

## NOTARIZED LETTER

Lima, February 15, 2023

Misses

**Albina Ruiz Ríos**

Minister of Environment

Av. Antonio Miró Quesada 425 - Magdalena del Mar

c.c. Rosa Bertha Gutiérrez Palomino, Minister of Health

Of my highest consideration:

First of all, to convey our best wishes for the development of your administration as Minister of Environment and, to let you know our concern regarding the lack of compliance with important regulations related to the protection of air quality and the measures to be implemented due to the climate emergency. In this regard, we thank you for your consideration of two requests:

1. Approval of pending standards for the protection of air quality in Peru, reversing the setback in the level of protection from sulfur dioxide pollution and public dissemination of air quality in real time.
2. Implement priority climate emergency actions contained in Article 3 of Supreme Decree No. 003-2022-MINAM, whose deadline expired on October 19, 2022.

These two requests are closely related considering that the transformation to a clean energy matrix based on renewable energies will significantly reduce air pollution and greenhouse gas emission levels. At the same time, air standards and permissible limits must be properly enforced.

In this sense, considering the citizen powers granted by Article IV of the General Environmental Law, Law No. 28611, we hereby request that the following petitions be fulfilled as soon as possible:

- 1. Compliance with the mandate to approve pending air quality standards, reversing the decline in the level of sulfur dioxide protection, and real-time public air quality reporting**

- 1.1. Air pollution is one of the greatest environmental threats to human health, along with climate change. Effective measures to improve air quality enhance efforts to reduce emissions of climate-change gases that affect the climate.

Assessments on the main causes of death in Peru, conducted by the Ministry of Health (MINSa), ratify that acute respiratory infections are the leading cause of death, and it is attributed to particulate emissions generated by vehicles and other emission sources. In 2014, MINAM conducted a morbimortality study

(<https://repositoriodigital.minam.gob.pe/handle/123456789/76>) due to the effects of particulate matter concentrations, in which it points out the following:

- Up to 5071 hospital admissions per year were registered (for respiratory and cardiovascular conditions), which are attributable to air pollution.
- In terms of mortality, 1657 deaths per year are attributable to air pollution.

In addition, new World Health Organization guidelines recommend that attention be paid to managing air quality levels for six pollutants for which the most recent data on health effects are available. When emission levels of classic pollutants-suspended particulate matter (PM), ozone (O<sub>3</sub>), nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>) and carbon monoxide (CO)-are lowered, other harmful pollutants can also be lowered.

In several national plans for environmental quality standards and maximum permissible limits (plans approved in 2005, 2009, 2010, 2012, 2019 and 2021), a mandate was established to approve air quality standards and maximum permissible emission limits that have not been approved.

The description of these standards can be seen in the following table:

**Environmental air standards pending approval**

Type of environmental management instrument	First legal mandate approved	Time elapsed without approval	Last legal mandate approved
Maximum Permissible Limits for the Brick Manufacturing Industry	Ministerial Resolution N° 225-2010-MINAM	11 years	Ministerial Resolution No. 111-2021-MINAM
Maximum Permissible Limit For Foundry Emissions	Ministerial Resolution N° 121-2009-MINAM	13 years	
Maximum permissible emission limits for boilers and turbines	Presidential Resolution N° 089-2005	23 years	Supreme Decree No 020-2021-MINAM
Maximum permissible limits for steel industries	Presidential Resolution N° 089-2005	17 years	Supreme Decree No 020-2021-MINAM
Approval of the Environmental Air Quality Standard for Cadmium, Arsenic, Antimony, Bismuth and Thallium	Ministerial Resolution N° 121-2009-MINAM	13 years	
Approval of the Environmental Quality Standard for Volatile Organic Compounds	Presidential Resolution N° 089-2005.	22 years	Supreme Decree N°020-2021-MINAM

1.2. It is necessary to reverse the **setback** in health protection implied by raising the sulfur dioxide standard from 20/80 ug/m<sup>3</sup> to 250 ug/m<sup>3</sup> (micrograms per cubic meter) contrary to regional air quality protection policies (Intergovernmental Network on Air Pollution for Latin

America and the Caribbean, 2008) and international agreements to improve fuel quality as well as the latest WHO Guideline (2021) that recommends a standard of 40 ug/m<sup>3</sup>. The update of the 24-hour sulfur dioxide standard should be approved without delay.

It should be noted that this change was made within the context of the auction of the La Oroya Metallurgical Complex, (CMLO) with the assumption that by making the sulfur dioxide standard permissive in 2017 at elevated concentrations of 250 ug/m<sup>3</sup> for 24 hours of exposure to the population, interested investors could be attracted. This assumption proved to have no effect and the CMLO has finally been handed over in ownership to the workers. This constituted a serious setback in health protection and must be reversed as soon as possible.

Likewise, the approval of particulate matter less than 1 micron (PM<sub>1</sub>) is pending, which is essential for the preparation of inventories of greenhouse gas emissions, given the double effect that this pollutant has both in terms of health risk and climate change. This was established by Supreme Decree N° 020-2021-MINAM and the deadline is December 2023. Since these are pollutants of vital importance for public health and the long deadlines of the administrative procedures, we consider that it is necessary to accelerate the preparatory work for the approval of the updated sulfur dioxide standard and the new PM<sub>1</sub> particulate matter standard.

1.3. Regarding environmental information relevant to air quality, we emphatically request that the right of access to environmental information for citizens be fulfilled and that the state of air quality in Lima and other Peruvian cities be published in real time in a transparent manner, as is done in the vast majority of countries and cities in the world in order to protect the health of citizens. Having passed more than 12 years since the creation of the Ministry of Environment, in accordance with the provisions of the regulations of the National Environmental Information System (SINIA) approved by D.S.034-2021-MINAM and the Environmental Quality Index (INCA) approved by R.M. 181-2016-MINAM, it is essential to provide adequate public information in real time of the levels of air pollution in the country, through the necessary investment projects that lead to this end, so the population will be properly informed of the levels of air pollution in their city. For this purpose, the Ministry of Environment has prioritized 31 cities for their air quality protection approved with Ministerial Resolution 339-2012-MINAM. Therefore, it is necessary to fully apply the provisions of Article 35 of the General Environmental Law, which states as follows:

*Article 35.- National Environmental Information System*

*35.1 The National Environmental Information System - SINIA, constitutes a technological, institutional and technical integration network to facilitate the systematization, access and distribution of environmental information, as well as the use and exchange of information for decision-making processes and environmental management.*

## **2. We require the implementation of the priority actions for the climate emergency approved in Article 3 of Supreme Decree No. 003-2022-MINAM <sup>1</sup>**

The legal basis comes from Article 5 of Law 30754 (2018) on climate change which states: *"the Ministry of Environment is the national authority on climate change and the technical-normative authority at the national level on such matter within the framework of its competences; it monitors and assesses the implementation of the comprehensive management of climate change at the three levels of government, promoting the participation of the public sector, economic agents and civil society, in order to strengthen the comprehensive management of climate change and to sustainable development in harmony with nature."*

The actions established by S.D. 003-2022 expired in October 2022 and are:

### **a) By the Ministry of Environment:**

- Update the National Strategy for Climate Change with a vision to 2050.
- Design the process of reception, administration, and distribution of benefits, coming from different sources, national and/or international, that allows implementing the phases for the Reducing emissions from deforestation and forest degradation (REDD+), and assign the administration of the funds derived from this process to PROFONANPE.

### **b) By the High-Level Commission on Climate Change:**

- Propose mitigation and adaptation measures that make it possible to implement the Nationally Determined Contributions for a 40% reduction in greenhouse gas emissions and resilience to the adverse effects of climate change, respectively, in order to contribute to the reactivation of the economy, reduce socioeconomic gaps and poverty.

### **c) By the Ministry of Health:**

- Update the Tentative Programming of the Nationally Determined Contributions in Health Adaptation with a territorial approach together with the strengthening of the competencies of the human resources of the national health system for the implementation of the aforementioned Contributions.
- Approve the guidelines for the incorporation of risk management in a context of climate change in investments related to establishments in the health sector within the framework of the National System of Multiannual Programming and Investment Management, prior favorable opinion from the Ministry of Economy and Finance.

### **d) By the Ministry of Production**

- Approve the guidelines for the incorporation of risk management in a context of climate change in the investment projects of artisanal fisheries landings within the framework of the

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<sup>1</sup> On January 25, 2022, within the framework of the environmental emergency caused by the oil spill that occurred on January 15 at La Pampilla refinery in the district of Ventanilla, the Government approved Supreme Decree No. 003-2022-MINAM, which declares the climate emergency to be of national interest and establishes a series of specific commitments in this area.

National System of Multiannual Programming and Investment Management, prior favorable opinion of the Ministry of Economy and Finance.

**e) By the Ministry of Economy and Finance:**

- Assess the appropriate instruments for determining the carbon price and, based on this information, identify the actions required for its progressive application according to national circumstances.
- Support the efforts to promote the acquisition of electric vehicles (zero emissions) through tax policies aimed at favoring the introduction of said clean technologies that have been raised by the automotive unions and the MTC.

**f) By the Ministry of Energy and Mines:**

- Guarantee the use of non-conventional renewable energy resources in the electricity generation matrix, under competitive and efficient conditions, progressively increasing the new requirements with non-conventional renewable energy, according to the supply and demand of the electricity market, with a projection that non-conventional renewable energy resources reach 20% of the electricity generation matrix by 2030.
- Promote programs and policies on the efficient use of energy in the public, productive, service, residential, and transportation sectors.
- Design promotion programs for the development of technologies, use and production of green hydrogen.
- Implement programs to change the use of firewood, dung, coal, among other polluting fuels; by other clean energy sources for domestic use.
- Propose, within the scope of the "Multisectoral Commission for the Reform of the Electricity Subsector", with the participation of the Ministry of Environment, the regulatory framework for the increase in the use of non-conventional renewable energy resources in the electricity generation matrix, under competitive and efficient conditions, as well as other measures that promote the use of renewable energy.

**g) By the Ministry of Agrarian Development and Irrigation and the National Forestry and Wildlife Service (SERFOR):**

- Grant property titles to native communities, as well as, in coordination with the Presidency of the Council of Ministers, through the Secretary of Government and Digital Transformation, promote the use of georeferencing, interoperability, open data, certificates and digital signatures, creation of digital services and strengthening of regional governments in the matter, in accordance with the current legal framework on government, trust and digital transformation.
- Include the criteria related to adaptation and mitigation in the Action Plan for the development of the Second Agrarian Reform.
- Approve the Regulation of the National Forest and Wildlife Control and Surveillance System (SNCVFFS).
- Approve the criteria to establish mandatory strategic checkpoints at the national level.
- Approve the guidelines for the formation, recognition and operation of the Forestry and Wildlife Management Committees (CGFFS).
- Articulate actions from the national level with the regional levels, through the SNCVFFS, including satellite monitoring of impacts on forest heritage.
- Establish the actions for the development of the study of the Estimation of the index and percentage of logging and illegal trade of wood in Peru, in coordination with the Agency for the Supervision of Forest Resources and Wildlife, National Forestry and Wildlife Service,

and regional governments in alignment with the National Multisectoral Strategy to Combat Illegal Logging 2021-2025, approved by Supreme Decree No. 013-2021-MIDAGRI.

**h) By the Regional Governments, in coordination with the Ministry of Agrarian Development and Irrigation and with the competent authorities,**

- Establish prioritization criteria for the work with the Agrarian Agendas, or those that take their place in the Regional Governments in the Peruvian Amazon with the objective of regularizing the delivery of possession certificates, in accordance with the current forestry legislation.
- Implement the institutional, legal arrangements and technical guidelines that allow, in an efficient manner, to implement projects of natural infrastructure, planting and harvesting of water, mainly in the headwaters of the hydrographic basins vulnerable to climate change.

**i) By the Ministry of Transportation and Communications**

- Update the National Vehicle Regulations to promote the entry of electric, hybrid and green hydrogen-powered vehicles.
- Design the promotion mechanism for electromobility.

For compliance with said actions, the aforementioned Supreme Decree established a period of no more than 180 business days from its entry into force; the deadline of which was October 19, 2022.

We indicate Calle Pinos del Valle 235 second floor Lima 33 Peru as the street address, and [patricia.iturregui@pucp.edu.pe](mailto:patricia.iturregui@pucp.edu.pe) as the electronic address where notifications of this case will be sent.

The two requests presented respond to a citizen concern regarding the close link between the policies and instruments of environmental management related to air quality and mitigation of greenhouse gas emissions, therefore, we require the Ministry of Environment to consider immediate actions regarding the requests made. Likewise, most of the undersigned are young academics and activists concerned about the current climate crisis that will affect our generation and future generations.

We remain attentive to your kind reply, which may be sent to the following address: Calle Pinos del Valle N° 235, Second Floor – Santiago de Surco and/or to the email: [patricia.iturregui@pucp.edu.pe](mailto:patricia.iturregui@pucp.edu.pe).

Sincerely,

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