

Forecast for U.S. Federal and International Chemical Regulatory Policy 2019: Mexico, Central and South America and the Middle East



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- [Environmental, Energy & Resources](#)
- [Global](#)

- [Argentina](#)
- [Brazil](#)
- [Chile](#)
- [Peru](#)
- [Colombia](#)
- [Costa Rica](#)
- [Dominican Republic](#)
- [Ecuador](#)
- [Honduras](#)
- [Panama](#)
- [Uruguay](#)
- [Mexico](#)
- [Israel](#)
- [Kuwait](#)

- [Saudi Arabia](#)
- [United Arab Emirates](#)
- [Oman](#)
- [Qatar](#)
- [Bahrain](#)

Thursday, January 10, 2019

II. KEY GLOBAL CHEMICAL MANAGEMENT PREDICTIONS

E. MEXICO, CENTRAL AND SOUTH AMERICA

1. Chemical Substance Management in Mexico, Central America, and South America

In 2018, we witnessed the continued development throughout the region of a wide range of chemical substance and product management statutes, at both the national and regional (e.g., state, municipality) levels. This is expected to continue in 2019.

1.1 Central and South America

In 2019, we anticipate continued focus on waste minimization and waste management policies and related legislation in the region. For the last several years, this topic has garnered significant media attention in the region, most notably with the visual broadcast worldwide of polluted waterways used to host sailing, rowing, and related sports for the 2016 Olympics in Rio de Janeiro, Brazil. This attention has focused the deliberative bodies of countries in the region to offer several legislative approaches to minimize and remediate these types of situations.

Argentina is expected to vote on a series of bills in both the lower (*Cámara de Diputados*; Chamber of Deputies) and upper (*Senado*; Senate) houses of its Congress in 2019 to accomplish this strategy. *Senado* Bill 2965/18 would create a National Strategy for the Reduction, Reuse, and Recycling of Household Waste, while *Cámara de Diputados* bills 5390-D-2018 and 5563-D-2018 would prohibit the “pre-programmed obsolescence” of electrical and electronic products, as well as legal requirements to manage waste electrical and electronic equipment (WEEE), respectively. At the city level, Buenos Aires plans to vote on Bill 2711-2018 addressing the disposal of household medications that are past their established shelf life.

With respect to industrial chemicals, Brazil has the most legislation on the cusp of implementation. Arguably the most anticipated regulation to be implemented in 2019 will be Brazil’s *Regulamento Químico Industrial* (Industrial Chemicals Regulation; *Regulamento*), the bill expected to serve as a national chemical substance inventory and notification process in the country. The final text of the *Regulamento* was agreed upon in September 2018. The *Regulamento* is presently undergoing a judicial review of the text. Once completed, it is expected to receive signatures from the relevant Ministries (Environment, Health, Labor and Industry) before being sent to the *Ministro-Chefe*. The *Ministro-Chefe* will analyze the text

again and, once it is validated, will send it to the Congress. Then the legislative voting process will start. We expect the text to be sent **early in 2019** when President-Elect Jair Bolsonaro's new government will be in place, although expected governmental changes may well delay this.

Additionally, Brazil's draft resolution regulating governing the use of hazardous substances used in electrical and electronic equipment (EEE) is expected to be released in its final form sometime in 2019. The draft is based on Directive 2011/65/EU, the "Restrictions on the use of Certain Hazardous Substances," and as such is colloquially known as "Brazilian RoHS." The draft sets forth proposed restrictions on the use of lead, cadmium, mercury, hexavalent chromium, bifenyl polybromate (PBB), diphenyl polybromate ether (PBDE), and four types of phthalates.

2019 is expected also to bring a consolidation of sorts in the Brazilian government, with respect to chemical substance management. The *Ministério do Meio Ambiente* (Ministry of Environment) of Brazil will merge with the *Ministro da Agricultura* (Ministry of Agriculture). This merger is anticipated to delay the legislative review process for the *Regulamento*. The two Ministries are of immense national relevance and have their own agendas, which overlap only a small fraction of their competencies. As such, the integration time and efforts are expected to be considerable.

(a) Product Stewardship Initiatives

In early October 2018, Chile became the first country in the region to ban plastic shopping bags. In 2019, Brazil's *Senado* is scheduled to debate Bill 382/2018, a measure that would place an outright ban on the production, sale, and import/export of plastic bags in the city limits. A similar bill in the Peruvian Congress (No. 03278/2018-CR) would ban commercial-use plastic bags but would replace them with biodegradable ones. Additionally, a bill before the Colombian *Cámara de Diputados* (Bill 123/18) aims to place a prohibition on the manufacturing, sale, and use of single-use plastic containers in the food and beverage industry, while Costa Rican Bill 20.958 would set requirements for the reduction and prevention of all types of plastic pollution. Finally, Peru is expected to further develop a decree that bans the purchase and use of single-use plastic bags, straws, or containers made of polystyrene.

Finally, the countries of Argentina, Barbados, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, Granada, Guatemala, Honduras, Panama, Peru, St. Lucia, and Uruguay have each [signed](#) on to the UN's "[Clean Seas](#)" program. The program aims to reduce the "production and consumption of non-recoverable and single-use plastic."

(b) GHS Initiatives

Latin America has been slow to adopt the GHS. The lack of infrastructure and in-country support has resulted in few countries in the regions adopting GHS. Those that have adopted tend to follow the UN model with little to no derivations. This is primarily because many of the countries lacked a robust regulatory framework for classification previously. 2019 is not expected to bring significant changes to GHS

within the region. Summaries of the current state of GHS are provided in more detail below.

Chile has not officially adopted GHS. In 2017, the Health Ministry finished and published the draft version of the GHS regulation, *Draft Reglamento de Clasificación, Etiquetado y Notificación de Sustancias Químicas y Mezclas* (Regulations on the classification, labeling and notification of chemical substances and mixtures). The draft regulation was approved on October 26, 2018. The regulation, once it is approved, will implement the UN GHS and will provide a transition period for the updating of the SDSs and labels.

Chile will accept GHS classifications in accordance with Chilean Standard NCh2245:2015. NCh2245:2015 indicates GHS classification, including the appropriate pictograms, signal words, hazard statements, and precautionary statements, is allowed in Section 2 of the SDS and on labels, but additional standards should be consulted to determine if additional information specific to Chile is required. In 2019, Chile could finalize the proposed regulation, publish it in the country's Official Gazette, and provide the transition period for updating the SDSs and labels.

Colombia recently entered into the OECD in 2018. Becoming a member of OECD required Colombia to implement GHS. The Colombian *Ministerio de Trabajo* (Ministry of Labor) has issued final legislation adopting the Sixth Edition of GHS. Decree 1496 was published on August 6, 2018. The responsible Ministries -- Labor, Agriculture, Transportation, and Health -- will establish the transition period(s) and date(s) for implementation.

Mexico's Ministry of Labor and Social Welfare published the Harmonized System for the Identification and Communications of Hazards and Risks from Hazardous Chemicals in the Workplace ([NOM-018-STPS-2015](#)) on October 9, 2015. NOM-018-STPS-2015 is a UN GHS Rev 5 implementation. All hazard classes and categories were included in the NOM with the exception of the environmental hazard classes. No additional hazards were added. The transition period for mandatory compliance ended October 9, 2018. With the transition period ending in 2018, 2019 should be a relatively quiet one for Mexico.

F. MIDDLE EAST

1. Chemical Substance Management in the Middle East

The Middle East historically has been considered to be at a relatively nascent stage with regard to the development and implementation of chemical substance regulations. There may be a variety of reasons for this perception, ranging from a lack of fluency in Arabic, Hebrew, or Urdu, to a somewhat insular culture within the region, and to the tendency to focus on geographic regions with more robust commercial and business operations. There are, however, chemical regulations in force, many of which have been in place for several decades. There is little legislative development on the horizon for 2019 except in three key areas -- the development of a GHS-type regulation, the implementation of a cosmetic substance directive, and the potential enactment of a ban on non-degradable plastic products.

1.1 GHS

On May 24, 2018, OECD adopted the “[Decision-Recommendation of the Council on the Co-operative Investigation and Risk Reduction of Chemicals](#)” (Decision-Recommendation). As noted in our October 25, 2018, “[Clients and Friends Memorandum](#),” Article IX mandated “that Adherents shall implement the GHS in order to further hazard communication in the supply chain.” As such, Israel, the only Middle Eastern OECD Member State, has elected to begin the implementation process in 2019.

Israel has submitted two drafts of legislation that would implement GHS in the country to the WTO. The two drafts encompass aspects relating to substances and mixtures, and to transportation.

“[SI 2302 Part 1 - Dangerous Substances and Mixtures: Classification, Labelling, Marking and Packaging](#)” replaces the December 3, 2013, draft that was predominantly based on EU Regulation 1272/2008, colloquially known as the CLP regulation. There is, however, some uncertainty about the GHS version Part 1 is based upon; for example, Part 1 identifies “flammable aerosols” and not “aerosols” as an endpoint, which would appear to make it based on the Third Revision. Additionally, hazard classifications H229, H230, and H231, which were first introduced in the Fourth Revision, are included in Part 1. “[SI 2302 Part 2 - Dangerous Substances and Mixtures: Transportation -- Classification, Labelling, Marking and Packaging](#)” remains largely unchanged.

The Gulf Cooperation Council (GCC) has begun developing plans to implement GHS among its Member States (Saudi Arabia, Kuwait, the United Arab Emirates (UAE), Qatar, Bahrain, and Oman), with work potentially beginning in **mid-2019**. This follows efforts by the Gulf Standardization Organization made in 2018, in partnership with the Gulf Petrochemical and Chemicals Association’s Responsible Care Committee, to implement a [Code of Practice](#) relating to chemical hazard communication. The Code of Practice proposed data and rules used to classify such substances, as well as directed the format of SDSs and product labels. The Committee largely based its classification criteria on the CLP regulation, as it is an extremely robust source of information. The GCC views adoption of this Code of Practice by its Member States as the first step to implementing GHS.

1.2 Product Stewardship

Somewhat similar to countries in Central and South America, the Middle East is beginning to make legislative inroads into waste reduction. In 2019, the Kingdom of Bahrain is expected to promulgate a National Technical Regulation (TR) to phase out the import, sale, or distribution of non-degradable plastic products. The proposed TR sets out the requirements with respect to specifications, licenses, labeling, and other requirements for such products.

1.3 Chemical Substances

While a comprehensive chemical substance regulation at the national level continues to be a distant goal, the countries of Bahrain, Oman, Saudi Arabia, and the

UAE have each announced that they plan to incorporate the GCC's draft regulation for cosmetic products into their respective national laws, sometime in 2019. This regulation, "Cosmetic Products - Safety Requirements of Cosmetics and Personal Care Products," addresses the general safety requirements and parameters, as well as labeling and packaging requirements, for all cosmetics and personal care products. The regulation specifies six functions, or purposes, of use for cosmetic and personal care products: to clean, to perfume, to change the appearance, to protect, to keep in good condition, and to correct body odors.

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