

Law No. 9.866 of 28 November 1997.

(Official Daily Gazette, volume 107, No. 230, 29/11/1997. Administration of Mario Covas Re: Environment)

Establishes Orders and Regulations for the Protection and Recovery of Watersheds for Water Sources of Regional Interest to the State of São Paulo and Sets Forth Other Provisions.

I, the Governor of the State of Sao Paulo:

Hereby state that the Legislative Assembly has decreed, and I have promulgated the following Law:

Chapter I Objectives and Coverage

Article 1. This Law establishes guidelines and standards for the protection and recovery of environmental quality in watersheds for water sources of regional interest for supplying the current and future populations of the State of Sao Paulo, and ensures other multiple uses, provided that they are compatible.

Sole Paragraph. For purposes of this Law, water sources of regional interest shall be considered as being interior subterranean, surface, running, emerging or standing waters, currently or potentially capable of being used for the public water supply.

Article 2. This Law's objectives are the following:

I -- to preserve and restore water sources of regional interest in the State of Sao Paulo;

II -- to ensure consistency between actions to preserve water sources for the supply of water, and actions aimed at protecting the environment, through land use and occupation and socioeconomic development;

III -- to promote participative management, integrating government sectors and levels, as well as civil society;

IV -- to decentralize watershed planning and management for those sources, with a view to their protection and recovery;

V -- to integrate residential programs and policies with environmental protection.

Sole Paragraph. Water from water sources protected by this Law shall have priority for the public water supply, to the detriment of any other interest.

Article 3. For the purposes provided for in this Law, Water Source Protection and Recovery Areas (WSPRA) shall be considered as being one or more sub-watersheds for water sources of regional interest for the public water supply.

Sole Paragraph. The WSPRAs mentioned in the main body of this article must fall within one of the Water Resources Management Units (WRMU), provided for in the Integrated Water Resource Management System (IWRMS) instituted by Law No. 7.663 of 30 December 1991.

Article 4. WSPRAs shall be defined and delimited by means of a proposal from the Watershed Committee and by deliberation of the State Water Resources Council (WRC), having been heard by the CONSEMA (State Environmental Council) and the RDC (Regional Development Council), and created pursuant to article 18 of this Law.

Chapter II Planning and Management System

Article 5. Management of the WSPRAs shall be linked to the Integrated Water Resources Management System (IWRMS), to ensure coordination with the Environmental and Regional Development Systems.

Article 6. The WSPRA management system shall consist of the following:

I -- deliberating body;

II -- technical body;

III -- public administration bodies.

Sole Paragraph. For the case of water sources of regional interest under the influence of more than one WRMU, the WRC may apply shared or unified management of the WSPRAs, based on a proposal from the corresponding Watershed Committees (WCs).

Article 7. The Deliberating Body, which is of a consultative and deliberative nature, shall be the WC corresponding to the WRMU of which the WSPRA forms part, or the Sub-Committee linked thereto and explicitly delegated by it to have jurisdiction in areas of interest of the WSPRA.

Paragraph 1. The composition of the WSPRA deliberating body shall be consistent with the principal of equal participation by the State, the Municipalities and civil society, all of which shall be entitled to speak and to vote.

Paragraph 2. The civil society entities, which are necessarily based in Municipalities contained completely or partially within the respective WSPRAs, up to a maximum of one-third of the total number of votes, shall be represented by the following:

1. professional entities specializing in basic health, water resources and physical and territorial planning;
2. employer and business entities;
3. non-governmental environmental protection organizations and non-governmental associations;
4. community and residential associations; and
5. universities, advanced education institutions and research and technological development entities.

Paragraph 3. The deliberating body shall have the following responsibilities, among others:

1. to provide advance approval of Environmental Development and Protection Plans (EDPPs) and their updates, as well as to monitor their implementation;
2. to provide an opinion on proposals to create Intervention Areas and the respective environmental and urban development guidelines and regulations of regional interest, as well as their revisions and updates;
3. to recommend guidelines for the sectoral policies of agencies and entities operating within the WSPRA, promoting the integration and rationalization of actions aimed at adapting them to the law and to the EDPP;
4. to recommend changes to policies, actions, plans and sectoral projects to be implemented in the WSPRA, as provided for in the law and in the EDPP;
5. to propose criteria and annual and multi-annual programs for applying financial resources to services and works of interest to WSPRA management; and
6. to promote, within the scope of its responsibilities, the necessary coordination with other institutionalized Management Systems for the preparation, revision, updating and implementation of EDPPs.

Article 8. The technical entity shall be the Watershed Agency, as provided for in article 29 of Law No. 7.663 of 30 December 1991, or in its absence, the agency designated by the WC, which shall have the following responsibilities, among others:

I -- to assist and implement the decisions of the WSPRA deliberating body;

II -- to prepare the WSPRA Environmental Quality Status Report which must form part of the corresponding Watershed Status Report;

III -- to prepare and update the EDPP;

IV -- to prepare a proposal for the creation of Intervention Areas and the respective environmental and urban planning guidelines and regulations of regional interest, their updates, and proposals for a classification of the Environmental Recovery Areas;

V -- to promote, with the sectoral bodies, the coordination necessary to prepare a proposal for the creation of Intervention Areas and the respective guidelines and regulations, the proposed classification for the Environmental Recovery Areas of the EDPP, and their respective updates;

VI -- to propose efforts to increase the consistency between state and municipal environmental and urban planning laws;

VII -- to assist and offer the necessary administrative and technical support to the operations of the deliberating body, and to implement its decisions;

VIII -- to implement, make operational and keep systematically updated the Information Management System, ensuring access to the municipal, state and federal public administrative bodies and to civil society;

IX -- to provide technical and operational assistance and training to agencies, entities, nongovernmental organizations and Municipalities, in preparing plans, programs, laws, works and projects located within the WSPRA; and

X -- to coordinate and promote actions with a view to attracting and implementing compatible and desirable projects and activities, in accordance with the goals set forth in the EDPP and for the protection of water sources.

Sole Paragraph. The actions carried out by the technical body must be consistent with the guidelines of the Water Resources, Environment and Regional Development Systems.

Article 9. The public administration bodies shall be responsible for the licensing, monitoring, auditing and implementation of the sectoral programs and actions and shall have the following responsibilities, among others:

I -- promoting and implementing integrated monitoring with the other entities participating in the management system and with the various institutionalized systems;

II -- implementing sectoral programs and actions defined by the EDPPs; and

III -- contributing to updates of the Information Management System.

Chapter III Planning and Management Instruments

Article 10. Planning and management instruments shall be implemented in the WSPRAs with a view to guiding the activities of the public authorities and civil society toward the protection, recovery and preservation of water sources of regional interest.

Article 11. The following are planning and management instruments:

I -- areas of intervention and the respective environmental and urban planning guidelines and standards of regional interest;

II -- standards for the implementation of health infrastructure;

III -- mechanisms for financial compensation of the Municipalities;

IV -- Environmental Development and Protection Plan (EDPP);

V -- control of activities potentially harmful to the environment, which are capable of affecting water sources;

VI -- Information Management Systems; and

VII -- application of penalties for violations of the provisions of this Law and the specific laws of each WSPRA.

Chapter IV Regulation of Environmental Quality

Article 12. The following Intervention Areas shall be created in the WSPRAs, for applying the regulatory provisions for the protection, recovery and preservation of water sources and for the implementation of public policies:

I -- Restricted Occupation Areas;

II -- Managed Occupation Areas; and

III -- Environmental Recovery Areas.

Article 13. Restricted Occupation Areas, in addition to those defined by the State Constitution and by law as being subject to permanent preservation, are those of interest for the protection of water sources and for the preservation, conservation and recovery of natural resources.

Article 14. Managed Occupation Areas are those of interest for the consolidation or implementation of rural and urban uses, provided that they meet the requirements to ensure maintenance of the necessary environmental conditions for producing water in the quantity and quality for supplying current and future populations.

Article 15. Environmental Recovery Areas are those for which the uses and occupations are aimed at ensuring the flow, potability, quantity and quality of the water sources and public water supplies, which require intervention of a corrective nature.

Sole Paragraph. Environmental Recovery Areas shall be reclassified through the EDPP into Managed Occupation Areas or Restricted Occupation Areas, when actual environmental recovery has been demonstrated by the WSPRA Quality Status Report.

Article 16. Environmental and urban planning guidelines and standards of regional interest shall be established for each WSPRA, consistent with the jurisdictions of the Municipalities and the Federal Government, in accordance with the environmental specifications and functions of the various Intervention Areas, with a view to ensuring the quality and quantity standards for raw water capable of being subject to conventional treatment for the public water supply.

Sole Paragraph. The guidelines and standards mentioned in the main body of this article shall correspond to the following:

1. conditions for the occupation and implementation of activities that currently or potentially harm the environment, and which are capable of affecting water sources;
2. conditions for the implementation, operation and maintenance of systems for:
 - a) water treatment;
 - b) rain water drainage;
 - c) flood control
 - d) the collection, transport, treatment and disposal of solid waste;
 - e) the collection, treatment and final disposal of liquid effluent; and

f) the transmission and distribution of electrical energy;

3. conditions for the installation of conduits to transport substances considered as being health hazards and which are harmful to the environment;

4. conditions for the transport of products considered as being health hazards and which are harmful to the environment;

5. measures to adapt current activities, uses and buildings to the current standards of this Law;

6. conditions for the implementation of mechanisms to stimulate occupation consistent with the objectives of the Intervention Areas; and

7. conditions for the use and handling of natural resources.

Article 17. The following items shall be taken into consideration when delimiting and standardizing the Intervention Areas:

I -- the water production capacity of the water sources;

II -- their capacity for self purification and assimilation of pollution loads;

III -- the pollution load generation processes;

IV -- the classification of bodies of water into major types of use;

V -- the existing infrastructure;

VI -- the environmental conditions essential to maintaining water quality and quantity in the water sources; and

VII -- profiles of health threats, the causes of which may be associated with conditions in the physical environment.

Article 18. The WSPRAs, and their Intervention Areas in the respective environmental and urban planning guidelines and standards of regional interest, shall be created through a state law.

Article 19. The municipal planning and usage control, subdivision and urban land use laws as provided for in article 30 of the Federal Constitution must incorporate the environmental and urban planning guidelines and standards of interest to the preservation, conservation and recovery of the water sources, as defined by the WSPRA law.

Sole Paragraph. The Municipal Executive Authority must submit to the deliberating body of the WSPRA the proposed municipal laws to which the main body of this article refers.

Section II Health Infrastructure

Article 20. The implementation of a collective system for the treatment and disposal of solid household waste within an WSPRA shall be permitted, provided that:

I -- it is demonstrably impossible to implement it in areas located outside the WSPRA;

II -- collection, treatment and final disposal systems are adopted, the plans of which must be consistent with the specific standards, indices and parameters for WSPRAs, to be established by the environmental body with jurisdiction; and

III -- integrated programs for the management of solid waste which include, among other items, waste minimization, selective collection and recycling, are adopted by the Municipalities.

Article 21. Solid waste from industrial processes must be removed from the WSPRAs, in accordance with criteria set by the environmental entity with jurisdiction.

Sole Paragraph. The specific law for each WSPRA shall define the cases in which inert solid waste from industrial processes may be disposed of.

Article 22. Medical waste must be treated and disposed of outside protected areas.

Sole Paragraph. The specific law for each WSPRA shall define the cases in which medical waste may be subject to incineration or in which another more appropriate technology may be permitted.

Article 23. The disposal of solid waste shall not be permitted in Restricted Occupation Areas.

Article 24. The disposal of solid waste originating from Municipalities located outside the protected areas shall be prohibited within an WSPRA.

Article 25. The emission of liquid sanitary effluent in an WSPRA shall be permitted provided that:

I -- vetoed;

II -- the bodies of water were previously classified in accordance with current law; and

III -- the effluent was treated in accordance with the classification for the receiving body of water.

Paragraph 1. The classification covered in this article shall be restricted to Special Classes 1, 2 and 3 as established by article 1 of CONAMA Resolution No. 20 of 18 June 1986.

Paragraph 2. The reclassification of a body of water into a quality level classification lower than that in which it had been classified shall be allowed, if it is not possible to implement the classification of the body of water in the current classification and it is demonstrated that it is impossible to attain such levels.

Paragraph 3. The capture of water shall not be permitted in sections classified as Class 3.

Paragraph 4. The environmental body with jurisdiction must define the load limits to be emitted in bodies of water classified as Class 3.

Paragraph 5. Bodies of water shall only be permitted to be classified into two Classes, allowing graduated indices for improving water quality.

Paragraph 6. A body of water that shows lower quality than that established for its Class on the classification date may not receive new emissions in the section considered as being nonconforming, nor new industrial emissions into the public drainage network comprising the Class quality standards under which the body of water receiving the effluent is classified.

Article 26. Liquid effluents of industrial origin must be separated from the WSPRAs, in accordance with criteria established by the environmental entity with jurisdiction.

Paragraph 1. Emissions of liquid industrial effluent into WSPRAs may be permitted provided that:

1. it has been demonstrated as being technically and economically impossible to undertake separation or treatment by infiltration in the soil;
2. the bodies of water have been previously classified in accordance with the provisions contained in the paragraphs of the preceding article; and
3. the effluent contains only nontoxic organic waste and has been previously treated in a form consistent with the classification of the receiving body of water.

Paragraph 2. Industrial establishments existing on the promulgation date of the specific WSPRA law must submit to the environmental entity with jurisdiction, in accordance with previously established criteria, environmental pollution control plans, a plan for the transport of toxic and hazardous waste, and risk analysis studies for the entire project, demonstrating the feasibility of their remaining in their current locations.

Chapter V Environmental Quality Control and Monitoring

Article 27. The standards and guidelines of this Law and of the specific WSPRA law shall be fulfilled by the public administration entities after an analysis of requests for licensing and other approvals and authorizations for which they are responsible.

Article 28. Licensing for the construction, installation, expansion and operation of establishments, uses and activities in WSPRAs by any state or municipal public entity shall depend upon the prior submission of the real estate registration certification that mentions the legalization of restrictions established in the specific laws for each WSPRA.

Paragraph 1. Record or registration certifications issued by the Real Estate Registration Offices must specifically contain the environmental restrictions covering the area subject to the registration or record, under penalty of the functional liability of the civil servant.

Paragraph 2. The specific law for each WSPRA must identify the public administrative entity responsible for issuing the certification that specifies the restrictions to be legalized.

Paragraph 3. It shall be the responsibility of the public regulatory agency of each specific WSPRA law to communicate to the respective Real Estate Registration Offices the restrictions contained in each law.

Article 30. The WSPRAs shall have an Information Management System, which is intended to:

- I -- provide information support to public and private agents operating in the basins;

II -- assist in preparing and adapting the projected plans and programs; and

III -- monitor and evaluate environmental quality.

Paragraph 1. The Information Management System shall consist of a database, permanently updated with information on the entities participating in the system, and containing at least the following:

1. environmental characteristics of the sub-watersheds;
2. protected areas;
3. hydrological data on the quantity and quality of water;
4. land use and occupation and conversion trends;
5. mapping of the implemented and projected infrastructure systems;
6. registration of water resource users;
7. cartographic representation of the legal regulations;
8. registration and mapping of licenses, authorizations and grants issued by the entities with jurisdiction;
9. registration and mapping of the document filings by the entities with jurisdiction;
10. information on pollution loads and other items of interest;
11. health indicators associated with conditions of the physical, biological and socioeconomic environments; and
12. information on transport routes for toxic and hazardous loads.

Paragraph 2. The Information Management System shall be implemented by the WSPRA technical body, which shall ensure access to the municipal, state and federal public administration and to civil society.

Paragraph 3. The technical body shall annually publish a list of violators in the official publication, along with a description of the violation, the corresponding legal classification and the penalty applied.

Chapter VI Environmental Development and Protection Plan

Article 31. An Environmental Development and Protection Plan (EDPP) shall be prepared for each WSPRA, containing the following:

I -- guidelines for the establishment of sectoral policies relating to habitation, transport, natural resources management, environmental cleanup and infrastructure that interfere with the quality of the water sources;

II -- guidelines for the establishment of programs to encourage the implementation of uses and activities consistent with the environmental protection and recovery of the WSPRA;

III -- short-, medium- and long-term goals for obtaining environmental quality standards;

IV -- proposal for updating the environmental and urban planning guidelines and standards of regional interest;

V -- proposal for the reclassification of Environmental Recovery Areas;

VI -- programs, projects and actions for the recovery, protection and conservation of environmental quality;

VII -- Integrated Environmental Quality Monitoring Programs;

VIII -- Integrated Environmental Education Programs;

IX -- Integrated Monitoring and Control Programs;

X -- Annual and Multi-Annual Investment Program.

Paragraph 1. The EDPP shall conform to the guidelines of the Environmental, Water Resources and Regional Development Systems.

Paragraph 2. The EDPP, after evaluation by the WC and approval by the WRC, shall consist of the UGHRI Basin Plan and shall form part of the State Water Resources Plan for approval by the State Governor pursuant to article 47, section III of the State Constitution.

Chapter VII Financial Support

Article 32. The State and Municipal Public Authorities shall be responsible for ensuring the means and resources for implementing the integrated Water Quality and Monitoring and Control programs, as well as for implementing the Information Management System.

Sole Paragraph. The financial resources needed to implement the plans and programs provided for by the EDPP must consist of the Multi-Annual Plans, Budget Guidelines and Annual Budget of the bodies and entities of the public administration.

Article 33. The WCs shall set aside a portion of the collection resources for the use of water and a portion of the Water Resources State Fund Sub-Account (FEHIDRO) for implementation of control and monitoring actions, works and actions aimed at protecting and recovering water sources.

Article 34. The State shall guarantee financial compensation to the Municipalities affected by restrictions imposed by the creation of the WSPRAs, and the respective standards, in accordance with the law.

Chapter VIII Violations and Penalties

Article 35. Violations of this Law and the specific laws of the WSPRAs shall be classified as follows:

I -- light: those in which the violator benefited from attenuating circumstances;

II -- serious: those committed in the presence of aggravating circumstances or in which the harm caused does not make immediate recovery possible; and

III -- extremely serious: those committed in the presence of two or more aggravating circumstances or in which the harm caused does not make recovery possible in the short term, as well as cases of repeat occurrence on the part of the violator.

Paragraph 1. In the case of attenuating or aggravating circumstances, the penalty shall be applied by taking into consideration the primary circumstance, which shall be understood as being the one that characterizes the perpetrator's will or the consequences of the behavior assumed.

Paragraph 2. For purposes of the application and graduated nature of the penalty, the environmental authority shall note the following:

1. the classification of the violation, in accordance with the terms of this article;
2. the seriousness of the event, in view of its consequences to public health and to water sources; and
3. the violator's previous history with respect to fulfillment of the water source protection laws.

Paragraph 3. The following constitute attenuating circumstances:

1. a low academic and education level by the violator;
2. remorse on the part of the violator, as demonstrated by spontaneous repair of the harm, or significant limitation of the environmental damage caused;
3. prior communication, by the violator, of imminent danger of environmental damage;
4. cooperation with the agents responsible for environmental monitoring and control;
5. the violator's action is not a determining factor for the level of damage; and
6. the fact that it was a first time violation and that the resulting damage was light.

Paragraph 4. The following constitute aggravating circumstances:

1. the violator is a repeat violator or commits the violation in continuous fashion;
2. the agent committed the violation in order to obtain financial benefits for himself or for another party;
3. the violator coerced another party to materially commit the violations;
4. the violation had serious consequences on public health or water sources;

5. the violator failed to take measures to avoid or correct the situation that caused the violations;
6. the violation resulted in damage to the property of another party;
7. the improper use of an environmental license or authorization; and
8. the violation was committed by an establishment totally or partially supported by public funds or benefiting from tax incentives.

Article 36. Violators of the provisions of this Law and of the specific laws of the WSPRAs, individuals or legal entities shall be subject to the following penalties, notwithstanding such others as may be set forth in specific laws:

I -- warning that a violation was committed, with a maximum period of 30 (thirty) days to be set for demonstrating or initiating procedures for correcting the situation, depending upon its scope and seriousness, with a view to repairing the harm caused;

II -- fine of 450 to 220,000 times the value of the Tax Reference Unit (UFIR) for having committed the violation, depending upon its scope and seriousness;

III -- daily fine, in the event that the irregularity is not corrected within a period set by the authority with jurisdiction, the daily value of which shall not be less than 450 UFIRs, nor greater than 220,000 UFIRs;

IV -- permanent prohibition on activities not capable of being corrected, or temporary prohibition on those which are capable of being corrected, depending upon their seriousness;

V -- prohibition on the work, construction, building or sub-division of the soil, initiated without approval or in violation of the approved plan;

VI -- demolition of the irregular work, construction or building and restoration of the area to its original state;

VII -- loss, restriction and/or suspension of tax incentives and benefits granted by the Public Authorities; and

VIII -- loss, restriction or elimination, temporary or permanent, of the right to obtain financing from state credit establishments.

Sole Paragraph. The materials, machinery, equipment and instruments used in committing the violation shall be seized for investigative purposes during the police inquiry, pursuant to articles 26 and 28 of Federal Law No. 4.771 of 15 September 1965.

Article 37. Fines shall be imposed as a penalty by the authority with jurisdiction, in accordance with the following limits:

I -- from 450 to 8,700 times the UFIR value, for minor violations;

II -- from 8,701 to 87,000 times the UFIR value, for serious violations; and

III -- from 87,001 to 220,000 times the UFIR value, for extremely serious violations.

Paragraph 1. The fine shall be collected based on the UFIR value on the date of its actual payment.

Paragraph 2. The daily fine shall be applied during the period from the date of the violation notice to the cessation of the actual violation, as set forth in the protocol for the licensing procedure for the undertaking or activity.

Paragraph 3. In the case of activities or undertakings unable to be licensed by this Law and by specific laws, the fine shall be applied from the date of notification of the violation until verification of provisions aimed at restoring the area to its original condition, demolition, or cessation of the activity.

Paragraph 4. In the event of the extinction of the UFIR, the same index as replaces it shall be adopted for purposes of this Law.

Paragraph 5. In cases of repeat violation, characterized by the commission of a new violation of the same nature and seriousness, the fine shall correspond to double the amount previously imposed.

Paragraph 6. A repeat violation shall characterize the violation as extremely serious.

Paragraph 7. In cases of continued violation or failure to address the requirements imposed by the authority with jurisdiction, a daily fine shall be applied in accordance with the limits and nature of the violation as provided for in this article.

Paragraph 8. The proceeds from the collected fines as provided for in this Law, as well as those resulting from the application of Laws No. 898 of 18 December 1975 and 1.172 of 17 November 1976, shall constitute revenue from the body or entity responsible for applying the penalties, and must be used, on a mandatory basis, in the WSPRA where the violations occurred and in education campaigns.

Paragraph 9. The penalty of prohibition, whether permanent or temporary, shall be imposed in cases of risk to public health and uses or activities prohibited by law, and may also be applied at the discretion of the authority with jurisdiction, in cases of continued violation, imminent risk to the water source or a repeat occurrence of the violation.

Paragraph 10. The penalties of attachment and demolition may be imposed for the case of works or structures built without licenses or in violation thereof, and may be applied without prior warning or fine, when there is a risk of harm to the water source.

Paragraph 11. The penalties of suspension of financing and tax benefits shall be imposed as of the first repeat occurrence, as duly demonstrated by a detailed report, and must be communicated by the entity responsible for monitoring to the concessionary body or entity.

Paragraph 12. The penalties set forth in sections I, II and III of article 36 of this Law may be applied cumulatively to those of subsections IV, V, VI, VII and VIII of the same provision.

Paragraph 13. The penalties set forth in this article shall be imposed without prejudice to such other penalties as may be established by other bodies or entities, within the respective scope of legal jurisdiction.

Article 38. When violations are committed by the Municipal Public Authority, the portions referring to financial compensation as provided for in article 34 of this law shall be withheld until such time as they are corrected or the environmental harm cleaned up, as determined by the authority with jurisdiction.

Article 39. The following parties shall be jointly and severally liable for the violation:

I -- the material perpetrator;

II -- the principal; and

III -- any party that in any way participates in engaging in the act or which benefits therefrom.

Article 40. The application of the penalties provided for in this Law shall be subject to appeal to the immediately higher authority, without suspensive effect, within a period of 15 (fifteen) business days, after notification to the violator.

Paragraph 1. The notification to which this article refers may be sent to the violator by letter with notice of receipt.

Paragraph 2. For purposes of judgment of the appeal that has been filed, the judging authority shall hear the authority that imposed the penalty within a period of 15 (fifteen) days.

Article 41. Debts relating to fines and indemnifications that have not been paid, and which correspond to the violation of environmental laws, shall be settled in accordance with the provisions contained in paragraph 1, article 37 of this Law.

Article 42. During the exercise of the monitoring action, and in accordance with the law, qualified administrative agents shall be ensured entry, at any day or time, and the right to remain for as long as may be necessary, in public or private establishments.

Paragraph 1. Qualified agents shall be authorized to verify the occurrence of violations, suggest the application of penalties, request information, and engage in inspections of public or private agencies and entities.

Paragraph 2. If prevented from exercising their rights, agents may request police enforcement.

Article 43. Costs or expenses incurred during application of the penalties of prohibition, attachment or demolition shall be assumed by the violator.

Article 44. In the event of a verified violation of the provisions of this law and the specific laws of the WSPRAs, the public administrative bodies responsible for environmental licensing and monitoring must ensure, vis--vis the violator, the formalization of a commitment letter to correct the environmental behavior, in the form of an extra-judicial document valid to commence the execution process, the primary objective of which shall be to recover the damaged water source, and to cease, adapt, restore, correct or minimize the negative effects on the environment, independently of the imposition of the applicable penalties.

Paragraph 1. Such monetary fines as are applied may be reduced by up to 90% (ninety percent) of their value and the enforcement of the other penalties shall be suspended, as provided for by the regulation of this Law.

Paragraph 2. Total or partial failure to execute the items agreed upon in the environmental behavior adjustment commitment shall result in referral to the State Prosecutor, for enforcement of the corresponding obligations, without prejudice to the applicable criminal and administrative penalties.

Chapter IX Final and Transitory Provisions

Article 45. In the Greater Sao Paulo Metropolitan Region, until such time as the specific WSPRA laws are promulgated, the provisions of Laws No. 898 of 18 December 1975 and 1.172 of 17 November 1976 shall remain in force, with the exception of section XIX of Law No. 898 of 18 December 1975, included within Law No. 7.384 of 24 June 1991, which shall be explicitly revoked on the publication date of this Law.

Sole Paragraph. The penalties provided for in Laws No. 898 of 18 December 1975, and 1.172 of 17 November 1976 shall be expressly revoked, and of those defined by this law shall henceforth apply.

Article 46. The Watershed Committees (WCs) corresponding to the water source protection areas established by Laws No. 898 of 18 December 1975 and 1.172 of 17 November 1976 must forward a proposal for delimiting the WSPRAs within a period of up to 60 (sixty) days, as set forth in article 4 of this Law.

Article 47. In the water source protection areas discussed in Laws No. 898 of 18 December 1975 and 1.172 of 17 November 1976, until such time as the specific WSPRA laws have been promulgated, emergency works may be executed in the event that the environmental and health conditions present risks to life and public health or compromise use of the water sources for water supply purposes.

Paragraph 1. For purposes of this Law, emergency works shall be considered as being those necessary for the supply of water, sanitary drainage, rain water drainage, containment of erosion, stabilization of slopes, supply of electrical power, control of water pollution and reforestation.

Paragraph 2. The works to which the main body of this article refers must contain a Greater Sao Paulo Metropolitan Region Emergency Water Source Recovery Plan, with a view to defining the areas of intervention in accordance with the law.

Paragraph 3. The emergency projects must be approved by the deliberating body.

Paragraph 4. Vetoed.

Paragraph 5. The Greater Sao Paulo Metropolitan Region Emergency Water Source Recovery Plan shall be prepared by the State Public Authorities, in cooperation with the Municipalities, within a period of up to 120 (one hundred twenty) days of the publication of this Law, and shall contain the technical justifications, executing agents, costs and funding sources, a physical financial schedule and expected results.

Paragraph 6. The Greater Sao Paulo Metropolitan Region Emergency Water Source Recovery Plan must be approved by the WRC and CONSEMA, after the State Public Authority holds public hearings within a period of 30 (thirty) days.

Paragraph 7. After the public hearings have been held, the Greater Sao Paulo Metropolitan Region Emergency Water Source Recovery Plan must be approved by the WRC and CONSEMA within a period of up to 30 (thirty) days.

Article 48. This Law shall enter into force on the date of its publication.

Bandeirantes Palace, 28 November 1997.

Mario Covas Hugo Vinicius Scherer Marques da Rosa Secretary of Water Resources, Health and Works

Fabio Jos Feldman Secretary of the Environment

Walter Feldman Secretary -- Head of the Civil Service

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