



CPA LEGAL

• Compliance Penal Ambiental

MINING SERVICES

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REGULATORY CONTEXT

Law 21,595 on Economic and Environmental Crimes, Published in the Official Gazette, on August 17, 2023.

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Law 21,595. Individual Criminal Liability and of Legal Entities.

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REGULATORY CONTEXT

The recently enacted Law 21,595, on Economic and Environmental Crimes, contemplates a wide catalog of more than 200 crimes, which have a great impact on business and organizational policies, particularly, on the conduct of individuals who hold certain positions, in the exercise of their duties. its functions. In this way, natural and legal persons are criminally responsible for the commission of these crimes, which are classified into four categories, each of them including a detail of criminal types contained in various legal bodies. For its part, one of the particularities of this norm is that it increases sanctions that were previously merely pecuniary or administrative, to custodial sentences.

[* Click here to redirect to Law 21,595.](#)

*Image Source: <https://www.mch.cl>

ENTRY INTO FORCE LAW 21,595



INDIVIDUAL CRIMINAL LIABILITY: Natural persons, as well as people who hold certain positions, within the framework of their functions, will be criminally responsible, from the publication of the law in the Official Gazette (August 17, 2023).

CRIMINAL LIABILITY OF LEGAL PERSONS (Law 20,393): The criminal liability of legal entities with respect to Economic Crimes comes into force in September 2024. The legislator extended the term, because the only way for organizations to be exempt from criminal liability is to develop a Crime Prevention Program. Cash Crimes.

SOME TYPES OF ECONOMIC AND ENVIRONMENTAL CRIMINALS



Law 20,417, Environment Art. 37 bis

Imprisonment and Fine: a) Anyone who maliciously presents information in the EA of a project that hides or reduces environmental impacts. b) Anyone who maliciously splits their projects to evade the EIA system or change the entry route. c) Anyone who maliciously presents false or incomplete information to the MA Superintendency.

Penal Code Art. 305

Prison or Confinement, to which without having submitted its activity to an environmental impact evaluation, knowing that it is obliged to do so: a) Dumps polluting substances or solids, into maritime or continental waters, into the soil or subsoil and wetlands. b) Extract continental or maritime waters, or components of the soil or subsoil. c) Release polluting substances into the air.

Penal Code Art. 306

Prison or Confinement, which, having authorization to dump, release or extract substances, contravenes an emission or environmental quality standard, failing to comply with the measures established in a prevention, decontamination or environmental management plan; breaching an RCA or any condition associated with the authorization, having previously been administratively sanctioned.

SOME TYPES OF ECONOMIC AND ENVIRONMENTAL CRIMINALS



Penal Code Art. 307

Prison or Confinement, who, having authorization to extract continental, surface or underground waters, extracts them in violation of the rules of their distribution, having been established by the authority the temporary reduction of the exercise of those rights, or in an area of prohibition for new aquifer exploitations.

Penal Code Art. 308

Prison or Confinement, which, by pouring, depositing or releasing polluting substances, or extracting water or components from the soil or subsoil, seriously affects the water, soil, subsoil, air, or animal or plant health, the existence of water resources. or the supply of drinking water, or wetlands by dumping soil or other solids into them.

Penal Code Art. 310

Prison or Confinement, which seriously affects one or more of the environmental components of a virgin region reserve, a national park, a natural monument, a national reserve or a wetland of international importance; or violating an RCA or without having submitted its activity to an environmental impact assessment and being obliged to do so, it will seriously affect a glacier.

RISKS PREVENTION

CRIMINAL - ENVIRONMENTAL - REPUTATIONAL

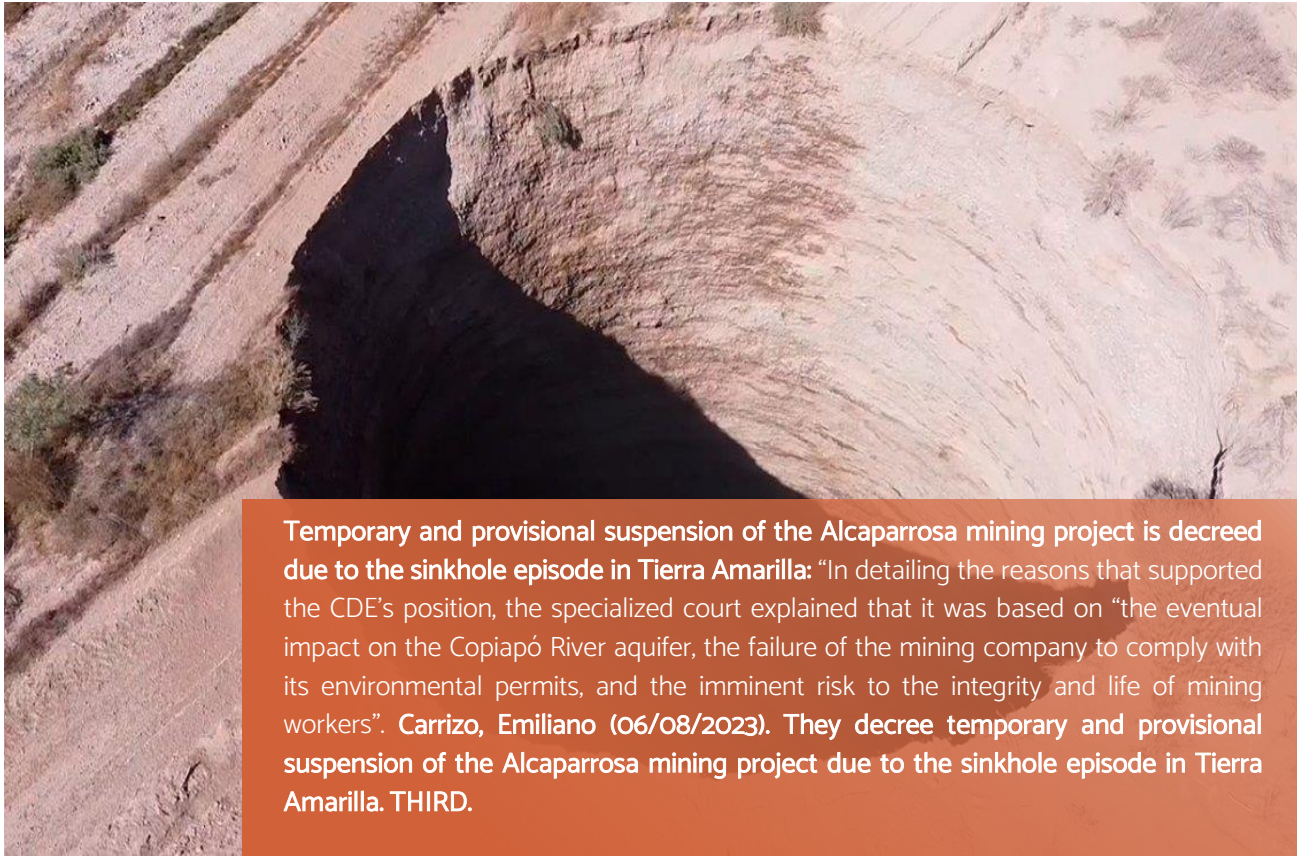
MINING INDUSTRY

PRENSA RECIENTE



“La comunidad atacameña de Conchi Viejo ha constatado la existencia de extendidos y recurrentes derrames de ácido sulfúrico en el lugar de la explotación de la empresa, los que entre otros efectos han dañado irrevocablemente sitios arqueológicos ancestrales. Frente a lo que describen como displicencia, esfuerzo por minimizar estos perjuicios y una total carencia de proactividad por parte de la directiva nacional de la empresa para mitigar y compensar los daños causados, la comunidad a través de sus representantes decidió iniciar un juicio en el Tribunal Ambiental. Tanto Freeport-McMoRan como Codelco, en cuanto copropietario de la explotación, han sido notificados muy recientemente de aquello, y deberán enfrentar un litigio que probablemente tendrá otras externalidades en materia judicial, con más demandas en materia de contaminación de suelo y de agua.” **Zamora, Cristian (10.04.2023). Multinationales, cobre y contaminación: una cuenta regresiva. CIPER CHILE.**





Temporary and provisional suspension of the Alcaparrosa mining project is decreed due to the sinkhole episode in Tierra Amarilla: “In detailing the reasons that supported the CDE’s position, the specialized court explained that it was based on “the eventual impact on the Copiapó River aquifer, the failure of the mining company to comply with its environmental permits, and the imminent risk to the integrity and life of mining workers”. Carrizo, Emiliano (06/08/2023). They decree temporary and provisional suspension of the Alcaparrosa mining project due to the sinkhole episode in Tierra Amarilla. THIRD.

RECENT PRESS

RESPONSIBILITY

INDIVIDUAL CRIMINAL LIABILITY

The preventive measures that should be adopted individually have to do with information and training regarding the new provisions contained in the law and their implications.

PENAL RESPONSIBILITY OF JURIDICAL PERSONS

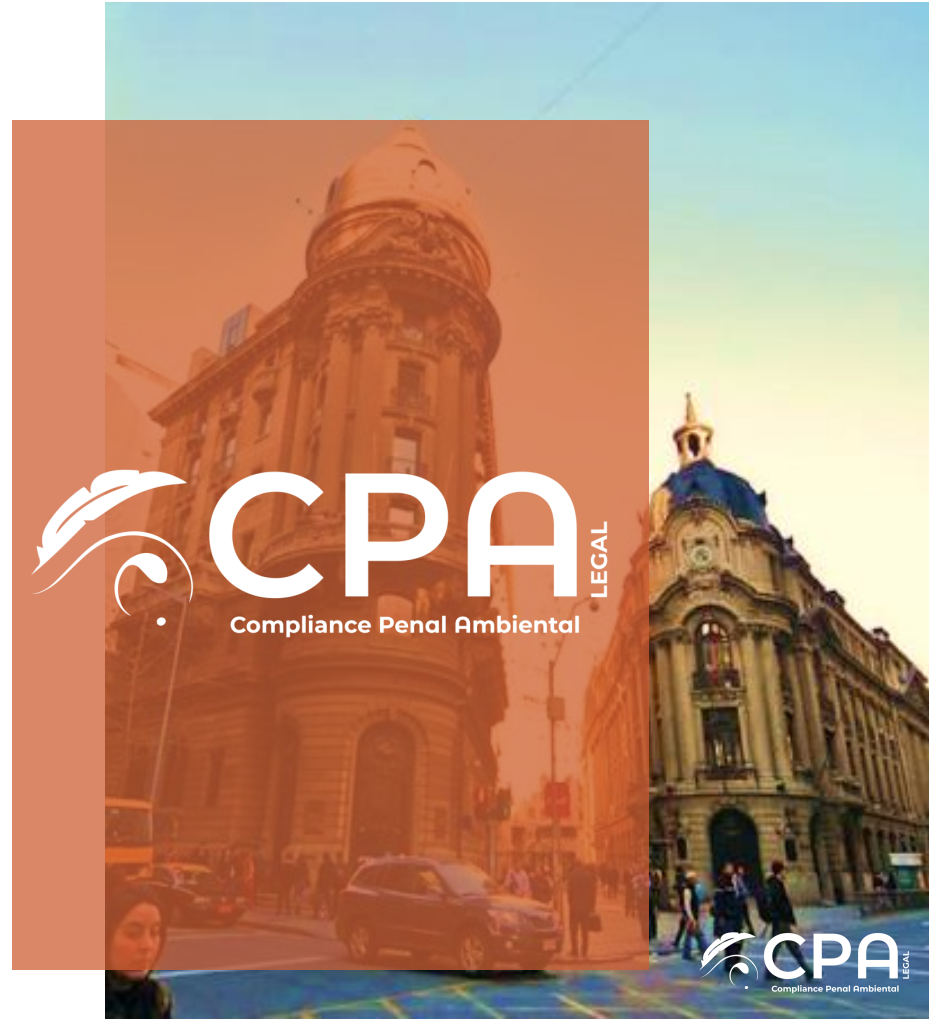
In accordance with what the law provides, an effective Crime Prevention Program must be implemented, since although there are sanctions against the Legal Entity itself (e.g. Extinction of Legal Personality), its representatives and all are also responsible. those within the institution who participated in the punishable act.

OUR COMPANY AND SERVICES

CPA Legal is a platform for legal, administrative and environmental criminal litigation assistance, a pioneer in our country, which was born in response to current national and foreign regulatory requirements; presented publicly together with the promulgation of Law 21,595, on Economic and Environmental Crimes.

CPA Legal is the product of the initiative of a team made up of professionals of excellence, who joined together in response to their experience and concern to satisfy the needs of a diverse clientele that has special and specific requirements, offering a comprehensive and specialized representation product. exclusive, defense and litigation, and prevention, through the development of environmental criminal compliance programs; with careful attention to the type of organization and its particular requirements.

We invite you to learn more about our services and comprehensive solutions, adapted to your requirements and industry.



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