

WASTE PICKERS

Welcome to this resource containing a summary of the regulatory framework regulating waste pickers. The main rules related to this sector are stated below.

Law No. 29419 (10/07/2009) regulating the activities of waste pickers

DEFINITION OF WASTE PICKER:

- This rule aims at establishing the legal framework for the development of recycling activities by the workers; it is aimed at the protection, training, as well as at the promotion of social and work development of this occupational sector; it fosters formalization of, and association within, this sector. It also contributes to improved, and environmentally efficient, solid waste management in the country (article 1). All of these objectives fall from within the framework of the objectives and principles of Law No. 27314 (General Law on Solid Waste), and Law No. 28611 (General Environmental Law).
- This law defines waste picker as persons who are engaged – dependently or independently– in activities of selective collection of materials for recycling, segregation and small-scale commercialization of non-hazardous solid waste, in accordance with the provisions of Law No. 2731 (General Law on Solid Waste).

INSTITUTIONAL ACTORS:

- This law recognizes waste pickers' activities, promoting their formalization and integration into solid waste management systems in all the cities across the country, through the General Directorate of Environmental Health (DIGESA) of the Ministry of Health and the Provincial Municipalities (article 2).
- Among the other institutional actors related to recycling that are mentioned are: the Ministry of Environment (the governing body for health policy related to the management and handling of solid waste), local, provincial and district governments (in charge of establishing policies and measures aimed at achieving an environmentally efficient solid waste management in their respective jurisdictions), waste pickers' associations (representative membership-based organizations of persons engaged in this activity) and solid waste service providers (EPS-RS, in Spanish) and traders of solid waste (EC-RS, in Spanish) (as private economic units engaged in the provision of solid waste services and commercialization) (article 4).

ORGANIZATION AND FORMALIZATION:

- According to the legal framework, waste pickers are included within local solid waste management systems. Therefore, it establishes that waste pickers' activities must be regulated by the local governments as governing bodies, within the framework of their powers; hence in virtue of those the powers vested in them, local governments are responsible for setting standards to promote the activities undertaken by waste pickers (related to non-hazardous solid waste), in coordination with waste pickers' associations registered in their jurisdiction.
- It also states that programs and projects related to the handling and management of solid waste implemented by local governments must include the activities of waste pickers. Thus, local governments must keep a registry of waste pickers' associations, whose members work within their jurisdiction, in order to grant them the corresponding authorization and certification, that must also serve to grant them access to the benefits that are created for them. As a result, formalized waste pickers included into the registry have the right to exercise their activities within the framework established by the Law in the analysis and its regulations, by the legislation on solid waste and the municipal bylaws (article 5).



SUMMARY OF THE REGULATORY FRAMEWORK PERTINENT TO WASTE PICKERS

- Local and regional governments have powers to promote waste pickers' and small and micro enterprises (EPS-RS and EC-RS) associations, specialized in the collection of materials for recycling and the commercialization of solid waste. Local governments also issue provisions to facilitate the incorporation of independent waste pickers to existing associations (article 6); and to promote the implementation of treatment plants inside the landfills, where organized waste pickers can sort recyclable waste for its commercialization (article 8).

HEALTH:

- It is stated that the Ministry of Health is responsible for gradually implementing vaccination and occupational health programs for this occupational sector in coordination with local governments (article 10). According to the provisions of Law 29344 (Legal Framework for Universal Health Insurance), universal health insurance is the result of the recognition of the Peruvian state of the right of all Peruvians to health from birth to death. Thus, waste pickers' universal health insurance will be regulated according to the provisions established by Law 29344 (Legal Framework for Universal Health Insurance) and its regulations in conformity with the gradual implementation that may take place.

TRAINING:

- Training programs for waste pickers should be promoted by the Ministry of Environment and local governments, in coordination with the Ministries of Education and Health, the regional governments, universities, specialized educational institutions and non-governmental organizations.
- Within this framework, the National Industrial Training Service (SENATI) established an educational and training program aimed at waste pickers across the country with the objective of making solid waste management environmentally efficient and technical. It is contemplated that similar programs can be developed by other educational institutions, given that in all cases the content of these programs is coordinated with the ministries of the Environment and Health (Article 9).

AUTHORIZATIONS:

- Authorizations and licenses granted to waste pickers by local governments must comply with legal standards to protect minors, pregnant women, people with disabilities and the elderly, and fall under social responsibility and be covered by social cost.
- Also, in terms of disease prevention, the Ministry of Health is encouraged to –gradually– implement vaccination and occupational health programs for waste pickers, in coordination with local governments (article 10).
- Noteworthy, for purposes related to the activities undertaken by waste pickers, their formalization or association, the National Environmental Fund (FONAM), in coordination with private institutions, is expected to create a special fund aimed at facilitating access to credit to this working group (article 11).

- Finally, the Ministry of Environment, in coordination with the Ministry of Education and other relevant entities, promotes educational and public communications programs, aimed at showing the social, environmental and economic benefits of the activities of segregation at source and recycling, stressing on the role of waste pickers in the process.

Presidential Decree No. 005-2010-MINAM (06/03/2010)

- By Presidential Decree No. 005-2010-MINAM, issued on June 3, 2010, the Regulations to Law No. 29419 (Regulating the activities of waste pickers) were approved.
- The regulations establish the features that personal protection equipment used by waste pickers should have. Therefore, the equipment used by formalized workers must be differentiated, according to the activities they perform, and are divided into two groups: a) waste pickers who carry out selective collection and transportation of solid waste, and b) waste pickers who undertake transformation activities inside of commercialization facilities and treatment of solid waste. For the first group, the mandatory personal protection equipment is: leather gloves, masks with rechargeable filters and closed shoes or sneakers which facilitate continuous movement. For the second group, this equipment includes: leather gloves to handle metals and glass (for other waste, nitrile gloves), masks with rechargeable filters, anti-fog glasses (adaptable to each waste picker's comfort), safety boots, helmet and ear plugs (in the case of solid waste transformation).
- Additionally, it specifies that all waste pickers performing selective collection activities and transportation of solid waste must have: a blue or navy blue uniform, made out of *drill* fabric, (one piece suit or shirt and pants; pregnant women they must wear a maternity overall) with reflective safety tape (2 inches wide, silver colour, located on the chest, back, waist and legs at the height of the knees), a cotton T-shirt, head protection (hat, cap or similar according to the characteristics of the region).
- Finally, in the case of waste pickers working on a contract (dependent), the personal protection equipment must be provided by their respective employers, without entailing any cost to the workers (articles 10 to 13).

OBSERVATIONS:

Although waste pickers are considered workers within the law on waste pickers, this law does not include the Ministry of Labour among the responsible government instances. It only includes the Ministry of Health, the Ministry of Environment and local governments, but not the Ministry of Labour and Promotion of Employment. This makes it difficult for the Ministry of Labour to have any powers to establish labour policies for this occupational sector.

As a result, this sector does not have a specific set of regulations for the protection of their labour rights such as the recognition of a working day and weekly rest, holidays and vacation, special bonuses, compensation for time of service, among others.

Likewise, the fact that the legislation on the occupational sector depends on the will of local governments, implies that the districts may have different behaviours and attention with regards to it. In some municipalities the activity is prohibited and in other districts they are even examples of good environmental practices. This leads to significant differences regarding the implementation of the law and regulations on a local level.



SUMMARY OF THE REGULATORY FRAMEWORK PERTINENT TO WASTE PICKERS

CONTENT OF THE FOLDERS:

FOLDER 1)

- MODIFICATIONS TO THE GENERAL LAW ON SOLID WASTE
- PRESIDENTIAL DECREE NO. 057-2004-PCM Approving the Regulations to Law No. 27314, General Law on Solid Waste (07.24.04)
- Law 27314 General Law on Solid Waste

FOLDER 2)

- D. S. 005-2010-MINAM Regulations to Law No. 29419 Law that Regulates the Activities of Waste Pickers
- Law No. 29419 (10/07/2009) Law Regulating the Activities of Waste Pickers)
- Directorial Resolution No. 003-2013-MTPE/3/19 Occupational Profile of Urban Waste Pickers