

PART VI

LAGOS STATE ENVIRONMENTAL PROTECTION AGENCY

Interpretation

155. In this Part, unless the context otherwise requires-
“Agency” means the Lagos State Environmental Protection Agency;

“Court” means High Court of the State, the Magistrates’ Court of Lagos State; Environmental Court or any other Court or Tribunal that may be created by the House of Assembly for the purpose of adjudicating on this Part.

“Discharge” means any emission, intentional or unintentional, and which includes but not limited to, spilling, leaking, pumping, pouring, emitting, emptying, dumping or placing of any substances into any land, water or air so that such substance or any constituent may enter into the environment or be emitted into the air or discharged into any waters, including ground waters or land.

“Effluent” means waste generated from manufacturing service operations business;

“Enforcing Authority” means Lagos State Environmental Protection Agency

“Environment” includes water, air, land and the interrelationship which exist among water, air, land and all living things and the medium of air includes the air within buildings and air without other natural or man-made structures above or below the ground.

“Harm” means harm to the health of living organisms or other interference with the ecological systems of which they form part of and in the case of Human, includes offences caused to Human senses or property, and “harmless” has a corresponding meaning.

“Healthcare waste” means waste from any of the following –

- (i) any premises forming part of a hospital, trado-medical centres, clinic or maternity home; or
- (ii) any premises forming part of a medical laboratory, scientific, medical or health research institutions.
- (iii) active pharmaceutical waste from pharmaceutical companies

“Hazardous or special waste” means controlled waste classified as harmful waste under any Law or

Regulations in the State, includes any solid, liquid, gaseous or sludge waste which by reason of its chemical reactivity, environmental or human hazardousness, infectiousness, toxicity, explosiveness and corrosiveness is harmful to human health, life or environment;

“Local Government Area” includes Local Council Development Area (LCDA);

“Ministry” means Lagos State Ministry of the Environment;

“Permit” means a permit for a process (whether on a premises or by means of mobile plant) granted under this Part, and a reference to the conditions of any permit is reference to the conditions subject to which at any time the permit has effect;

“Pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological, or radio-active properties of any part of the environment by discharging, emitting, or depositing wastes so as to adversely affect any beneficial use, to cause a condition which is hazardous to public health, safety or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause contravention of any condition, limitation, or restriction which is the subject to a licence under this Part;

“Pollution of the environment” means pollution of the environment arising from the negligent or deliberate release (into any environmental medium) from any process of substances including noise which are capable of causing harm to human life or any other living organisms supported by the environment or which damage the ecosystem or which results in damage to material property, impair or interfere with amenities, ecosystem and other legitimate use of the environment;

“Process” means any activity carried out within the State, whether on a premises or by means of mobile plant, which is capable of causing pollution of the environment,

“Activity” shall include industrial and commercial activities, activities of any nature including the keeping or release of a substance

“release” includes-

- (i) in relation to air, any emission of the substance into the air, water any entry (including any discharge) of the substance into water;
- (ii) land, any deposit, keeping or disposal of the substance in or on land; and for this purpose “water” and “land”;

For the purpose of determining into what medium a substance is released into, the Authority shall take into consideration -

- (a) the sea or the surface of the seabed within the State;
- (b) any river, watercourse, lake, loch or pond (whether natural or artificial or above or below the ground) or reservoir or the surface of the riverbed or of other land supporting such waters, or ground waters is released into water;
- (c) land covered by water falling outside paragraph (a) above or the water covering such land or;
- (d) the land beneath the surface of the seabed or of other land supporting waters falling within paragraph (a) above, is release into land;
- (iii) a public drainage or sewer shall be treated as a release into water, but a public drainage or sewer and its contents shall be considered in determining whether there is a pollution of the environment at any time;

“Ground Waters” mean any waters

contained in underground strata, or in –

- (a) a well, borehole or similar work sunk into underground strata, including any passage constructed in connection with the well, borehole or work for facilitating the collection of water in the well, borehole or work;
- (b) any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from the strata; or
- (c) any excavated borehole or well that is not in use should be properly decommissioned;

"Mobile plant" means plant which is designed to move or to be moved whether on roads or otherwise and which is used to carry out one or more activities listed in the Regulations made by the Agency;

“State” means Lagos State of Nigeria;

“Substance” means any organic or inorganic substance, whether in solid, liquid, gaseous or vapour form, of a particular molecular identity including any–

- (i) combination of such substances occurring in whole or in part as a result of a chemical or biological reaction or occurring in nature;
- (ii) element or uncombined radical;

- (iii) pesticide whether manufactured, processed, or distributed in trade for use as pesticide; toxic or radioactive waste;
- (iv) gaseous wastes or gases containing substances including but not limited to oxides of sulphur, oxides of nitrogen, hydrogen, sulphite, carbon monoxide, ammonia, chlorine, smoke and metallic dusts and particulates;
- (v) solid, liquid, gaseous or oil, and hazardous waste; effluents, or combination of solid wastes, which because of the quantity, concentration, or physical, chemical or infectious characteristics may-
 - (a) cause, or significantly contribute to increase in mortality, serious irreversible, or incapacitating reversible illness; or
 - (b) pose a substantial threat or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

Establishment of the Lagos State Environmental Protection Agency.

156. (1) There is established the Lagos State Environmental Protection Agency (referred to in this Part as “the Agency”).
- (2) The Agency shall:-
- (a) be a body corporate with perpetual succession and a common seal;
 - (b) have power to sue and be sued in its corporate name; and
 - (c) be capable of purchasing, acquiring, holding and disposing of movable and immovable property for the purpose of carrying out its functions under this Part.

Establishment and Composition of the Governing Board.

157. (1) There is established for the Authority the Lagos Waste Management Authority Governing Board (referred to in this Part as “the Board”).
- (2) The Agency shall be composed of the following members:
- (a) a Chairman who shall be a reputable environmentalist with cognate experience.
 - (b) Permanent Secretaries of the following Ministries:-
 - (i) Health;
 - (ii) Agriculture;
 - (iii) Works and Infrastructure;
 - (iv) Transportation;
 - (v) Finance;
 - (vi) Local Government and Community Affairs;

- (c) the Director of Environmental Services; Sewage and Water of the Ministry;
- (d) the General Manager of the Agency; and
- (e) three (3) other members drawn from the academia and the general public who are experts on environmental matters.

(3) The Chairman and members of the Board shall be appointed by the Governor subject to confirmation by the House of Assembly.

Tenure of Members of the Board.	158. All members of the Board with the exception of the General Manager and the Secretary shall be on part-time basis for a term of three (3) years and may be re-appointed for another term of three (3) years only.
Meetings of the Board.	159. (1) The Board shall meet at least once every two (2) months for the despatch of business at such place and time as the Chairman may determine. (2) A special meeting of the Board may be summoned at the request of the Chairman. (3) All meetings of the Board shall be summoned by the Secretary. (4) The Chairman shall preside at any meeting of the Board but when absent the Board shall elect a member to preside. (5) The General Manager and the Secretary of the Agency must be in attendance at all meetings of the Board and shall take part in its proceedings and the Board may also require any of its Officers to attend such meetings and take part in the proceedings but neither the General Manager, the Secretary nor any of the Officers of the Agency attending its meeting shall have a right to vote on any matter.
Quorum	160. The quorum of the Board of the Agency shall be a simple majority.
Voting	161. The Chairman or the member presiding in the Chairman's absence shall at any meeting have a deliberative vote and in the case of an equality of votes, a second or casting vote.
Validity of Proceedings.	162. The validity of any proceedings of the Board shall not be affected by any vacancy in the membership of the Board or any defect in the appointment of a member.
Remuneration and Allowances	163. The non-ex-officio members of the Board shall be paid such remuneration and allowances as may be determined by the Governor.
Cessation of Membership of the Board.	164. (1) A member of the Board shall cease to hold office if the member:- (a) resigns his appointment as a member by notice in writing addressed to the Governor;

- (b) by reason of mental or bodily infirmity, becomes incapable of discharging the duties;
 - (c) has been convicted of an offence which involves dishonesty and fraud;
 - (d) has been involved in any act that may be considered inimical to the interest of the Agency;
 - (e) becomes bankrupt.
- (2) The Governor may remove any member of the Board if satisfied that it is in the interest of the public to do so.

Application of
Lagos State Pension
Law.

165. Service in the Agency shall be a public service for the purpose of the Pension Law and accordingly, officers and other staff of the Agency will be entitled to pensions.

Functions of the Agency.

166. The functions of the Agency shall be to:-

- (a) advise the State on all environmental management policies;
- (b) give direction to the affairs of the Agency on all environmental matters;
- (c) prepare a periodic master plan to enhance capacity building for the Agency and for the environment and natural resources management;
- (d) carry out appropriate tests on insecticides, herbicides and other agricultural chemicals;
- (e) carry out public enlightenment and educate the general public on sound methods of environmental sanitation and management;
- (f) monitor and control in conjunction with wastewater office and Water Sector Commission the disposal of solid, gaseous and liquid waste generated by both government and private facilities in the State;
- (g) monitor and control all forms of environmental degradation from agricultural, industrial and government operations;
- (h) set, monitor and enforce standards and guidelines on vehicular emission;
- (i) survey and monitor surface, underground and potable water, air, land and soil environments in the State to determine pollution levels in them and collect baseline data;
- (j) promote co-operation on environmental science and technologies with similar bodies in other countries and international bodies connected with the protection of the environment; and
- (k) co-operate with the Federal, State and Local Governments, statutory bodies and research agencies on matters and facilities relating to environmental protection.

- Power of the Agency. 167. In carrying out the functions prescribed in Section 166 of this Part, the Agency shall have power to-
- (a) require to be produced, examine and take a copy of any license, permit, certificate or any other document required under this Part;
 - (b) require to be produced and examine any appliance, device or other items used in relation to environmental protection;
 - (c) enter into programmes and agreements of technical assistance with the public;
 - (d) apply enforcement measures to combat environmental degradations in manufacturing premises and government operations;
 - (e) enter and search vehicles, tents and other structures in any premises engaged in carrying out manufacturing operations or business;
 - (f) perform tests and take samples of any substance found on any premises searched; and
 - (g) accept gifts of land, money, books or other properties upon such terms and conditions as may be specified by the person making the gifts if such terms and conditions attached are not inconsistent with the functions of the Agency.
- Power to Co-opt. 168. Where on any special occasion the Agency desires to obtain the advice of any person on any particular matter, 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 will have all the rights and privileges of a member except that such a person will not be entitled to vote or count towards quorum.
- Committees. 169. The Board may appoint one or more Committee(s) or sub-committee(s) to carry out on behalf of the Board, such of its functions as the Board may determine.
- Disclosure of Interest. 170. (1) A member who is in any way, directly or indirectly interested in a transaction or project of the Board shall disclose the nature of the interest at the meeting of the Board
 (2) The disclosure by a member of such interest shall be recorded in the minutes of the meeting of the Board and the members shall not take part in any deliberation of the Board with respect to the transaction or projects
- Seal of the Agency. 171. (1) There shall be a common seal for the Agency.
 (2) The fixing of seal of the Agency will be authenticated by the signature of the Chairman and the General Manager of the Agency.
 (3) Any contract or instrument which, if made by a person not being a body corporate would not be required to be under seal may be made or executed on behalf of the Agency by the General Manager or by any other person generally or specifically authorized to act for that purpose by the Agency.

(4) Any document purporting to be a document duly executed under the seal of the Agency will be admissible in any court of Law and will unless the contrary is proved deemed to be so executed.

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| Protection of Members of the Agency. | 172. | <p>(1) Members or officers of the Agency shall not be liable to be prosecuted or sued in any Court for any act done or ordered to be done by them in good faith in the discharge of their functions under this Part.</p> <p>(2) In any action or suit against the Agency, an execution or any like process will not be issued against the Agency but subject to any directions given by the Agency, any sum of money which is awarded against the Agency by judgment of the Court will be paid from the general funds of the Agency.</p> |
| The General Manager of the Agency. | 173. | <p>(1) There is a General Manager of the Agency to be appointed by the Governor.</p> <p>(2) The General Manager shall be—</p> <ul style="list-style-type: none"> (a) the Chief Executive Officer of the Agency; (b) responsible to the Board and in charge of the day to day administration of the Agency; and (c) an expert with cognate experience in environmental related matters. |
| Secretary to the Agency. | 174. | There shall be for the Agency a Secretary who shall be an officer not below Grade Level 15 with cognate experience in environmental matters and administration and shall be responsible to the General Manager. |
| Funds of the Agency. | 175. | <p>(1) The Agency shall establish and maintain a fund from which all expenses incurred by the Agency will be paid.</p> <p>(2) The funds of the Agency shall consist of:-</p> <ul style="list-style-type: none"> (a) such monies as may be appropriated to the Agency by the State; and (b) all subscriptions from the charge, fees and charges for services rendered by the Agency. |
| Disbursement of Fund. | 176. | <p>The Agency may make provisions for the disbursement of the money from the fund referred to in subsection (1) of Section 175 of this Part generally for the carrying into effect the purpose of this Law, and without prejudice to the generalities of the power so conferred in particular for-</p> <ul style="list-style-type: none"> (a) defraying extra budgetary expenses incurred by the Agency; (b) improvement and establishment of standard and well-equipped laboratories for the purpose of this Part; (c) setting up of air monitoring pilot scheme; and (d) financing various studies, workshops, seminars and public enlightenment on the environment and other environmentally related matters |

- Prohibition of Noise in Private and Public Places. 177. (1) It is an offence to –
- (a) display or engage in the business of selling of Musical records and playing of any musical instruments, songs, lyrics and/or usage of public address system in public places;
 - (b) use of public address system or loud speakers to propagate beliefs or ideas, advertise any good or solicit and disseminate information in any residential place;
 - (c) use public address system or loud speakers to solicit for passengers or advertise the sale of goods at parks, markets or public places.
- (2) A person or organization shall not use a public address system that causes or is likely to cause nuisance or discomfort to the general public to disseminate information, propagate beliefs and/or ideas or engage in activities without a permit from the enforcing authority.
- Payment of Annual Environmental Development Levy. 178. (1) A person engaged in any form of manufacturing shall pay, not later than the 1st day of January of every year, an environmental development levy (referred to in this Part as “the charge”)
- (2) The charge shall be prescribed by the Agency and shall be subject to periodic review.
- Prohibition of the Discharge of Substance into the Environment . 179. A person shall not carry on a prescribed process or activities of discharging any substances into the environment except under a permit granted by the Agency.
- Application for Permit. 180. (1) An application for a permit shall be made to the enforcing authority in accordance with the procedure prescribed by the Agency.
- (2) An application shall not be granted unless the Agency is satisfied that the applicant will comply with the terms and conditions of the permit.
- Dumping and Burying of Toxic or Radioactive, Medical and Harmful Wastes. 181. A person shall not -
- (a) dispose of, dump, bury; or
 - (b) allow to be buried, dumped in or over any land or water within the State; any solid or liquid, toxic, hazardous or radioactive substance or harmful waste as may be designated without the express participation of the Agency and in accordance with the Agency’s regulation and guidelines.
- Control of Emissions from Plants and Equipment. 182. (1) All emissions from vehicles, plants and equipment including generating plants in residential, commercial and industrial areas within the State shall meet air emission standards prescribed by the Agency.
- (2) As from the commencement of this Part, a person who sells or maintains any plant and equipment including electricity generating plants and other plants with an emission level above agreed emission standards subject to the provisions provided in the

regulation to this Part, shall apply for a permit from the Agency which shall be granted with or without any condition.

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| Prohibition of Air Pollution by Discharge of Injurious Gases etc. | 183. | It is an offence to discharge into the environment any inadequately filtered and purified gaseous wastes, gases containing substances or hazardous substances which is likely to cause pollution, and be harmful, or injurious to the environment of the State. |
| Prohibition of Manufacturing or Storage of Chemicals in Residential and Commercial Areas Without Written Permission. | 184. | <p>(1) it is an offence to carry on the business of manufacturing, storage of chemicals, lubricants, petroleum products, cement (except for use in construction), gases or the containerizing of any oil/lubricant/petroleum product without a permit.</p> <p>(2) Manufacturing or storage business of chemicals, lubricants, petroleum products, cement (except for use in construction), gases or containerizing of any oil/ lubricant/ petroleum product shall not be conducted in residential areas.</p> <p>(3) A person(s) or body engaged in the storage of chemicals, lubricants, petroleum products, cement (except for use in construction), gases or carry on the containerizing of any oil/lubricant/petroleum product stated above shall procure an insurance policy from an approved insurance company.</p> |
| Prohibition of Discharge of Untreated Waste. | 185. | A person shall not discharge or cause to be discharged into the environment any untreated waste or chemical substances listed in any Federal or State law in force except in accordance with regulation made under this Law or Federal Law. |
| Prohibition of the Use of Chemicals in Streams and Water Bodies. | 186. | It is an offence to use any prohibited herbicides, insecticides other chemicals to kill any species in water bodies or for any purpose deposit, dump, discharge any dangerous substances, herbicides or insecticides, petroleum or chemical substances listed in any Federal or State Law or regulation in rivers, lakes and streams within the State. |
| Registration of Underground Storage Tanks (UST) and Surface Storage Tanks (SST). | 187. | <p>(1) An owner or occupier of a facility who uses, stores, keeps and maintains an Underground Storage Tanks (UST) and Surface Storage Tanks (SST) shall register such tanks with the Agency and such registration shall be renewed annually.</p> <p>(2) (a) Prior to the issuance of registration of an Underground Storage Tank (UST) and Surface Storage Tank (SST), a facility monitoring and inspection exercise shall be carried out on all sites with surface or underground tanks periodically to determine the integrity of the facility involved and soil test of the immediate environment shall be carried out as required. The result of such tests shall be made available to the facility owner on request.</p> <p>(b). The enforcing authority shall upon reasonable satisfaction that the owner or occupier has satisfied the environmental standards imposed by it, register the facility and issue a certificate of compliance</p> |

after a facility fee has been paid by the owner or occupier.

(3) (a) Where test(s) result has confirmed a leakage or inadequacy for use, the certificate of compliance issued with respect to such SST or UST shall be immediately suspended and the tank must be:

- (i) emptied and usage discontinued immediately;
- (ii) decommissioned and removed from the ground within seven (7) days; and
- (iii) remedial activity on the soil shall be undertaken.

(4) The certificate of compliance that is suspended in accordance to subsection (3) of the Section has been carried out to the satisfaction of the enforcing authority and a new tank has been accessed and declared fit by the Agency.

(5) The permit shall be renewed annually for an amount payable and to be determined by the Agency and a certificate of compliance shall be issued to that effect.

Control of Effluent .

188. (1) Housing estates, hotels, commercial facilities, waste management facilities, hospitals , abattoirs and livestock shall not discharge or cause to be discharged any trade and industrial effluent into the public drain or natural environment without a permit from the Agency.
- (2) Effluent discharged under this section shall not exceed the permissible limits/levels contained in the Regulation of the Agency.

Fees and Charges for Permit.

189. The Agency shall prescribe the amount to be paid as fees/ charges for permits to be issued under this Part.

Revocation of Permits.

190. (1) The Agency may revoke a permit by notice in writing to the person holding the permit.
- (2) Agency may revoke a permit where it has reason to believe that a prescribed process for which the permit is in force has not been carried on and it has been so for a period of twenty-four (24) months or that a material condition of the permit has been breached.
- (3) The revocation of a permit under this section shall have effect from the date specified in the notice, and the period between the date on which the notice is served and the date so specified shall not be less than fifty-six (56) days.

Inspection and Supervision.

191. The Agency may appoint any of its officials as inspectors (under whatever title it may determine) for carrying the provisions of this Part into effect in relation to prescribed processes.

Power of Inspectors.

192. (1) An inspector appointed under this Part may, on production (if so required) of the authority to act, exercise any of the powers in subsection (2) of this Section for the purposes of the discharge of the functions of the Agency.
- (2) Those powers, are exercisable in relation to premises on which a prescribed process -

- (a) is reasonably believed to be carried on; and
 - (b) has been carried on the condition of which is reasonably believed to be such as to give rise to a risk of serious pollution of the environment.
- (3) The powers of an Inspector referred to above are –
- (a) at any time between the hours of 6am and 6pm or, in a situation where in the opinion of the Inspector there is an immediate risk of serious pollution of the environment at any time, to enter premises which there is reason to believe it is necessary for him to enter,
 - (b) on entering any premises by virtue of paragraph(a) above the Inspector is to take with him-
 - (i) a person duly authorized by the Agency and if the inspector has reasonable proof of any serious obstruction in the execution of his duty, a police officer or such number of police officers as he may deem fit; and
 - (ii) equipment or materials required for any purpose for which the power of entry is being exercised.
 - (c) to make such examination and investigation as may in such circumstances be necessary;
 - (d) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c) above;
 - (e) to take samples of substances found on any premises which the Inspector has a verifiable suspicion to be in contravention of the provisions of this Part.
 - (f) to require any person whom the inspector has reasonable cause to believe to be able to give any information relevant to any examination or investigation under subsection (c) of this Section to answer (in the absence of persons other than a person nominated to be present and any persons whom the Inspector may allow to be present) such questions as the Inspector deems fit to ask and sign a declaration of the truth of his answers;
 - (g) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any record where it is necessary for him to see for the purposes of an examination or investigation under paragraph (c) above and to inspect and take copies of the records;
 - (h) to require any person to afford the inspector record such facilities and assistance with respect to any matter or thing within that person's control or in relation to which that person has responsibilities as are necessary to enable the Inspector to exercise

- (i) any of the powers conferred on him by this Section;
 - (j) to seal the premises, where there is immediate risk of life, property or the environment;
 - (k) any other power for the purpose mentioned in subsection (1) of this Section which is conferred by regulation made by the Agency;
 - (l) to investigate and monitor compliance with the terms of the permits issued by the Agency;
 - (m) to appraise any environmental technical report of industrial and commercial activities as it relates to their goods and services within the State which is submitted to the Agency either by the proponent of a project or any agency to ensure compliance with the Environmental Policy of the State;
 - (n) to investigate, monitor, report and take appropriate action on non-compliance of laid down regulation with impact mitigation measures of proposed developmental projects contained in any Environmental Impact Assessment (EIA) Report submitted to it in respect of any activities or processes undertaken within the State;
 - (o) to appraise and monitor Environmental Technical Reports (ETR) submitted by companies;
 - (p) to conduct regular survey and monitoring of water bodies and soil including landfill sites, agricultural farms among other things;
 - (q) to collect and analyse water and soil samples with a view to developing baseline data; and
 - (r) to investigate public complaints on environmental pollution matters contained in this Part.
- (4) Where an inspector has reasonable cause to believe that any article or substance found on any premises is a cause of imminent danger of serious harm such article or substance may be seized or rendered harmless .
- (5) Where any article or substance has been seized and rendered harmless under this section, the inspector shall, as soon as possible, prepare and sign a written report giving particulars of the circumstances in which the article or substance was seized and dealt with, and shall:-
- (a) give a signed copy of the report to an owner or occupier of the premises where the article or substance was found;
 - (b) where such person served is not the owner of the article or substance, a signed copy of the report shall also be served on the owner;
 - (c) and if, where paragraph (b) above applies, the Inspector cannot after reasonable inquiry ascertain the name or address of the owner, the copy may be served on the owner by giving it to the person to whom a copy was given under paragraph (a) above or pasted at a conspicuous part of the premises and providing corroborative proof of service.

- Power to deal
With Imminent
Danger of Serious Harm.
193. (1) If the Agency is of the opinion, that the operation of a facility or installation of a mobile plant, or the operation of it in a particular manner, involves an imminent harm or risk of serious pollution, it may arrange for steps to be taken to remove that risk.
- (2) Where any breach of the provisions of this Part or Regulations made under it causes any pollution, the Agency may arrange for steps to be taken towards remedying the effects of the pollution.
- (3) Where the Agency intends to arrange for steps to be taken under subsection (2) of this Section, it shall, at least give seven (7) days' notice before the steps are taken and notify the operator of the steps that are to be taken.
- (4) Subject to subsection (5) of this Section, where the Agency arranges for steps to be taken under this section it shall recover the cost of taking those steps from the operator concerned.
- (5) Costs shall not be recoverable under subsection (4) of this Section where the agency arranges for steps to be taken under subsection (1) of this Section if the operator shows that there was no imminent risk of serious pollution requiring any such steps to be taken and no other costs shall be recoverable which the operator shows to have been unnecessarily incurred by the Agency.
- Obstruction of
Duly Authorized Person.
194. (1) A person who obstructs the Agency or any of its officials from carrying out its function under the provision of this Part commits an offence, and on conviction shall in case of an individual be liable to a fine of Fifty Thousand Naira (N50,000.00) or a term of imprisonment for one (1) month or both.
- (2) Where the offence under this section is committed by a body corporate and is proved to have been committed with the consent or connivance of, or attributable to any act on the part of any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, commits an offence and is liable on conviction to a fine of Two Hundred and Fifty Thousand (N250,000.00) or to a term of imprisonment for two (2) months, or both.
- Offences and Penalties.
195. (1) It is an offence for a person to-
- (a) knowingly or negligently contravene any provision of this Law or any provision of the Regulation made in accordance to this Part;
 - (b) fail to comply with or to contravene a condition of a permit;
 - (c) knowingly or negligently introduce into the public drainage or sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such persons knew or reasonably should have known could cause personal injury or property damage other than in compliance with the requirement of this Part or other regulations or permits;

- (d) prevent any other person from appearing before or from answering any question to which an inspector may require an answer;
 - (e) fail to comply with the requirements of an enforcement notice or a suspension notice;
 - (f) fail, without reasonable excuse, to comply with any requirement imposed by a notice under any Regulation made under this Part;
 - (g) make a statement which he knows to be false or misleading, or recklessly make a statement which is false or misleading, where the statement is made-
 - (i) in purported compliance with a requirement to furnish any information under any provision of this Part or Regulations made under it; or
 - (ii) for the purpose of obtaining the grant of a permit to himself or any other person, or the variation, transfer or surrender of a permit;
 - (h) intentionally make a false entry in any record required to be kept under the condition of a permit;
 - (i) deceive, forge or use a document issued or authorized to be issued under a condition of a permit or required for any purpose under a condition of a permit or to make or have in possession a document so closely resembling any such document as to be likely to deceive; or
 - (j) fail to comply with an order made by a Court.
- (2) A person who commits an offence under subsection (1) (a), (b), (d) or (i) of this Section shall be liable-
- (a) on summary conviction in the case of-
 - (i) an individual to a fine not less than One Hundred Thousand Naira (N100,000.00);
 - (ii) a corporate body to a fine not less than Two Million Naira (N2,000,000.00);
 - (b) on conviction on indictment in the case of:-
 - (i) an individual to a fine of Two Hundred and Fifty Thousand Naira (N250,000.00) or to imprisonment for a term not exceeding two (2) years or both;
 - (ii) a corporate body to a fine not less than Five Million Naira (N5,000,000.00).
- (3) A person who commits an offence under subsection (1)(c), (e), (f), (g) and (h) of this section shall be liable –
- (a) on summary conviction, in the case of-
 - (i) an individual, to a fine not less than Two Hundred Thousand Naira (N200,000.00)
 - (ii) a corporate body, to a fine not less than One Million Naira (N1,000,000.00).
 - (b) on conviction on indictment, in the case of
 - (i) an individual, to a fine of One Hundred Thousand Naira (N100,000.00)

or to imprisonment for a term not exceeding one (1) year or both.

(ii) a corporate body to a fine not less than Two Million Naira (N2,000,000.00).

(4) Where an offence committed under this Part by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, such person as well as the body corporate shall be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subsection (4) of this Section shall apply in relation to the acts or defaults of a member in connection with the functions of management as if such member were a director of the body corporate.

(6) Where the commission of an offence by a person(s) under this Part or any regulation made pursuant to this Part is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings for the offence are taken against the first-mentioned person.

Spiller's Liability.

196. (1) Except where an owner or operator can prove that a discharge was caused solely by a natural disaster or an act of war or by sabotage by a third party provided reasonable and practicable measures of care and skill has been taken by the owner or operator to prevent such sabotage such owner or operator of any vessel or onshore or offshore facility from which the hazardous substances is discharged in violation of any Section of this Part, shall in addition to the penalty specified in that Section be liable for-

- (a) the cost of removal, including any costs which may be incurred by any Government body or agency in the restoration or replacement of natural resources damaged; and
- (b) cost of third parties in the form of reparation, restoration, restitution or compensation as may be determined by the Agency.

(2) The owner or operator of a vessel or onshore or off shore facility from which there is a discharge in violation the provisions of this Part shall, to the fullest extent possible, act to mitigate the damage by-

- (a) giving immediate notice of the discharge to the Agency and any other relevant agencies;
- (b) beginning immediate clean-up operations following the best available clean-up practice and removal methods as may be prescribed by the Agency;
- (c) promptly complying with such other directions as the Agency may prescribe.

- Enforcement by Court . 197. If the Agency is of the opinion that proceedings for an offence under the provision of this Part would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice or a suspension notice, the Agency may initiate proceedings in Court for the purpose of securing compliance with the notice.
- Prosecution of Offenders 198. Without prejudice to the foregoing, prosecution for offences under this Part shall be instituted before the Court by the Attorney-General of the State or such officer in the Ministry of Justice provided that the Attorney-General may authorise-
- (a) the Agency or any of its officer; or
 - (b) if he so desires direct, any other legal practitioner in Nigeria to undertake the prosecution directly or to assist in the prosecution.
- Power to make Regulations. 199. (1) The Agency may make regulations in accordance with the Regulations Approval Law for carrying into effect the purpose of this Part, and without prejudice to the generalities of the power conferred in particular for prescribing-
- (a) acceptable standards or criteria to control the pollution of the environment;
 - (b) standards for effluent;
 - (c) water quality standards and monitoring reflecting the latest scientific knowledge on:
 - (i) the kind and extent of identifiable effects on health and welfare including, but not limited to plankton, fish, shellfish, wildlife, plants life, shorelines, beaches aesthetics and recreation which may be expected from the presence of pollutants in any water body, including ground water;
 - (ii) on the concentration and dispersal of pollutants on them by products, through biological, physical and chemical processes; and
 - (iii) on the effects of pollutants on biological community diversity, productivity, stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.
 - (d) hazardous waste including but not limited to electronic wastes and healthcare waste and chemical waste.
 - (e) emission standards for each category or subcategory of major sources of hazardous air pollutants listed for regulation;
 - (f) for each environmental medium, the substances to be released into that medium is to be subject to control;

- (g) emission standards for each category or subcategory of major sources and areas of sources of hazardous air pollutants listed for regulation pursuant to this Section; and
 - (h) in relation to releases of any substance from prescribed processes into any environment medium, prescribe standard limits for-
 - (i) the concentration, the amount or the amount in any period of that substance which may be so released; and
 - (ii) any other characteristics of that substances in any circumstances in which it may be so released;
 - (i) in relation to releases of any substance from prescribed processes into any environment medium, prescribe standard requirements for the measurement or analysis of, or releases of, substances for which limits have been set under paragraph (f) above;
 - (j) emission standards from vehicles, plants and equipment including generating plants.
 - (k) noise standard for any product or class which emits noise capable of adversely affecting the public health or welfare;
 - (l) noise standard for any product or class which is sold wholly or in part on the basis of its effectiveness in reducing noise;
 - (m) noise pollution standard in any residential, religious, commercial, industrial or any other premises with a view to controlling the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife and property; and
 - (n) procedure for application for permit under this Part.
- (3) The Agency shall in relation to emission standards regulated under this subsection and applicable to new or existing sources of hazardous air, water, and land pollutants require the maximum degree of reduction in emission of the hazardous air, water and land pollutants (including a prohibition on such emissions, where achievable) and the Agency, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines that it is achievable through the application of measures, process, methods, systems or techniques including, but not limited to, measures which –
- (a) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitutions of materials or other modifications;
 - (b) enclose systems or process to eliminate emissions;

- (c) collect, capture or treat such pollutants when released from a process, stack or storage or fugitive emission point; and
 - (d) are designs, equipment, work practice, or operational standards (including requirements for operator training or certification).
- (4) The Agency may, after careful investigation, and in collaboration with the Ministry or other relevant Agencies connected with environmental, health and safety matters and industries prepare or develop comprehensive programme for preventing, reducing or eliminating the pollution of the air, land and navigable water and underground waters and improving the sanitary condition of land, air as well as of surface and underground waters of the State.
- (5) The Agency shall develop comprehensive framework of regulation, standards and policies to protect the environment.
- (6) The Agency shall in relation to any developmental activities or processes to be undertaken within the State require, appraise and ensure that a detailed environmental impact assessment report is produced and complied with.