

CHAPTER 11

ABIA STATE ENVIRONMENTAL PROTECTION AGENCY LAW

A Law to provide for the establishment, operation and functions of the Abia State Environmental Protection Agency and for matters connected therewith.

ABSN No. 7
of 1994; No. 7
of 1995

[27th July 1994]

Commence-
ment.

PART I – PRELIMINARY

1. This Law may be cited as the Abia State Environmental Protection Agency Law.

Citation.

2. In this Law, unless the context otherwise requires -

Interpretation.

“Agency” means the Abia State Environmental Protection Agency;

“air pollution” means air that contains one or more chemicals in high enough concentrations to harm humans, other animals, vegetation or materials;

“appropriate body” means the Ministry of Environment, Solid Minerals and Co-operatives, the Ministry of Agriculture and Rural Development, the Ministry of Works and Transport and the Ministry of Health and Social Welfare;

“authorized officer/Special Agent” means any employee of the Agency or any Police Officer not below the rank of an Inspector of Police or any customs officer;

“contaminant” means any solute or other material that upon contact or mixing with air, water or land or other elements, will adversely affect its purity as to cause pollution of the air (as in air-borne contaminants), water, land or in the case of any other elements will cause same to be impure;

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“council” means the Abia State Environmental Protection Agency Council;

“effluent” means any substance, particularly liquid that enters the environment from a point source and generally refers to waste water from a sewage treatment or industrial plant;

- "environment" means aggregate of external conditions that affect the life of an individual, organism or population;
- "environmental impact statement" (EIS) or Environmental Impact Report (EIR) is a decision-making tool that is meant to furnish scientific data on potential effect of a project on people and the environment;
- "fees" means the fees charged for refuse collection, removal, disposal and other like services rendered by the Agency under this Law;
- "General Manager" means the General Manager or Chief Executive of the State's Environment Protection Agency;
- "Governor" means the Governor of Abia State of Nigeria;
- "landfill" means a land waste disposal site that is located without regard to possible pollution of ground water and surface water due to run-off and leaching. Waste is covered intermittently with a layer of earth to reduce scavenger, disease, air pollution and aesthetic problems;
- "mobile court" means the mobile court already established under the Weekly Environmental Sanitation (Appointed Day) Law;
- "open dump" means land disposal site where wastes are deposited and left uncovered with little or no regard for control of scavenger, disease. Air pollution, water pollution or aesthetic problems;
- "pollution" means an undesirable change in the physical, chemical, or biological characteristics of the air, water or land that can harmfully affect the health, survival or activities of human or other living things;
- "refuse" means garbage, refuse or other discarded solid materials resulting from domestic, industrial, commercial or agricultural operations or from community activities;
- "refuse disposal" means the collection, removal, storage, treatment, utilization, processing or final disposal of refuse;
- "sanitary landfill" means land waste disposal site that is located to minimize water pollution from run-off and leaching; waste is spread in thin layers, compacted, and covered with fresh layer of soil, each day to minimize pest, disease, air pollution, water pollution and aesthetic problems;

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"secured landfill" means a land site for the storage of hazardous solid and liquid wastes, which are normally placed in containers and then buried underground, the location has restricted access, is continually monitored and is located above geological strata that should prevent any wastes from being leached into ground water;

"significant" or "significantly" means wherever it appears, potential to degrade the quality of the environment over a long term or potential for individual effect on the environment, though limited, to have great short-term cumulative effect;

"sludge" means solid matter, settling to the bottom of sedimentation tanks in a sewage treatment plant that must be disposed of by digestion or other methods or recycling to the land;

"watershed" means land area immediately bordering on streams, rivers, lakes and dam reservoirs or water-catchment area or drainage basin.

PART 2 – ESTABLISHMENT, MEMBERSHIP, FUNCTIONS AND POWERS OF THE ABIA STATE ENVIRONMENTAL PROTECTION AGENCY

3. (1) There is hereby established a body to be known as the Abia State Environmental Protection Agency, which shall be a body corporate with perpetual succession and a common seal with power to sue and be sued in its corporate name.

Establishment of the Agency.

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- (2) The Agency shall report directly to the Governor.
- (3) The Government shall as soon as possible after the commencement of this Law, encourage Local Government Councils to set their own Environmental Protection Bodies for the purposes of maintaining good environmental quality in the areas of related pollutants under their control subject to the provisions of this Law.
4. (1) There shall be as the governing body of the Agency a Council which shall consist of the following members:

Membership of the Council.

 - (a) the Secretary to the State Government who shall be the Chairman;

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- (b) the Commissioners charged with the responsibility for:
- (i) Agriculture
 - (ii) Works and Housing
 - (iii) Health
 - (iv) Finance
 - (v) Justice
 - (vi) Lands and Survey
 - (vii) Education
 - (viii) Trade and Industries
 - (ix) Environment, Solid Minerals and Cooperatives
 - (x) Local Government and Chieftaincy Affairs;
- (c) Two members from the private sector who have distinguished themselves in environmental matters; and
- (d) General Manager (ASEPA);
- (2) Where the Commissioner is unable to attend a meeting of the Council, the Permanent Secretary of the Ministry concerned may represent him at the meeting.
- (3) A member who is not a public officer shall:
- (a) hold office for a period of three (3) years in the first instance and shall be eligible for reappointment for a further term of two years.
 - (b) be paid such remuneration and allowances as the Governor may, from time to time, determine.
- (4) The supplementary provisions expressed in the First Schedule to this Law shall have effect with respect to the proceedings of the Agency and other matters therein mentioned.

5. The office of the member who is not a public officer shall become vacant if he:

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- (a) resigns his office by a letter addressed by him to the Governor through the Chairman of the Council; or
- (b) if the Governor is satisfied that it is not in the best interest of the Agency for such a member to continue in office as a member.

6. The agency shall, subject to this Law

Functions of
the Agency.

- (a) determine the condition of the State's environment, report on same and recommend new environmental policies and programs to the Governor;
- (b) appraise and co-ordinate the State's environmental programs and activities, while advising the Governor on environmental problems and solutions;
- (c) establish guidelines for the preparation of Environmental Impact Statements (EIS) or Environmental Impact Reports (EIR);
- (d) demand and process an Environmental Impact Statement or Environmental Impact Report for any legislation or project that is proposed for execution in the State by any local government or parastatal, where such legislation or project as financially sponsored, regulated or proposed by it, can significantly affect the environmental quality of the State. So however –
 - (i) non-compliance with the provisions of this subsection by any local government, State or Federal Ministry, department or parastatal shall attract a fine not exceeding ten thousand naira;
 - (ii) the agency shall issue "stop work order" on such project;
 - (iii) the agency shall seek legal injunction to block continued progress with any project where provisions of this sub section have been ignored by the offender;

- (iv) continuation of work on the project at the termination of period specified in the "stop work order" shall attract a fine not exceeding ten thousand naira for each additional day work is continued on such project in violation of this section;
- (e) demand and process an Environmental Impact Statement for any project that is proposed for execution in the State by any private individual, or public organization, body corporate or international organization where such project, as financially sponsored, regulated or proposed by, it can significantly affect the environmental quality of Abia State. So however, violation of the provisions of this sub-section shall attract the following penalties –
 - (i) an individual who contravenes this subsection shall be guilty of an offence and liable on conviction to a fine not exceeding ten thousand naira or to imprisonment for one year;
 - (ii) for a group of individuals, the penalty shall not exceed ten thousand naira fine for every individual who consented to the contravention. Subsequently, there shall be an additional fine of five hundred naira for each day work is continued on such project in violation of a "stop work order";
 - (iii) where offence has been committed by a body corporate, it shall be liable to a fine not exceeding five hundred thousand naira and an additional one hundred thousand naira for each day work is continued on the project in violation of a "stop work order";
- (f) prepare periodic master plans for the development of environmental sciences and technology and advise the State Government on the financial requirements for implementing the plans;

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- (g) promote co-operation and research in environmental organizations and Government agencies as well as Departments, Local Government Departments and other statutory bodies within and outside Nigeria;

6A (1) There is hereby established for the Agency a technical committee to be known as the State Environmental Protection Agency Committee, (hereinafter called the "Committee").

State
Environ-
mental
Protection
Agency
Committee.

(2) The Committee shall consist of the following members:

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- (a) the General Manager/Chief Executive of the Agency who shall be the Chairman;
- (b) three distinguished scientists having wide knowledge and expertise in biological sciences; engineering or environmental sciences to be appointed by the Chairman of the Council on the recommendation of the General Manager.
- (c) one representative from each of the following Ministries not below the rank of Permanent Secretary:
 - (i) Agriculture,
 - (i) Works, Housing and Transport,
 - (ii) Health,
 - (iii) Finance,
 - (iv) Lands, Survey and Urban Planning; and
 - (v) Commerce and Industry, and
 - (vi) Education
 - (vii) Justice
 - (viii) Environment, Solid Minerals and Cooperatives
 - (ix) Local Government and Chieftaincy Affairs.
- (d) Zonal head of the Federal Environmental Protection Agency (FEPA).

*Abia State Environmental Protection Agency Law*Functions of
the Committee**6B** The functions of the Committee shall be as follows:

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- (a) to assist and advise the Council and the Agency in the performance of their functions under this Law and
- (b) to give technical opinion on issues referred to it or delegated by the Council.

Powers of the
Agency**7.** In carrying out the functions prescribed in section 6 of this Law and in other provisions of the Law, it shall be lawful for the Agency to –

- (a) offer grants to suitable establishments and academic research institutions as to foster and promote the functions of the Agency and the provisions of this Law,
- (b) publish and provide basic scientific data through appropriate information media;
- (c) perfect or execute contracts and agreements with individuals, private, public and international organizations for the purpose of implementing and fulfilling its functions and responsibilities pursuant to this Law;
- (d) establish advisory bodies as the Agency may deem necessary in carrying out the provisions of the Law;
- (e) establish, encourage and promote educational and training programs for its staff and other appropriate individuals from private, public and institutional organizations;
- (f) establish procedures that will mitigate the potential adverse environment impacts of the various commercial, industrial, agricultural and public service activities in the State;
- (g) maintain a program of technical, research and educational assistance on environmental protection and management to and through private or public establishments;

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- (h) develop and promote such processes, methods, equipment, gadgets, and materials as may be deemed useful or incidental in implementing the purposes and provisions of this Law;
- (i) co-operate with the relevant Government department to ensure that the automobiles and other vehicles used for commercial transportation of persons in the State are in such structural and mechanical state as not to constitute undue hazard to people and the general environment, considering such factors as emission of exhaust fumes, ease with which doors could be opened as needed, ventilation, response to collision or other major and minor physical impacts.

8. Subject to the provisions of this Law, the State Government may give directions to the Agency on matters of general and specific nature and it shall be the duty of the Agency to comply in a manner that best protects the provisions of this Law.

Power of
State to
give
directions.

9. (1) There shall be appointed by the Governor a General Manager of the Agency.
- (2) The General Manager who shall be the Chief Executive of the Agency shall hold office on such terms and conditions as may be specified in his letter of appointment.
- (3) The General Manager shall be a person with fifteen (15) years post qualification experience, ten of which must have been at management level and with a bias for the biological and engineering sciences;
- (4) The Agency may appoint such other persons to be employees of the Agency as it may deem fit on such terms and conditions as may be determined by the Agency;
- (5) The Agency shall have powers to make, with the approval of the Governor, staff regulations governing conditions of service of its employees;
- (6) The Agency may grant loans to its employees for purposes approved by the Governor.

Appointme
nt of
General
Manager
and other
employees.

*Abia State Environmental Protection Agency Law*Pensions
(Cap. 346)

- 10.** (1) It is hereby declared that service in the Agency shall be public service for the purposes of the Pensions Act, and accordingly officers and all other staff of the agency shall in respect of their services be entitled to such pensions, gratuities and other retirement benefits as are prescribed thereunder.
- (2) For the purpose of the application of the provisions of the Pensions Act any powers exercisable thereunder by the General Manager or other authority of the State Government (not being power to make regulations under section 36 thereof) are hereby vested in and shall be exercisable by the Agency and not by any other person or authority.

Powers of
the General
Manager.

11. The General Manager shall, subject to the policies laid down by the Agency, develop programs to carry out the purposes and provisions of this Law and without prejudice to the generality of the foregoing, shall in particular and in consultation with the appropriate agencies -

- (a) establish programs for the prevention, control, and mitigation of pollution of the State's air, land and waters, as well as programs for the restoration and enhancement of the State's environment;
- (b) establish program for the protection and management of the State's fragile ecologies and geologies, marine resources, wild life, threatened and endangered species and wilderness areas;
- (c) establish programs for the protection, preservation and conservation of the State's natural resources;
- (d) establish programs for the protection and preservation of the State's cultural, religious and archaeological heritage as well as its historical sites;
- (e) conduct public enquires and investigations on matters surrounding contraventions of the provisions of this Law.

Power of
the agency
to accept
gifts, etc.

- 12.** (1) Subject to sub-section (2) of this section the Agency may accept gifts, grants, books, audio visuals, money, land, other technical gadgets and materials from local and international

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donors upon such terms and conditions as may be specified by the donor.

- (2) The Agency shall not accept any gift where the conditions or terms of donation attached thereto by the donor are inconsistent with the functions of the Agency as stipulated under this Law.

13. For the purposes of providing residential accommodation for its staff, offices and premises as may be deemed necessary for the performance of its functions under this Law, the Agency may -

Right of occupancy, residence, offices and premises.

- (a) be granted statutory right of occupancy or be assigned any interest on real estate property;
- (b) build or develop in any form, furnish, equip and maintain residential quarters, officers and premises;
- (c) alienate any rights as acquired in sub-section (a) of this section with the written consent of the Governor, as may be deemed necessary in the execution of the functions of the Agency.

14. (1) The Agency shall establish and maintain a fund from which shall be defrayed all expenses incurred by the Agency in the performance of the Agency's duties and functions under this Law.

Funds of the Agency.

- (2) There shall be paid and credited to the fund established under sub section (1) of this section -
- (a) such sums as may, periodically, be granted to the Agency by the State and Federal Governments or by the Federal Environmental Protection Agency ;
 - (b) all monies raised for the purposes of the Agency by way of gifts, grants-in-aid, testamentary disposition and sale of publications; and
 - (c) monies from subscriptions, as well as fees and charge from all other services rendered by the Agency and all other sums that may accrue to the Agency from any other source.

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- (3) The Agency may invest any of its surplus monies in such securities as may be permitted or approved by the Governor.

Borrowing
powers.

15. The Agency may, with the consent of the Governor or in accordance with the general authority given by the State Government, borrow by way of loan or advances from any source, any monies required by the Agency to meet its obligations and functions under this Law, provided that the amount so borrowed does not exceed the amount so approved over the period for the Agency by the State Government.

Annual
estimates,
Accounts
and Audit.

- 16.** (1) The Agency shall, within six months prior to the end of each financial year, prepare an estimate of its expenditure and projected income for the succeeding financial year.
- (2) The Agency shall keep and maintain proper accounts and records in relation thereto and when certified by the Agency, such accounts shall be audited as provided in sub section (3) of this section.
- (3) The accounts of the Agency shall be audited annually and as soon as may be practicable following the end of each financial year by an external auditor from a list of auditors qualified to be appointed as external auditors submitted to the Agency by the State Auditor-General.
- (4) The list shall provide a guideline on the level of fees to be paid to external auditors.
- (5) The State Auditor-General shall comment on the annual accounts of the Agency and the auditor's report thereon.
- (6) The State Auditor-General shall thereafter submit his report on the audited accounts of the agency to the Chief Executive of the State.

PART 3 – STATE ENVIRONMENTAL STANDARDS

State water
quality;
effluent
limitations
standard.

- 17.** (1) The Agency shall set an interim goal of making all state waters safe for fish, wildlife and people.
- (2) The Agency shall establish a State effluent water standard and non-compliance with the State effluent water standard shall attract a fine not exceeding five hundred thousand naira.

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- (3) The Agency shall mandate all rural and urban towns within each local government council within the State to use secondary sewage treatment, and all industries to use the best practicable technology (BPT) for treatment of all effluents.
 - (4) Any local government council or industry that fails to comply with the provisions of sub section (3) of this section by a date that is to be specified by the Agency by regulation shall be liable to a fine not exceeding fifty thousand naira and an additional five thousand naira fine for each year it takes the Local Government Council or industry to remedy the contravention.
 - (5) In addition to sub section (4) of this section, the Agency shall enforce a zero discharge of such effluents into the State's water, rivers and lakes.
 - (6) Continued discharge of effluents into the State's waters, rivers and lakes in violation of the provisions of this section shall attract additional fine not exceeding one hundred thousand naira.
 - (7) The Agency shall have the State and Local Government Councils and industries, corporate bodies and companies provide funds for cleaning-up of already polluted waters, rivers, and lakes.
 - (8) Industries, corporate bodies and companies whose activities stress the environment shall pay to the Agency such stress fees as may be determined by the Agency.
18. (1) The Agency shall regulate, monitor and introduce modern methods of solid waste management while discouraging and eliminating the use of open dumps. Solid waste.
- (2) The Agency shall administer research on better methods of solid waste management, including resource recovery and conservation.
- (3) The Agency shall monitor and provide technical assistance to State and Local Government Councils for developing and maintaining comprehensive environmentally sound programs

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for waste disposal, resource recovery and resource conservation.

- (4) The State or any Local Government Council that fails to develop and maintain an environmentally sound waste management plan, by a date that is to be specified by the Agency by regulation, shall be liable to an annual fine not exceeding fifty thousand naira for each year it is in default.
- (5) By the provisions of this Law, every household and operator of business premises is required to properly contain all wastes generated by him in a suitable garbage or trash container for regular collection by the appropriate Waste Disposal Authority and-
 - (ā) any person or household who contravenes the provisions of this subsection shall attract a fine not exceeding two thousand naira;
 - (b) any organization, body corporate, institution or company that contravenes the provisions of this subsection shall attract a fine of at least five thousand naira, but not exceeding ten thousand naira.
- (6) It shall, therefore, constitute an offence under this Law for any person to litter within the confines of the State's environment and any violation shall attract a fine of two hundred naira.
- (7)
 - (a) The Agency shall enforce, in collaboration with the appropriate authority, the collection, removal and disposal of refuse and good general environmental sanitation of the State;
 - (b) "Appropriate authority" in this subsection refers to the particular Local Government Area in which the refuse is collected, removed and disposed of
- (8)
 - (a) The Agency shall assess and ensure that every privately owned house or tenement, industrial or business premises indicated in column 2 of the Second Schedule to this Law pays to it the corresponding rate in column 3 of the same Schedule;

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- (b) The Agency shall collect the rates in column 2 of the Second Schedule to this Law itself or through appointed agents, which may be individuals, companies or organizations.
- (9) (a) Subject to the provisions of this Law the Agency for the purposes of carrying out its functions under subsections (7) and (8) of this section may, with the approval of the Governor appoint agents, which may be individuals, companies or organizations and delegate such functions to the agents;
- (b) Such agents shall have the requisite technology and equipment for collection, removal, storage, treatment, utilization, processing, and final disposal of refuse to designated land-fill sites.
- (10) (a) Any person or individual in any privately owned house or tenement who contravenes the provisions of subsection (8) of this section shall be summarily tried before a mobile court and upon conviction, be liable to pay on the spot the prescribed rate in column 3 of the Second Schedule to this Law including payment of the corresponding fine in column 4 of the same schedule;
- (b) A General Manager, Officer or other person concerned with the management of any establishment, organization, industry, corporate body, institution, business or company which contravenes the provisions of subsection (8) of this section shall be summarily tried before a mobile court and upon conviction be liable to pay on the spot the prescribed rate in column 3 of the Second Schedule to this Law including payment of the corresponding fine in column 4 of the same Schedule;
- (c) For a continuing offence under subsection (8) of this section, such offender shall pay for every month he remains in default, the corresponding fine contained in column 4 of the Second Schedule to this Law;

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- (d) No provision in this section shall be deemed to preclude a Magistrate's court from exercising jurisdiction on any offence created under this section.

Control and
management
of toxic and
hazardous
waste.

- 19.** (1) The Agency shall be tasked to identify toxic and hazardous wastes and set standards for their management.
- (2) The Agency shall control usage, manufacture and disposal of specific toxic and hazardous substances.
- (3) It shall test and certify the safeness of new chemicals prior to granting approval for their usage, manufacture, sale, and disposal in the State.
- (4) Sales or manufacture of any substance that the Agency has certified as toxic, hazardous, injurious to human health, or as having other unacceptable adverse environmental impact shall attract a fine not exceeding one hundred thousand naira where the defaulter is a body corporate, organization, company or institution or the value of sales or manufacture is in excess of or equal to ten thousand naira in the case of an individual.
- (5) Any contravention of the provisions of this section by a person or group of persons shall, upon conviction, attract a fine of two thousand naira on each person and imprisonment for one year or both.
- (6) The Agency shall prohibit and enforce compliance against use of substances which the Agency believes may present unreasonable risk of injury to health or the environment.
- (7) Where any defaulter under provisions of this section is required by a court to pay compensation to any person, such compensation shall be paid by the said defaulter irrespective of the fine provided for and to be paid by the defaulter.
- (8) Where such toxic or hazardous substances, including radioactive substances, have been illegally discharged, disposed, or buried within the State's environmental boundaries, the Agency shall direct and supervise the clean up and restoration of such impacted environment to a standard comparable to its prior status as will be reasonably

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assessed and determined by the Agency. Such clean-up and restoration shall employ the best available technology (BAT). This provision is however subject to the provisions of the Harmful Waste (Special Criminal Provisions, etc.) Act.

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- (9) Illegal discharge or disposal of toxic, hazardous or radioactive wastes in the State contrary to the provisions of subsection (8) of this section shall attract a fine not exceeding five hundred thousand naira (N500,000.00). In addition to paying the above fine, the defaulter shall be made to provide the cost of clean-up and restoration of the site that has been polluted by the discharge or disposal of such waste.
- (10) Generators of toxic and hazardous wastes are by the provisions of this Law required to declare same to the Agency for documentation and proper disposal in a secure landfill.

20. (1) The Agency shall co-operate with such international organizations as the World Wildlife Fund International (WWF-I) and the International Union for the Conservation of Nature and Natural Resources (IUCN) and will require the State and Local Government Councils to set aside key tracts of undeveloped land as wilderness free from being untrammelled by humans.

Conservation and preservation of land.

(2) The Agency shall project that some land should not be used or developed in order to preserve their beauty and ecological health as well as the cultural, historical, religious, and archaeological treasures on them.

(3) The Agency shall in collaboration with the State Ministry of Works and Transport and Umuahia Capital Development Authority and other planning and development authorities in the State, demand and process Environmental Impact Statements –

- (a) prior to approval and issuance of Construction Permits for some projects as will be specified by the Agency by regulations;

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- (b) prior to acquiring land for any project that will have a significant impact on the State's environment.
- (4) Any person in violation of the provisions of subsection (3) of this section, obtains or aids the issuance of a Construction Permit without the requisite Environmental Impact Statement as may be required under this Law or any other regulation hereunder shall be liable to a fine of ten thousand naira or to imprisonment for a term of one year or both.
- (5) Where the Construction Permit was so obtained by a body corporate, an organization, institution or company, it shall be liable to a fine not exceeding six hundred thousand naira.
21. (1) The Agency shall in collaboration with the appropriate body, seek and oversee the protection of all gully/sheet erosion and the various watershed areas in the State and shall designate such areas as green belt. All such areas shall be published in the State gazette and shall be pasted in conspicuous places in the areas concerned to aid easy identification and such green belt areas shall –
- (i) in densely populated areas be within 200 metres from the rim of the gully/sheet erosion or watershed;
- (ii) in other areas, within 200 metres from the rim of the gully/sheet erosion or each bank of the watershed.
- (2) The Agency shall prevent any form of farming and construction activities along the slopes and river banks of the State.
- (3) The Agency shall seek and oversee the protection of the wild and scenic free-flowing rivers in the State.
- (4) Save as may be permitted under the Forest Law of Abia State of Nigeria, or any other enactment, a green belt shall remain permanent under vegetation.
- (5) In order to combat natural disasters such as flooding, soil and wind erosion, stream siltation/dessiccation and drought, indiscriminate tree dessiccation and drought, indiscriminate tree felling, any form of farming, quarrying, excavation, road design, building construction or any other form of

Protection of
fragile
ecology,
management
of land
degradation
and watershed
rehabilitation.

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construction are hereby prohibited in green belt areas and in any other area so designated by the Agency in collaboration with the appropriate body.

- (6) The Agency shall oversee the reclamation and restoration of all ecologically damaged, eroded, subsided, slumped, collapsed or instabilized land in the State.
- (7) The Agency shall issue such guidelines for such reclamation and restoration.
- (8) (a) Any person who –
 - (i) contravenes;
 - (ii) attempts to contravene; or
 - (iii) aids or abates or counsels or procures any other person to contravene,
 any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand naira or to imprisonment for a term of five years or both.
 - (b) Where a body corporate, organization or company –
 - (i) contravenes;
 - (ii) attempts to contravene; or
 - (iii) aids or abates or counsels or procures any other person; body corporate, organization or company to contravene,
 any of the provisions of this section shall be liable to pay a fine not exceeding five hundred thousand naira.

- 22. (1) The Agency shall demand and process an Environmental Impact Report (EIR) prior to authorizing such exploratory activities as mining, drilling and strip mining.
- (2) Any contravention of sub section (1) of this section shall attract a fine not exceeding nine hundred thousand naira for every site that is mined or drilled without an Environmental Impact Report (EIR)

Environmental Impact Reports (EIR) for mining, etc.

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of riparian
forests, etc.

23. (3) Where the offence is committed by a person for a small scale strip mining or other surface mining, he shall be liable to a fine of not exceeding twenty thousand naira.
- (4) A person, body corporate, organization, institution or company that refuses to comply with the Agency's directives on restoration of land following exploration, is guilty of an offence and shall upon conviction be liable to a fine which shall not exceed one and a half times the cost of restoring such land, but shall not exceed five hundred thousand naira.
- (5) The Agency shall regulate, enforce and oversee restoration of all land in the State following any mining, drilling or strip mining activities.
- (1) The Agency shall develop programs for protecting the State's riparian forests, wetlands and coastal zones.
- (2) It shall develop plans to establish wildlife sanctuaries in collaboration with organizations like the World Wildlife Fund International (WWF-I).
- (3) Abuse of a protected or preserved area or any action that adversely impacts on or is capable of impacting adversely on same shall attract a fine, the total sum of which shall not be less than the sum of quantified value of such adverse effect and the cost of mitigating the said effect as is reasonably assessed by the Agency.

Ambient
and effluent
air quality.

24. (1) The Agency shall establish and enforce State ambient and effluent air standards for the major air pollutants.
- (2) Such enforcement shall be by -
- (a) impoundment of polluting sources; and
- (b) closure of such facilities.
- (3) Any contravention of the effluent air quality standard shall attract the following penalties from the Agency -
- (a) closure and impoundment of the polluting source until measures to mitigate or repair the polluting potentials of the polluting source are effected;

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- (b) a daily storage fee of one hundred naira which shall be charged on each impounded item.
- (4) Any person, organization, body corporate, institution or company found guilty under the provisions of this section, shall be liable upon conviction to a fine not exceeding five hundred thousand naira.
25. (1) The Agency shall as soon as possible, subject all automobiles in the State to annual pollution emission inspection which may be a requirement for renewal of automobile licences in the State. Pollution
emission
inspection.
- (2) Any body who contravenes this section or anybody who aids the contravention of this section shall pay, a fine not exceeding five thousand naira or upon conviction, an imprisonment term of one year or both.
- (3) Compliance with this section shall be enforced by -
- (a) spot checks on suspected culprits; and
- (b) impoundment and mandatory repairs. All the expenses incurred by ASEPA in the discharging of its duties shall be defrayed by the Agencies visited.
26. (1) The Agency shall -
- (a) set maximum permission sound pressure levels for construction equipment, transportation equipment and all motors, engines, and electrical equipment slated for use and manufactured in the State; Noise
control
and
standards
- (b) require and enforce that all such products manufactured and imported for usage in the State are labelled according to the amount of noise they produce as rated in decibels (dB);
- (c) non-labelling of products and equipment with their associated noise level in decibels (dB) as required under this sub-section shall lead to impoundment of such product and -

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-
- (i) there shall be a daily storage fee of one hundred naira on each impounded item; and
 - (ii) the operator or manufacturer of the product or equipment that is so impounded shall be liable to a fine of two thousand five hundred naira;
 - (d) administer research on noise and noise control;
 - (e) control and enforce control of noise emanating from all industries and commercial operations, as well as domestic, religious, cultural, political and recreational activities;
 - (f) control and enforce control of noise resulting from commuters in all forms of automobile or other mobile vehicles.
- (2) (a) A commercial or industrial operator that produces noise above the Agency's ambient noise limit for its operation without adoption of approved mitigations to attenuate such noise shall be liable to a fine not exceeding fifty thousand naira and subsequently, to an additional fine of ten thousand naira for each month it takes it to implement the Agency's directives following notification by the Agency;
- (b) failure of residents of a residential neighbourhood to contain their noise to a peak of 65th - 70dB with rare peaks of 80dB shall constitute an offence punishable by fine of one thousand naira for each offence committed;
 - (c) religious organizations, cultural, political, recreational and commercial groups are by the provisions of this Law restricted to confine all noise emanating from their constitutional activities to the boundaries of their legally allotted or rented premises;
 - (d) a person acting on his own accord or as an agent of any of the aforementioned groups under this sub section who contravenes the provisions of this sub-section shall, upon conviction be liable to a fine of

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one thousand naira or an imprisonment term of one year or both;

- (e) any commuter bus operator who permits sales of products in his bus while such bus is in operation or being driven, shall be liable to a fine of five thousand naira or imprisonment term of one year or both, and five hundred naira fine for every subsequent offence.

- (3) Any contravention of the provisions of this section or the engagement of any sound or noise boosting methods or gadget, including shouting to produce sound or noise in excess of 75dB with a rare peak of 80 db, shall constitute an offence under the provisions of this Law or any other regulations made hereunder and shall attract a fine not exceeding fifty thousand naira. The Agency, shall have powers to impound any gadget or equipment that has aided the above contravention.

PART 4 – ENFORCEMENT POWERS

- 27. For the purposes of enforcing the provisions of this Law, any authorized officer/special agent may without warrant -

Powers to
inspect, etc.

- (a) require to be produced, examine and inspect and take copies of and impound or confiscate any licence or operator's document required under this Law or any regulations made thereunder;
- (b) require to be produced, examine and inspect any appliance, equipment, device or other item used in relation to the provisions of this Law or any regulations made thereunder.

- 28. (1) any Authorized Officer/Special Agent, where he has reasonable grounds for believing that an offence has been committed or is being committed under this Law or any other regulation made thereunder, may without warrant -

Powers to
enter, seize
and arrest.

- (a) enter and search any land, building, vehicle, tent

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believe that an offence against this Law or any regulations made thereunder, is being or has been committed;

- (b) conduct tests and collect specimens of any substances relating to the offence which are found on the land, building, vehicle, tent, vessel, floating craft or any inland water or other structure whatsoever, searched pursuant to paragraph (a) of this sub section;
 - (c) cause to be arrested any person who he has reason to believe has committed such offence; and
 - (d) seize or impound any item, substance, equipment or device which he has reason to believe has been used in the commission of such or in respect of which the offence has been committed.
- (2) A written receipt shall be issued for all impounded and confiscated items under sub section (1) of this section and the grounds for the impoundment or confiscation shall be stated on the receipt.
- (3) All expenses incurred by ASEPA during a visit or inspection shall be defrayed by the agencies visited.

Effect of non-compliance with sections 27 and 28.

29. Non-compliance with or resistance to the provisions of sections 27 and 28 of this Law by any person shall attract a fine of two thousand naira or an imprisonment term of two years or both, and one thousand naira for every subsequent offence, including defraying the cost of inspection as in subsection (3) above. Where the offence is committed by a body corporate, partnership, organization, company or institution, it shall be liable to a fine of six hundred thousand naira, and one hundred thousand naira for every subsequent offence.

Authorized officers to disclose identity.

30. Where an Authorized Officer/Special Agent is not in uniform while acting under the provisions of this Law, he shall on demand, declare his office and produce to any person against whom he is taking action, such identification or written authority as may reasonably be sufficient to show that he is an Authorized Officer/Special Agent for the purposes of this Law.

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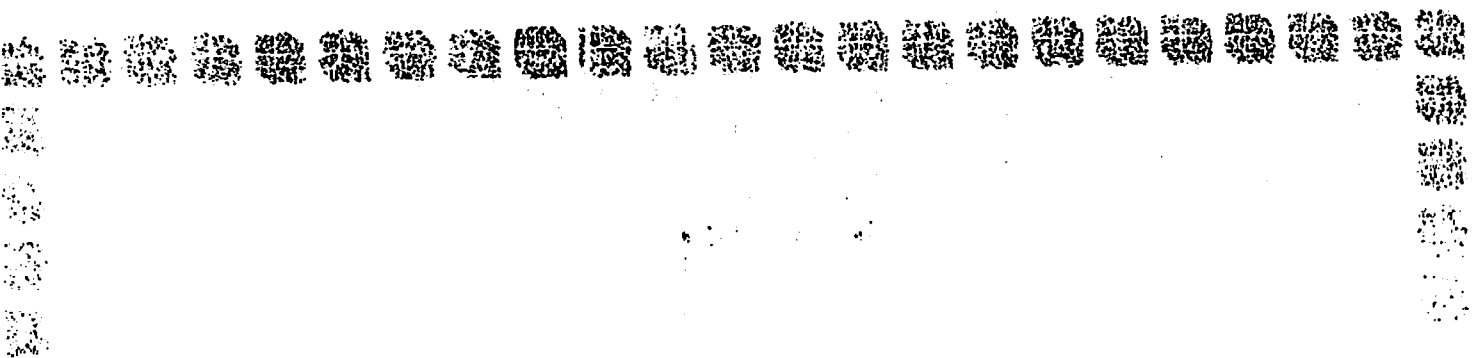
31. (1) No suit against the Agency, a member of the Agency or an employee of the agency for any act done in pursuance or execution of the provisions of this Law or any other regulation made thereunder or in respect of any alleged neglect or default in the execution of such provisions or duties shall lie or be instituted in any court unless it is commenced within twelve months following the said action, neglect or default.
- (2) No suit shall be commenced against the Agency, a member of the agency or an employee of the Agency prior to the expiration of one month after written notice of intention to commence the suit shall have been duly served on the Agency by the intending plaintiff or his appointed agent.
- (3) The notice in sub section (2) of this section shall clearly and explicitly state -
- (a) the cause of action;
 - (b) the particulars of the claim;
 - (c) the name and place of abode of the intending plaintiff; and
 - (d) the relief he is claiming.
32. The notice in sub-section (2) of section 31 and any summons or other notice or document required to be served upon the Agency under the provisions of this Law or any other law may be served by delivering same to the General Manager at the Agency's head office.
33. In any suit against the Agency, no execution or attachment or process in the nature thereof shall be issued against the Agency, but any sums of money or fines that are awarded against the Agency by court judgment shall, subject to the Agency's directives, be paid from the Agency's general reserve fund.
34. Any person who -
- (a) willfully obstructs any Authorized Officer/Special Agent in the execution of any of the powers conferred on him by this Law or any regulations made thereunder;

Suits against
the Agency,
etc.

Service of
documents.

Restriction on
execution
against the
property of the
Agency.

Obstruction of
authorized
officers.



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- (b) fails to comply with any lawful enquiry or investigation that is being conducted by any Authorized Officer/Special Agent in accordance with the provisions of this Law or any regulations made thereunder;
- (c) impersonates an Authorized Officer/Special Agent; or
- (d) impersonates or aids the impersonation of an Authorized Officer/Special Agent of the Agency.

commits an offence and shall on conviction be liable to a fine not exceeding five thousand naira or to imprisonment for a term of five years or both.

General
penalties.

35. (1) Any person who contravenes any provision of this Law or any regulation made thereunder commits an offence and shall on conviction, where no specific penalty is prescribed therefor, be liable to a fine not exceeding twenty thousand naira or to imprisonment for a term not exceeding two years or both;
- (2) Any offence against this Law or any regulation made hereunder committed by an establishment, organization, corporate body, institution or by a member of an organization, corporate body, institution, company, or other firm or business, every director or officer of that establishment, organization, body corporate, institution or any member of the organization or company concerned with the management of such firm or business shall on conviction, where no specific penalty is prescribed be liable to a fine not exceeding one hundred thousand naira for such offence and in addition, the establishment, organization, body corporate, institution, company or firm or business shall be directed to pay compensation for any damage resulting from any breach of the provisions of this Law.

ABSN
No. 7 of
1995.

Power to
make
regulations.

36. The Governor on the advice of the Agency may make regulations generally for the purposes of this Law.

Abia State Environmental Protection Agency Law

37. Nothing contained in this Law shall take away any remedy available to any person against any offender under this Law where such remedy exists under the provisions of any other existing law.

Other
remedies
available.

38. A prosecution for an offence under the provisions of this Law shall not operate as a bar to any civil proceedings that may be instituted for damages or injury caused in contravention of any provisions of this Law.

Prosecution
not to operate
as bar to civil
action.

FIRST SCHEDULE
SUPPLEMENTARY PROVISIONS RELATING TO THE
AGENCY PROCEEDINGS

No. 7 of 1995.

1. Every meeting of the Council shall be presided over by the Chairman, or in his absence the members present at the meeting shall elect one of their members to preside at the meeting.
2. (1) At any meeting of the Council, every matter shall be decided by a majority of votes of the members present and voting.
- (2) Where the votes are equally divided, the person presiding at such meeting shall have a second and casting vote.
- (3) The council may make standing orders to provide for the proper conduct of its proceedings or any committee thereof.
- (4) Seven members present at a meeting shall form a quorum. Where upon any special occasion the Council desires to obtain the advice of any person on any particular matters, the Agency may co-opt that person to be a member for as many meetings as may be necessary, and that person while so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote.

COMMITTEES

3. (1) Subject to its standing orders, the Council may appoint such number of standing *ad hoc* Committees as it thinks fit to consider and report on any matter which the Agency is concerned.
- (2) Every committee appointed under the foregoing provisions of this paragraph shall be presided over by a member of the

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Council and shall be made up of such number of other persons, not necessarily members of the Agency, as the Council may determine in each case.

- (3) The quorum of any committee set up by the Council shall be as may be determined by members present.
4. Where standing orders made pursuant to paragraph 3 of this schedule provide for a committee of the agency to consist of co-opted persons who are not members of the Agency, the Committee may advise the Council on any matter referred to it by the Agency and the members thereof may attend any meeting of the Council for that purpose.

MISCELLANEOUS

5. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman and of the General Manager/Chief Executive of the Agency.
6. Any contract or instrument which, if made by a person not being a corporate body, would not be required to be under seal may be made or executed on behalf of the Agency by the general Manager/Chief Executive or by any other person generally or specially authorized to act for that purpose by the Agency.
7. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Agency shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.
8. The validity of any proceedings of the Council or of a committee thereof shall not be adversely affected –
- (a) by any vacancy in the membership of the Council or any committee thereof; or
 - (b) by any defect in the appointment of a member of the Council or any committee thereof.
9. Any member of the Council or a committee who has a personal interest in any contract, enquiry or investigation that are being executed by the agency or its agent shall forthwith be mandated to disclose such interest to the Agency and he shall not vote or act on

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any question relating to the contract, enquiry or investigation as the case may be.

10. No staff of the agency shall be personally liable for any act done or omission made in good faith while engaged on the business of the Agency.
11. Any member of the Council, staff of the Agency or any of its agent shall be indemnified out of assets of the agency against any liability incurred by him in defending any litigation, civil or criminal, where such litigation was instituted in his capacity as the aforesaid member, staff or agent of the agency.

SECOND SCHEDULE
(SECTION 18 (8))

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
S/No.	DESCRIPTION OF TENEMENT INDUSTRIES, BUSINESS/TRADERS PREMISES ETC	RATE PAYABLE PER MONTH	FINE A
(a)	Batcher	N10.00	Where the rate is within N10.00 and N100.00 the offender shall pay 200% of the rate
(b)	Room	10.00	
(c)	Flat	40.00	
(d)	More than 3 bedroom flat (e.g.) Duplex	100.00	
1	LARGE INDUSTRIES, BUSINESS INSTITUTIONS, GOVERNMENT ESTABLISHMENTS		B
(a)	Large Industries	N30,000.00	Where the rate is above N100.00 but less than N1,000.00 the offender shall pay 50% of the rate as fine
(b)	State Government Ministries and Parastatals	1,500.00	
(c)	General Hospital	1,000.00	
(d)	Universities, Polytechnics and college of Education minimum	2,000.00	
(e)	Finance Houses and Community Banks	500.00	
(f)	Banks (each branch)	5,000.00	
(g)	Hotels above 50 Chalets	5,000.00	
(h)	Filling stations	1,000.00	

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2	MEDIUM INDUSTRIES GOVERNMENT ESTABLISHMENTS		C
(a)	Medium Industries	N15,000.00	Where the rate is above N1,000.00 but less than N5,000.00 the offender shall pay 20% of the rate as fine
(b)	Hotels above 20 Chalets but less than 50	N1,500.00	
(c)	Slaughter houses N10.00 per a Cattle slaughtered		
(d)	Federal Parastatals and Ministries minimum	250.00	
(e)	Hospital and Clinics	500.00	D
(f)	Maternity home	250.00	Where the rate is above N5,000.00 the fine shall be 10% of the rate
(g)	Post Primary schools	200.00	
(h)	Hotels less than 10 Chalets	500.00	
(i)	Restaurant	300.00	
(j)	Eating houses	50.00	
(k)	Other Business in batcher	50.00	