



SUMMARY OF CASE LAW ON WASTE PRODUCER LIABILITY

ARGENTINA

We were not able to locate specific court cases in Argentina on waste producer liability. But the statutory provisions that are relevant are set out below.

Summary of the National Law

The basic hazardous waste law is set out in [National Law 24.051 \(Hazardous Waste Law, 08/01/1992\)](#). That law provides for mandatory registration of hazardous waste generators as well as manifest to the point of final waste disposition. Article 17(d) requires the hazardous waste producer assure delivery of the waste to a licensed facility. [*“(d) Deliver the hazardous waste not treated in their own plants to authorized carriers, with precise indication of the final destination in the relevant manifest, referred to in article 12.”*].

The key provision for purposes of hazardous waste producer liability in the 1992 law states: ARTICLE 45. - *It is presumed, unless proven otherwise, that any hazardous waste is a risky thing in the terms of the second paragraph of article 1113 of the Civil Code, modified by Law N 17.711*” (emphasis added). The Civil Code section referred to establishes a standard of negligence for the handling and final disposition of hazardous waste:

Article 1113

The obligation of the one who caused the damage extends to the damages caused by those under his or her control, or by the things that he uses, or that he takes care of. (Paragraph added by Law 17.711) In cases of damage caused by things, the owner or guardian, in order to exempt himself from liability, must prove that there was no fault on his part; but if the damage has been caused by the risk or vice of the thing, it will only be totally or partially exempted from liability proving the fault of the victim or a third party for whom he should not respond. If the thing had been used against the express or presumed will of the owner or guardian, it will not be liable.

We have not located specific cases of waste producer liability relying on this provision, but it is likely to be the legal theory and, in the event of errors of commission or omission, will likely apply.

Another statute is 2002 contains general language that also would likely be applied in such cases. The [General Law of the Environment. Law, no. 25,675](#) provides in Article 4:

Principle of responsibility: The generator of degrading effects of the environment, current or future, is responsible for the costs of preventive and corrective recomposition actions, without prejudice to the validity of the corresponding environmental responsibility systems.-

These general provisions are also likely to be used to assert waste producer liability, especially in cases of negligence as noted above.

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