

FEDERAL REPUBLIC OF BRAZIL
(Framework)

Act No. 6.938,
August 31 1981

This Act regulates the National Environmental Policy, its aims, formulation and enforcement mechanisms and other provisions.

The President of the Republic

I announce that the National Congress decrees and I sanction the following Act:

Article 1. This Act, based on article 8, no 17, paragraphs c), h) and i) of the Federal Constitution, establishes the National Environmental Policy, its aims, formulation and enforcement mechanisms; the National Environmental System; the National Environmental Council and the Federal Technical Register of the Activities and Instruments of Environmental Protection.

The National Environmental Policy

Article 2. The National Environmental Policy has the aim of preserving, improving and recovering the environmental quality conducive of a healthy life, with a view to ensuring socio-economic development, the interests of national security and the protection of human life, according to the following principles:

1. Governmental action on the maintenance of the ecological stability, the environment being considered public heritage and therefore protected for public use.
2. Rationalised use of the soil, subsoil, water and air.
3. Planned and inspected use of the natural resources.
4. Protection of the ecosystems, with the preservation of representative areas.
5. Control and zoning of polluting activities.
6. Incentives to studies and research on technologies for the rational use and protection of the environmental resources.
7. Follow up assessments on the quality of the environment.

8. Recovery of degraded areas.
9. Protection of areas likely to become degraded.
10. Environmental education at all levels, including the education of the community, with the aim of enabling its active participation in the protection of the environment.

Article 3. Based on this Act, the following are described as:

1. Environment: the group of conditions, principles, influences and interactions of a physical, chemical and biological nature that enables, shelters and rules all forms of life.
2. Degradation of the quality of the environment: the adverse alteration of the characteristics of the environment.
3. Pollution: the degradation of the environmental quality resulting from activities that directly or indirectly:
 - a) Harm society's health, security and well being;
 - b) Result in unfavourable conditions to social and economic activities;
 - c) Adversely affect the environment;
 - d) Affect sanitary and aesthetic environmental conditions;
 - e) Release substances or energy that does not comply with the established environmental standards;
4. Pollutant: The physical or legal person, of public or private right, that is directly or indirectly responsible for any activity resulting in the degradation of environmental quality.
5. Environmental resources: the atmosphere, the inland, superficial and ground water, the estuaries, the territorial sea, the soil, the subsoil and the components of the biosphere.

Objectives of the National Environmental Policy

Article 4. The National Environmental Policy's objectives are:

1. To ensure that the socio-economic development takes place in harmony with the preservation of environmental quality and ecological equilibrium.
2. To define priority areas for governmental action concerning ecological quality and equilibrium, in agreement with the interests of the Federal Government, the states, the federal district, the territories and the municipal districts.

3. To establish criteria and standards for the quality of the environment and norms related to the use and management of environmental resources.
4. To develop national research and technologies aimed at rationalising the use of environmental resources.
5. To divulge environmental management technologies and environmental data and information, and to develop a public conscience regarding the importance of protecting the environmental quality and the ecological equilibrium.
6. To preserve and restore the environmental resources with a view to their rational use and permanent availability, ensuring the maintenance of the ecological equilibrium.
7. To obligate the polluter or any other harmful agent to recover or pay an indemnity for the damage caused, and the usuary to financially contribute in view of the commercial utilisation of environmental resources.

Article 5. The directives of the National Environmental Policy shall be formulated as plans and norms, aimed at guiding the Federal Government, the states, the federal district, the territories and the municipal districts in all matters related to the protection of the environmental quality and maintenance of the ecological equilibrium, according to the principles established in article 2 of this Act.

Single paragraph. The private or public enterprises shall act in agreement with the directives of the National Environmental Policy.

The National Environmental System

Article 6. The bodies and entities of the Federal Government, states, federal district, territories and municipal districts, as well as the foundations established by the State and responsible for the protection and improvement of the environmental quality shall be named the National Environmental System (NAENVSYS) which is structured as follows:

1. Superior body: The National Environmental Council- NAENVCO, with the responsibility of assisting the President of the Republic with the formulation of the directives of the National Environmental Policy.
2. Central body: The Special Secretary for the Environment- SEENV, linked to the Ministry for Home Affairs, and responsible for the promotion, supervision and evaluation of the implementation of the National Environmental Policy.
3. Sectorial bodies: The bodies and entities that are part of the public administration, as well as the foundations established by the State, which activities are, partially or completely, associated with the protection of the environmental quality or with the control of natural resource utilisation.

4. Sectional bodies: The states' bodies and entities responsible for the execution of programs and projects and for the control and inspection of activities potentially harmful to the environment.
5. Local bodies: The municipal bodies and entities responsible for the control and inspection of the above mentioned activities, in their respective jurisdictions.
- 1st. The states shall establish, within their scope and in their jurisdictions, supplementary norms and standards related to the environment, in compliance with those established by the NAENVCO.
- 2nd. The municipal districts, in compliance with the federal and state norms and standards, shall also establish the above mentioned norms and standards.
- 3rd. The central, sectorial, sectional, and local bodies mentioned in this article shall supply the results of the analyses carried out, if requested by legitimately concerned persons.
- 4th. In accordance with the legislation in force, the Executive Power is authorised to create a foundation for the technical and scientific support of the SEENV's activities.

The National Environmental Council

Article 7. The National Environmental Council - NAENVCO - is established. Its composition, organisation, responsibilities and mode of operation shall be regulated by the Executive Power.

Single paragraph: The following shall also be part of the NAENVCO:

- a) State authorities appointed in accordance with the regulations, or regional delegations, with the alternative appointment of a common representative and in addition, the guaranteed participation of a representative of the states legally proclaimed as seriously affected by pollution.
- b) Presidents of national industry, agricultural and commercial associations as well as presidents of the national associations of industry, agriculture and commerce workers.
- c) Presidents of the Brazilian Association of Sanitary Engineering and of the Brazilian Foundation for the Protection of the Environment.
- d) Two representatives of the legal associations for the protection of natural resources and for pollution control, to be nominated by the President of the Republic.

Article 8. The NAENVCO shall have the following responsibilities:

1. To establish, as proposed by the SEENV, norms and criteria for the licensing of polluting

activities, to be conceded by the states and supervised by the SEENV.

2. To determine, when necessary, the development of studies on the alternatives and the possible damage to the environment caused by public or private projects, requesting any relevant information from the federal, state and municipal government bodies, as well as from private entities.
3. To decide, at the highest court of appeal, by means of a preceding deposit to cover fines and other penalties imposed by the SEENV.
4. To accept agreements related to the change of monetary penalties into the obligation to carry out environmental protection measures (vetoed).
5. To determine, through representation by the SEENV, the loss or restriction of fiscal benefits, of a general or conditional character and the loss or suspension of participation in funding programs at official credit establishments, granted by the State.
6. To establish national norms and standards for the control of pollution caused by motor vehicles, aeroplanes and embarkation, by means of consultations with the responsible ministries.
7. To establish norms, criteria and standards related to the control and maintenance of the environmental quality with a view to the rational utilisation of the environmental resources, in particular the water resources.

The Instruments of the National Environmental Policy

Article 9. The following are instruments of the National Environmental Policy:

1. The establishment of environmental quality standards.
2. The environmental zoning.
3. The assessment of environmental impacts.
4. The licensing and revision of polluting activities.
5. The incentives to the production and installation of equipment and the development or incorporation of technologies for the improvement of the environment.
6. The establishment of ecological reserves and stations, animal and ecological protection areas, by the federal, states and municipal public authorities.
7. The national environmental information system.
8. The Federal Technical Register of the Activities and Instruments of Environmental

Protection.

9. The disciplinary and compensatory penalties resulting from the non-compliance with the measures required for the prevention and correction of environmental degradation.

Article 10. The construction, installation, extension and operation of establishments and activities that utilise natural resources, and are considered as effectively or potentially pollutant, as well as capable of causing environmental degradation, shall be licensed by the responsible state body, member of the NAENVSYS, without prejudice to any other required licenses.

1. The licensing requests, their concession and renewal shall be published in the Official State gazette, as well as in a regional or local periodical of high circulation.
2. According to the resolutions of the NAENVCO, the licensing described in this article is subject to acceptance by the SEENV.
3. The environmental state body and the SEENV, the latter in a supplementary capacity may, if necessary and without prejudice to the applicable monetary penalties, determine the reduction of the polluting activities, in order to maintain the gas emissions, the liquid effluents and the solid residues within the limits and conditions stated in the licensing.
4. The Federal Executive Power, having heard the state and municipal authorities concerned shall be solely responsible for the licensing stated in this article's 'caput' with regards to petrochemical complexes, as well as nuclear installations and others defined by law.

Article 11. The SEENV is responsible for proposing to the NAENVCO, the norms and standards for the establishment, follow up and inspection of the licensing covered by the previous article, as well as for the establishment of those created by the NAENVCO.

1. The inspection and control of the application of criteria, norms and standards of environmental quality shall be executed by the SEENV, in a supplementary capacity to the state or municipal responsible bodies.
2. The analysis of projects of public and private entities, that have the objective of protecting and recovering environmental resources affected by exploratory or polluting processes is part of the responsibilities of inspection and control.

Article 12. The financial and government incentive bodies and entities shall condition the approval of the projects entitled to such licensing benefits, according to this legislation, to the compliance with the norms, criteria and standards established by the NAENVCO.

Single paragraph. The bodies and entities referred to in this article's 'caput' shall ensure that the envisaged projects make provisions for the accomplishment of the work and the acquisition of the equipment required for the control of environmental degradation and for the improvement of environmental quality.

Article 13. The Executive Power shall encourage environmental activities with the aim of:

1. Developing research and technologies aimed at reducing the degradation of environmental quality.
2. Manufacturing anti-pollution equipment;
3. Any other initiatives conducive of the rational utilisation of environmental resources.

Single paragraph. The State bodies, entities and programs concerned with the encouragement of scientific and technological research, shall have amongst their most important objectives, the support to projects that aim at developing basic and applied environmental and ecological research.

Article 14. Without prejudice to the penalties defined by the federal, state and municipal legislation, the non-compliance with the measures necessary for the prevention and correction of the damages caused by the degradation of the environmental quality shall subject the transgressors to the following:

1. Single or daily fine, under the values corresponding to, at least (10) ten and at most one thousand (1000) National Treasure Re-adjustable Obligations - NTRO, aggravated in cases of specific recurrence, as stated in the regulations, its collection by the State being forbidden if it was previously collected by the states, federal district, territories and municipal districts.
 2. The loss or restriction of incentives and fiscal benefits granted by the State
 3. The loss or suspension of the participation in funding programs at official credit establishments.
 4. The suspension of its activities.
- 1st. Without prejudice to the penalties provided for by this article, the polluting agents are obliged to, independently of being guilty or not, indemnify or repair the damage caused to the environment and third parties, affected by their activities. The Federal Government's and states' Public Ministry shall be legally entitled to propose civil and criminal lawsuits for environmental damages.
 - 2nd. In the event of the absence or omission of state and municipal authorities, the Secretary for the Environment shall be responsible for the enforcement of the monetary penalties provided for by this article.
 - 3rd. For the events provided for by nos. 2 and 3 of this article, the declaration of loss, restriction or suspension shall be the responsibility of the administrative or financial authority that originally granted the benefits, incentives and credit, in accordance with the resolutions of the NAENVCO.
 - 4th. In the event of pollution caused by the spilling or the release of detriments or oil in

Brazilian waters by embarkations and maritime or fluvial terminals, the stated in order no 5,357, of November 17 1967 shall apply.

Article 15. The President of the Republic is the sole responsible for the suspension provided for by no 4 of the previous article, for a period of time exceeding 30 (thirty) days.

- 1st. The Minister for Home Affairs, through the proposal of the Secretary for the Environment and/or the incitement of local governments, shall be entitled to suspend the activities referred to in this article, for a period not exceeding 30 (thirty) days.
- 2nd. The decision reached based on the above paragraph may be petitioned with the aim of suspension, within a period of 5 (five) days, for the President of the Republic.

Article 16. The state, federal district, and territory governors shall be entitled to adopt emergency measures with the aim of reducing to acceptable limits or suspending for a period not exceeding 15 (fifteen) days, any polluting activity.

Single paragraph. The decision reached based on this article, may be petitioned, without the aim of suspension, within 5 (five) days, to the Minister for Home Affairs.

Article 17. It is established, to be managed by the SEENV, the Federal Technical Register of the Activities and Instruments of Environmental Protection. The subscription to the above is mandatory for the physical or legal persons that carry out technical consultancies on ecological and environmental issues and on the manufacture or commercialisation of pollution control equipment.

Article 18. The forests and other forms of protected natural vegetation referred to in article 2 of order no 4771 of September 15, 1965 - Forestry Code, and the habitats of bird species protected by conventions signed between Brazil and other countries shall become ecological stations or reserves under the responsibility of the SEENV.

Single paragraph. The physical or legal persons whose activities result in the degradation of ecological stations and reserves, as well as the degradation of other areas classified as of ecological importance, are subject to the penalties provided for by article 14 of this legislation.

Article 19. (Vetoed).

Article 20. This Act shall come into force on the date of its publication.

Article 21. The contrary dispositions are revoked.

JOAO FIGUEIREDO - PRESIDENT OF THE REPUBLIC
Mario David Andreazza.

Note: The terms State and states used in this text have the following meanings:

State = Federal Government;

states = political divisions of the Federal Republic.