

ENVIRONMENTAL ENFORCEMENT IN

WASTE WATER



GLOSSARY

Sanitation Service Provider Entity (EPS Sanitation, by its initials in Spanish)

It is any public, municipal or mixed company or institution created for the only purpose to provide sanitation services within the urban aspect. It is the one that produces, distributes and commercializes drinking water and is in charge of the recollection, treatment and final disposal of the sewage, the recollection of water coming for rains and the sanitary disposal of excrements.

Environmental Enforcement Entity (EFA, by its initials in Spanish) (EFA)

It is any public entity at national, regional or local level which has been conferred some or all of the environmental enforcement actions in a broad sense. Exceptionally, and pursuant to the legal provision, any agency pertaining to an entity that is empowered to perform the functions of environmental enforcement may be considered as EFA.

Environmental Quality Standard (ECA, by its initials in Spanish)

It is the measure that establishes the level of concentration or grade of physical, chemical and biological elements, substances or parameters, in the air, water or soil, as receiving body, that does not constitute any significant risk for the health of the people or for the environment.

Environmental Enforcement

It is the control action performed by a public entity in order to verify the compliance with the environmental obligations to be controlled of a citizen, either individual or legal entity under private or public law. It also covers the environmental enforcement actions that are exercised by the OEFA and the EFA according to their jurisdiction, and may be understood in a broad and strict sense.

- Environmental enforcement in a broad sense: It covers the actions of surveillance, control, monitoring, follow-up, verification or other similar actions that are set within the functions of assessment, supervision, enforcement and imposition of penalties in order to ensure the compliance with the environmental obligations to be controlled.
- Environmental enforcement in a strict sense: It covers the power for investigating the commission of potential administrative offenses, as well as imposing penalties and corrective measures.

Administrative Boards of Sanitation Services (JASS, by its initials in Spanish)

These organizations are willingly chosen by the communities and are created with the purpose of managing, operating and maintaining the sanitation services of one or more rural villages.

Maximum Permissible Limit (LMP, by its initials in Spanish)

It is the measure of concentration or the level of physical, chemical and biological elements, substances or parameters that characterize the effluent or emission, which after being exceeded causes or may cause damages into the health, human welfare and the environment.

Agency for Environmental Assessment and Enforcement (OEFA, by its initials in Spanish)

It is a specialized public technical agency, with legal personality under domestic public law, attached to the MINAM and it is in charge of the enforcement, supervision, assessment, control and imposition of penalty with regard to environmental matters, as well as of the application of incentives. It is the governing body of the National Environmental Assessment and Enforcement System.

Domestic and/or Municipal Wastewater Treatment Plant

It is the infrastructure and processes that allow the purification of domestic and/or municipal wastewater.

National Environmental Assessment and Enforcement System (SINEFA, by its initials in Spanish)

By virtue of the Law No. 29325, amended by the Law No. 30011, the SINEFA was created to specify the functions of the environmental enforcement at national, regional or local level.

Maximum Allowable Values (VMA, by its initials in Spanish)

It is the value of concentration of physical and/or chemical elements, substances or parameters, that characterizes a non-domestic effluent to be discharged into the sanitary sewage network, which after being exceeded causes an immediate or progressive damage into the facilities, sanitary infrastructures, machineries and equipment of sewage systems and wastewater treatment and has negative effects in the wastewater treatment processes.





President of the Board of Directors:
Hugo Ramiro Gómez Apac

Member of the Board of Directors:
Genaro Lino Matute Mejía
César Paúl Ortiz Jahn
Roxana María Barrantes Cáceres





Environmental enforcement in

WASTE WATER

Prepared by the Agency for Environmental Assessment and Enforcement - OEFA

This document has the purpose of explaining the basic concepts related to the wastewater, briefly discussing its different classification and mentioning the public entities involved in its proper environmental management and enforcement.

The important numbers about the generation and management of wastewater in our country are included herein. On the hand, the main problems related to them are also set herein.

It is important to point out that during this 2014, the OEFA will prioritize the supervision of the Environmental Enforcement Entities (EFA) responsible for guaranteeing the proper wastewater management in Peru.

Definition of **WASTEWATER**

It is the water which original characteristic has been modified by the human activities, and, due to its quality, requires a previous treatment, before being reused or discharged in a natural body of water or in the sewage system.



How is wastewater classified?

Industrial waste water

This is the result of the development of production process, including those coming from the mining, agriculture, energy, agro-industrial activities, among others.



Domestic wastewater

This is the one having a residential and commercial origin and containing physiological waste, among others, product of the human activity and has to be properly disposed.



Municipal wastewater

This is the domestic wastewater that can be mixed with the water coming from the rain wastewater or with wastewater of industrial origin, previously treated, in order to be admitted into the mixed sewage systems.



Main problems related to wastewater:

1

Deficit of coverage by Sanitation Service Provider Entity (Sanitation EPS) at national level



- The **50 Sanitation EPS**, providing the service of sewage, can only cover a **69,65%** of the urban population.
- The **non-covered population** throws their untreated wastewater directly to the sea, rivers, lakes, streams or they use it for the crop irrigation.

2

The Sanitation Service Provider Entity (Sanitation EPS) does not provide a proper service of wastewater treatment

There is an overload of wastewater in the treatment plants since their infrastructure is not sufficient enough, which makes the treated effluents exceed the maximum permissible limits (LMP) and, therefore, the environmental enforcement standards (ECA) are not met. This generates environmental problems such as the pollution of water bodies and the generation of unpleasant odors that affect the population.



The disposal of wastewater without any treatment and the ones not properly treated pollute the natural water bodies. Likewise, due to infiltration in the subsoil, they pollute the subterranean waters; therefore, they become in infectious focuses for the population's health as well as for the flora and fauna of the place.

**POLLUTION
of natural
water bodies**



Municipal wastewater **MANAGEMENT**

1

The Sanitation **EPS** or any other similar entities capture the water of receiving bodies such as rivers, lakes, strings, subterranean wells and provide treatment with the purpose of making them suitable for human consumption.

2

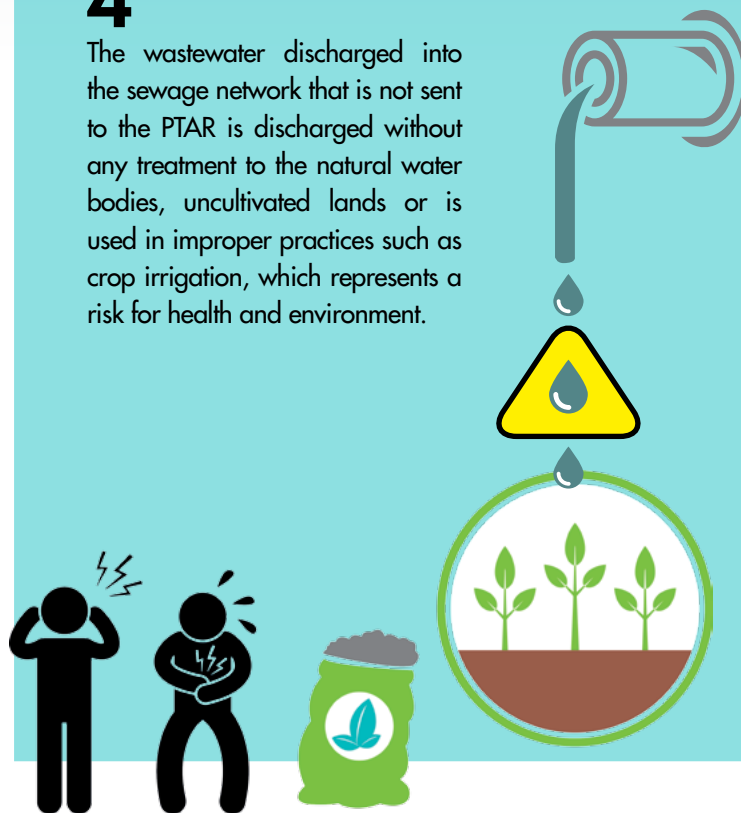
The water for human consumption is used for the development of domestic, commercial and industrial activities that end up producing municipal wastewater which are discharged into the sewage network of the Sanitation **EPS** or other similar systems. The wastewater that is not discharged into a sewage network is discharged without treatment into the natural water bodies, uncultivated lands or is used for the irrigation of cultivation.

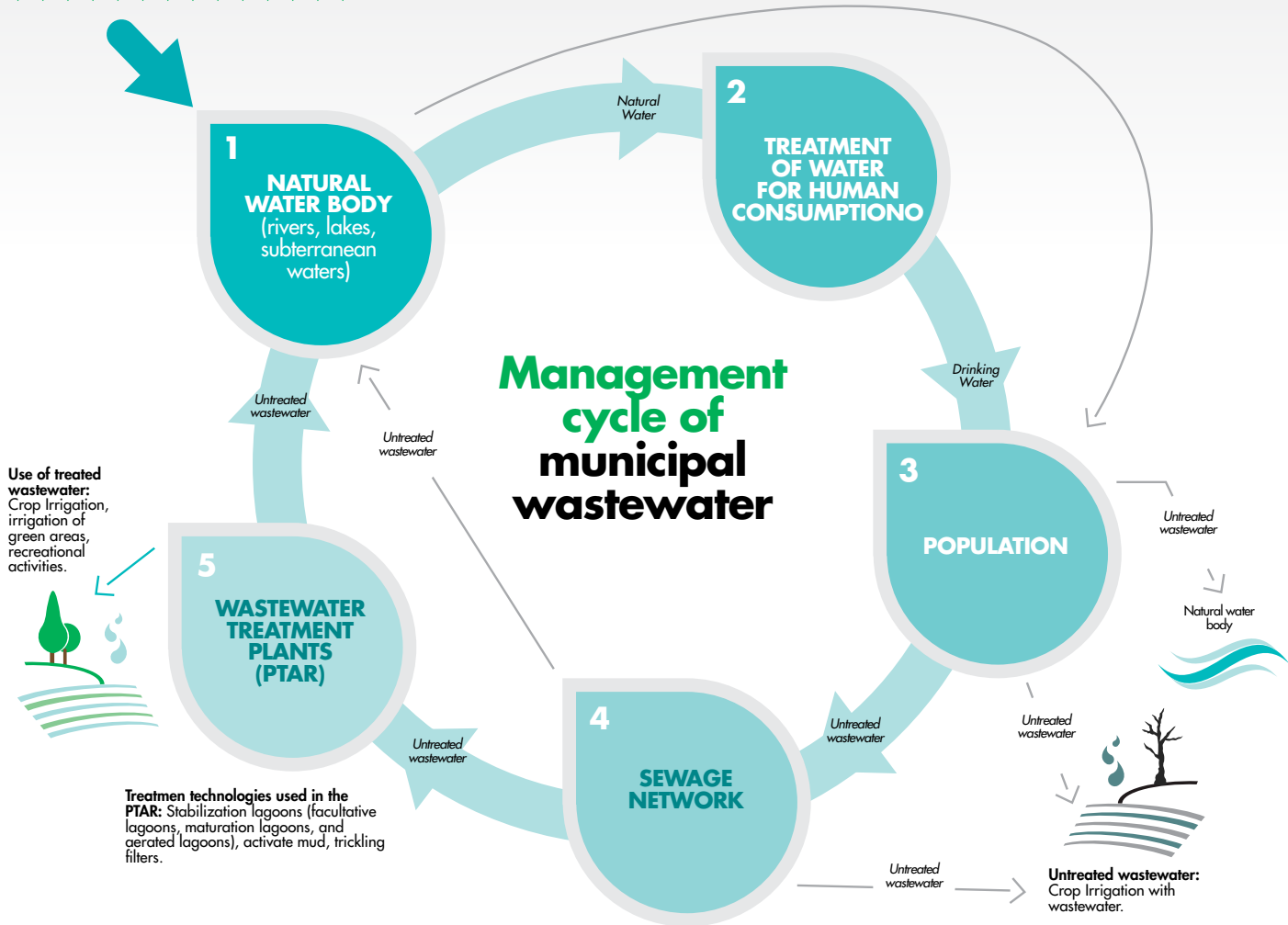
3

Part of the water discharged into the sewage network is sent to the Wastewater Treatment Plants (**PTAR**) for its treatment, using several technologies: facultative lagoons, aerated lagoons, activated mud or trickling filters, among others. After that, this treated wastewater are used for the irrigation of crops, green areas, and fish farming or dumped into natural water bodies.

4

The wastewater discharged into the sewage network that is not sent to the PTAR is discharged without any treatment to the natural water bodies, uncultivated lands or is used in improper practices such as crop irrigation, which represents a risk for health and environment.





Entities involved in **environmental enforcement** of **MUNICIPALES WASTEWATER** IN PERU



Ministry of Housing, Construction and Sanitation:

It is the governing body of the State in the matters related to the sanitation sector and it has the following functions:

- Draw up, regulate, direct, coordinate, execute and supervise the national policy in said sector, as well as permanently evaluate its results, adopting the corresponding corrections and measures.
- Create the conditions for the access to the sanitation services at a proper quality and sustainability levels
- Designate the economic resources to the local government and the EPS for constructing sanitation works and granting environmental certification to said projects.
- Control the compliance with the environmental commitments set within environmental management instrument of the sanitation projects at national level and the maximum permissible limits (LMP) for the effluents of municipal wastewater treatment plants.



Water National Authority (ANA, by its initials in Spanish):

- Authorizes the treated wastewater discharge prior satisfactory technical opinions by the Environmental Health Bureau of the Ministry of Health and the environmental sectoral authority, which are binding.
- Verifies the compliance with the ECA in the water bodies and imposes penalties, and is able to cancel the authorizations granted if it verifies that the treated wastewater may affect the quality of receiving body or its related possessions.
- Authorizes the reuse of wastewater, under previous accreditation that it will not damage the human health and the regular development of fauna and flora or that it affects other uses.

Local Governments:



Province municipalities:

They have the function of regulating and controlling the process of final disposal of solid waste and liquid waste, as well as the province industrial discharges. Therefore, they manage or hire the services of a Sanitation EPS or of a similar company. Likewise, they are responsible for the access and the provision of sanitation services at province level.



District municipalities:

Along with its province municipality, they have the function of directly or by concession administrate and control, the drinking water service, sewage and drainage, when by economies of scale, the centralization of the service at province level results efficient.



Agency for Environmental Assessment and Enforcement (OEFA):

The OEFA exercises the functions of assessment, supervision and enforcement related to wastewater treatment resulting from economic activities of sectors such as medium and large-scale mining, hydrocarbons in general, electricity, industrial fishing processing, large-scale aquaculture, as well as the production of beer, paper, cement and tannery of manufacturing industry.

The owners of economic activities described shall not exceed the LMP for the effluents that they generate before these are discharged into the sewage network or into the receiving bodies. The OEFA is the authority empowered to directly supervise in these cases, as well as to impose penalties in case they exceed the LMP.

Likewise, acting as governing body of the National Environmental Assessment and Enforcement System, it supervises the enforcement labor of the EFA, including district and province municipalities, the regional governments, the National Water Authority, or the ministries (Production, Agriculture and Irrigation, among others) that have the responsibility of supervising the proper management of wastewater resulting from the economic activities that are within the scope of their jurisdiction.

OTHER ENTITIES involved in **wastewater enforcement in Peru**

National Regulatory Body for Sanitation Services (SUNASS):

It is the entity that safeguards the service quality that shall be provided by the Sanitation EPS. It controls, regulates, supervises and enforces, under the scope of its jurisdiction, the provision of sanitation services at national level and, in compliance with its regulatory function, is also responsible for imposing penalties and solving controversies and complaints

Sanitation Services Provider Entities (Sanitation EPS):

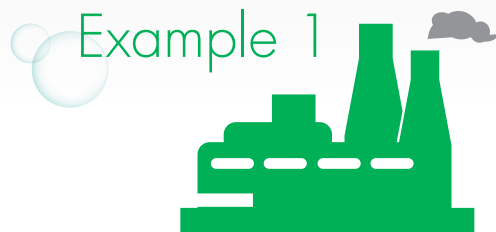
They have the purpose of properly operating and maintaining the components of the supply of the drinking water services and sanitary sewage, and shall opportunely and efficiently provide said services. Therefore, the Sanitation EPS shall:

- Produce, distribute and commercialize drinking water, as well as properly recollect, treat, dispose the wastewater.
- Recollect the rainwater and sanitarily discharge the excrements
- Execute programs of annual preventive maintenance in order to reduce water pollution risk for consumption, interruptions or restrictions in the services.
- Control the Maximum Allowable Values (VMA) through the accredited laboratories with the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI, by its initials in Spanish), having the power for imposing penalties in case the producer does not comply with the obligations established in the regulation in force, without prejudice to the application of penalties established by other laws and regulations.

Ministry of Health (MINSA, by its initials in Spanish):

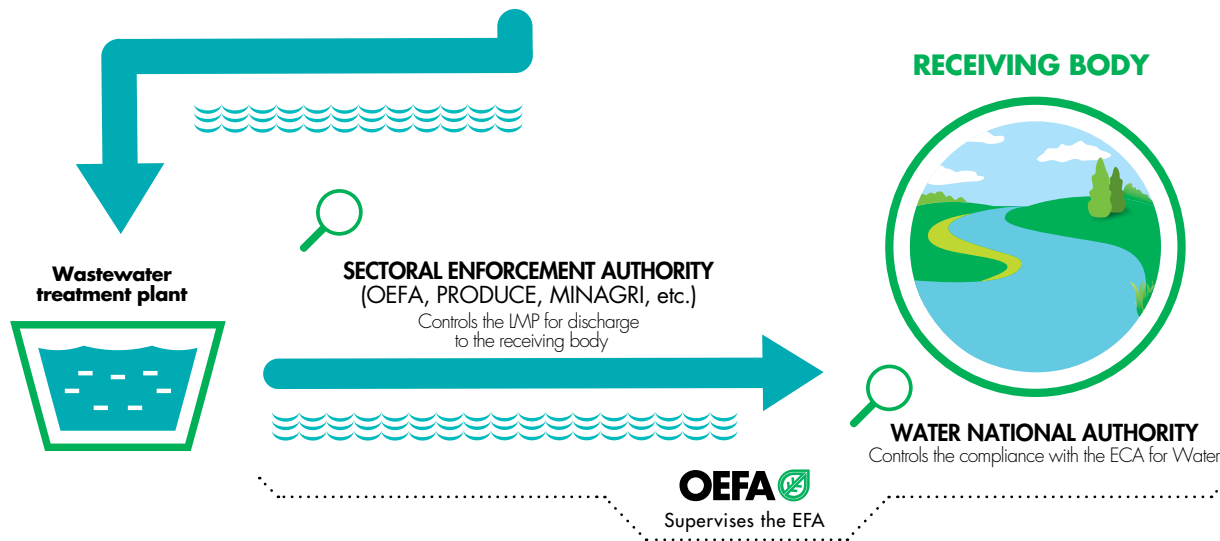
The Ministry of Health, through the Environmental Health Bureau (DIGESA, by its initials in Spanish), has the function of establishing the technical sanitary rules for supplying water for human consumption, as well as managing, reusing and discharging domestic wastewater and disposal of excrements. Likewise, it controls the sanitary quality of the water and sanitation systems for the protection of the population's health. It also designs and implements the discharge record and control system related to its impact in the receiving body.

Entities involved in the environmental enforcement of **WASTEWATER IN PERU**



INDUSTRY "A"

With its own wastewater treatment plant (PTAR)





Example 2

INDUSTRIA "B"

Without its own wastewater treatment plant (PTAR)

POPULATION



RECEIVING BODY



WATER NATIONAL AUTHORITY

Controls the compliance with the ECA for water

SUNASS
Controls the quality of the service

AUTORIDAD FISCALIZADORA SECTORIAL
(OEFA, PRODUCE, MINAGRI, etc.)
Controla los LMP para descarga

SEWAGE NETWORK

MUNICIPALITY
Supervises and/or provides the proper sanitary service

EPS SANITATION
It controls the VVA for the discharge of municipal sewage

Domestic wastewater treatment plant

MINISTRY OF HOUSING, CONSTRUCTION AND SANITATION

It controls the LMP before the discharge into the receiving body

OEFA
Supervises the EFA

PERU ON FIGURES

WASTEWATER PRODUCTION AND TREATMENT
BY THE SANITATION EPS AT NATIONAL LEVEL - 2012

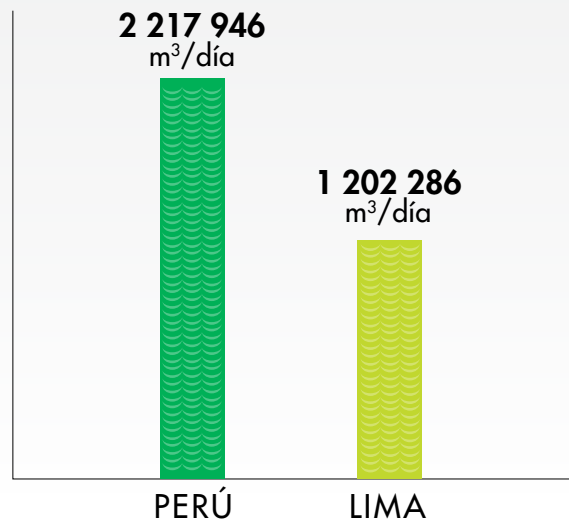
Peru produces approximately **2 217 946 m³** per day that are discharged into the sewage network of the Sanitation EPS. Only 32% of it receives treatment.

Each person in Peru produces **142 liters** of wastewater per day.

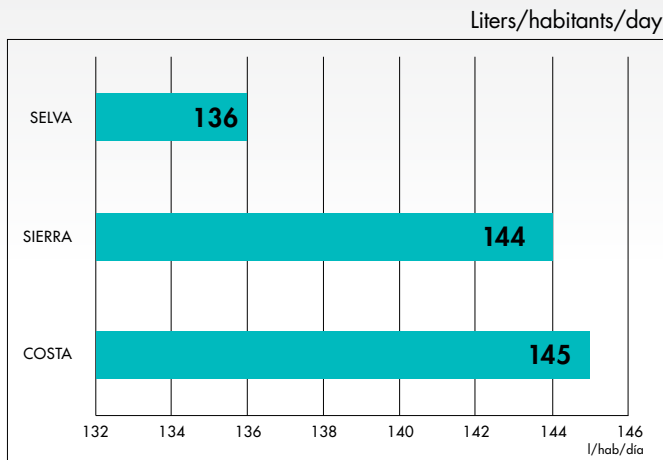
Lima produces approximately **1 202 286 m³** of wastewater per day that are discharged into the sewage network of the Sanitation EPS. Only 20.5% of it receives treatment.

Each person in Peru produces **145 liters** of wastewater per day.

WASTEWATER DISCHARGED into the sewage network

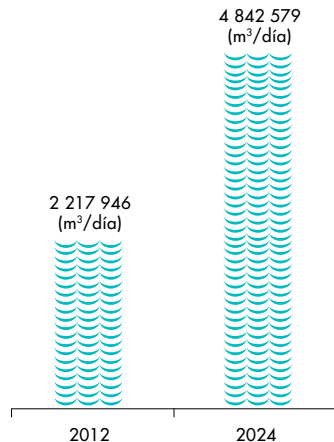


How much wastewater does a person produce per day in Peru?



Evolution in the production of wastewater in Peru

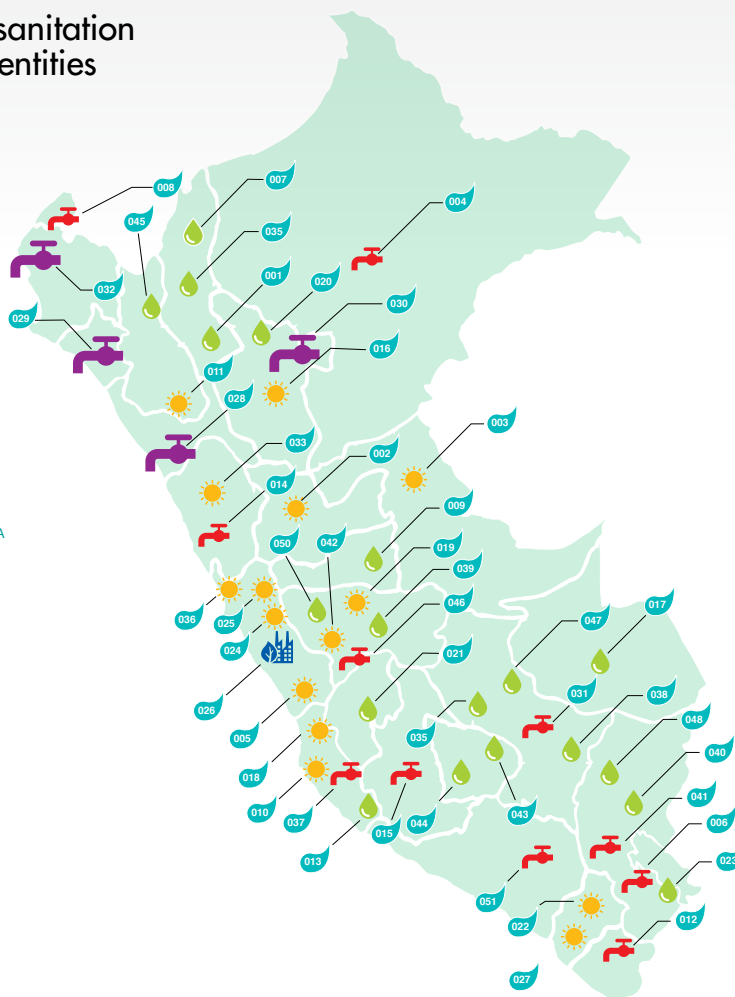
On 2024, Peru will produce **more than twice of the wastewater** that is correctly handled by the EPS.



Source:
 The EPS and their Development 2013, Data 2012, Supervision and Enforcement Management - SUNASS.
 The EPS and their Development 2012, Supervision and Enforcement Management - SUNASS.
 PERU: Estimaciones y Proyecciones de Población Departamental, por Años Calendario y Edades Simples, 1995 - 2025, Special Bulletin No. 22, INEI, November 2010

Location of the sanitation service provider entities in Peru

Cód.	EPS
001	EMUSAP AMAZONAS
002	SEDA HUANUCO S.A.
003	EMAPACOP S.A.
004	EPS SEDA LORETO S.A.
005	EMAPA CAÑETE S.A.
006	EMSA PUNO S.A.
007	EPSSMU S.R.LTDA
008	AGUAS DE TUMBES
009	EMAPA PASCO S.A.
010	EMAPISCO S.A.
011	SEDACAJ S.A.
012	EPS TACNA S.A.
013	EMAPAVIGS S.A.C.
014	SEDACHIMBOTE S.A.
015	EPSASA
016	EMAPA SAN MARTIN S.A.
017	EMAPAT S.R.LTDA
018	SEMAPACH S.A.
019	EPS SELVA CENTRAL S.A.
020	EMAPA MOYOBAMBA S.R.LTDA
021	EMAPA HUANCAYELICA S.A.C.
022	EPS MOQUEGUA S.A.
023	EMAPA Y S.R.L.
024	EMAPA HUARAL S.A.
025	EMAPA HUACHO S.A.
026	SEDAPAL
027	EPS ILO S.A.
028	SEDALIB S.A.
029	EPSEL S.A.
030	SEDAPAR S.A. (Rioja)
031	SEDACUSCO S.A.
032	EPS GRAU S.A.
033	EPS CHAVIN S.A.
034	EMAO S.R.LTDA
035	EMAPAB S.R.LTDA
036	SEMAPA BARRANCA S.A.
037	EMAPICA S.A.
038	EMPPSAPAL S.A.
039	EPS SIERRA CENTRAL S.R.L.
040	EPS NOR PUNO S.A.
041	SEDAJULIACA S.A.
042	EPS MANTARO S.A.
043	EMUSAP ABANCAY S.A.
044	EMISAP CHANKA S.R.L.
045	EPS MARAÑON S.R.L.
046	SEDAM HUANCAYO S.A.C.
047	EMSAPA CALCA S.R.L.
048	EPS AGUAS DEL ALTIPLANO
050	EMSAPA YALU S.R.L.L.
051	SEDAPAR S.R.L.



LEGEND



From 1 000 000 up to more connections

Big EPS
From 40 000 to over 1 000 000 connections



Big EPS 1

Those that manage from 100 000 y 999 999 connections of drinking water



Big EPS 2

Those that manage from 40 000 to 99 999 connections of drinking water



Medium EPS

From 15 000 to 40 000 connections



Small EPS

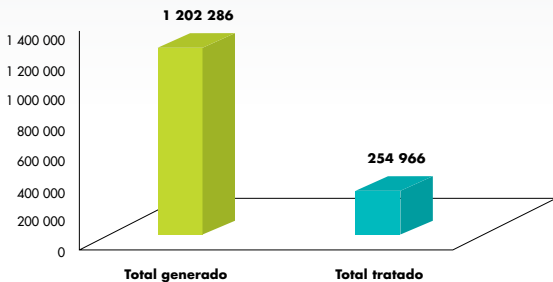
From 0 to 15 000 connections

Source:
The EPS and their Development 2013, Data 2012, Supervision and Enforcement Management - SUNASS

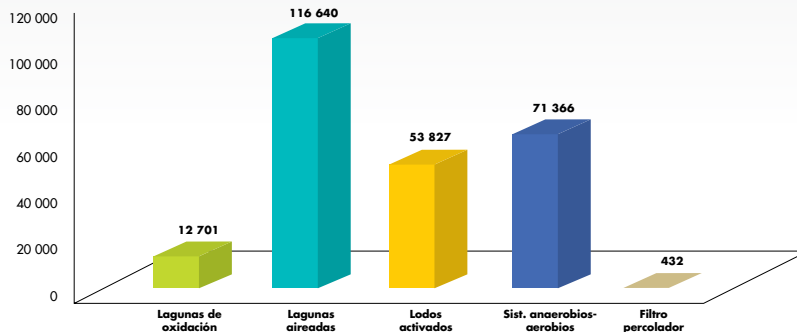
METROPOLITAN LIMA

What amount of wastewater is treated and which technologies are used?

GENERACIÓN DE AGUAS RESIDUALES Y AGUAS RESIDUALES TRATADAS EN LIMA METROPOLITANA (m³/día)



VOLUMEN DE AGUAS TRATADAS SEGÚN TIPO DE TECNOLOGÍA USADA EN LA PTAR (m³/día)

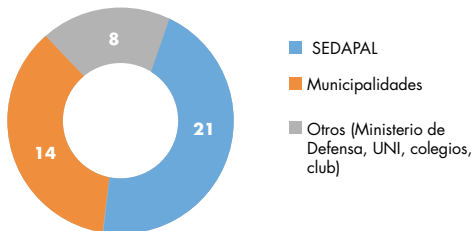


In Metropolitan Lima, approximately **1 202 286 m³** of wastewater are produced and only **254 966 de m³**, of it is treated, which represents **21,2%** of the amount produced.

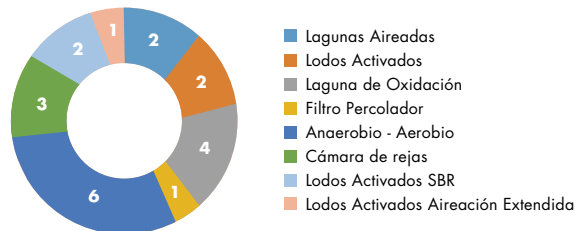
Source: Censo de Aguas Residuales del Perú 2013, National Institute of Statistics and Informatics (INEI, by its initials in Spanish).

How many wastewater treatment plants exist?

NÚMERO DE PLANTAS DE TRATAMIENTO POR OPERADORES EN LIMA METROPOLITANA

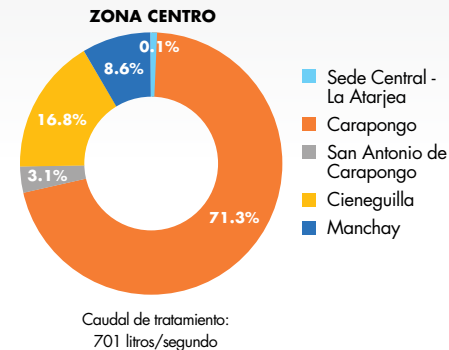
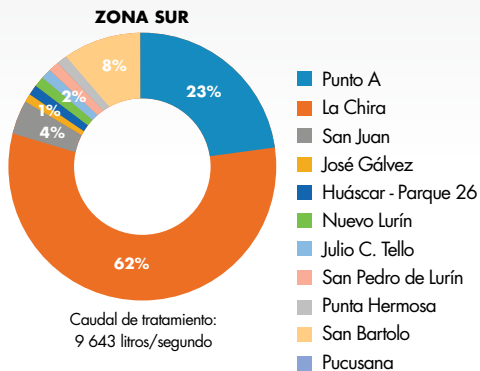
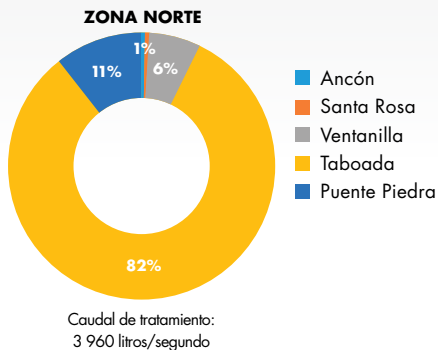


NÚMERO PLANTAS DE TRATAMIENTO EN LIMA METROPOLITANA OPERADAS POR SEDAPAL Y TECNOLOGÍAS EMPLEADAS



Source: Estudio de Opciones de Tratamiento y Reúso de Aguas Residuales en Lima Metropolitana, Ing. Julio César Moscoso Cavallini, University of Stuttgart, LIMA WATER - LIWA. Institutional webpage of SEDAPAL. Consultation date: April 2014.

In which treatment plants (PTAR) is the wastewater treated and at what percentage (%)?



Source: Web page of SEDAPAL. Consultation date: April 2014.

To take into account:

1

At national level, **809 550 294 m³** of wastewater is discharged into the sewage networks managed by the Sanitation EPS, of which **438 834 348 m³ are produced in Metropolitan Lima**. This represents **52%** of the produced amount.

2

At national level, there are **50** Sanitation **EPS** that provide the sewage service to 15,392,203 inhabitants which represents to the 69.65% of the population living in urban zones of our country. **6,707,797 inhabitants (30.35%) do not have this service.**

3

At the Metropolitan Lima level, SEDAPAL provides the sewage service to 8,270,375 inhabitants, which represents the 89.86% of the population. **933,552 inhabitants (10.14%) do not have this service.**

LEGAL BASIS

LAW N° 28611.- GENERAL LAW ON ENVIRONMENT

“Article No. 31 - Environmental Quality Standard.

The Environmental Quality Standard (ECA) is a measure that establishes the level of concentration or grade of physical, chemical, and biological elements, substances or parameters, in the air, water or soil, as receiving body, that does not constitute a significant risk for the health of the people or for the environment. According to the parameters to which it may refer, the concentration or grade will be able to be classified in maximum, minimum or ranges.
(...)”.

“Article No. 121 - Discharge of wastewater

The State issues, taking into consideration the carrying capacity of the receiving body, a prior authorization for the discharging of wastewater having a domestic, industrial origin as well as those waste produced as a result of any other activity developed by natural persons or legal entities, provided that such discharge does not cause degradation of the quality of waters as receiving body or affect their reuse for other purposes, in compliance with the corresponding ECA and the legal rules in force”.

“Article No. 122 - Treatment of liquid waste

122.1. The entities responsible for the sanitation services are in charge of the treatment of domestic liquid waste and rainwaters.

122.2. The Housing, Construction and Sanitation sector is responsible for the supervision and imposition of penalties for the non-compliance with the LMP in the domestic solid waste, in coordination with the sectoral authorities exercising functions related to the discharge of effluents in the public sewage system.

122.3. The companies or entities developing mining, production, commercialization activities and other such activities producing wastewater or sewage are responsible for their treatment in order to reduce their level of pollution to levels compatible with the LMP, ECA and other standards established in the environmental management instruments, in compliance with the legal rules in force. The industrial wastewater management may be directly performed by the producer through third persons duly authorized or entities responsible for the sanitation services, in accordance with the current legal framework on this matter.”

LAW No. 29338 - LAW ON WATER RESOURCES

“Article No. 15 - Functions of the National Authority

(...)

4. Prepare the method and determine the amount of the payment for water right and for the discharge of wastewater in natural sources, which shall be approved by Supreme Decree, as well as approve the fees for using the water infrastructure proposed by the water operators.

7. Confer, modify and terminate, prior technical study, the water rights, as well as approve the implementation, modification and termination of the water rights, through the decentralized agencies of the National Authority”.

“Article No. 76 - Surveillance and control of water

The National Authority in coordination with the Council of Cuenca, in the place and physical condition of the water, either in its natural or artificial riverbeds, controls, monitors, supervises the compliance with the environmental quality standards for water in accordance with the Environmental Quality Standards for Water (ECA-Agua), as well as the provisions and programs for their implementation that are established by the authority with jurisdiction in environmental matters. This National Authority also introduces measures to avoid, control and deal with the water pollution and the effects related to such pollution. Likewise, it implements surveillance and monitoring activities, especially in the basins where there are activities that may put in risk the quality or quantity of the resource”.

“Article No. 79 - Discharge of wastewater

The National Authority authorizes the discharge of the treated wastewater into a natural body of continental or marine water, prior satisfactory technical opinion of the Environmental and Health Authority, in accordance with the Environmental Quality Standards for Water (ECA-Agua) and the Maximum Permissible Limits (LMP). The direct or

indirect discharging of wastewater without such authorization is prohibited.

In case the discharge of the treated wastewater may affect the quality of the receiving body, the aquatic life related to this or its related possessions, according to the established environmental quality standards or scientifically proven or performed relevant studies, the National Authority shall use the additional measures that disappear or reduce the risk of water quality, which may include superior technologies, being able to even revoke the authorizations that could have been conferred to this effect. In case the discharge affects the health or the way of life of the local population, the National Authority immediately shall revoke the conferred authorizations.

The competent sectoral authority is responsible for giving the authorization and controlling the discharges of wastewater to the urban drainage or sewage systems”.

“Article No. 80 - Discharge Authorization

Any discharge of wastewater into a natural source of water requires of a discharge authorization; to that effect, the pertinent environmental instrument approved by the corresponding environmental authority shall be submitted, containing the following aspects regarding the emissions:

1. Submit the waste to the necessary pre-treatments.
2. Prove the receiving conditions allow the natural processes of purification.

The discharge authorization is granted for a specific time, which may be renewable, in accordance with the duration of the main activity

in which the water is used, and is subject to the provisions set forth by Law and the Regulation”.

“Article No. 81 - Environmental Impact Assessment
Without prejudice to the provisions of the Law No. 27446, Law on National Environmental Impact System, for the approval of the environmental impact assessment related to the water resources, it needs to be supported by the satisfactory opinion of the National Authority”.

“Article No. 82 - Reuse of wastewater

The National Authority, through the Council of Cuenca, authorizes the reuse of treated wastewater, according to the purpose for which it is destined, in coordination with the corresponding sectoral authority and, when appropriate, with the National Environmental Authority.

The holder of a license to use water is empowered to reuse the wastewater that he or she produces, provided that it is used for the same purposes for which this license was conferred.

For different activities, an authorization is required.

The distribution of treated wastewater must take into consideration the water supply of the basin”.

“Article No. 83 - Prohibition for discharging some substances

The discharge of polluted substances and waste of any kind in the water and in its related possessions that may cause significant risks, according to the criteria for toxicity, persistence or bioaccumulation, is prohibited. The corresponding Environmental Authority, in coordination with the National Authority, establishes the criteria and the relation of prohibited substances”.

“Article No. 84 - Incentives system

The National Authority, in coordination with the Council of Cuenca, gives recognitions and incentives in favor of those developing actions to prevent the water pollution, disasters, forestation, reforestation or investment in technology and use of practices, methods or process that contribute to the water protection and the comprehensive management of water in the basins.

The National Authority, in coordination with the Council of Cuenca and the Ministry of Environment, promotes the mechanisms to protect the basins in order to contribute to the conservation and protection of the water and its related possessions, as well as the design of the mechanisms for the water users take part in such activities.

The holders of water rights who invest in works intended for the efficient use, protection and conservation of the water and its related possessions as well as for the maintenance and development of river basins may deduce the investments made for the purposes of payments for water fees or salary, in compliance with the criteria and percentage established in the Regulation. This benefit is not applicable to those who have received any other benefit from the State for the same work or when this results from the compliance with the sectoral rule”.

“Article No. 85 - Certification of efficient use

1. The performance certificate is the instrument through which the National Authority certifies the efficient use of the water resources by the users and operators of water infrastructure.

2. The National Authority confers “performance certificates” to the users and operators of water infrastructure that comply with the efficiency parameters.

3. The National Authority confers “creativity, innovation and implementation certificates” to the users and operators of water infrastructure who design, develop or implement equipment, procedures or technologies increasing the efficiency in the use of water resources, as well as the conservation of natural properties and the proper and effective maintenance of water infrastructure”.

REGULATION FOR THE LAW No. 29338, LAW ON WATER RESOURCES, APPROVED BY SUPREME DECREE No. 001-2010-AG

“Article No. 131 - Wastewater and discharging

In compliance with Title V of the Law:

a. Wastewater is that which original characteristics has been modified due to the anthropogenic activities; have to be discharged in a natural body of water or reused, and due to its characteristics of quality requires a pre-treatment.

b. Wastewater discharge is the act of discharging the pre-treated wastewater in a natural body of continental or marine water. It is excluded the ones coming from vessels and related units”.

“Article No. 132 - Domestic and municipal wastewater

132.1 Domestic wastewater has residential, commercial and institutional origin containing physiological waste and others coming from the

human activity.

132.2 Municipal wastewater is the domestic wastewater that may be mixed with rainwater drainage system or industrial wastewater, provided that it meets the requirements to be admitted in the combined sewage system.

“Article No. 133 - Conditions to authorize the treated wastewater discharge

133.1 The National Water Authority will be able to authorize the discharge of wastewater only when:

- a. The wastewater is submitted to a pre-treatment that allows the compliance with the Maximum Permissible Limits (LMP).
- b. The National Environmental Quality Standards for Water (ECA-Agua) in the receiving body are not violated, in accordance with the provisions issued by the Ministry of Environment for its implementation.
- c. The conditions of the receiving body allow the natural processes of purification.
- d. Prejudice is not caused to another use in quantity or quality of water.
- e. The conservation of the aquatic environment is not affected.
- f. The environmental instrument approved by the competent sectoral authority in environmental matters is provided.
- g. Its underwater release, pre-treated, does not damage the ecosystem and other lake, river or marine-coastal activities, as the case may be.

133.2 The National Water Authority will issue the supplementary provisions on characteristics of treatments and other necessities for the compliance with this provision”.

“Article No. 134 - Contain of the environmental instrument

The environmental instrument referred to in Article No. 80 of the Law shall contain the wastewater treatment system and the effect of the discharging in the receiving body”.

“Article No. 135 - Prohibition for discharging without authorization

135.1 No wastewater discharge will occur in the maritime or continental waters of Peru without the authorization of the National Water Authority.

135.2 In no case the discharging of wastewater will be made without pre-treatment in the irrigation infrastructure, rainwater drainage systems or dry stream beds”.

“Article No. 137 - Granting of treated wastewater discharge authorizations

137.1 The National Water Authority grants discharging authorizations of treated wastewater with the prior satisfactory technical opinions of the Environmental Health Bureau of the Ministry of Health and of the competent sectoral authority with jurisdiction in environmental matters, in accordance with the procedure that, for such purpose, is established by such Authority. (...)”

“Article No. 138 - Technical opinion made by sectoral environmental authority

The technical opinion of the authority with jurisdiction in environmental matters is provided through the corresponding environmental

certification involving the wastewater treatment system and the effect of the discharging in the receiving body”.

“Article No. 140 - Period of discharge authorization of treated wastewater

140.1 The period of validity of the orders of discharge authorization of treated wastewater is established in accordance with the functions of the characteristics of the project and it will not be less than two (02) years or more than six (06) years. Such period starts from the commencement of operation of the pertinent projects.

140.2 The extension of the fixed period is made prior evaluation of the compliance with the provisions of the Regulation and those contained in the pertinent resolution of authorization”.

“Article No. 142 - Extinguishment of discharge authorizations

The following grounds may extinguish the discharge authorizations of treated wastewater:

- a. Resignation by the holder
- b. Expiration
- c. Invalidity of the administrative procedure that granted it
- d. Cancellation
- e. Approved or executed court order that establishes the extinguishment of the authorization”.

“Article No. 143 - Expiration of the discharge authorizations

The following grounds may expiry the discharge

authorizations of treated wastewater:

- a. Expiration of the period fixed in the authorization.
- b. End of the activity that gives rise to the discharge.
- c. The non-commencement of the project within a period equal to the authorization”.

“Article No. 144 - Grounds for the cancellation of discharge authorizations

144.1 The following grounds may cancel the discharge authorizations of treated wastewater:

- a. The non-payment of the salary during two consecutive years.
- b. The non-compliance with the conditions established in the discharge authorization.
- c. The non-compliance with the Environmental Remediation and Management Program or with the obligations of the Wastewater Discharges Adaptation Program.
- d. The non-implementation of the environmental instrument approved involving the treatment system and its discharge.

144.2 Without prejudice to the actions necessary in the application of the precautionary principle, the declaration of cancellation shall previously follow the procedure to impose penalties”.

“Article No. 145 - Control of authorized discharges

The control of discharging executed by the National Water Authority includes unannounced visits to the holders of the discharge authorizations in order to take precautions regarding the protection of the quality of the waters and to verify

the compliance with the conditions established in the discharging authorization”.

“Article No. 146 - Discharging in urban sewage or drainage systems

The competent sectoral authority in environmental matters is responsible for giving the authorization and controlling the discharges of wastewater to the urban sewage or drainage systems”.

“Article No. 147 - Reuse of wastewater

Pursuant to the Regulation, the reuse of wastewater is the use of treated wastewater resulting from the anthropogenic activities”.

“Article No. 148 - Authorizations to reuse treated wastewater

The reuse of wastewater shall be authorized only when all of the following conditions are met:

- a. The wastewater shall be submitted to pre-treatments and comply with the quality parameters established for sectoral use, as the case may be.
- b. The wastewater shall have the environmental certification conferred by the competent sectoral authority in environmental matters that considers specifically the environmental assessment to reuse the water.
- c. In no case its reuse shall be authorized if it puts in risk the human health and the normal development of the flora and fauna or affects other uses”.

“Article No. 151 - Period of validity of the authorizations to reuse treated wastewater

151.1 The period of validity of the resolutions of the authorization to reuse wastewater is established in accordance with the characteristics of the project and shall not be less than two (02) years and more than six (06) years. Such period starts from the commencement of operation of the pertinent projects.

151.2 The extension of the fixed period is made prior evaluation of the compliance with the provisions of the Regulation and those contained in the resolution of authorization”.

“Article No. 152 - Control to reuse treated wastewater

The control and monitoring to reuse treated wastewater as well as the sampling frequency and analysis is responsibility of the Administrative Water Authority”.

SINGLE ORGANIZED TEXT OF THE REGULATION FOR THE GENERAL LAW ON SANITATION SERVICES - LAW No. 26338, APPROVED BY SUPREME DECREE No. 023-2005-VIVIENDA

“Article No. 4 - Definitions

Pursuant to the General Law and this Regulation, the following means:

1. Drinking water: It is the appropriate water for the human consumption, according to physical-chemical and microbiological requirements established in the regulation in force.

2. Wastewater: It is the liquid waste coming from the discharges for the water use in domestic activities or of any other kind.

3. Treated wastewater: It is the wastewater processed in treatment systems to meet the requirements of quality established by the health authority, with regard to the class of the receiving body to be discharged or to the possibilities for its use.

(...)

11. Service Provider Entity: the public, municipal, private or mixed EPS incorporated for the exclusive purpose of providing urban sanitation services.

12. Public Service Provider Entity: It is the EPS that is under the scope of the business activity of the State.

13. Municipal Service Provider Entity: It is the public EPS under private law that provides services within one or more provinces and which capital has been fully subscribed by the municipalities of the districts that take part in that or those provinces.

14. Private Service Provider Entity: It is the EPS which capital has been fully subscribed by natural persons or legal entities or that provide the service as a result of the private investment promotion process.

15. Mixed Service Provider Entity: It is the EPS which shareholding is subscribed in sixty- six per cent (66%) or more by natural persons or legal entities”.

“Article No. 5 - The following is responsibility of Province Municipality, in compliance with the General Law:

a) The responsibility of the provision of sanitation services throughout its province.

b) The incorporation of the municipal EPS, individually or associated to other province municipalities.

c) The granting of the right of exploitation of the sanitation services to the municipal, private or mixed EPS as well as the supervision of the compliance with the exploitation and concession agreement, as the case may be.

d) The application of the fees, in compliance with Article No. 35 of the General Law and this Regulation.

e) The assistance in the performance of the actions required to provide sanitation infrastructure in the locations lacking of these”.

“Article No. 6 - The province municipalities will provide the sanitation services through the municipal, private or mixed EPS incorporated for the exclusive purpose of providing such services, which shall have its own capital, functional and administrative autonomy as well as comply with the requirements set forth by this regulation”.

“Article No. 7 - The province municipalities and the national government, as the case may be, grant the right of exploitation to the municipal or public EPS through the exploitation agreements. The characteristics and basic conditions of the right of exploitation are governed by this regulation and the rules issued by the Governing Body in coordination with the National Supervisory Agency for Sanitation Services (SUNASS).

When one or more district municipalities incorporate or take part in one municipal EPS, they will be in charge of granting the right of exploitation, upon delegation of the corresponding province municipality. Likewise, the province municipalities, the district municipalities and the national government, as the case may be, shall grant the right of exploitation to the private and mixed EPS by means of the concession agreement, under the scope of the Supreme Decree No. 059-96-PCM, Single Organized Text of the legally binding rules governing the concession to the private sector of the public works of infrastructure and public services and amended rules.

When one or more district municipalities want to grant a concession of the sanitation activities to a private or mixed EPS, they will be in charge of granting the right of exploitation, upon delegation of the corresponding province municipality”.

“Article No. 8 - Two or more province municipalities will be able to grant the right of exploitation of the sanitation services within its jurisdiction to the EPS, for which the exploitation and concession agreement, as the case may be, shall be signed with the referred EPS in the cases and conditions contained in this regulation”.

“Article No. 9 - When a province municipality wishes to grant the right of exploitation to an EPS, outside of its jurisdiction, the EPS shall have the prior authorization of the General Meeting of Shareholders or General Meeting, as the case may be, for the execution of the pertinent exploitation agreement.

“Article No. 11 - The Ministry of Housing, Construction and Sanitation, acting as Governing

Body of the State in the matters related to the Sanitation Sector, in compliance with its Law on Organization and function, is responsible for the following:

- a) Establish, regulate, manage, coordinate, execute, supervise the national policy and actions of the sanitation sector as well as evaluate continuously its results, taking the corrections and other measures in each case.
- b) Exercise shared jurisdictions with the regional or local governments with regard to sanitation matters, in compliance with the law.
- c) Elaborate the National Sanitation Sector Plan and evaluate continuously its results, taking the corrections and other measures in each case.
- d) Promote the participation of the private sector in the sanitation sector.
- e) Draw up, propose and coordinate with the competent entities the execution of policies on prevention and mitigation of risks as well as the corresponding emergency declaration before those situations that put in an imminent risk the provision of the sanitation services.
- f) Generate the conditions to access to the sanitation services at appropriate levels of quality and sustainability in its provision, especially for the lowest-income sectors.
- g) Promote programs of technical and financial assistance for the provision of proper sanitation services to each rural village and for their implementation as well as programs of supervision and assistance for the running of these services.
- h) Promote the participation of community organizations and other providers in the investment, operation, maintenance, organization and modernization of the

sanitation services at rural level and in small towns.

- i) Promote the sanitary education of the population.
- j) Promote the technical assistance, training and scientific and technological research for the development of the sanitation services.
- k) Promote the development and maintenance of a basic information system of sanitation services at national level, in coordination with the Supervisory Agency and other entities related to such services.
- l) Coordinate any aspect related to the provision of sanitation services with the agencies responsible for the water as water resource.
- m) Manage and channel directly or by third parties the national and international financing to encourage the development and sustainability of sanitation services, satisfying the demands of the sector, meeting therefore the provisions in force with regard to international technical cooperation or public indebtedness, as the case may be.
- n) Perform the other functions in compliance with the law.

“Article No. 12-A - It is responsibility of the Regional Governments to provide technical and financial assistance to the Municipalities in the provision of sanitation services, in compliance with the Law No. 27867, Organic Law on Regional Governments”.

“Article No. 13 - The functions and powers conferred to the agencies of the Sanitation Sector shall be exercised without prejudice to those functions and powers that are in charge of other public agencies or sectors”.

"Article No. 17 - The levels of quality of the services in the EPS shall be established by the SUNASS, at least, for the following aspects of provision of service:

- a) Quality of drinking water.
- b) Continuity of service.
- c) Quantity of drinking water supplied.
- d) Modality of distribution of drinking water
- e) Modality of disposal of wastewater or elimination of excrements.
- f) Quality of effluent in a way this does not affect the conditions of the receiving body and the environment".

"Article No. 19 - The EPS must exercise continuously the quality control of the services they provide, in compliance with the pertinent rules, without prejudice to the controlling action of the SUNASS".

"Article No. 24 - In compliance with Article No. 5 and No. 7 of the General Law, the province municipality is responsible for the access and provision of sanitation services within its entire jurisdiction.

The EPS is any company which urban population, within its jurisdiction, is more than fifteen thousand (15,000) inhabitants.

The sanitation services in a province capital or in a district having an urban population more than fifteen thousand (15,000) inhabitants shall be necessarily provided by an EPS, being the province or district municipality, as the case may be, responsible for it.

To incorporate a public, municipal or mixed

EPS, it is necessary to have the authorization of SUNASS and of the Governing Body, for which the corresponding municipalities shall prove, at least, the financial and economic viability of the new EPS".

"Article No. 55 - The EPS, in compliance with the General Law and this regulation, shall have the following functions:

- a) The production, distribution and commercialization of drinking water as well as the collection, treatment and final disposal of wastewater, collection of storm water and sanitary disposal of excrements.
 - b) The operation, maintenance and renewal of the facilities and equipment used in the provision of sanitation services in accordance with the corresponding technical rules and this regulation.
 - c) The provision of services in the levels and conditions established in the Regulation for Provision of Services, the rule in force, in its pertinent exploitation agreement, concession agreement or other modality of private participation, as the case may be.
 - d) The elaboration and execution of the Optimized Master Plans.
 - e) The advice in technical and administrative aspects for the rural villages that are within its jurisdiction.
 - f) The approval and monitoring of projects to be executed by third parties within its jurisdiction.
 - g) Other functions that are established in the corresponding exploitation agreement, concession agreement or other modality of private participation, as the case may be".
- "Article No. 139** - The Province Municipalities

or the National Government, as the case may be, may grant a concession or other contractual arrangements to the private sector for the provision of one or more sanitation services, in full or in part, in the area of its jurisdiction.

"Article No. 169 - The district municipalities at rural level and with small towns, and, in a supplementary manner, the province municipalities are responsible for the following:

- a) Plan and promote the development of sanitation services within the scope of its jurisdiction in connection with the sectoral policies issued by the Governing Body.
- b) Manage the sanitation services through specialized operators, prior subscription of the relevant agreements, community organizations or directly, prior incorporation of a Management Unit inside of the municipality.
- c) Recognize and register the community organizations incorporated for the management of sanitation services.
- d) Promote the formation of community organizations for the management of sanitation services.
- e) Ensure the sustainability of the systems referred to in Number 25) of Article No. 4 of this Regulation.
- f) Take part in the financing of provision of sanitation services, in accordance with its budgetary availability.
- g) Provide technical assistance and monitor the community organizations that are within its jurisdiction.
- h) Solve as the final administrative resource the claims made by users for the provision of sanitation services.

i) Use the corrective measures that are necessary within the scope of the provision of sanitation services, regarding the non-compliance with the obligations by the Community Organizations and Specialized Operators within the scope of its pertinent agreements”.

“Article No. 183 - In case a village has a population between two thousand one (2,001) and fifteen thousand (15,000) inhabitants,, the municipality shall incorporate, as minimum, a management unit for the provision of sanitation services within the scope of its jurisdiction. The payment for the provision of sanitation services provided by the municipalities through the management units shall cover, at least, the costs of management, operation and maintenance as well as the replacement of equipment and infrastructure rehabilitation.

The incomes and expenses coming from the provision of sanitation services shall be independently managed and these may be only used for the provision of such services”.

“Article No. 183-A - In case the sanitation services in a district are provided by community organizations or specialized operators, the District Municipality and, in a supplementary manner, the Province Municipality shall create a technical area in charge of the monitoring, control and provision of technical assistance to such providers of services”:

LAW No. 27972 - ORGANIC LAW ON MUNICIPALITIES

Article No. 80 - Sanitation, Healthiness and Health

The municipalities, with regard to sanitation, healthiness and health matters, exercise the following functions:

1. Exclusive specific functions of the province municipalities:

1.1. Regulate and control the process of final disposal of solid, liquid waste and industrial discharging under the province scope. (...)

2. Shared specific functions of the province municipalities:

2.1. Manage and regulate, directly or by concession, the service of drinking water, sewage and drainage, public cleaning and treatment of solid waste, when by economies of scale it is efficient to centralize the service in the province. (...)

2.3. Provide the rural sanitation services when these may not be provided by the district municipalities or rural villages, and coordinate with them the execution of campaigns to control the epidemics and animal health.

2.4. Promote programs of environmental sanitation in coordination with the district municipalities and the pertinent regional and national agencies. (...)

4. Shared specific functions of the district municipalities:

4.1. Manage and regulate, directly or by concession, the service of drinking water, sewage and drainage, public cleaning and treatment of solid waste, when such municipality has the

capacity to do so.

4.2. Provide the rural sanitation services and coordinate with the municipality of the villages the execution of campaigns to control epidemics and animal health

SUPREME DECREE No. 003-2010-MINAM, SUPREME DECREE THAT APPROVES THE MAXIMUM PERMISSIBLE LIMITS FOR THE EFFLUENTS OF DOMESTIC OR MUNICIPAL WASTEWATER TREATMENT PLANTS

“Article No. 1 - Approval of the Maximum Permissible Limits (LMP) for effluents of Domestic or Municipal Wastewater Treatment Plants (PTAR, by its initials in Spanish).

Approve the Maximum Permissible Limits for effluents of Domestic or Municipal Wastewater Treatment Plants that are included in the Annex, which is an integral part of this Supreme Decree and may be applied at national level”.

“Article No. 2 - Definitions

For the application of this Supreme Decree, the following term shall be used:

- Domestic or Municipal Wastewater Treatment Plant (PTAR): It is the infrastructure and processes that allow the purification of Domestic or Municipal wastewater.
- Maximum Permissible Limit (LMP): It is the measure of concentration or grade of elements, substance or parameters, both physical, chemical and biological, that characterize an emission which causes or

may cause damages to the health, human welfare and environment if it is exceeded. Its compliance is legally required by the MINAM and the agencies that take part in the Environmental Management System.

- **Monitoring Protocol:** It is the procedures and methodologies established by the Ministry of Housing, Construction and Sanitation in coordination with the MINAM, which shall be complied in the execution of the Monitoring Programs”.

“Article No. 3 - Compliance with the Maximum Permissible Limits of Effluents of the PTAR

3.1. The LMP of effluents of the PTAR established in this rule take effect and are binding on the day following its publication in the Official Gazette “El Peruano”.

3.2. The LMP approved by means of this Supreme Decree shall not be applied to the PTAR with advanced preliminary treatment or primary treatment that have final disposal via underwater pipeline.

3.3. The holders of the PTAR that are in operation at the time this Supreme Decree takes effect and do not have any environmental certification, will have a period of no more than two (02) years starting from the publication of this Supreme Decree to submit before the Ministry of Housing, Construction and Sanitation its Environmental Remediation and Management Program; such authority shall establish the pertinent period of adaptation”.

3.4. The holders of the PTAR that are in operation at the time this Supreme Decree takes effects and have environmental certification, will have a period of no more than three (03) years starting

from the publication of this Supreme Decree to submit before the Ministry of Housing, Construction and Sanitation the update of the Environmental Management Plans of Environmental Assessment; such authority shall establish the pertinent period of adaptation”.

“Article No. 4 - Monitoring Program

4.1. The holders of the PTAR shall monitor their effluents, in compliance with the Monitoring Program, which was approved by the Ministry of Housing, Construction and Sanitation. The Monitoring Program will specify the location of the control points, the proper methods and techniques, as well as the parameters and sampling frequency for each of them.

4.2. The Ministry of Housing, Construction and Sanitation will be able to monitor other parameters that are not regulated in this Supreme Decree when there is no evidence of risk to the human health or environment.

4.3. It will be only valid the monitoring made in compliance with the Monitoring Program, established by the Ministry of Housing, Construction and Sanitation, performed by Laboratories accredited with the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI)”.

“Article No. 5 - Results of the monitoring

5.1. The Ministry of Housing, Construction and Sanitation is responsible for the management of the database of the monitoring of effluents of the PTAR; therefore, the holders of the activities shall periodically report the results of the monitoring of parameters contained in the Annex of this rule, in compliance with the Monitoring Protocol

approved by such Sector.

5.2. The Ministry of Housing, Construction and Sanitation shall prepare and send to the Ministry of Environment within the first ninety (90) days of each year a statistical report from the monitoring data submitted by the Holders of the PTAR the previous year, which will be made available to the public at the web page of both entities”.

“Article No. 6 - Enforcement and Penalties

The enforcement of the compliance with the LMP and other provisions approved in this Supreme Decree will be in charge of the competent controlling authority, where appropriate”.

REGULATION FOR ENVIRONMENTAL PROTECTION FOR PROJECTS RELATED TO THE ACTIVITIES OF HOUSING, URBAN PLANNING, CONSTRUCTION AND SANITATION, APPROVED BY SUPREME DECREE No. 015-2012-VIVIENDA.

“Article No. 5 - Sectoral authority

The competent sectoral authority in environmental matters at national level for the projects related to housing, urban planning, construction and sanitation is the Ministry of Housing, Construction and Sanitation, which is responsible for verifying the compliance and application of this Regulation, in line with the Law on SEIA and its supplementary rules. Its functions are as follows:

1. Prepare and update the pertinent sectoral environmental regulation for the application of the Sectoral Environmental Policy in line with the National Environmental Policy.

2. Conduct the Environmental Impact Assessment through the classification, review and approval of the environmental studies of the investment projects subject to the SEIA.
3. Approve the reference terms for the half-detailed and detailed the environmental impact assessment.
4. Grant the Environmental Certifications and other environmental authorizations in an exclusive or excluding form.
5. Issue the Environmental Certification of investment projects within the scope of the SEIA at national or multiregional level as well as those projects which characteristics and location may cause significant negative environmental impacts in the environment, in accordance with the List of Investment Projects and the provisions set forth by MINAM in application of Article No. 17 of the Regulation for the Law on SEIA.
6. Establish the mechanisms for access to the information and public consultation, both in the process of environmental impact assessment and in other required processes.
7. Require, where appropriate, the technical opinion of the competent authorities and consider them in the assessment or decision making.
8. Give technical opinion regarding the environmental management instruments and other supplementary instruments when required or when it deems necessary.
9. Prepare and approve the guidance and management instruments with regard to sectoral environmental matters, which shall have the satisfactory opinion of the MINAM.
10. Make, in coordination with the MINAM, the registration of environmental certifications conferred or denied within the scope of the Law

on SEIA and its Regulation.

11. Make the registration of the companies and entities responsible for preparing the environmental management instruments not involved in the SEIA.
12. While the MINAMM does not approve the Regulation for Registration of Entities Authorized to prepare Environmental Assessments within the scope of the SEIA, VIVIENDA shall make its sectoral registration.
13. Control the compliance with the sectoral environmental assessments at national level, without prejudice to the provisions set forth by the Law No. 29325, National Environmental Assessment and Enforcement System.
14. Request environmental information from the Regional or Local Governments.
15. Control the compliance with the provisions set forth by this Regulation”.

REGULATION FOR ORGANIZATION AND FUNCTIONS OF THE NATIONAL WATER AUTHORITY, APPROVED BY SUPREME DECREE No. 006-2010-AG

“Article 6 - Functions of the National Water Authority

The following is responsibility of the National Water Authority:

- (...)
- f) Grant, amend and extinguish, prior technical study, the water rights, authorizations for discharges and reuse water, approving when it deems necessary the implementation, amendment and extinguishment of water rights. (...)
- h) Give technical opinion binding for: the approval of the environmental management instruments involving the natural sources of

water; the granting of authorizations for the extraction of material brought from elsewhere and, with regard to the availability of water resources, for the granting of viability of the water infrastructure projects”.

(...)”

“Article No. 36 - Functions of the Administrative Water Authorities

The Administrative Water Authorities exercise within the scope of their jurisdiction the following functions:

(...)

- e) Grant authorizations for reuse of treated wastewater prior opinion of the competent sectoral authority in environmental matters, which will be proved through the corresponding environmental certification.

(...)”

HEAD'S ORDER No. 274-2010-ANA THAT ESTABLISHES MEASURES FOR THE IMPLEMENTATION OF WASTEWATER DISCHARGE AND REUSE ADAPTATION PROGRAM - (PAVER, by its initials in Spanish)

“Article No. 1 - Purpose of the Wastewater Discharges and Reuse Adaptation Program - PAVER

1.1. The purpose of the PAVER is the compliance with the provisions set forth by the Law on Water Resources of wastewater discharge and reuse in force that, at the effective date of said law, do not have the corresponding authorizations.

1.2. The process of adaptation is completed with the granting of the authorization for discharges and reuse of treated wastewater that meet the provisions of the Title V of the Law on Water Resources”.

MINISTRY'S ORDER No. 269-2009-VIVIENDA THAT APPROVES THE GUIDELINES FOR THE REGULATION OF SANITATION SERVICES IN THE SMALL VILLAGES

"Article No. 4 - Functions for the provision of sanitation services

4.1. National Government: The National Government through the Ministry of Housing, Construction and Sanitation is the Governing Body of the Sanitation Sector and is responsible for designing, regulating and executing the national policy and actions of the sanitation sector as well as other obligations contained in the corresponding rules. Likewise, it approves the National Sanitation Plan and allocates resources via financial transfer to the Regional Governments, Local Governments and Sanitation Services Provider Entities for they may execute the investment projects in sanitation.

4.2. Regional Government: The Regional Governments provide technical and financial assistance to the local governments in the provision of sanitation services.

4.3. Local Governments: The Local Governments have the specific function of managing and regulating, directly or by concession, the sanitation services when they has the capacity to do so, in compliance with the sectoral rules in force. The planning process of local public services is only responsibility of the local governments, in accordance with Article IX of the Preliminary Title of the Organic Law on Municipalities, Law No. 27972. The planning system has as principle the involvement of citizen and the consistency with the national policies, specialization of functions, competitiveness and integration. Likewise, the Province Municipalities are responsible for the provision of sanitation services, in accordance with the General Law on Sanitation Services, Law

No. 26338.

Finally, through the Arranged Municipal Development Plans and the Participatory Budgeting, such Governments define the local investments.

4.4. Sanitation Service Providers in Small Villages: The District or Province Municipalities provide sanitation services in small villages through the Management Units for the Provision of Sanitation Services incorporated under the scope of its jurisdiction or by Specialized Operators prior subscription of the agreements referred to in Article No. 177 of the Single Organized Text of the Regulation for the General Law on Sanitation Services, approved by Supreme Decree No. 023-2005-VIVIENDA and its amendments.

4.5. Technical Are of Sanitation Services: Pursuant to Article No. 183-A, incorporated by means of Article No. 2 of the Supreme Decree No. 031-2008-VIVIENDA that amends the Single Organized Text of the Regulation for the General Law on Sanitation Services, approved by Supreme Decree No. 023-2005-VIVIENDA, in case the sanitation services are provided by Specialized Operators, the District Municipality and, in a supplementary manner, the Province Municipality shall create a technical area in charge of supervising, controlling and providing technical assistance to such services providers.

4.6. It is expressly established that the planning, investment programs, allocation of resources and design of public policy with regard to local sanitation is the sole responsibility of the District and Province Municipalities without prejudice to those responsibilities of the Local and Regional Government.

4.7. The management is the sole responsibility of the abovementioned services providers, who may exercise it in full independence, in compliance

with the policies established for the development of sanitation services.

"Article No. 5 - Creation of the Technical Area for the provision of Sanitation Services

5.1. In the cases the Province and District Municipalities decide to delegate the provision of sanitation services to a Specialized Operator, they shall create a Technical Area for the provision of sanitation services.

5.2. Such Technical Area takes part from the beginning in the hiring process and then in the execution of the agreement; exercises the function of monitoring the compliance with the agreement entered into the Specialized Operator and the Province or District Municipality as well as the function of control, imposition of penalties and solution of conflicts and claims, in compliance with Article No. 7 of this rule.

5.3. The Technical Area for the provision of sanitation services will be established as the body of the Municipality and may be consisted of at least one (01) member, who shall prove experience in the provision of sanitation services. The composition of the members of such Technical Area may be extended, prior technical report of the Planning and Budget Area or who acts as such, in each Municipality. Likewise, the administrative organizational structure of the Municipality will be supported, among which is the internal auditing body, the public attorney general of the municipality, the office of legal counsel and the office of planning, budget, management, projects and works, among others".

"Article No. 8 - Functions of the District Municipalities and, in a supplementary manner, of the Province Municipalities

8.1. Regulatory function: Pursuant to the second

paragraph of Article No. 184 of the Single Organized Text of the General Law on Sanitation Services, approved by Supreme Decree No. 023-2005-VIVIENDA and its amendments, in the small villages, the calculation of the payment and its determination is responsibility of the Municipalities through the Municipal Council by means of the promulgation of the corresponding Ordinance, in accordance with Article No.40 of the Law No. 27972, Organic Law on Municipalities. The calculation of the payment will be made pursuant to the Annex IA, which is included in this document.

8.2. Supervisory function: The supervisory function allows the Municipality to verify the compliance with legal, contractual or technical obligations by the Management Units for the provision of Sanitation Services or by the Specialized Operator. Likewise, it allows verifying the compliance with any provision, order, ordinance and/or order issued by the Municipality itself.

The Municipality is responsible for monitoring:

- a) The compliance with the regulation for provision of sanitation services.
 - b) The execution of the agreements with Specialized Operators and the compliance with the obligations by the parties.
- (...)

8.3. Function of Control and Imposition of Penalties: This function allows the municipality to control and impose penalties and corrective measures for the non-compliance with the applicable rules, provisions issued by the Municipality or other entities related to the provision of sanitation services as well as the non-compliance with the obligations contained in some of the agreement which is referred to in Article No. 177 of the Single Organized Text of the Regulation for the General

Law on Sanitation Services. The function of control and imposition of penalties may be exercised by complaint *sua sponte* or by complaint by one of the parties to the action.
(...)"

"Article No. 9 - Involvement of the Civil Society

9.1. The civil society is involved through the Community Neighborhood Meetings in the monitoring of the provision of sanitation services, in accordance with the abovementioned article. It exercises the Monitoring in connection with the municipality, being the latter established, by the corresponding authorities, in the technical support of the Community Neighborhood Meetings.

9.2. The main function of the Community Neighborhood Meeting is basically to supervise the proper management of the services in charge of the Management Units or the Specialized Operators.

9.3. Pursuant to Article No. 116 of the Organic Law on Municipalities, the municipal council approves the regulation for organization and functions of the Community Neighborhood Meetings, where the general rules that have to be met are determined and detailed".

"Article No. 10 - Duties and responsibilities of the Governing Body

10.1. Apart from the duties and responsibilities contained in Article No. 168 of the Single Organized Text of the Regulation for the General Law on Sanitation Services approved by Supreme Decree No. 023-2005-VIVIENDA and its amendments, the Ministry of Housing, Construction and Sanitation, acting as Governing Body of the Sector, is responsible for the following.

10.2 Raise awareness of the problem in

the provision of sanitation services among the population in order to promote the creation of Management Units for the provision of Sanitation Services or the hiring of Specialized Operators.

10.3 Prioritize the resource allocation for the execution of investment projects in sanitation in Small Villages which have created Management Units for the provision of Sanitation Services or which have delegated it in Specialized Operators.

10.4. Keep an update register of the agreements entered into between the Specialized Operators and the Municipalities in order to be advised of the obligations of each party. For such purposes, the Municipality shall submit an authenticated copy of the executed agreement to the National Sanitation Bureau of the Ministry of Housing, Construction and Sanitation".

SUPREME DECREE No. 021-2009-VIVIENDA THAT APPROVES MAXIMUM ALLOWABLE VALUES (VMA) OF THE NON-DOMESTIC WASTEWATER DISCHARGES IN THE SANITARY SEWAGE SYSTEM.

"Article No. 1 - Purpose, scope of application and enforceability of the rule

This rule regulates by means of the Maximum Allowable Values (VMA) the non-domestic wastewater discharges in the sanitary sewage system in order to avoid the deterioration of the facilities, sanitary infrastructure, machinery, equipment, and ensure its proper operation, guarantying the sustainability of the sewage system and wastewater treatment.

The Maximum Allowable Values (VMA) are applicable at national level and have to be met by all the users that make non-domestic wastewater discharges in the sanitary sewage system; its compliance is required by all the sanitation service

providers entities (EPS), or by the entities carrying out its functions.

“Article No. 2 - Approval of the Maximum Allowable Values (VMA) for the sanitation sector

The Maximum Allowable Values (VMA) of the non-domestic wastewater discharges in the sanitary sewage system established in the Annexes No. 1 and No. 2 that are integral part of this rule should be approved.

The users whose discharges exceed the values contained in the Annex No. 1 shall pay the charge established by the competent body, which is complementary to the regulation of this rule, being able even to, in cases which are established in the regulation, suspend the service of sanitary sewage.

The parameters contained in the Annex No. 2 may not be exceeded; otherwise, the user will be subject to the suspension of the service”.

“Article No. 3 - Definition of the Maximum Allowable Values (VMA)

The Maximum Allowable Values (VMA) is the value of concentration of the physical and/or chemical elements, substances, or parameters that characterize a non-domestic effluent to be discharged in the sanitary sewage network, which may cause immediate or progressive damage to the facilities, sanitary infrastructure, machinery and equipment if it is exceeded; furthermore, it may negatively affect the processes of wastewater treatment”.

“Article No. 4 - Payment for exceeding the concentration in the discharges of non-domestic wastewater in the sanitary sewage systems.

The EPS, or those carrying out these functions, may

collect from the non-domestic users the additional payment, in compliance with the rule in force, corresponding to the excess of concentration of the parameters: Biochemical Demand of Oxygen (DBO5, by its initials in Spanish), Chemical Demand of Oxygen (DQO, by its initials in Spanish), Total Suspended Solids (SST, by its initials in Spanish), Oils and Fats (AyG, by its initials in Spanish), measured in the distribution box of the sewage network or a proper device for this process, in compliance with the procedure that will be established in the Regulation of this rule.

The methodology for determining the additional payments, due to the excess of concentration regarding the maximum allowable values, will be prepared and approved by the National Supervisory Agency of Sanitation Services (SUNASS) in a period no longer than the date the Regulation of this rule takes effect. Such methodology shall be incorporated in the Regulation for Service Provision corresponding to each EPS or the entities carrying out its functions”.

“Article No. 5 - Suspension of Sewage Service

The EPS or the entities carrying out its functions are empowered, pursuant to this rule, to impose the collection of the charges approved by the SUNASS and even suspend the sewage service in the cases established by the regulation whenever the Annexes No. 1 and No. 2 are violated”.

“Article No. 6 - Act of God or majeure force

When the non-domestic user, either act of god or majeure force, makes non-domestic wastewater discharges in the sanitary sewage systems exceeding the Maximum Allowable Values (VMA) contained in the Annex No. 2 of this rule, the EPS or the entities carrying out its functions will evaluate if the non-domestic user may be

temporary exempted from the scope of Article No. 5, in compliance with the regulation of this rule”.

“Article No. 7 - Control of non-domestic wastewater

The monitoring of concentration of parameters of non-domestic wastewater discharges in the sanitary sewage systems will be in charge of the EPS or the entities carrying out these functions, with the participation of laboratories duly accredited with INDECOPI. The payments shall be assumed by the non-domestic user in accordance with the procedure established by the competent body with regard to this rule. The collection of samples will be made in an unannounced manner, in compliance with the regulation of this rule”.

GENERAL REGULATION FOR THE NATIONAL SUPERVISORY BODY FOR SANITATION SERVICES, APPROVED BY SUPREME DECREE No. 017-2001-PCM

(...)

PROVISION OF SANITATION SERVICES: It is the business activity and the application of technologies, methods and procedures universally accepted for supplying drinking water and sanitarily discharge the excrements and wastewater of different people.

(...)

SANITATION SERVICE: It is the service of supplying drinking water, sanitary sewage as well as sanitarily discharging the excrements.

SUNASS: National Supervisory Body for Sanitation Services.

USER: Any natural person or legal entity using the SANITATION SERVICES in compliance with the regulation in force.

(...)”

"Article No. 14 - General Purpose of the SUNASS

The general purpose of SUNASS is to control, regulate, supervise and enforce, under the scope of its jurisdiction, the PROVISION OF SANITATION SERVICE, looking after, in an impartial and objective manner, the interests of the State, of the investments and of the USER."

REGULATION FOR GRANTING AUTHORIZATIONS FOR DISCHARGE AND REUSE OF TREATED WASTEWATER, APPROVED BY HEAD'S ORDER No. 224-2013-ANA

"Annex 1. Glossary of Terms

(...)

1.9. Industrial wastewater: It is the wastewater produced as a consequence of a production process, including the ones related to the mining, agriculture, energy, agro-industrial activities, among others.

(...)"

REGULATION FOR THE ORGANIZATION AND FUNCTIONS OF THE MINISTRY, APPROVED BY SUPREME DECREE No. 002-2002-VIVIENDA

"Article No. 29 - Vice-ministry of Construction and Sanitation

The Vice-ministry of Construction and Sanitation is the body responsible for formulating and adopting the general policies related to the construction of infrastructure and sanitation, in compliance with the directives set forth by the Ministry. The Vice-minister of Construction and Sanitation is in charge of it and he additionally executes the following functions:

a) Draw up, coordinate, execute, supervise and evaluate the policies of the subsector related to the construction of infrastructure and sanitation;

- b) Elaborate the policies and rules related to the construction of infrastructure and sanitation, in compliance with its scope of jurisdiction;
- c) Coordinate, guide and supervise the compliance of the policies related to the construction of infrastructure and sanitation made by the Entities of the Sector under its scope of jurisdiction;
- d) Promote and manage programs, projects and studies of construction of infrastructure and sanitation, environmentally balances, for the benefit of the population, in coordination with the local governments;
- e) Stimulate the participation of the private initiative and investment for generating the offer of construction of infrastructure and urban and rural sanitation services;
- f) Propose the Ministry to approve the Annual Investments Plan related to the construction of infrastructure and sanitation of the Entities of the Sector, programs and projects within its scope of jurisdiction;
- g) Carry out the actions that the law expects for the provision and recruitment of technical cooperation at national or international level for the development of projects for the construction of infrastructure and sanitation under its jurisdiction;
- h) Set up the technical and financial requirements that are not necessary for the development of projects under its jurisdiction;
- i) Give specialized technical assistance in the development of the projects of investments in economic and social infrastructure of the Regional Government when they request it;
- j) Coordinate the plans and actions, previous or posterior, in cases of disasters that, as part of the Multi-sectoral Commission of Prevention and Attention of Disasters, correspond to

VIVIENDA, according to the provisions set forth herein".

"Article No. 30 - Bodies of the Vice-ministry of Construction and Sanitation

The Vice-ministry of Construction and Sanitation has the following bodies:

- National Construction Bureau
- National Sanitation Bureau

Likewise, for administrative purposes and within the scope of its jurisdiction, it has a specialized coordination and assessment body:

- Office of the Environment"

"Article No. 33 - Office of the Environment

The Office of the Environment is the specialized coordination and assessment body of VIVIENDA, responsible for formulating and proposing the application of policies and rules, the supervision and control in the environmental impact caused by the activities of the Sector. For administrative purposes, it is under the scope of the Vice-ministry of Construction and Sanitation and functionally develops its activities in coordination with all the bodies of the Ministry and with the Entities of the Sector. It is managed by a Director, who is empowered to carry out the following functions:

- a) Propose, coordinate and evaluate the environmental policy of the Sector;
- b) Draw up, propose, evaluate and update the environmental regulation used in the Sector;
- c) Promote, systematize and diffuse the environmental studies and researches.
- d) Coordinate the evaluation, approval, control and audit of the studies on environmental impact and other environmental management tools for the activities of the Sector;
- e) Supervise and coordinate the enforcement and the measures to be adopted as a result

of the non-compliance with the obligations related to the application of the environmental regulation of the Sector;

- f) Make a list of all the entities authorized for the preparation of studies on environmental impact regarding the activities of the Sector;
- g) Promote, formulate and propose the mechanisms for citizen's participation in the environmental management of the sectoral activities;
- h) Draw up and update the diagnosis of the environmental situation of the urban and rural habitats at a national level, on the base of sustainability indicators;
- i) Coordinate with the National Environmental Council about the measures to be adopted for the development of the National Environmental Impact Assessment System in the Sector;
- j) Promote and maintain a permanent inter-institutional coordination and relation focused on strengthening the environmental management in the Sector;
- k) Carry out, within the scope of its jurisdiction, any other functions assigned by the Vice-Ministry of Construction and Sanitation”.

REGULATION FOR THE ORGANIZATION AND FUNCTIONS OF THE MINISTRY OF HEALTH, ANNEX, APPROVED BY SUPREME DECREE No. 023-2005-SA

“Article No. 50 - Ecology and Environmental Protection Bureau

The Ecology and Environmental Protection Bureau is in charge of the following general functions:

- (...)
- b) Monitor the quality of the water, air and soil

resources in order to identify if there are risks for the human health.

(...)

- h) Design and implement the discharge register and control system concerning their impact into the receiving body; as well as record and control the pesticides and disinfectants of domestic and industrial use as well as in public health.

(...)”.

“Article No. 51 - Basic Sanitation Bureau

The Basic Sanitation Bureau is in charge of the following general functions:

- b) Establish the sanitary technical rules of the water supply for human consumption; the management, reuse and discharge of domestic wastewater and disposal of excrements; the management of solid waste; and surveillance and control of arthropods vectors of transmissible diseases and important plagues into public health, within the scope of the regulation in force.

(...)

- d) Monitor the sanitary quality of the water and sanitation systems for the protection of the population's health.

(...)”.



ENVIRONMENTAL ENFORCEMENT IN WASTEWATER

First edition: April 2014

Agency for Environmental Assessment and Enforcement - OEFA

Printed by Billy Víctor Odiaga Franco

RUC: 10082705355

Av. Arequipa 4558 Miraflores - Lima

April 2014

Writing and Review Committee:

- Team of the Department of Supervision to Entities of the
- Team of the Office of Communications and Citizen Services

Credits:

AGENCY FOR ENVIRONMENTAL ASSESSMENT AND ENFORCEMENT - OEFA

The digital version of this document is available at www.oefa.gob.pe

www.oefa.gob.pe

Printing: 700 copies

The Legal Deposit was made at the National Library of Peru under No. 2014-05991





AGENCY FOR ENVIRONMENTAL
ASSESSMENT AND ENFORCEMENT

Environmental enforcement
for change

Av. República de Panamá 3542
San Isidro - Lima - Perú
(51 1) 713-1553
webmaster@oefa.gob.pe
www.oefa.gob.pe