GM/MME/2019 which regulates the process of issuing, bookkeeping, registration, trading and retirement of the Decarbonization Credits (CBIO) implemented in the National Biofuels Policy (RenovaBio).

According to the MME, the proposal is intended to increase resilience and transparency in some of the bookkeeping requirements for registration entities that trade CBIOs. The changes consist of:

- a. *including a provision, similar to the existing provision for registration entities, that requires bookkeeping agents to register with the Securities Commission (CVM);*
- b. *including a rule for registration entities that wish to begin offering CBIO registration that requires them to first prove their interoperability with other registration entities already trading CBIOs;*
- c. *including a rule that stipulates registration entities are required to report individual trades on their platforms to the MME and the National Oil, Natural Gas and Biofuels Agency (ANP);*
- d. *including a provision that requires financial institutions to operate with counterparties without the need for non-identification, as should be the case between primary CBIO issuers and buyers, to implement CBIO futures to protect the parties involved (CBIO buyers and issuers) from rapid changes in asset prices”.*

The Public Consultation will run from March 10 to April 8, 2022 and is available

[here](#). Ordinance No. 622/2022 is available [here](#).

STATES

BAHIA AND CEARÁ

Green Hydrogen

Bahia and Ceará regulate green hydrogen use

Bahia issued State Decree No. 21,200/2022 instituting the State Plan for the Green Hydrogen Economy (PLEH2V) based on the H2V Market Development and Research, Development and Innovation Subprograms, whose primary objective is to consolidate green hydrogen's position as a raw material and energy input, predominantly for industry, urban mobility and transportation.

The Decree also creates a State Commission that will assess PLEH2V deployment needs. The Commission will include representatives from the State Departments for Economic Development, the Environment, Science, Technology Innovation and Infrastructure, as well as a representative from the Institute for the Environment and Water Resources (INEMA), which is responsible for monitoring and setting PLEH2V targets and implementation, and from the State Forum for the Green Hydrogen Economy, which will be advising the Commission.

Ceará published COEMA Resolution No. 03/2022 setting out environmental licensing parameters and procedures for green hydrogen production businesses supervised by the State Environmental Superintendent (SEMACE). The Resolution classified green hydrogen production as having a regional impact and businesses are now subject to a three-phase licensing process (obtaining preliminary, construction and operation licenses). Licensing applications from businesses classified as medium, large or exceptional must be accompanied by an Environmental Impact Study and respective Environmental Impact Report (EIA-RIMA); micro and small businesses are required to submit a Simplified Environmental Report (RAS).

The full text of Bahia's State Decree No. 21,200/2022 can be read [here](#). COEMA Resolution No. 03/2022 is available [here](#).

PARÁ AND RORAIMA

Dam safety

Pará and Roraima regulate dams subject to the PNSB

The Pará State Board for the Environment (COEMA) issued COEMA Resolution No. 170/2022 to amend Resolution No. 159/2020 - which regulates the environmental studies and environmental licensing phases that apply to prospecting and experimental mining of manganese.

The amendment requires related businesses with tailings dams subject to regulation under Federal Law No. 12,334/2010 (the National Dam Safety Policy - PNSB) to submit EIA-RIMAs and produced a specific Term of Reference. This rule is independent of mining volumes.

The State of Roraima issued FEMARH/PRES Normative Instruction No. 03/2022 which revoked Normative Instruction No. 03/2017 and describes the new procedure for registering and obtaining approval for dams from the Roraima State Foundation for the Environment and Water Resources (FEMARH); it also revised the criteria and procedures for dam safety classification,

deployment and periodic inspection. This procedure will be based on risk and Potential Associated Harm (DPA) classifications using the PNSB categories.

The full texts of COEMA Resolution No. 170/2022 and FEMARH/PRES Normative Instruction No. 03/2022 can be found [here](#) and [here](#).

PARANÁ
Climate Change
Paraná includes Climate Diagnosis in Environmental Impact Studies

The Managing Director of the Land and Water Institute (IAT), Paraná's environmental regulator, published IAT Ordinance No. 42/2022 which now requires businesses to include a Climate Diagnosis in the EIA-RIMAs companies submit with their environmental licensing applications.

This is aligned with the State Climate Change Policy and will be based on the current environmental diagnosis framework required for the physical, biotic and socioeconomic aspects of a project's area. Schedule I of the ordinance includes a Term of Reference for the climate diagnosis accompanying an EIA-RIMA.

According to article 3 of the Ordinance, the goal is to set measurable, verifiable and reportable criteria on a business's potential climate impacts in order to determine its feasibility.

The full text of IAT Ordinance No. 42/2022 is available [here](#).

RORAIMA
Environmental Licensing
Roraima regulates artisanal mining

The State of Roraima issued FEMARH/PRES Normative Instruction No. 07/2022 setting out specific licensing procedures for businesses operating under the Artisanal Mining Permit regime (PLG) - however, the procedures do not apply to indigenous areas or conservation units.

Under the new rules, projects occupying areas of more than 50 hectares must obtain a license and submit an EIA-RIMA. Artisanal mining Cooperatives, Associations and Unions that already filed PLG applications with the National Mining Agency (ANM) for areas covering more than 50 hectares can apply for an

EIA-RIMA waiver, provided their surface mining activities cover no more than 50 hectares. New mining areas licensed under an existing PLG permit must prove the environmental recuperation activities described in the Degraded Area Recuperation Plan (PRAD) approved by

the competent environmental body have begun in the previously mined area.

The full text of FEMARH/PRES Normative Instruction No. 7/2022 is available [here](#).

BILLS

Mining on Indigenous Land Bill No. 191/2020 will be fast tracked

The Lower House will be fast-tracking Bill No. 191/2020 (Bill 191), which was submitted by the Executive on February 6, 2020. Deputy Ricardo Barros (PP/PR) filed a request to fast-track the bill on March 9, 2022 and it was approved the same day – after Deputy Joenia Wapichana (REDE/RR) had submitted a request to suspend debate on the Bill on March 8, 2022.

According to Deputy Joenia Wapichana (REDE/RR), Bill 191 contains “*constitutional and legal issues*”, ignores International Labor Organization (ILO) Convention No. 169 because “*indigenous communities and their representatives*

were not formally consulted during the writing of Bill 191/2020” and “it does nothing to preserve or protect the rights of indigenous peoples”. If approved, Bill 191 will regulate § 1 in article 176 and § 3 in article 231 of the Federal Constitution, allowing mineral and hydrocarbon prospecting and extraction and use of water sources to generate electrical energy on indigenous lands; as per § 2 in article 231, it will include compensation for restricting the ability of those who have traditionally occupied these lands from enjoying their exclusive use.

Accompany Bill 191’s progress [here](#).

CASE AUTHORITY

Environmental Licensing TJSP rules States Decree 64,512/2019 is legal

In the Motion for Transfer of Judicial Competency (IAC) in Appeal No. 1000068-70.2020.8.26, a majority of the Special Group of Environmental Law Chambers held State Decree 64,512/19, which amended certain provisions in State Decree No. 8,468/1976 and

changed the basis for calculating the environmental licensing fee payable to the São Paulo State Environment Company (CETESB), is lawful.

The decision held the definition of complete areas as per the new language

in article 73-C of State Decree No. 8,468/1976, as implemented by State Decree No. 64,512/2019 - comprising areas on which the project has built and where it carries out any open-air activities

- as well as the formula for calculating CETESB environmental licensing fees, was valid.

The decision can be read [here](#).

NEWS

Plastic pollution

UN approves Historic Agreement against Plastic Pollution

The fifth session of the UN Environment Assembly (UNEA) in Nairobi, Kenya, passed a resolution approving a treaty to reduce global plastic pollution - plastic pollution is responsible for reducing biodiversity, greenhouse gas emissions, accumulating as waste in the oceans and has other well-known impacts.

The resolution was called the “End of Plastic Pollution: moving towards a legally binding international instrument” and it is intended to be legally binding on signatory countries by 2024. It will also create an Intergovernmental Negotiating

Committee (INC) in 2022, which will be responsible for consolidating the proposal.

According to Inger Andersen, Executive Director of the United Nations Program for the Environment, the agreement could be viewed as the most important environmental treaty since the Paris Agreement.

Find out more about the negotiations and the [new](#) Resolution here. The full text of Inger Andersen’s speech can be read [here](#).

Climate Risk and ESG

Deadline for contributions to the Susep Public Consultation on climate risk and ESG ends

The Private Insurance Regulator (Susep) has ended its public consultation on a proposed circular to regulate “*sustainability requirements for insurance companies, open supplementary pension entities (EAPCs), capitalization companies and local reinsurers*”.

The circular will require insurers to implement sustainability policies setting out guidelines and principles that will guarantee certain sustainability issues, including risks and opportunities, and ensure they are taken into account in their business decisions and stakeholder relationships; they will also be required to

publish annual sustainability reports which will have to remain available for at least five years and include a climate change risk assessment.

Sustainability policies should reflect the size, type and complexity of each company’s operations; its strategic objectives and business plan; must be set down in writing; must be approved by the Board of Directors; must be published; and must be reviewed at least every three years. Wherever possible, associated risks should be included in the mandatory underwriting, credit, market, operations and liquidity risk categories, depending



on their effects. To ensure these policies are effective, companies are required to implement initiatives related to their product/service offerings or business and operational performance.

Policy initiatives will be classified as addressing environmental, social or climate sustainability risks. Climate risks will be split into physical climate risks - occasional losses resulting from frequent and severe weather conditions or long-term environmental changes that can be linked with changes in climate patterns; transitional climate risks - from events linked to the transition to a low carbon economy, where greenhouse gas emissions are reduced or offset and natural mechanisms are used to capture these gases - and litigation climate risks -

involving litigation against companies or claims under liability insurance policies resulting from physical or transitional climate risk management failures, foreseeing an increase in policyholders litigating claims based on climate events.

Some of the suggestions received include separating the recommendations into life and non-life insurance segments, because these areas face different impacts, and providing clear parameters to help companies build climate risk scenarios. Companies are expected to have to publish their 2022 documents by June 2023.

The draft version of the circular can be read [here](#).

Climate Change

IPCC reinforces the need for investment in climate adaptability and resilience

The latest report from the Intergovernmental Panel on Climate Change (IPCC), the UN agency responsible for advising on climate change science, includes important information on the need for society to adapt to climate change and discusses the current status of climate injustice globally.

Introducing the concept of a social tipping point, the IPCC warns that between 3.3 billion and 3.6 billion people are facing climate change vulnerability. This is being aggravated by their geographic location, gender, color, age or ethnicity and has a more significant impact in countries that already face political instability, wealth gaps and social conflict.

An estimated US\$ 127 to US\$ 295 billion needs to be invested every year to help developing countries adapt to climate change by 2030 and 2050, respectively. IPCC proposals to address this include vulnerability solutions in agriculture, livestock farming, fishing, energy and tourism, as well as efforts to adapt cities that were not originally planned to face climate stress. However, current financing is predominantly focused on climate mitigation and just 4 to 8% of funding is actually going to climate adaptation projects.

Daniela Chiaretti's analysis of the IPCC report is available [here](#) and the most recent report can be found [here](#).

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