

the
abc
of the environmental
control



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the abc of the environmental control

(Prepared by the Agency for Environmental Assessment and Enforcement - OEFA)

This document is intended to explain the basic notions on environmental control; deal with the various manifestations and cite the authorities taking part in this important work for the State which are very important to properly protect the fundamental right of every single citizen to live in a safe and healthy environment.

This document also details the activities reflecting the environmental control as well as the environmental obligations to be controlled. However, it does not mention all of such environmental obligations.

The content of this document shall be considered as a reference work for educational purposes only and not as an administrative regulation or provision or as an official decision of the administrative authority with jurisdiction in the environmental control.





I

The environmental
control



1.

What does the environmental control mean?

The environmental control may be understood from two aspects: **broad and strict**.

In a broad sense, the environmental control includes the assessment actions (monitoring) of the environmental quality, supervision, control, penalty and application of incentives made by the Environmental Enforcement Entities (EFA, by its initials in Spanish) to ensure the compliance with the environmental obligations. From this perspective, the environmental control is often referred as “Macro-Process” which covers linked activities (assessment, supervision, control and penalty).

The environmental control in a strict sense may be understood as the power of the State to impose penalties for the failure to meet with the environmental obligations¹. From this perspective, the control analyzes the acts of investigation to determine if administrative infringements exist or not.

In both cases, the concept of environmental control, stated herein, refers to a subsequent process (ex post) at the beginning of the activities performed by the controlled entities. In other words, those entities (companies) are controlled once they have started their economic activities, including activities such as the exploration.

¹ It is appropriate to point out that the power of the State to impose penalties with regard to environmental matters may be exercised by the judicial bodies through the repression of environmental offences as defined in the Criminal Code.

This Manual refers to the power of the State to impose penalties in the administrative matter only.

2.

What kind of issues are outside the scope of environmental control?

Despite the fact that some activities are related to environmental issues, they do not take part of the environmental control. That is the case of, for example, the control on safety and health at work issues, the regulation of sanitation services, health issues, and among others.

Similarly, the inspection activities performed ex ante by the authorities to grant administrative authorizations of environmental nature, and the obligations assumed in the framework of such procedures, do not constitute the environmental control. At the same time, the obligations, to which entities are subject in the framework of such procedures, do not qualified as obligations related to the ex post environmental control to which this document refers.



3.

Is there any other kind of control different from the environmental control?

Yes. There is, for example, the tax control; the people, cargo and goods transportation control; the health control regarding to quality of water for human consumption; among others.

In the mining and hydrocarbon activities, the control is present in matters such as safety and health at work, which are assumed by the labor authority. There is also the infrastructure security control which is assumed by the Supervisory Body for Investment in Energy and Mining (OSINERGMIN, by its initials in Spanish) and the environmental control assumed by the Environmental Enforcement Entities (EFA).





What is the main goal of the environmental control?

The environmental control seeks all the natural persons and legal entities meet with the environmental obligations in order to protect the environment.

In this regard, the environmental control is focused on preventing damages to the environment or, otherwise, seeks its effective remediation. On the other hand, through the imposition of penalties, it is expected to deter the offender from making the same infringement again and, at the same time, deter all the entities from making the same mistake.

The efficiency of the environmental control requires a proper legal framework which facilitates the control of the activities of the individuals and, at the same time, secures the exercise of its economic freedoms.



Where the environmental obligations may be found?

The environmental obligations are set within the Environmental Law, environmental management instruments (Environmental Impact Assessment, among others) or in the orders issued by the authority in charge of the environmental control.

The environmental obligations are not static and may change to the extent the legal regulations, the content of the environmental management instruments or the governing orders are amended.

The environmental obligations include aspects related to environmental quality and others linked to the sustainable use of natural resources. Besides, there exist environmental obligations according to the type of activity, legally-protected rights (water, air, protected natural areas and solid waste management) or according to the territorial jurisdiction (regional or municipal).

6.

Who is responsible for proving the compliance with the environmental obligations?

Initially, the environmental control authority assumes that all the entities meet with its environmental obligations and, in that sense, to affirm the opposite, such authority shall submit the pertinent evidences to prove that the obligations have not being met.

The foregoing results from the application of the constitutional guarantee of the presumption of innocence, described as a legal presumption in the administrative regulation.



Do the environmental obligations cover the social obligations too?

Yes, they do as long as they are set within the Environmental Law or included in an environmental management instrument (as an Environmental Impact Assessment) and, in that sense, they will be also subject to the environmental control.



Does the environmental control cover the promotion of compliance with the environmental law?

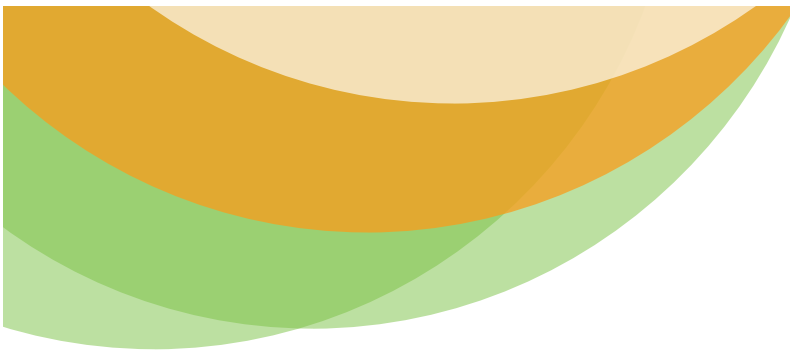
Yes, it does; furthermore, the environmental control has a regulatory framework which covers the incentives for compliance with the environmental law.







National environmental
Assessment and Enforcement
System - **SINEFA**



9.

What does SINEFA mean?

It is the National Environmental Assessment and Enforcement System enacted by Law No. 29325 - Law on National Environmental Assessment and Enforcement System, amended by Law No. 30011, in order to integrate the functions in this matter at the national, regional and local level.

The SINEFA is formed by the following entities:

- a.** The Agency for Environmental Assessment and Enforcement - OEFA, as its Governing Body
- b.** The Ministry of Environment (MINAM, by its initials in Spanish)
- c.** The National, Regional or Local Environmental Enforcement Entities.

The SINEFA, at the same time, is part of the National Environmental Management System (SNGA, by its initials in Spanish), which is governed by the MINAN.



10.

What are the functions of the OEFA acting as the Governing Body of the SINEFA?

The governance of the SINEFA involves two functions: the regulation and supervision of the EFA.

The OEFA, in exercise of **the regulation**, is empowered to make rules governing the environmental control in the framework of the SINEFA.

The OEFA, through **the supervision** of the EFA, is responsible for monitoring them to comply with the environmental control functions. The directives, procedures or guidelines issued by the OEFA for the EFA are binding upon them.

It is appropriate to point out that the Law has conferred upon the OEFA the function to monitor the EFAs, but it must not impose any penalty. In this regard, the OEFA shall not make warnings or impose penalties upon the EFAs or its officials. However, if the OEFA, during its inspection to the EFAs, determines the officials do not perform properly the functions of environmental control thereunder, or fail to comply with the provisions issued by the OEFA shall, in its capacity as Governing Body of the SINEFA, communicate such situation to the Office of the Auditor General to adopt the pertinent legal actions.

It is noted that the OEFA has established an important procedure, in its capacity as Governing Body of the SINEFA, which forces the EFA to have Annual Environmental Assessment and Enforcement Plans (PLANEFA, by its initials in Spanish).

11.

What does an Environmental Enforcement Entity (EFA) mean?

The national, regional or local Environmental Enforcement Entities (EFA) are public entities empowered to develop environmental control functions. Some EFAs do not have the power to impose penalties, but they may supervise the compliance with the environmental obligations in the jurisdiction aspect.

Even though the EFAs exercise its functions independently and autonomously in relation to the OEFA, which are governed by their own regulations and by the applicable environmental regulations; they do have to comply with the guidelines and directives issued by the OEFA in its capacity as Governing Body of the SINEFA.





12.

What does PLANEFA mean?

The Annual Environmental Assessment and Enforcement Plan (PLANEFA) is a planning instrument which the EFA shall create, acting as the competent authorities to develop functions of assessment, supervision, control and penalties in accordance with its scope of authority.

The entity shall detail the objectives and the pertinent goals and institutional activities regarding to the environmental control in the PLANEFA.

The OEFA does not approve the PLANEFA of the EFA. Each EFA shall approve it before January 30 of each year and report such approval to the OEFA.

The PLANEFA is the main tool of monitoring made by OEFA concerning the activities involved with the environmental control programmed planned by each EFA during the year.



PLANEFA

Annual Environmental
Assessment and Enforcement

A Plan detailing:

- **Objectives;**
- **Goals; and**
- **Environmental control activities**





The

OEFA

13.

What does the Agency for Environmental Assessment and Enforcement (OEFA) mean?

The OEFA is a specialized public and technical agency, registered with the Ministry of Environment, responsible for the environmental control. Furthermore, the OEFA is the Governing Body of the SINEFA.

The OEFA carries out direct environmental control functions through the assessment, supervising and penalization functions and, in its capacity as Governing Body of the SINEFA, exercises the regulation and supervision functions concerning the EFA.

The OEFA was created on 2008 through Legislative Decree No. 1013. This Legislative Decree approves the Law of Creation, Organization and Functions of the Ministry of Environment. The OEFA started its direct environmental control activities on 2010.



14.

Which sectors or activities are controlled by OEFA?

On July 2010, the OEFA assumed the power of controlling the large and **medium scale mining**.

On March 2011, it assumed the control of the **hydrocarbon subsector (liquids and natural gas) and of the electrical subsector** that belong to the energy sector.

On March 2012, it assumed the power of controlling the **fishing sector** (large-scale industrial fishing and aquiculture).

Since 2013, the power of controlling the industrial sector has been progressively assumed (despite the fact the beer, paper, cement and tanning areas have already been assumed to date).

Moreover, the regulation that controls the commerce and release of **Modified Living Organisms (OVM)** determined the OEFA shall intervene as the authority in charge of the control and its effective compliance.

Likewise, the OEFA shall assume the powers of controlling **the consulting companies authorized for the elaboration of Environment Impact Assessments**, pursuant to Law No. 29968 - Law on Creation of National Service of Environmental Certifications for Sustainable Investments (SENACE, by its initials in Spanish).




15.

Which factors are not controlled by OEFA within the abovementioned sectors or activities?

The OEFA does not substitute the control actions of legality of the acts belonging to the Public Administration in relation to the different authorities or permissions (environmental or not) granted by the sector authorities. In that sense, the OEFA does not control the aspects linked to the permissions required to start the controlling activities. As it was previously stated, the OEFA does not control the *ex ante* aspects at the beginning of the activities or operations of the entities, but they do control from the beginning of such activities or operations, that is to say, *ex post*.

Furthermore, the OEFA does not have the duty to verify the compliance of the established in the environmental permissions which are granted by different authorities (for example: discharge and clearcutting authorization or water use rights). In these cases, the authority granting the corresponding permission should verify the compliance with the obligations assumed in the permissions, or impose penalties due to the non-compliance.



The OEFA does not control *ex ante* aspects at the beginning of the activities or operations of the entities, it does control from the beginning of such activities or operations, that is to say, *ex post*.



16.

Does the OEFA have any PLANEFA?

Yes, the OEFA plans its actions for the environmental control through its own PLANEFA to order and orientate the technical performance and programming of its environmental evaluation, supervision and control functions.

This document also considers the functions that correspond to OEFA in its capacity as Governing Body of the SINEFA.

The PLANEFA of the OEFA of 2013 is available to the public through its institutional webpage (www.oefa.gob.pe).







IV

Environmental
control
Functions

EVALUATION FUNCTION

17.

What is evaluation function?

The objective of the evaluation function is to carry out **surveillance and monitoring activities of the quality of the environment and the preservation of natural resources**, in order to ensure the compliance with environmental regulations.

Therefore, the monitoring performed in the context of the evaluation function must be carried out with the ultimate objective of finding who is the responsible for the identified environmental impact. In this regard, monitoring actions performed by public entities generating information and whose purpose is not to establish the liability of a specific agent do not constitute exercise of the evaluation function set forth in the context of the National Environmental Assessment and Enforcement System (SINEFA).

Through this evaluation function, support for actions of environmental supervision, control and penalty is provided, which allows to know the level of environmental impact that may be attributed to a potential responsible.

At the OEFA, this role is performed by the Assessment Bureau.

18.

What is the difference between the environmental control assessment and the assessment regulated by the National Environmental Impact Assessment System - SEIA?

Unlike the environmental control evaluation function, the environmental impact assessment is an instrument of essentially preventive environmental management which purpose is to analyze early (*ex ante*) the possible consequences of an investment project in the environment.

The environmental impact assessment must be carried out in the context of the regulation of the National Environmental Impact Assessment System – SEIA. The Ministry of Environment is in charge of the SEIA's administration. The SEIA also includes matters related to environmental analysis of plans, policies and programs through the Strategic Environmental Assessment (EAE, by its initials in Spanish).

It should be noted that the OEFA controls the compliance with the EIA (among other environmental assessments) and also supervises the compliance with the provisions in the EAE's reports.



SUPERVISORY FUNCTION

19.

What is Supervisory Function?

This purpose of this function is to exercise the direct supervision performed by both the OEFA and EFAs, and the supervision function by the OEFA to the EFAs.

a. Direct Supervision. - This supervisory function may be conducted through field supervisions (visits) and through document supervisions, based on the analysis of the information available for the controlling authority. Likewise, the supervisions can be scheduled or non-scheduled.

As a result of the supervisions, evidences required are obtained to support the evidence of administrative infractions, if any, before the authority in charge of the administrative penalty proceedings.

At the OEFA, this role is performed by the Supervision Bureau.

b.- Supervision to Environmental Enforcement Entities by the OEFA.-Through the supervision function, the OEFA conducts follow-up and verification actions in order to ensure the compliance with the environmental obligations of the activities supervised by the EFAs.

The regulation which governs this function at the OEFA is the Direct Supervision Regulation, enacted by the Resolution of the Board of Directors No 007-2013-OEFA/CD dated February 28, 2013.

20.

The supervisory function may be delegated to third-parties?

Yes, according to the regulatory framework applicable to each EFA, the direct supervision may be delegated to third-parties who will act as supervisors and perform this assigned function on behalf of the EFAs.

In such case, the EFAs shall ensure the technical approval and the neutrality in the performance of the supervisory function through mechanisms such as registers, tenders, assessments and similar procedures.

In the case of the OEFA, it has a register of third-parties for performing assigned functions of environmental control.





21.

What happens if during the supervision it is found that the provisions of the environmental obligation to be controlled are not enough for meeting the objectives of environmental protection?

The compliance with the environmental obligations to be controlled is verified through the supervision; however, it can occur that, as often happens, the provisions are significantly different from reality, for example in the Environmental Impact Assessment. In this case, in accordance with the provisions of the Regulation for the National Environmental Impact Assessment System Act, the controlling authority is entitled to establish environmental management measures that are required, as well as to request the EIA's update to the pertinent authority.

The controlling authority must not replace the authority in charge of the environmental studies approval. However, fluent communication between both authorities is required in order to ensure greater effectiveness in the environmental control actions.

By the other hand, if gaps or deficiencies in the environmental legislation which is being controlled are identified, then the environmental control authority shall make regulating proposals required to improve the applicable environmental regulation.



CONTROL AND PENALTY FUNCTION

22.

What is the purpose of the control and penalty function?

In accordance with their responsibilities, the EFAs investigate possible administrative infractions and impose penalties and administrative measures for the environmental obligation non-compliance through this control and penalty function.

For these purposes, there are regulations on the penalty administrative proceedings in order to provide the potential offender the opportunity of exercising the right of defense and ensuring the due proceeding.

At the OEFA, this role is performed by the Bureau of Enforcement, Penalty and Application of Incentives.

The regulation which governs this function at the OEFA is the Regulation for Administrative Penalty Proceedings, enacted by the Resolution of the Board of Directors No 012-2012-OEFA/CD dated December 13, 2012.

23.

What is a penalty and what types of penalties are there?

The penalty is the legal consequence of the non-compliance with an obligation. This is imposed by the State and its purpose is to prevent new infringements, this is, to persuade potential offenders to comply with their obligations.

Penalties can be as follows:

Monetary Penalties, such as fines.



Non-monetary Penalties, such as warnings



The infringements and penalties must be described in a regulation that sets forth their classification and scale for entities to know what would be the possible consequences before committing the infringement.

Some penalties are fixed fines, that is, they are a certain number of Peruvian Tax Units (UIT). Other penalties are fines having a limit until a certain number of UIT, according to the established legal limit. In this last case, it is required to apply objective criteria so the determination of the amount of the applicable fine is reasonable and predictable according to the specific case.

With respect to the environmental infringement, some controlling environmental authorities are entitled to impose a penalty and an administrative measure that allows reducing the environmental impacts created. Administrative measures can restraint the development of the supervised activity, order its suspension, among others, provided that there are express powers for this purpose.

24.

What are the instances of the administrative penalty proceeding performed at the OEFA?

The instances that process the administrative penalty proceeding performed at the OEFA are the following:

a.

The **first administrative instance** is in charge of the Bureau of Enforcement, Penalty and Application of Incentives.

b.

The **second and last administrative instance** is in charge of the Court of Environmental Control.

After administrative remedies have been exhausted, the offender has the right to apply to the competent judicial authority through a contentious administrative process.

25.

What is the Court of Environmental Control?

The Court of Environmental Control (TFA, by its initials in Spanish) is the body in charge of hearing and reaching decisions on appeals imposed against the resolutions or administrative acts issued by the Bureau of Enforcement, Penalty and Application of incentives of the OEFA. Likewise, the TFA may hear appeals submitted against appealable administrative acts issued by the Supervision Bureau.

The TFA may dispose the publication of decisions that constitute administrative precedents of mandatory compliance in environmental matters, as well as, the publications of decisions which include or develop important criteria on matters relating to the OEFA's responsibility.







Carhuaz - Ancash
Photo: Nicolas Villaume







Activities under
the direct supervision of the

OEFA

26.

What activities are controlled by the OEFA?

Currently, the OEFA is in charge of controlling the following sectors:

a. MINING SECTOR:

(Large and medium scale mining on exploration, exploitation, transport, general labor, benefit and concentrate storage).



b. ENERGY SECTOR

Hydrocarbons subsector
(Exploration, exploitation, transport, refining, storage, distribution and commercialization).



Electricity subsector
(Generation, transmission and distribution).



c.
FISHING
SECTOR

(Small-scale aquaculture and industrial fish processing).



d.
INDUSTRY
SECTOR



Manufacturing
industry
sub-sector
(Beer, paper,
cement and
tannery).

These activities were transferred gradually to the OEFA. At present, this transfer of responsibilities related to the industry sector is ongoing.

27.

Are there transversal environmental obligations applicable to all sectors or sub-sectors?

Yes, there are. The environmental legislation sets forth, among others, the following transversal obligations:

- a. To develop its activities with an approved environmental management instrument.
- b. To comply with the commitments set forth in the environmental management instruments.
- c. To comply with Permissible Maximum Limits (LMP) for effluents, atmospheric emissions and noise established in the environmental management regulation or instruments.
- d. To adopt measures or prevention, mitigation and control actions to events generating adverse effects on the environment, as result of its activity.
- e. Storing, conditioning, treatment or disposing of solid waste in a safe and environmentally proper manner, according to its nature, danger, incompatibility with other waste and reactions with its container.
- f. To provide final waste disposal under methods of sanitary landfill or security landfill, according to its waste nature.



- g) Not to add an unpolluted soil to a polluted soil, in order to reduce the concentration of one or more pollutants to comply with the Environmental Quality Standards (ECA, by its initials in Spanish) for soil.
- h) To carry out soil exploratory sampling in the site and areas of influence of the extraction, production or service activities, and report the results obtained before the corresponding authority and the pertinent environmental control entity.
- i) Report the environmental emergencies produced in the development of its activities to the OEFA.

MINING SECTOR



28.

What activities of mining sector are controlled directly by the OEFA?

The OEFA controls the compliance with the environmental obligations applicable to persons or entities which develop the following mining activities:

- a. **Exploration:** It includes planning, execution and assessment of studies in order to find minerals.
- b. **Exploitation:** It includes extraction of mineral which was found.
- c. **Transport:** It includes transport of minerals through non-conventional means between one or more mining centers and a port, a processing plant, a refinery, among others.
- d. **General labor:** It refers to the provision of auxiliary services (such as ventilation or drainage) for two or more mining concessions.
- e. **Benefit:** It refers to the concentration of the valuable part of the deposit's mineral aggregate through mechanical or metallurgical preparation processing.
- f. **Concentrate storage:** It includes the storage of the minerals purified in facilities expressly prepared for this purpose.

The environmental control of the artisanal mining and small-scale mining is responsibility of the regional governments. The OEFA supervises these entities in the exercise of such functions through the supervisory function to EFA.

In cases where a mining activity registered as small-scale does not qualify for this scale since that such activity is really a medium-scale mining, the OEFA is entitled to control such activity.





29.

What environmental obligations of mining sector are controlled directly by the OEFA?

The environmental obligations controlled in the mining sector are as follows, among others:

a) In the exploration activity:

- Not to cross highland wetlands or wetlands (marshes) with access roads, and therefore, avoid placing materials, waste or any other material or substance on them.
- To carry out continuous monitoring of the water sources that could be affected.
- To close drillings when underground water is found.
- To store separately, and in a proper and safe place, the layer of organic soil and the underlying layers of subsoil, which must be removed as result of the mining exploration.
- To carry out the revegetation with local species (grass, shrubs or trees, as appropriate).

b) In the activities of exploitation, benefit, transport and storage of ore concentrates:

- To carry out an appropriate management, storage and handling of ore concentrates in storage deposits located outside the mining operation areas.
- Not to perform treatment of the process' water, industrial water and other waste water before its respective discharge.
- In the case of benefit operations, spill and waste collection and drainage systems are required. Likewise, it is necessary to have contingency storage systems.

- To ensure the physical or chemical structure stability of the tailings or slag deposits which are operating and have been definitely suspended.
- To take measures in order to keep cattle out of the treatment pad.

c) Environmental obligations related to Citizen Participation Plan:

- To have a Permanent Information Office or, where necessary, implement the Participatory Environmental Monitoring, in the framework of the citizen participation process.
- To implement citizen participation mechanisms during the project's execution.

d) Environmental obligations related to Mine Closure Plan:

- To execute the Closure Plan with pertinent authorizations or easements.
- To report to the OEFA, every six months, on the rehabilitation works described in the Mine Closure Plan, including information regarding measures committed for the following six-month period.
- To record the accounting provision of the year for covering the cost of Mine Closure Plan, according to the approved schedule.
- To stop operations, having reported previously to the pertinent authorities, including the community authority.

e) Environmental obligations related to mining environmental liabilities:

- To have authorization or easements required to execute the Mining Environmental Liabilities Closure Plan.
- To comply with the adoption of measures established in the Mining Environmental Liabilities Closure Plan or complementary special remediation measures considered as necessary by the control authority.
- To comply with the submission before the OEFA of the six-monthly report of the progress of remediation works described in the Closure Plan approved. This report shall present information detailed regarding the execution of committed measures for the following six-month period.
- To submit six-monthly reports after the operations closure until obtaining the final closure certificate.

HYDROCARBON SUB-SECTOR (ENERGY SECTOR)



30.

What activities of hydrocarbon sub-sector are controlled directly by the OEFA?

The OEFA controls the compliance with the environmental obligations applicable to persons or entities which develop the following mining activities:

- a) **Exploration:** It includes planning, execution and assessment of geological, geophysical, geochemical and seismic studies in order to find commercially valuable hydrocarbons.
- b) **Exploitation:** It involves extraction and treatment of natural gas or oil after the project has been declared feasible.
- c) **Transport:** It includes transport of hydrocarbons to the refineries, storage plants or retail fuel stations.
- d) **Storage:** It refers to the hydrocarbons storage in tanks for subsequent transfer.
- e) **Refining and processing:** In this stage hydrocarbons are converted in products that may be commercialized in the market.
- f) **Distribution:** It refers to the provision of hydrocarbons to the consumer or vendor.
- g) **Commercialization:** In this final stage hydrocarbons are bought and sold.





31.

What environmental obligations of hydrocarbon sub-sector are controlled by the OEFA?

The environmental obligations controlled in the hydrocarbon sub-sector are the following, among others:

a. Environmental Obligations applicable to all the hydrocarbon sub-sector activities:

- To submit each year the Environmental Report up to March 31 of the following year to the period reported.
- Not to carry out hunting and fishing activities, collection of species of wild fauna and flora, or maintain animals in captivity. Likewise, non-native species must not be introduced in the development of its activity.
- To build facilities in the river crossing according with the natural systems of streams or river beds of the natural drainage of the rainwater.
- Not to place hydrocarbons in open containers and ground pools.

- To implement vertical storage or transfer tanks with double containment system.
- To use tanks or group of tanks with a dike allowing to retain at least a volume equivalent to 110% of the total volume of the larger tank.
- To build facilities in areas where there are electric storms, which are not provided with lightning protection system.
- To provide regular maintenance programs in order to reduce risks of accidents, leaks, fires and spills to the facilities or equipment, such as pipelines, tanks, process units, instruments, among others.
- To prevent contamination of air, soil, surface water and underground water during the storage and handling of chemical substances in general, including lubricants and fuels.
- To place the process areas on a properly-sealed concrete slab.
- To provide a system for collecting and recovering leaks and the like in the process areas.
- To design, select, operate and maintain the equipment in such a way as to allow the reduction or elimination of fugitive emissions (which are produced in different parts of the productive process and not only in the facilities designed for that purpose).
- To record non-regulated leaks, spills and discharges incidents of hydrocarbons and any dangerous chemical substance handled as part of its activity.
- To take samples of the corresponding checkpoints of effluents and emissions of its operations, as well as pertinent chemical tests.





b. Environmental Obligations of hydrocarbon exploration activity:

- To carry out a detailed soil study and have detailed management plans for slope stability and erosion control.
- To construct drains (channels) in order to prevent entry of rainwater around the drilling area.
- To place drilling muds into containers on waterproof lands provided with dikes.
- To implement wells that have cement lined pipe to the surface.

c. Environmental Obligations of hydrocarbon exploitation activity:

- Do not pour water from exploitation processes into the environment; it must be reinjected.
- To construct platforms on ground having containment systems, collection, and leaks and spills treatment.

d. Environmental Obligations of hydrocarbon processing or refining activity:

- To implement a concrete slab and a collection system for leaks and spills, except for tank area and pipe corridors.
- To implement reception systems and ballast water treatment systems (from shipping) for processing and refining facilities with maritime terminals.

e. Environmental obligations of hydrocarbon transportation activity:

- To develop geotechnical studies before starting the Right of Way construction.
- Do not exceed a width of twenty-five (25) meters like the impact area for the Right of Way of ducts.
- Do not implement air connections in ducts construction.
- To strategically install stop valves in order to reduce leaks and spills in case of ruptures or other pipe failures.
- Carry out a tightness test for oil pipelines and gas pipelines for this type of service.

f. Environmental obligations in connection with the Citizen Participation Plan:

- To implement the Committee of City Surveillance and Monitoring or the Office of Information and Citizen Participation.
- To execute the Citizen Participation Plan during the project life cycle.
- To execute the Citizen Participation Plan in coordination with the population involved, which is into the project's area of influence.
- To prepare the Internal Regulation of the Committee of City Surveillance and Monitoring in coordination with the population involved.
- Allow agents of the Committee of City Surveillance and Monitoring to be present during the monitoring process of the project's actions and monitoring for the accomplishment of the environmental regulations and the commitments made in the Environmental Assessment.

ELECTRICITY SUB-SECTOR (ENERGY SECTOR)



32.

What activities are controlled by the OEFA in the electricity sub-sector?

The OEFA controls the commitment of the environmental obligations applicable to people or companies which carry out the following activities:

- a. **Generation.**- Stage in which the energy is converted into electricity. Generation can have fossil fuels, stored water, and others as sources.
- b. **Transmission.**- Stage to transport high voltage electricity (from a power generation plant) and its conversion into a lower voltage (in a substation) where it is converted and delivered to the distribution network.
- c. **Distribution.**- Stage in which electricity is delivered to the final user through the low voltage lines.



33.

What environmental obligations of the electricity sub-sector are controlled by the OEFA?

The environmental obligations controlled in the electricity sub-sector are as follows:

a. Environmental obligations during activities development of generation, transmission and distribution:

- To annually submit the Environmental Report, until March 31 of the following year after the execution reported.
- To take the appropriate measures in order to prevent negative impacts into social, cultural, economic and health area of rural and native communities.
- To take measures in order to reduce negative environmental impacts.
- To avoid the strong impact on biodiversity into the project area.
- Recover and replant in the disturbed and deforested areas.
- To reduce the adverse effects on lake morphology, water current and other uses.
- To construct facilities in relation with the natural regimens of river beds, streams or intersections from natural drainage of rainwater.
- Do not construct works which make aquatic animal migration impossible.
- To reduce the impact on flora and fauna.
- To avoid negative impacts on species in danger of extinction or productive capacity of plant species with food and pharmaceutical value.

- To avoid negative impacts on lands with capacity of agricultural or forest use.
- To construct electric projects reducing aesthetic impacts on landscape areas.
- To mitigate the health effects due to thermal pollution, noise and electromagnetic effects.
- To reduce the effects from electric projects on natural resources.
- To construct or operate electrical projects preventing or reducing the noise impact on sensitive areas.
- To implement a management plan of dangerous materials in order to prevent adverse impacts on the environment.
- To reduce the discharge of liquid or gas waste.
- To discharge liquid or gas wastes which are properly treated.

b. Environmental obligations in relation with the Citizen Participation Plan into activities of generation, transmission and distribution:

- To implement the Committee of City Surveillance and Monitoring or the Office of Information and Citizen Participation.
- To execute the Citizen Participation Plan during the electric project life cycle.
- To execute the Citizen Participation Plan in coordination with the population involved, which is into the project's area of influence.
- To prepare the Internal Regulation of the Committee of City Surveillance and Monitoring in coordination with the population involved.
- To allow the agents of the Committee of City Surveillance and Monitoring to be present during the monitoring process of the project's actions and monitoring for the accomplishment of the environmental regulations and the commitments made in the Environmental Assessment.



FISHING SECTOR



34.

What activities are controlled by the OEFA into the fishing area?

The OEFA controls the accomplishment of the environmental obligations by natural persons or legal entities, applicable in the execution of the following activities:

- a. **Fishing industry activity.**- Including fishing processing activities which are made by techniques, processes and operations requiring equipment and machines.
- b. **Large Scale Aquaculture.**- It is the activity group for culture or breeding of aquatic animals including their full or partial biological cycle. These activities are made into an area selected and controlled in natural or artificial water, marine water, fresh or brackish water.

The large scale aquaculture includes the production processes over 50 gross tons per year.

The environmental control for the artisanal fishing processing activities is responsibility of the regional governments due to such activities do not qualify for industrial fishing processing. The environmental control of the small scale aquaculture activities and the subsistence is within the responsibility of regional governments.



35.

What environmental obligations of fishing sub-sector are controlled by the OEFA?

The environmental obligations controlled into the fishing sector are the following:

a. Environmental obligations related to the effluent treatment:

- To operate fish meal and fish oil processing plants, residual fish meal plants or waste and residues reuse plants of hydrobiological resources:
 - o Implemented with effluent treatment equipment according to its capacity installed under environmental regulations.
 - o Executing the equipment of effluent treatment during the activity process.
- To operate product processing plants to direct human consumption (canned, frozen and curing):
 - o Implemented with effluent treatment systems
 - o Executing the corresponding equipment of effluent treatment.
 - o Proper distribution of hydrobiological residues and waste.

- Fish meal and fish oil processing plants, residual fish meal plants or waste and residues reuse plants of hydrobiological resources:
 - Installation of pumping water treatment in the first or second phase.
 - Implemented with the equipment of pumping water treatment during the production process in operative stage.
 - Executing the equipment of pumping water treatment during the production process in accordance with the established in the proper environmental assessment and further environmental engagements assumed by the owner.
- Do not discharge effluents from the industrial fishing system or aquaculture in areas unauthorized.
- Do not pour effluents to sea from production system or processing plants cleaning without total treatment.
- To install the submarine emissary outside the environmental protection area of the coast within the periods established in regulations.

b. Environmental obligations related to emission treatment:

- To operate fish meal and fish oil processing plants, residual fish meal plants or waste and residues reuse plants of hydrobiological resources:
 - Implemented with emissions treatment according to its capacity installed under environmental regulations.
 - Using the corresponding emission treatment equipment.
- To submit for approval the investment schedule of technology innovation in order to reduce the emissions to environment from fish meal and fish oil processing plants, residual fish meal plants or waste and residues reuse plants of hydrobiological resources.
- To implement or operate equipment or machines which are part of the emission mitigation system by technology innovation in order to reduce the environmental impact on the fish meal and fish oil processing plants, residual flour plants or waste and residues reuse plants of hydrobiological resources.

c. Environmental obligations related to waste and residues of hydrobiological resources and others:

- Do not dry solid waste to the open weather (waste and residues of hydrobiological resources) from industrial fishing activity.
- Do not leave or throw building elements, toxic materials, contaminant substances, other element or objects which represent a danger to the aquatic ecosystem life or cause other damage to coastal and river populations in bodies of water or seabeds, in lake or river, beaches or riverbanks.
- Do not destroy or alter the habitats or ecosystems in prejudice of the sustainability of the biological diversity that exists there.
- Do not alter or damage mangroves or wetlands.

d. Environmental obligations related to the close:

- Withdraw facilities and other properties of the area granted under aquaculture concession before ending the culture activities or when such activities are interrupted by any cause.



MANUFACTURING INDUSTRY SUB-SECTOR (INDUSTRY SECTOR)



36.

What activities are controlled by the OEFA in the manufacturing industry sub-sector?

The OEFA controls the accomplishment of the environmental obligations by companies (natural persons or legal entities) developing manufacturing industry activities related to raw material transformation of different goods for consumption.



37.

What environmental obligations of manufacturing industry sub-sector are controlled by the OEFA?

The environmental obligations controlled in the manufacturing industry sub-sector are the following:

- To timely and full submit environmental reports or additional information requested.
- To present or accomplish the security or remedy measures.
- To use non-hazardous or non-polluting products or supplies which are authorized.
- To keep the Monitoring Record.
- To meet periods, goals, technical measures of management or investment for the environmental modification.



VI

Environmental
complaints



38.

What is an environmental complaint?

An environmental complaint is a document submitted before the authority in order to advertise the presence of a possible pollution or the impact on natural resources.

Through environmental complaints, the right of individuals to citizen participation in the environmental subject is materialized, and which must be made in a responsible manner.

The environmental complaints submitted before the administrative authorities should not be confused with complaints due to an environmental offense which must be submitted to the Public Ministry or the National Police of Peru. The environmental complaints under the OEFA's responsibility are complaints for administrative offences.



39.

Does the OEFA receive environmental complaints?

Yes, it does. Through the National Environmental Complaints Information Service – SINADA, the OEFA receives environmental complaints which can be submitted by any person worldwide without the need of a direct interest in the complaint.

40.

What happens if the OEFA receives a complaint of an activity outside its responsibility?

If it is found that the OEFA has not direct power to deal with a complaint since it is responsibility of other EFA, the SINADA shall issue again the complaint to the corresponding EFA, attaching the documents in its possession.

Additionally, the OEFA, as governing body of the SINEFA, may request to the corresponding EFA to be reported about the actions made regarding the complaint sent.





41.

What information should an environmental complaint have?

Complaints should include a clear description of the facts, important data for the investigation to be carried out, including information to identify alleged offenders if possible.

The complainant, where possible, shall submit the evidences of the case, and any other element allowing its verification in order to the competent authorities will verify them.



42.

Is it possible to submit anonymous complaints?

Yes, it is. In this case, the complaints must have the elements necessary to justify the development of the investigation under the responsibility of the environmental control authority

Any complainant, exercising its right of defense, shall act in good faith considering that the complaint will require an investigation which includes use of human resources and materials by the Estate.

In this case, the complainant may request its personal identification data must be kept secret.

43.

What means can be used to file environmental complaints?

The complaints before the OEFA may be filed using one of the following means:

a.

Telephones
(01) 711 0078
(01) 711 0079
(01) 713 1553



b.

Through the submission of a document before the Document Processing Office of the OEFA in its head office or in any of its local offices worldwide.



Av. República de Panamá 3542
San Isidro, Lima

c.

Going personally before the entity's officers who shall complete the reception format of complaints based on the information provided by the complainant.



d.

<http://www.oefa.gob.pe>



Through the website of the institution, entering the next link: http://www2.oefa.gob.pe/denuncias/sinada/formulario_SINADA.php

e.



By e-mail to denuncias@oefa.gob.pe, recording minimum information.



44.

What procedure does my complaint submitted to the OEFA follow?

When the OEFA accepts a complaint within the framework of its responsibility, the OEFA performs an investigation in order to determine if there are indications of failure to comply with environmental obligations by an entity.

In case of determine that there is a probable administrative offense, it will order the initiation of an administrative penalty proceeding.

It should be noted that any complainant is able to have access to information about the state of his/her environmental complaint through the SINADA (National Environmental Complaints Information Service).

45.

Does the OEFA have offices worldwide?

The OEFA has twenty (20) decentralized offices and two (02) liaison offices through which this agency carries out some of its functions and activities. These Decentralized Offices report their actions to the General Coordination of Decentralized Offices and to the Presidency of the Board of Directors of the OEFA.

Decentralized Offices have the following main functions, among others:

- a. To strong the relationships with local entities and promote the citizen participation.
- b. To develop activities of citizen attention and guidance.
- c. To process the environmental complaints within the OEFA's responsibility in coordination with the head office.



Decentralized offices of the OEFA are located in the departments of Ancash, Apurimac, Arequipa, Ayacucho, Cajamarca, Cusco, Huancavelica, Ica, Junin, La Libertad, Lambayeque, Loreto, Madre de Dios, Moquegua, Pasco, Piura, Puno, Tacna and Tumbes. Additionally, there is a local office of the OEFA in the Valley of the Apurimac, Ene and Mantaro Rivers – VRAEM, and two Liaison Offices located in Chimbote (Ancash) and Echarati (Cusco).





Amazonas River - Iquitos
Photo: Nicolas Villaume





President of the Board Directors:

Hugo Ramiro Gómez Apac

Members of the Board of Directors:

Genaro Lino Matute Mejía

César Paúl Ortiz Jahn

Roxana María Barrantes Cáceres

