

**THE LEGAL AND INSTITUTIONAL PROBLEM
TO THE
REGULATE INDUSTRIAL POLLUTION IN
ADDIS ABABA ETHIOPIA**

BY

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Declaration

I Yeshe was Admassu hereby declare that this thesis is my original work, it has not been presented for a degree in any other university and all the sources of material used for the thesis have been duly acknowledged.

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Signature

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Signature

Acknowledgment

May be by mere chance or whatever else! I come across this work through the hardest way. Any ways this is the juncture where I have to say, Thank you! For all those who had been on my side by assisting me in any way they could to complement this success.

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ABSTRACT

As a result of industrial pollution from waste effluent and gaseous emissions of the various industrial active ties in Addis Ababa, there is significant hazard on the human, fauna and flora environment of the city. In response to this problem, there is not yet enacted legal and institutional regulation for the prevention and control of IP in Addis Ababa.

In the course of this research analytical methodology is employed in which the existing relevant strategic policy and legal documents are digested. Comparative analysis on the domestic legal system of industrial pollution regulation of some developing countries experiences is also incorporated in this study. The major findings of the research are:-

- I. there is sufficient national policies, strategic and legal basic relevant for the regulation of industrial pollution both at the federal and regional levels.
- II there is not yet enacted industrial pollution in Addis Ababa;
- III. There are detail draft industrial regulations both at the federal EPA and AAEPa
- IV in the new endorsed (pending its issuance by the official Ngarti GAZeta) industrial pollution council of minister's regulation, the duty to prevent industrial pollution rests up on the permitting role of competent environmental agencies than preventive/control restriction, measures and/ or obligation to do (no to do) up on the industries themselves.

List of Abbreviations

AA	Addis Ababa
AAEPA	Addis Ababa Environmental protection Authority.
AWSA	Addis Ababa Water and Sewerage Authority.
AAPPC	Addis Ababa Pollution Prevention and Control
CSA	Central Statistics Authority
CRBL	Commercial Registration and Business Licensing Proclamation
EPA	Environmental Protection Authority
EPE	Environmental Police of Ethiopia
EPO	Environmental Protection Organs establishing proclamation
EIA	Environmental Impact Assessment
EPC	Environmental Pollution Control
EWRM	Ethiopian Water Resources Management Proclamation
FAO	Food and Agricultural Organization of the United Nations
FDRE	Federal Democratic Republic of Ethiopia
IP	Industrial Pollution
INP	Industrial pollution prevention and control
IPCC	Intergovernmental panel on Climate
MOA	Ministry of Agriculture
MOH	Ministry of Health
MOED	Ministry of Economic Development Corporation
ODS	Ozone Depleting Substances
PPC	Pollution Prevention and Control
PHP	Public Health Proclamation
REA	Regional Environmental Agencies
UN	United Nations
UNIDO	United Nations Industrial Development Organization
UNCED	United Nations Conference on Economic Development
UNFCC	United Nation Framework Convention on Climate Change.

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CHAPTER 1

RESEARCH PROPOSAL

1. Title

The title of this research thesis is “Legal and Institutional problems in the regulation of Industrial pollution in Addis Ababa”.

2. Background

Dear reader, don't you think that by having a small industrial base Ethiopia is in an advantageous position for getting ahead start in developing clean and sustainable industries? Is it not the wisest approach to learn from the mistakes of the already industrialized countries and take proactive regulatory measures to prevent and control the negative impact of pollution from the industry sector? If your answer to these questions is yes, it is my strong conviction that you are tipped with the ice berg of the theme of this research.

With the earth summit in Riodejenero and the Kyoto protocol in Japan, the 1990's have been a significant decade in reshaping the conventional development thinking in to sustainable development. This new trend guides us to clean up the existing industries and develop new ones with minimum environmental impacts¹.

In accordance with their stage of economic development, social priorities and the degree of concern to environmental protection issues, nations of the world are going about the business of environmental protection at different speeds. Such difference is not limited to only economic factors and degree of priority to environmental protection, but it also transcends to the difference of countries outlook towards the sources of environmental problems. To the majority of developing countries the dominant outlook for the sources of their environmental problems had not been believed to be the product of waste affluence from the industry and other economic sectors.

1. Koyoto file +++c,/Document %20 and %20 setting luyer + my % 20 document + Environment / climnt %20 charge Koyoto protocol. pdf. See also until natrans s++p//www.UNED. org/

Rather it was believed to be poverty and pressing socio-economic needs. It had therefore been the logical response of many developing countries that the issue of environmental problems was not in the forefront of their development agenda.²

However, as time went on, attitudes towards environmental problems vary greatly among developing countries and have been changing rapidly. Even though environmental problems with in any nation are perceived, interpreted and given priorities, in accordance with existing social and economic preference, there is now a substantial shift of attitudes by these countries about the need for environmental protection measures. Since 1972 United Nations conference on the human environmental heed in Stockholm, there is a strong concern by the developing countries on the problem of environmental degradations and the corresponding measures of protection³.

As a result of the pioneering report of the conference, many developing countries representatives and political leaders perceived that. industrial and agricultural development, high population growth rate and urbanization can have an adverse effect on the environment and the socio-economic development of their respective countries.⁴ As a result of this, many developing countries including Ethiopia are now implanting national environmental policies and have further adjusted their domestic legal system for the enforcement of such policies.

One of the environmental problems associated with the rapid industrialization mainly in the major urban centers of developing countries is industrial pollution. There is now a great concern among developing countries on the regulation of industrial pollution. In Asia almost every country in the continent suffers from the effects of rapid industrialization. In the major urban centers of India, like New deli which is the worst in this country, millions of peoples are suffering from serious health problems caused by the impact of industrial pollution emanated from the burning of coal, factory, power plant emissions and from vehicles.

2. Whitman Bussow; the Third world; changing attitudes towards environmental protection (2009) sage pub. : <http://www.Jstor.org/stable/>

3. supra note 1 at p. 141

4. Ibid

More over the industrial & human wastes in India have already polluted the major rivers and had reduced the fish catch astonishingly.⁵

In Turkey, growing industrialization and population explosion are creating severe pollution problems in the Town of Istanbul. According to the report of the medical authorities, Turkey is affected with urban air pollution that could lead to "mass deaths".⁶ In responded to this problem the parliament of Turk in 2008 had create a new agency to deal with environment headed by a special secretary directly accountable to the prime minister.

In Latin America the trend for controlling industrial pollution is similar to those in Asia. The issue of Industrial pollution has gained a great concern as a result of swift industrialization in the continent .Of all the Latin American countries; Venezuela is the leading environmental protection country. Even from out of all developing countries this country is the leading in terms of organization resources, political support and legislative mandate for environmental protection.⁷

In Africa, there is a similar trend of environmental protection like that of Latin America and Asia, however, the nature of the problem and the capacity to allocated resources to environmental protection and the political will varies country to country.⁸

Nigeria is the leading African country in environmental protection. In the over loaded cities like Lagos, there is a problem of monstrous traffic jams and high levels of air pollution from vehicle emissions in major towns. In response to this problem, in 1977 Nigeria has established a division of environmental planning and protection with in the powerful ministry of industries.⁹

5. Supra note 2 at 115

6. World Environment Report, Val. 3.17 Janwary 1977 (Newyork: center for international environment Information). P.s

7. Ibid p.119

8. ID.

9. Id

In Ethiopia the problem of industrial pollution is dominantly observed around the major urban centers of the country. This is not however stringent phenomena give the fact that urban areas have better infrastructures and they are home for the majority of small and medium scale industries. This fact is dominantly true in Addis Ababa city where the major industries of the country are concentrated. As a result of this industrial pollution became the primary source of water pollution in the city. ¹⁰

In Ethiopia the distribution of industrial establishments among the major urban centers of Ethiopia is not even. In other words, most of the industries of the country are found in Addis Ababa. From out of 741 industries in the country, 484 (65.1%) are concentrated in Addis Ababa¹¹. Interims of their degree of polluted contribution, the major polluting industries in the city are food and beverage, textile, tanneries, chemicals, rubber and plastic, paper and paper products metallic and non-metallic mineral products and word industries. ¹²

Among the different environmental components of the city , water bodies are the most polluted environmental media mainly from industrial waste pollutants. As it is one of the most important natural resources vital for the very existence of man and of most living organisms, the alteration of the quality of water by some dissolved or suspended substances from the industrial waste is a major concern in Addis Ababa. In connection to this, there are a number of studies conducted on the industrial source pollution impacts of numerous seasonal and perennial small streams in Addis Ababa that flows in to the little and great Akaki rivers.

As most of the industries in the city are distributed along the Akaki river banks in disposing their wastes freely in to the water bodies of this river, it become the most polluted river in the country. ¹³

According to some studies, the major pollutants generated from the industrial sources in Addis Ababa include solids, organic pollutants such as oil, pesticide, cleaning solvents, detergents and inorganic substances such as nitrates phosphates, sulphates, chloride and others. ¹⁴

Last but not least about the status of industrial pollution in Addis Ababa is that nearly 90 percent of industries located in the city are discharging their wastes without any form of treatment in to the nearby water bodies, ¹⁵

10. EPA, etal Assesment report jon the status of the Akaki River Water Pollutions (2005) EPA, p.8

11. EPA: survey of Industrial establishments in Ethiopia (1999). P. 17

12. Supra not at 9

13. EPA, Report on the status of pollution in great and little akaki Revers (2002) Addis Ababa p. 13

14. Ibid. p.21

15. EPA the state of environmental report on Ethiopia (2003) p. 64

To sum up, given the fact that there is significant amount of both wastes, gaseous emissions of the industrial sources in Addis Ababa and the emissions of un controlled waste burnings and exhausts from vehicles; setting legal and institutional arrangements to curb the problem is an indispensable end ¹⁶. In this regard the AAEPa has prepared a draft standards of emission limits from combustion sources, from discharges to water and air from pulp and paper industries, from iron and steel, metal work, plating and finishing industries, from textile industries, from tanning and leather finishing industries. Moreover the authority has also prepared a draft industrial pollution regulation in line with the federal EPA's draft regulation ¹⁷. However both documents are not still enacted by the concerned government

3 Objectives

3.1 General Objective

The overall objective of the study is to make an analytical assessment on the legal and institutional problems in the regulation of industrial pollution in Addis Ababa and thereby, recommends sound remedial measures

3.2 Specific objectives

- To provide a synopsis analysis on the trend of industrial development and its environmental impact on the city of Addis Ababa.
- To indicate the state of industrial waste to pollution in Addis Ababa and its impact on both human health, fauna and flora of the city
- To assess and make analytical discussion on the existing national policies and strategies relevant to the regulation of industrial pollution in Addis Ababa.
- To make an evaluative account of the existing legislative and institutional framework relevant for the regulation of IP in Addis Ababa.
- To identify the major legal and institutional gaps for the regulation of IP in Addis Ababa.

16. AAEPa, Draft Environmental pollution control regulation and standard (2004) Addis Ababa AAEPa P.

4

17. Ibid PP. 1-14

4. Statement of the problem

As it has been explained in the background part of this study, Addis Ababa is a center where the highest proportions of industrial establishments of the country are found. On the other hand it has been confirmed on the same part that industrial pollution is one of the major threat to the human environment. It is therefore in disputable fact that the pollution that is generated from industrial activities in this city concerned has detrimental effect on the health of the public and natural resources.

Considerable amount of waste is daily generated from different point and non-point pollution sources and enter in to the urban environment of Addis Ababa. As a result of this, sever environmental hazards on the human health, fauna and flora life of the city is sustained. The major sources of pollution are discharges and emissions from industries, vehicles garages, domestic solid and liquid wastes.¹⁸

Among others, water pollution due to wastes from industrial sources is getting worse ahead of time. This is because the majority of industries in the city are discharging their waste pollutants in to the nearby water bodies without proper treatment.

From the various studies made on the impact of industrial waste releases up on the different components of the environment media, it has been confirmed that the industrial waste discharges of industries in Addis Ababa is beyond the level of internationally accepted standards.¹⁹ According to the AAWSA, waste water analysis for 33 industries in Addis Ababa, the industrial waste affluent recipient streams and rivers are found being polluted to the extent that they have lost their natural contribution to the human, fauna and flora life of the given environmental media. Moreover, according to a study made by WHO and UNICEF on the impacts of water pollution on the Akaki river, most people living along this river are commonly affected by pathogens from the polluted water of this river. As a result of this, people in this area are suffering from gastro intestinal disorders, diaharea, abdominal pain and respiratory health problems such as asthma, cough, wounds, lesions, rashes on their skin.

On the other hand, while the problem of industrial pollution in Addis Ababa is getting worse, the legal enforcement mechanism to reverse the situation is very weak. The AAEPa still has neither the specific industrial pollution regulations nor emission standards that are essential for the inspection and control of pollutions and the

18. Supra note 10. P.6

19. Supra note. 13. P.26

enforcement of penalties against the non-compliance. Moreover, the authority also lacks institutional capacity to effectively implement environmental protection measures against the different pollution sources. According to the interview conducted with experts in the authority, there are not yet well equipped laboratory instruments necessary for tasting the nature and state of pollutants from the various pollution sources. Similarly there is also a problem of skilled manpower necessary for the supervision, controlling and even investigation of industrial pollutions in the authority.

On the other hand, despite the general policy and legal framework available in the different sector policy strategies and the consequent legislative enactments that are relevant for environmental protection, there are yet core institutional and political variable that are affecting for the enforcement of industrial pollution in Addis Ababa. In this regard there are still lack of regulatory standards, procedures, national support for the enforcement of IP regulations, local public support or awareness on the issue of industrial pollution impacts, effective legal remedies against the violators in the regulation of IP and environmental activist influencing both the policy makers and the polluters .

Hence from the above short account of the appealing conditions of industrial pollution in Addis Ababa, there is a serious environmental impact of IP that requires legal and institutional remedial for curving this problem.

5. Research questions.

In order to identify the legal and institutional gaps for the regulation of IP in Addis Ababa it is therefore necessary to ask the following research questions:-

- What is the trend of industrial pollution in Addis Ababa?
- What type of industries is the major pollution source to the urban environment of Addis Ababa?
- What are the major industrial pollution impacts on the human environment of Addis Ababa?
- What are the relevant policies and legal basis for the regulation of industrial pollution in Addis Ababa
- What are the major legal and institutional gaps for the regulation of IP in Addis Ababa?

6. Methods

In order to achieve the above stated over all and specific objectives, the following methodologies were employed at the several of the study.

In order to show the magnitude of the problem background information is taken from the various studies made by different concerned organs, institutions and researchers .Some secondary data were also abstracted to state a certain fact mainly from the environmental protection Authority (EPA) and Addis Ababa environmental protection Authority (AAEPA)

Moreover, in order to digest the existing relevant strategic, policy and legal documents, analytical research method were domically employed in this study.

Interview with some senior experts of the AAEPA staff have been conducted to clarify some of the main legal and institutional problems associated with the regulation of IP in Addis Ababa.

7. Impact of the study

By analyzing the existing legal and intuitional problems for the regulation of industrial pollution in Addis Ababa, both the legislative and the regulatory bodies will have a prompt insight over the problem and give it priorities to enact specific legal regulations to curve the problem even at national level.

8. Limitations of the study

The study mainly focuses on the general state of fact about industrial waste effluent and its impact on environment and the existing intuitional and legal gaps to regulate industrial pollution confined only in Addis Ababa .It doesn't cover the case of industrial pollution situation throughout the country .The attempt is confined only to infer the magnitude of Industrial pollution and the existing legal problems in regulation of industrial pollution in

Addis Ababa based up on the situational and analytical analysis of the available data's from the various sources , Legal and non-legal previously studied documents .

• **9.Organization of the study**

To this end the entire content of the study is organized in to five chapters. The first chapter covers back ground information and the main organizational principles of the study. The second chapter of this study covers about the conceptual and legal framework in the regulation of industrial pollution. The study under this section discus about the major environmental threats and the evolving principles and tools in curving the problem. Moreover, in order to show the experiences of some developing countries pollution regulation mechanisms which possibly serve as a conceptual back ground to Ethiopia, a comparative analysis of three Asian developing countries is covered also under this chapter. In relation to the existing national policies and legal regulations which are relevant to the regulation of industrial pollution, some relevant international agreements that Ethiopia is a party and have ratified it and the recognition of environmental protection under the FDRE constitution are discussed under chapter three. The major impacts of industrial pollution in Addis Ababa are also discussed under chapter four. Review made on the industrial pollution regulation of both the federal and the Addis Ababa city Administration industrial pollution regulation documents and the analysis on the legal and institutional problem for the regulation of industrial pollution in Addis Ababa is provided under chapter five. The last section is devoted to the conclusion and recommendation of the study.

CHAPTER 2; THE CONCEPTUAL AND LEGAL FRAMEWORK

2.1 The concept of IP as a challenge to the human environment.

Marking the 18th century industrial revolution period as a turning point in the history of the impact of human developmental activities on the environment, Industrial pollution becomes a major threat to the human environment. Rapid industrialization has resulted in heavy discharges of toxic chemical effluents to various water sources like streams, rivers and lakes causing serious damage to water quality and contamination of ground water.²⁰ As a result of the emission of green house gases (i.e. carbon dioxide (CO₂), methane (CH₄) and chloro fluoro carbons (CFCs) from the various industrial production sources, there is now a problem of global warming and ozone layer depletions.²¹

The major source countries for about two third of historic green gas emissions of the industry sector and land use change are industrialized countries that have attained the highest stage of economic development. Countries of these region are the highest contributor of carbon dioxide emissions in to the atmosphere.²² According to the estimate of the UN inter govern mental panel on climate (IPCC) ,If a prompt action is not taken to reduce the effects of green house gases, the world in 2050 is expected to face the following adverse effects of climate change:-

- Alps ski resorts close through lack of snow
- Mediterranean beaches disappear because of the sea level rise.
- The Sahara moves across the Mediterranean into southern Spain and Sicily
- Water shortage in the Middle East and the Nile delta spreads.
- One third of Bangladesh will be threatened by natural disasters
- Forests (in Canada, Russia, Amazon) will be damaged by heat and drought

20. Bhagirath Behera and V. Ranta Reddy: Impact of industrial population on rural community (2002), economic and political weekly. <http://www.jstor.org/stable/4411634>.

21. ISO, Environmental management and ISO 14000 (2001) "man and the environment" Dr. Anwar El. Tawvill pp. (3-4)

22. M.A Mohammed; industrial pollution and its impact on the little Akaki River (2002) Addis Ababa, Ethiopia Logobraugh University Uk. P.1

- Arctic ice melts, polar bears will disappear
- The white belts of us and Russia moves into north.
- Parma frost meets with massive landslides.
- Oil pipelines house and road foundations will disintegrate
- Storms threat Florida and the southern us
- Insurance companies face bankruptcy

In the effort to avert the situation of such environmental degradations associated with industrialization, the international community has made and adopted a number of international agreements and legal instruments.²³ However, because of their international nature; most of the existing environmental laws are soft laws and principles. Nevertheless there are some notable international environmental protection agreements which are serving as a legal basis for the adoption of countries national legal instruments relevant for the regulation of IP, these are:

- The Montreal protocol for OAS of 1987
- UNCED- Riodjenero of 1992 and Agenda 21
- The 1992 UNFCC convention on climate change
- The 1973 convention on trade in Endangered species
- The 1992 convention on Biodiversity
- The 1994 code of ethics on international trade in chemicals.

2.2 Evolving principles and tools

The effort to address the environmental impacts of industries has increasingly got strengthen since the middle of the twentieth century. Nevertheless , most of the efforts at the beginning were geared towards the reduction and /or containment of the adverse impact of industrial activities on human health .It was after the mid -1970 's that the focus shifted in to the broad objective of reconciling industrial activities with the ecological balance of natural system .This recent development have brought for the emergence of more novel concepts and tools related to sustainable industrial development .Though the integrative application of such concepts were limited, they are becoming the basis for developing national and international policies ,strategies and legal frameworks relevant in the area of industrial pollution regulation .Some of these evolving Concepts in relation to

23. Super note 22 at p.70

IP are macro-system concepts, sectoral system concepts industrial system concepts and other concepts (i.e. market based incentives non-market based techniques, Negotiated environmental agreement policy coordination and Evaluation).²⁴

i) Macro system concepts-this concept implies the restructuring of socio-economic system at macro level by incorporating ecological facts in to the decision making process. In this regard two of the most important concepts are the complete of the Economic tax reform and the concept of proactive environmental policy and Legal regulations. Economic tax reform refers a switch of taxes from economic goods or the value-adding activities of people (employment and savings) to environmental "bad" such as pollution and the inefficient use of energy and resources.²⁵

Whereas proactive policy regimes refers the concept and tools that are aimed at transforming the environmental policy regimes in compatible with transformation in macro economic and technological regimes.

The newly introduced concepts with this proactive policy include

- Shift from reactive to proactive environmental management
- Partnership between industries and regulatory bodies
- Voluntary initiatives by industry government or joint government industry;
- Transparency and stakeholders participation in environmental management²⁶

The most important international concept evolving this proactive policy regime is the promotion of precautionary principle. This principle has evolved in to a general principle of environmental protection at the international Level. Agenda 21 and principle 15 of the Rio Declaration have elevated the principle on to a truly international Legal Plane²⁷

ii) Sectoral systems concept:- Aimed at industrial restructuring at the sector level, this system focuses on "concepts and tools" that have operational linkages between the different entities of an industry sector. The two sectoral system concepts that have of particular relevance to the developing countries like Ethiopia are the concept of Eco-industrial development and the concept of extended producer's responsibilities.²⁸

24. Ibid p.71

25. Ibid p.72

26. Intra not p. 27

27. Supra note 22 p.7;72

28 Ibid p. 73

priorities. The later in return holds the premise that a reduction in the energy and material input of production will lead to a reduction in the amount of emissions and wastes. This idea of eco-industrial development to the final analysis is mean to dematerialization re-use and recycling of inputs. The later redaction can also be possible by increasing the cost effectiveness of energy and material productivity through better use.²⁹

The second concept (Extended producers responsibility) is an emerging principle for a new generation of pollution prevention policies that are focused on product systems instead of production facilities. It introduces the idea that producers bear the responsibility of the environmental impacts of their products.

In other words in order to decrease the total environmental impacts of their products, producers take measures that prevent pollution and reduce resource and energy at each stage of the product life cycle through changes in product design and process technology.

30

The Procedures of responsibilities include:-

- Physical responsibility:- where the produces is involved in the physical management of the products, used products, or the impacts of the products through development of technology or provision of services;-
- Economic responsibility: where a producer covers all or part of the costs for managing wastes at the end of a product's life;
- Liability:- where responsibility for environmental damages caused by a product in production, use or disposal is born by a producer; an
- Informative liability:- where the producer is required to provide information on the product and its effects during various stages of its cycle.³¹

iii) **Industrial Systems Concepts:-** This Concept holds Three main aspects of industrial operation revolving around once improvement at the plant level. These are the organization, the product and process aspects.

29. id.

30. Ibid p.74

31. Ibid.p.75

The first of these, organizational level of improvement refers the thinking of new industrial management practices computable with the rising global environmental challenges. This in return requires governments to stipulate new regulatory and enforcement measures. The government measures represent also a new generation of environmental regulations with practice orientations than the reactive orientation of the conventional environmental regulation measures. The standardized and journal system of such environmental management system is exemplified by the introduction of ISO 140001 However there is also the informal form of such system like internal waste minimization program me of a certain organization. In the second aspect of Industrial sub system concept (product subsystem concept), in consideration of the products contribution to environmental production, the product must be designed compatible to the ecology and to test this end the cumulative environmental impact of a product from the extraction of primary materials up to its final disposal must be evaluated.³²

The last third aspect of the industrial subsystem (process subsystem concept) focuses on the production processes of a product. Shifting the environmental management of reactive in to proactive system, it introduces the concepts known as cleaner production cleaner technology, polluter prevention, waste minimization, eco efficiency etc. Though varied in this terminology the main idea behind these concepts is a shift of emphasis from how to treat waste to how to reduce and eliminate waste at the sources of generation.

II. Other concepts

- A. Market based incentives- This concept refers to the idea of environmental behavior based market manipulation which may include charges “for envisions,” taxes or subsidies “for abatement” subject to different conditions.³³ More over, such market manipulation can also be made through various instruments such as deposit refund system , transferable discharge permits and waste stock exchange.”³⁴

32. Ibid p.76

33. id

34. id.

- B. Non market based techniques :- Awareness and education and moral suasion .³⁵
- C. Negotiated environmental agreement –it refers to the negotiation for agreements between the various parts up on a range of subject matters , including for example product related issues ,pollution targets reporting requirements and research and development targets .For example the remembers have made agreement through negotiations on issues like phasing out of specified material (such as CPCS), meeting waste reduction , achievement of specified gas emissions (such as Co2) within a specified time period implementing product – labeling schemes .³⁶
- D. Policy coordination and evaluation :- International conventions and statements provide a set of goals for meeting human needs in environmentally sustainable manner .This avoids unproductive competition among environmental and development goals and encourages for the setting of strategies beneficial to the sector without undue harm to some sectors.³⁷

2.3 The experience of some developing countries legal system in coping with the problem of pollution.

The experiences of the domestic legal systems of some developing countries shows that pollution control regulations including IP are formulated at the national level, but the reasonability of enforcing such regulations is resting upon the local environmental protection bureaus. However, the local bureaus often fail to effectively enforce pollution regulations and from the experiences of these developing countries the major factors attributing such failure are already identified. By the same token, given the fact that the ultimate power to enforce pollution regulations that are basically legislated by the federal government of Ethiopia is up to the power of the competent regional environmental protection organs, the problem of IP in Addis Ababa is also associated with failure to enforce pollution regulations by the local authorities. It is also true that those factors affecting the local enforcement of environmental regulations experienced by these developing countries have a relevance to the conditions of IP regulation in Addis Ababa.

35. id.

36. id.

37. id.

Hence, the comparative analysis made on the experience of certain metropolitan areas of developing countries based on factors affecting the local enforcement of environmental regulation is taken here under as a benchmark to examine the problems of enforcing IP regulations in Addis. Accordingly the experience of the three metropolitan cities of Asia such as the city of Guangzhou in mainland China, Delhi in India and Taipei county of Taiwan is taken here under.³⁸ The comparison is made based up on the five major factors which are commonly identified as the core institutional and political variable affecting the enforcement of environmental regulations in developing countries.³⁹ These are the local flexibility in setting regulatory standards and procedures, the national support of local enforcement democratic process at the local level, judicial remedies for enforcement slack and local environmental activism.⁴⁰

According to the first factor of this study which is the factor of local flexibility in setting regulatory standards, one of the reasons for the failure of enforcing pollution regulation in developing countries is because of the imposition of uniform measures on diverse local bureaus. Since different locations have their own social, economic and physical circumstances, the uniform regulatory standards and procedures are not applicable to the circumstance of all countries. Effective enforcement of pollution regulatory therefore requires the setting of flexible regulatory standards and procedures compatible to the circumstances of each country.⁴¹

In relation to this factor, in Guangzhou which is one of the largest local cities in China; even though the power for enacting environmental law including setting the legal rights and obligation regarding environmental protection is up to the central government of China, local authorities like the Guangzhou municipal authority are responsible for establishing their own procedures of implementation.⁴² Similar to Guangzhou, local authorities in India are also given considerable flexibility for the same matter. In this regard, Delhi as a capital city of India, having its own distinct environmental pollution and being the fourth most polluted city in the world has adopted more stringent standards of emission than the national standards of India. For instance the national limit for the emission of suspended solids from power plants is 100mg per cubic meter, but local standard for per units in Delhi is only 30 mg per cubic meter.⁴²

38. Shui-uan and et al. Local enforcement of population control in developing countries. A composition of Guangzhou, Delhi and Taipei, Cambridge University Press: <http://www.jstor.org>. p.265-278

39. Ibid. p.266

40. Ibid. p.267

41. Ibid. p. 268

42. Ibid. P.272

In Taiwan, the environment of Taipei County has suffered from various pollution problems. Numerous small factories are spread over residential communities, commercial areas causing severe IP problems. In curbing this problem Taipei County was supposed to enforce the nationally determined pollution control regulation. However Taipei County besides to national requirement is given also a considerable flexibility in designing its own local enforcement plans.⁴³

In Ethiopia, both the federal EPO establishing proclamation no 295 of 2002 and the environmental pollution proclamation no 300 of 2002 have permitted the possibility of setting more stringent standards than the national standards by the respective regional environmental organs. According to these regulations the ground for this flexible approach is the consideration of specific circumstances of each regional government.

The national support of local enforcement is the second valuable factor for effective enforcement of pollution control regulations. In light of this considerations, there are certain condition where due to some reason that the local governments lack the organization and technical capacities of financial sources to effectively enforce pollution regulation. In such case it will be a rational approach to provide the required national support and assistance to the needy regional or local bureaus.⁴⁴

In relation to this factor ,the experience of Guangzhou of china shows that the bureaus capacity for effective enforcement is constrained by its limited budge and personnel.⁴⁵ The local bureau therefore finds it hard to enforce rules of EIA on development projects unless they secure support from other relevant government organs. National support for Guangzhou of china in this area is very scanty. Hence lack of national support in this city is one of the factors that affect the enforcement of pollution regulation in Guangzhou. In Delhi city of India, most of the revenues for enforcing pollution control mandate come from the cities .⁴⁶

Local democratic process as the factor of comparison for the enforcement of pollution regulations at the local level in developing countries is also examined from the cases of these three countries. Accordingly, unlike to Guangzhou, Delhi in India has a long tradition of local democracy essential for the implementation of pollution regulations. There are strong democratic institutions where the citizens in the city have

43. Ibid. p.274

44. id.

45. id.

46. id.

the opportunity to express their rising concern over worsening pollution problems. Similarly, the Taipei country of Taiwan has also a favorable local democratic process having a power to influence the political will of local government bodies to commit resources to environmental protection. This issue became a prior agenda of campaigning of election for country magistrates. In the case of Ethiopia, there is not yet local democratic process supporting pollution control. According to the interview conducted to the section head of AAEPa, the reason behind is lack of awareness on environmental degradations and mainly on the environmental impacts of planned developmental activities. This is a recent phenomenon in Ethiopians'.⁴⁷

The fourth essential factor in enforcing local environmental regulation is the judicial remedies for the problems of environmental pollution. By comparison, among the experiences of the stated three developing countries, Delhi city of India has the most active judiciary in environmental matters. There are many environmental cases decided by the courts of Delhi. For example in a certain case the high court has decided for the relocation and closing of hundreds of polluting industries in the city. The courts in Delhi have also appropriate channels for public interest litigation. The judicial process permits that regardless of the personal interest or the direct victims test, any interested party can obtain standing in suits against any polluter of the environment. Comparatively Taipei of Taiwan has a very weak judicial system of enforcing environmental pollution regulations than that of Indians judicial system for Delhi. The judicial system of Taiwan shall not permit public interest litigation on environmental pollution cases'.⁴⁸

Comparatively, in Ethiopia even though there is a general legal frame work under the EPO establishing proclamation No 295-2002 and the pollution control proclamation no.300 of 2002 that allows the judicial settlement of issues on the violation of environmental protection rules, there is not yet sound judicial enforcements on such issues. According to the interview conducted with the AAEPa legal service head, the main reason for failure of judicial enforcement on matters of environmental protection is the provision for the exhaustion of administrative remedies by the same proclamation. In addition to this, the institutional incapacity of the authority in which there are no advanced laboratory equipments and the technical capacity to identify the specific

47. Ibid. p.283

48. id.

industrial establishment liable for its pollution impacts is the other technical limitation for judicial enforcement of crimes against the environment. On the other hand even though there is a public litigation procedure under the stated legislation in which any interested party can institute a charge against a polluter in the court of law, the cost of litigation and the technical capacity to prove the alleged environmental damage is still a hindrance for the legal enforcement of the issues under discussion. Last but not list to the problem is lack of concern and marginalization of pollution problems by the judicial enforcement organ .As a result of this there is week judicial enforcement of pollution regulations in the city.

Local environmental activism is the last but out least factor that is considered to examine the enforcement of pollution regulations in this study. In Guangzhou city of China except some sporadic complaints or protests by citizens against local polluting sources, community initiated or activist group involvement in overseeing government policy making and implementation of pollution is very limited. Similarly there are not yet sufficient environmental activist or groups in Delhi occupied in matters of industrial pollution control. The problem in this city is mainly left to the intervention of responsible government organs .Nevertheless, there are recently emerging needs among the social groups for the need of creating public interest groups for public litigations.⁴⁹

In Ethiopia there are no such environmental activists sufficient enough to influence the enforcement of pollution regulations both at national and regional levels .Nevertheless, there are few local NGO's founded by both professionals and interested individuals in the field of environmental law and the conservation of natural resources in relation to the regulation of IP in Addis Ababa .APAP, forum for the environment, "melka mahber" are some to mention from local NGO's .What is to be mentioned in this regard is the public litigation effort of APAP . Acting as environmental activist group the later had instituted a charge against the federal EPA on issue of serious industrial pollution hazards sustained on the people living around the Akaki river basin in Addis Ababa. In fact the case was dismissed on the merit of the defendant (EPA) on the ground that where as EPA (the defendant) is not a polluter but a regulatory body, the former shall not have a legal standing in the litigation of the later. Nevertheless , this public ligation effort of APAP

have been considered as the emerging of environmental protection activities in towards the regulation of industrial pollution in Addis Ababa. In relation to this, there are a substantial number of studies made on the impacts of industrial pollution mainly on the water bodies of the Akaki river basin and Aba Samuel in Addis Ababa

From the above comparative analysis we can draw a conclusion that Taipei has a strong national support and favorable democratic process at local level in which the issue of environment is even an agenda of campaign in election. This has led to the relatively good environmental records of Taipei county of Taiwan than Guangzhou and Delhi. This is the logical outcome of the comparative analysis made on the experience of these three developing countries in Asia.

Moreover one of the evaluative account for this difference is the priority given to the concerns of environmental protection by the society of Taipei than the other two metro pollutants. The latter account of this difference further devolves to the stage of modernization phase in which the dominant social values of the Taipei society is the reflection of its material progress and economic growth.

On the other hand in the case of Ethiopia, the existing situation of weak enforcement is the cumulative net effects of adversarial factors taken as the basis of comparison in the above countries experience. Furthermore, this state of weak enforcement in Ethiopia and industrial pollution regulation in Addis Ababa ultimately falls up on the very fact of the country's under development.

As has been examined in light of the comparative analysis of the experiences of pollution regulation of the three Asian metropolitan centers, Ethiopia has neither strong democratic process nor legal intuitions nor is local or National activist's. It therefore very hard to find the enforcement of pollution regulations by the local authorities of the regional states. In the absence of heightened public concern about pollution issues, the enforcement of even the available judicial remedies for environmental ills is found to be too far to realize. From the existing situation of low level of societal awareness about the problems of pollution, it is less likely that environmental concerns will be political agendas of electoral campaigns in the near future of Ethiopian politics. Moreover there are no federal and regional administrative arrangements having easy- to- access channels

for ordinary citizens to check against administrative slackness in enforcement. In this regard from the defenses of EPA for the charge brought against it by APAP for the alleged industrial pollution hazards, we can understand that there is no access to challenge the administrative slack of EPA's regulation power. Hence from the decision's of the court on this case that EPA has well defended and from the experiences of the above developing countries and the situations of Ethiopia, we can conclude that the problems of industrial pollution regulation in Addis Ababa are highly inter woven to many factors such as the absences of detail and flexible legal and institutional setups, limitations of local democratic processes, environmental awareness and environmental activist groups.

CHAPTER 3; NATIONAL POLICY AND LEGAL FRAMEWORK OF IP REGULATION

3.1 Relevant International agreements to which Ethiopia is a party

One of the relevant international agreement for the regulation of IP and to which Ethiopia has ratified and became a party is the Vienna convention and its Montreal protocol in January 1996.⁵⁰ Accordingly the mandate for the coordination and supervision of this convention in Ethiopia is given for the national meteorological service agency.⁵¹ In line with this convention, the country is expected to adopt further legal instruments relevant for the enforcement of its commitment. The country is expected to take measures that can protect the human health and the environment against adverse effects of human activities which modify or likely to modify the ozone layer.

In this regard fulfilling and complying with the international and domestic industrial gas emission standards and other industrial pollution measures are the logical consequences of Ethiopia commitment to the convention.

To this effect, the country other than notifications and general legislations is expected to take further actions that enable it to limit the Ozone depleting industrial gas emission from the various industrial activities.

However, despite the presence of such gas emission from the industrial pollution source that is contributing for the depilation of ozone layers, there is not yet enacted industrial emission standards and detail IP regulations in Ethiopia and particularly in Addis Ababa.

The Basel convention for the control of the trans-boundary movements of hazardous wastes and their disposal which is adopted in 1989 is also the other relevant international agreement that Ethiopia is a party ⁵². In relation to Africa; the convention takes more specific step by the 1991 Bamako convention. The convention at this time sets an obligation of prior consent for a country of destiny in writing before the export of any hazardous wastes in to other countries.

50. UN the 1985 Vienna convention for the protection of ozone layer and the 1987 Montreal protocol for the protection of substances depleting ozone layer.

51. EPA, situation analysis of the industry sector (2201) vol. 1 (draft) p.5

52. Anon Basel convention on the control of trans boundary movement of hazardous wastes and their disposal (1989a) UNEP, Paris pp.393

Ethiopia has ratified this convention under production No – 357/2002 as it is amendment by proclamation no 355/2002. Accordingly the power for its implementation is given to the EPA, in fact in consultation with the concerned regional and government organs.⁵³

The immediate interest for Ethiopia to his convention is the right of prior consent before the exporting of any hazardous waste in to the country. A part from this, the country has not yet developed the capacity to export hazardous industrial wastes in to some other countries for disposal. In relation to the implementation of this convention by Ethiopia there are some efforts taken by the authority as the sending back of certain out dated hazardous chemical substances in to some other countries that are having the capacity to dispose them without harm.

The 1992 UN framework convention on climate change (UNFCCC) is also one of international legal framework for the protection of environmental pollution from the industrial source pollutants.⁵⁴ The main objectives of this convention are to maintain the atmospheric green house gas concentration at an optimum level. This is the level where it would prevent anthropogenic effect on the climate system until it gets sufficient period of time for the self re-generation of the ecosystem.⁵⁵

The convention in its statement clearly stipulates that the major hazardous atmospheric gas emissions such as carbon dioxide, chlorofluro carbons, methane and nitrous oxide are mainly contributed from the industrial sectors of the economy. Therefore, countries according to this convention are expected to take measures that enable to reduce the emission of such hazardous gases from the industry sector.⁵⁶

The convention convey a message to Ethiopia for the consideration of energy efficient technologies, use alternation and renewable energy sources that alternately would result reduction in emissions and in return the convention offers also a cooperation and various incentive measures for the use of new environmental friendly technologies that would enable the country to save its forest and vegetation energy sources and so that protects climate changes.

53. Ibid. p.50

54. Malanculs peter Akehursts Modern-Introduction to international law (1997) p.97

55. Supra note 36.

56. id.

In relation to the incentives for taking environmental protection measure, had there been effective mechanisms to monitor the industrial carbon releases at a minimum level and the legal and institutional capacity to introduce best available technologies and the use of energy saving alternative resources in Ethiopia, the country could have been the highest beneficiary from the financial arrangements of the UNEP. However, like other developing countries, due to limitations on the capacity to conduct environmental protection programs, the country is not yet benefiting from this international fund. On the other hand as the financial source of this arrangement is from developed countries, such countries could have also benefiting from the net effect impacts of the green house gas emission reduction measures by developing countries like Ethiopia.

Ethiopia is also a party to the Rotterdam convention on persistent organic pollutants (pops) and has ratified this convention by proclamation No 278/2002. The federal EPA is the entrusted organ for the domestic implementation of this convention⁵⁷. According to the main objective of this convention, EPA is expected to take practical measures to ban the use of pops in any industrial production process. Nevertheless, executing the banning of pops requires strict supervisions, inspections and other compliance mechanisms up on industrial production processes and waste emissions. In this regard the immediate responsible organ is the AAEPa- However, due to the legal and institutional incapacities; the authority is not practically enforcing the objectives of this convention in its respective region.

3.2 Constitutional recognition

The 1995 FDRE constitution is the foundation for the Environmental policy of Ethiopia. Even though the EPE is the product of multi-sect oral policy issues that have some sort of connection with the environment, the root for the core guiding principles of the environmental policy of Ethiopia is still the basic essence of some provisions under the constitution of the Federal Republic of Ethiopia. These are also the overriding principles for any Legislative provisions of environmental protection and management in the country.⁵⁸

57. id

58. The constitution of the federal republic of Ethiopia, proclamation no. 1/1995

The major environmental guidelines of the 1995 FDRE constitutional provisions specifically relevant to the regulation of industrial pollution can be summarized as :

- i) Environmental related Fundamental rights of the people :- these includes the right to a clean and health environment as it is recognized under Art 44(1); the right to livelihood stated under Art 44(2) and the right to sustainable development recognized as a governing principle and which is provided under Art 43(1) of the FDRE constitution .In relation to industrial pollution this constitutional framework entails that the people of Addis Ababa has a right to be protected from industrial pollutions that jeopardizes the clean and health environment of the citizens.

ii) Constitutional provisions dealing with the basic environmental

Objectives: -

These are stated under the section of “National policy principles and objectives” .Environmental issues of the constitution under this section are dealt in the specific provision of Art 92. The guiding principles for all activities that are relate to policy formulation, strategy development and the adoption of legislative and Institutional framework in relation to environmental protection and management are concisely stated in this section of the constitution. The above stated Article of the constitution in addition to the environmental objectives imposes constitutional duty up on the Federal and Regional government bodies along with the citizens to “Protect the Environment” and “ensure that any development projects and programs do not or disrupt the environment in any way”. To go with this ,the provision also declares the right of citizens to participate in the planning and implementation of polices and projects related to environmental issues.⁵⁹ Hence, it is the duty of any concerned governmental organs with the residents of Addis Ababa city council to protect the environment from Industrial pollution and to take precautionary measures not to pollute the urban environment form developmental activates . According to Art 90(3) and Art 43(2) of the FDRE constitution, the residents of Addis Ababa have the right to full consultation and participation as well as the

59. Khushal vibhte. Environmental policy and law of Ethiopia. A policy perspective journal of Ethiopian low vol 22 (1) (2008) p.4

expression of their views from the inception of a project proposal to the implementation of industrial establishments.

iii) Fundamental principles of International environmental obligations.

As it is stipulated under Art 9(4) of the constitution, like all other international, environmental obligations that Ethiopia has ratified and are supposed to be an integral part of the law of the land, environmental pollution related international agreements that Ethiopia has ratified have gained constitutional recognition.

However, despite all these important constitutional recognitions, the country still lacks comprehensive environmental protection legal regulation especially in the area of industrial pollution. Unless there are clear and specific legal regulation that could effectively manage and protect the various sources of environmental pollution, the enforcement of environmental rights enshrined under the foregoing constitution are going to be naïve.

3.3 Relevant policies and legislations

Environmental issues have a broad connection with the policy objectives and the consequent legal instruments of almost all sectors of the economy. However, the consideration of policies and legislations in this study is confined only to the review of the relevant policy, legislations and institutional framework for the IP regulation in Addis Ababa.

The 1997 environmental policy of Ethiopia (here in after the EPE) and the consequent Environmental protection organs establishment proclamation No 295/2002 (here in after the EPD) are the primary policy and legal basis for environmental protection issues recognized under the 1995 PODE constitution.

The overall goal of the 1997 EPE lies upon striking a balance between the improvement and enhancement of the health and quality of life of Ethiopians in one hand and the promotion of sustainable development on the other hand.

In relation to the protection of the environment from IP, the EPE under the list of its objectives describes the need for the control of hazardous materials and pollutants from industrial wastes. Accordingly, it has introduced two important international

principles as a strategy aiming at the prevention /reduction of environmental pollutants from the industry source. These are namely the precautionary principles and the principle of polluter pays.⁶⁰

Literally, precautionary principle in environmental protection envisages the idea of taking a preventive or preemptive measure against environmental pollution sources before it has brought a damage or it becomes a threat to the environment.

In light of the above principle, the AAEPa is expected to take various preventive measures that enable to regulate the waste effluents and gaseous emissions of the industries in Addis Ababa. Setting standards of emission, inspecting the production process and methods of waste treatment ,initiating the application of waste management within the industrial establishments, encouraging the application of BAT by the industries themselves, introducing the cleaner production system and the evolving tools and principles relevant for the regulation of industrial pollution are some of the responsibilities of the authorities.

However, according to the interview conducted with one of the experts of the AAEPa, the authority has not yet endorsed emission standards to the waste discharges and gaseous emission of various industrial categories in Addis Ababa.⁶¹ In relation to this, even though the AAEPa, in line with the federal draft standards for emission has prepared its own draft, this draft document is still waiting for its endorsement by the city government organ.

As it goes with the usual saying of “prevention is better than cure” ,the application of precautionary principles, the setting of standards with its strict implementation is the most affordable and cost effective instrument to the regulation of IP in Addis Ababa. In this regard the reluctance of concerned government organ to adopt industrial release standard in Addis Ababa escalates the problem of IP and its mitigation costing the future.

The polluter pays principle of the policy on the other hand introduces the idea that the owner or any responsible legal entity in the operation of a certain industrial discharge or processes that cause pollution should also be responsible for the costs of preventing or dealing with pollution.⁶²

60. EPA, environmental policy of Ethiopia (1997) EPA, Addis Ababa, para 3.8

61. Interview conducted with Sefye Legesse (environmental population awareness inspection coordinator) June 20,

2009

62. Supra note 43 at para 3.8(6)

The same interviewee has further confirmed that there is no specific regulation so far that has incorporated such principles in the regulation of IP in AA.

Despite its strategic advantage for the protection of environmental pollution, the concept of the “polluter pays principle” is not incorporated in the newly endorsed EPA IP regulation and the same is true for the draft prepared by the AAEP.

However, incognizant to the advantage of cost sharing among the stake holders, participating polluters or the industrial establishments in the sharing of costs for clearing the environment under the ‘polluter pays’ principle is a rational instrument towards environmental protection

On the other hand, the implementation of such principles besides to its general importance requires strong political support and commitment by the government. Nevertheless this also requires the compromisation of high government aspiration for rapid industrialization which in return is calling for the participation of investors in industrial establishments at large in one and the need to getting involved of investors in the costs of environmental protection under the principle of ‘polluter pays’ on the other hand. In this regard though the federal government has shown its strong interest for the protection of the environment through its legislative provision for the application of such principles as stipulated in the policy instrument such is EPE, until recently, there has not been further political will for the application of such principle in the strict term of the policy.

This fact is also confirmed impliedly by the prolonged act of the government to decide for the enactments of the draft industrial pollution regulations which were kept on shelf since 7 years before it.

Moreover, in relation to IP regulation, the EPE has also provided the strategic linkages to other policy areas that have functional values in the regulation of IP. Such relevant policies are the Ethiopian water resource management policy of 1997 and the Ethiopian health policy of 1993.⁶³ accordingly; the former policy envisaged the creation of an appropriate mechanism by the EWRMA for the protection of water resources from pollution. In relation to this issue the AAWSA is entitled to take measures enabling to protect the pollution of the water bodies of Addis Ababa from various pollution sources

63. Ibid. at. Para 3.8 (c)

for which industrial pollution is the primary source. However the problem in this area is the ambiguity over the provision for power to protect the water bodies in Addis Ababa.

According to proclamation No 197/2000, ministry of water resource is the sole central supervision body for water resources management except by the delegation of the ministry.⁶⁴ The proclamation did not provide any other regional bodies to take an authoritative role in the water resource management of their respective regions. Under art 2(7) of this proclamation it has also stipulated that the ministry is the central supervisory body and responsible to prepare directives to ensure that water resources are not polluted and hazardous to health and environment. Moreover, as according to art .8 (h) and Art .11(d) of the same proclamation, the ministry is also entitled to set standards that enables it to realize its responsibility to supervise and permit the discharge or release of polluted water from various pollution sources. According to art 2(11) of the proclamation, the polluted water refers to swage industrial effluents and toxic water and any waste in a liquid form. In relation to IP it stipulates that the ministry of water resources as a supervising body is responsible to verify whether the water proposed by a certain industrial plan for use does not entail pollution harmful effects on the water resources and the environment or not. Moreover, under Art 13(2) of its provision the proclamation states that “no application for permit to release or discharge any waste which endangers human life, animals, plants and any living things in to water resources shall be acceptable”. In fact, such prohibition for the release or discharge of waste water is for those industries without having a proper waste treatment methods or appliances.

In relation to the consideration of environmental protection issues on the health sector, the federal public health proclamation no. 20 of 2000 is the relevant legal framework towards IP regulation. As it is stated in its preamble provision, the main objective of this proclamation is the creation of a healthy environment for the future generation.

Among many considerations in relation to maintaining the healthy environment, the relevant provision of this proclamation is the standard manner set for industrial waste discharges and the need to secure occupational safety of the employees engaged in the industry sector. More specific to the regulation of IP, the proclamation strictly prohibits the discharge of untreated waste affluent in to the nearby water bodies or water

64. FDRE, Ethiopian water resource management proclamation no. 197/2000 Art. 2 (7)

convergence. Under art 11(2) of its provision, the proclamation prohibits the use of excessive noise generating machineries except the application of appropriate noise absorption equipment. It has also provided a more comprehensive prohibitive provision under art 12(2) for the disposal of solid, liquid and any other waste jeopardize to the maintenance of good health and the environment.

The objectives of the aforementioned federal public health proclamation structurally devolves to the respective regional health bureau mandates. Accordingly the Addis Ababa city government health bureau is entitled to work for the attainment of health environment in Addis Ababa.

Hence, from the above analysis and in the regulation of IP in Addis Ababa, the AAEPa has a profound collaborative environment to work with the respective health bureau towards achieving the same end of creating a healthy environment in the city. With regard to the provisions of EPE about the strategic linkage of the Ethiopian health policy to environmental protection the late policy clearly identifies environmental health as one of the priority area of ministry's task. The policy states the need to take action for the development of safe disposal of industrial waste and for the protection of environmental pollution from hazardous chemical waste by the ministry.⁶⁵

Similarly, by virtue of the federal arrangement of the FDRE constitution, the federal MOH power on the regulation of pollution devolves upon the respective regional government organs. Accordingly the Addis Ababa health bureau is the legitimate organ to take action on the same matters of pollution vis-à-vis to the AAEPa.

In furtherance of the objectives of the EPE, the FDRE government has enacted the repealed EPA establishing proclamation No.9 of 1997 and the new EPO establishing proclamation no. 295/2002. The later legal instrument has provided more specific provisions relevant for the regulation environmental pollution than the EPE. The role of EPA under the provisions of EPO is re-structured in to two distinct areas. Accordingly, the environmental development and management role of EPA is organized independent to its role of environmental protection and monitoring. This is a significant step of the new EPO provision which has avoided the conflict of interests with in the structure of EPA than the repealed EPA establishing proclamation of the 1997.

65. FDRE, public health proclamation no. 200/2000. Art 10(3)

The AAEPa is established in accordance with the revised charter of the Addis Ababa city government proclamation No 361 of 1995 and the amended proclamation No 14 of 1995 for the executive and municipal organs of the city government. In accordance with the EPO proclamation, the REA has the power to set more stringent standards of waste discharges and gaseous emissions than the standards to the federal EPA.⁶⁶

In pursuant to the above proclamation of the city government and the federal EPO the role of IP regulation in Addis Ababa is primarily rests upon the responsibility of AAEPa. Accordingly, the authority is expected to have its own standards and detail regulatory rules necessary for the effective implementation of environmental protection objectives entrusted upon it.

Moreover ,the AAEPa under the Addis Ababa city government environmental pollution control regulation No. 25/2007 is entrusted for safeguarding or protecting the environment from any pollution.⁶⁷ According to this regulation the authority has also a legal mandate to protect the environment from industrial pollution. In line with this mandate and the provision of Art 5(2) of this regulation, the authority is entitled to implement the environmental standards enacted by the federal EPA and in the absence of the later standards it shall use standards issued by the concerned international standards. However, the fact today concerning to the later role of the authority is that there is not yet neither the federal nor the international standards applied by the AAEPa on any of industrial emissions and wastes discharges.

According to the interview conducted with one of the AAEPa senior expert on environmental protection, the main reason for the failure to implement emission standards for industrial releases is primarily lake of political will by the senior management level to prioritize the issues of pollution standards and control then other administrate works. He further explained that the work of draft industrial pollution standards releases had been finalized long ago both at the federal and regional authorities. However, they were shelved for several years waiting an endorsement by the respective supreme organ. Nevertheless the federal draft is endorsed very recently where as the AAEPa draft is still waiting for the decision of the respective city organ for its enactment. Nonetheless, the same interviewee has expressed his strong convection for

66. Supra note 16 at 8

67. Addis Ababa city government "pollution control regulation no. 25/2007" Art 4(1)

that following the federal endorsement drafts , the AAEPA draft shall be issued very soon. .

Industrial development policy and investment proclamation No 37/1996 of Ethiopia is also the other relevant policy and legal instruments in the regulation of IP.

In line with the industry strategy, the Ethiopia government under this proclamation sets an obligation up on the investment authority to consider environmental standard requirements and other obligations set by the relevant environmental laws before its issuance of an investment license.

Nevertheless, this proclamation lacks imagination in the setting of effective mechanisms to comply with the stated environmental protection requirements. The short time frame set as standard of securing license and other prerequisites of the investment are too ambitious. This is not practical for taking an effective environmental assessment of the envisaged investment activities within the short time allotted under this proclamation.

In terms of the relevant national policy considerations the 1997 conservation strategy of Ethiopia has provided essential strategic considerations for the regulation of environmental pollutants in Ethiopia.

In relation to the regulation of IP, the strategy envisages the need for the setting of policies enabling to control hazardous and waste pollutants from the industry source. Such objective under the strict terms of this strategy is forwarded as:

- i) Establishing a regulatory framework for pollution control and management of hazardous materials and
- ii) Capacity building, institutional strengthen and increasing awareness for pollution control and management.⁶⁸

This document has provided important strategic provisions that later are incorporated in the enacted industrial pollution regulations both at the federal and the respective regional environmental organs. Moreover, the draft IPC regulation documents of both the federal EPA and the AAEPA have incorporated the essences of the CSE on the regulation of industrial pollution at large.

In relation to policy matters on science and technology, the national industrial science and technology policy is the important consideration in the regulation of IP. In

68. EPA and ministry of economic development and cooperation conservations strength of Ethiopia. Vol I-V (1996) and see also supra note 43 at para 3.8

relation to IP regulation the theme of this policy is to promote the scientific and technological capacities of the industries enables them to deal with their effluents effectively.⁶⁹ In this regard one of the relevant provisions of this policy is the need to support scientific and technological activities that would result in the reduction, elimination and reducing of industrial pollutants such as dusts, smoke, liquid and solid wastes and noise undertaking of research on techniques that called eliminate or reduce pollution and the promotion of methods for recycling byproducts and refuses are source of the relevant industrial pollution problem mitigation strategies of this policy.⁷⁰

In a broad spectrum this is an enabling policy relevant for the regulation of industrial pollution through the application of BAT for the reduction of waste pollutants and for the treatment of end of pipe waste releases from the industries.

The environmental impact assessment proclamation no. 299 of 2002 (here in after EIA) and the commercial registration and business licensing proclamation no 67 of 1997 are also the relevant legal framework for IP regulation

In relation to IP regulation the AAEP is the competent regional authority to request for the conduct of EIA of any intended developmental project in the city government. The authority is autonomous to evaluate the EIA study documents of the applicant organizations and make a review and a decision on such documents. This is an essential legal instrument of the authority to regulate industrial pollutions from the outset. In the course of reviewing the EIA document of the intended project, the authority is empowered to make suggestions, amendments, setting conditions or even rejecting the intended plan on the ground that if the intended developmental activity is hazardous to the environment.⁷¹

In this regard according to the interview conducted with one of the senior expert of the authority, there is serious capacity limitation of the authority to effectively evaluate the EIA's of some intended activities. Lack of skilled manpower and advanced laboratory equipments are some of the hindrances stated about for the limitations.

69. National science and technology policy (1994)

70. Worku Damena, Review of the existing policy, legal and institutional situation of the industry sector related to environment (2000) pp8-10

71. FDRE "Environmental impact assessment proclamation" no. 299/2002

Last but not least in legal framework part of this study is the commercial registration and business licensing proclamation no 67 of 1997. The essential point of this legislation on matters of IP regulation is its strict licensing procedure for the consideration of environmental impacts of an intended commercial activity.⁷²

72. FDRE "The commercial registration and licensing proclamation" no. 67/1997

**Table 4.1. showing the comparative powers, duties and responsibilities
of the various organs stated under the various laws in relation to industrial pollution**

Title of the relevant Law	Responsible body/ Agency	Relevant powers and duties for monitoring and compliance	Sanctions or limitations relevant to environmental control	Scope of power
1. FDRE constitution proclamation No. 1/1995	- any government organ relevant to environmental protection	- considering environmental protection as an overriding principle in any development plan - people are the holder of clean and health environment as a fundamental right 44(1) - It is peoples right of livelihood (44(2)) - Is sustainable development as a governing principle 44(3) - Is a national policy principle and objectives (92)	- It's supreme legislative nature obligates any organ to consider the environmental right of people, the concept of sustainability and other environmental rights enshrined in the constitution and stick to its compliance	The power transcends in every organ in relation to environmental protection and the right of people to clean environment, Livelihood and participation to development plans in relation to their environmental interests.

2. Investment Proclamation No. 37/1996	• Investment Board • Ethiopian Investment Authority • Regional investment organs	• Receive applications for investment and ascertain that the intended investment activity would not be contravening environmental protection laws (14(1)); • Issue investment permits(14) and monitor the implementation of investment projects and ensure compliance with the terms and conditions of the investment permits (31(7)(8)); • Issue, on behalf of the competent bodies, trade or business licenses, work permits and carry out the registration of business organizations with respect to investors holding investment permits(25(1)); • Renewal of permit every year until the commencement of production or service (15(1)); • Suspension or revocation of permit (16).	• There are no specific prohibitions; • Investment permit may be issued prior to allocation of land to the investor(36); • The next opportunity, after the issuance of permit, that the appropriate investment organ will have in order to ascertain compliance with environmental requirements is when the implementation of the investment project to completed and business license is required up on the commencement of production or service (14(3)).	• Represent the Ministry of Trade and Industry and relevant Regional Bureau for issuing business license and carrying out commercial registration for investors as per Proclamation No. 67/1997; • Close cooperation with Environmental Protection Authority or Relevant Regional agency in discharging its responsibility of ascertaining the consistency of investment proposals with environmental protection laws, such as in the form of reviewing environmental impact statements (EIS) of investment projects.
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3. Commercial Registration and Business Licensing Proclamation No. 67/1997	• Appropriate Authority i.e. Ministry of Trade and Industry and the pertinent regional Bureau	• Receive application for business license (22); • Issue business license without prejudice to Article 25 of the Investment Proclamation (23); • Permit for expansion or upgrading of existing industries...(24); • Issuing directives; • Keeping commercial registers(12); • Inspection (35); • Suspension or cancellation of business license (26,28); • Renewal of business license annually (25); • Commercial registration (5,12); • Statements of the concerned government institutions regarding the commercial activities' health and sanitary conditions, environmental protection and safety measures, (22); • Closure of business when the concerned government institution has confirmed that the business is dangerous to public health and safety or to the national economy (28); • Issue temporary license which shall be valid until the completion of the project and the commencement of production or service for persons desiring to engage in the field of industry hotel, education, health or agricultural development (31).	• There are no specific prohibitions of relevance; • Concerned government institutions whose statement or confirmation is required, or which may conduct inspection as per Art. 35 may include; a) Public Health Authority i.e. the Ministry of Health or the Health Bureau of a Regional' state or of a city accountable to the Federal Government (Public Health Proclamation No 200/2000); b) Supervising Body (as per Ethiopian Water Resources Management Proclamation) i.e. the Ministry of Water Resources or any organ delegated by the Ministry; c) Environmental Protection Authority or Regional bodies responsibly for environmental protection (as per Environmental Protection Authority Establishment Proclamation No. 9/1995 and the draft Environmental Proclamations).	• Statements of concerned government institutions required before issuing business license (12); • Confirmation of the dangerous nature of the business to health, safety or national economy of the concerned government institutions is necessary to proceed toward closure and cancellation of the business license (28) • Delegation of power of the Appropriate Authority to the Ethiopian Investment Authority or any Regional Investment organ to carry out commercial registration and issue business license (Article 43 of this proclamation and 25 of the Investment Proclamation).
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4. Ethiopian water Resources Management Proclamation No.197/2000	Supervising body i.e. the Ministry of Water Resources or any organ or appropriate body delegated by the Ministry	- Determine the allocation and manner of use of water resources (8(c)), - Prepare directives, in consultation with public bodies concerned, in order to ensure that water resources are not polluted and hazardous to health and the environment (8 (f)); - Cause, in consultation with the public bodies concerned, the issuance of quality or health standards which enables it to entertain an application for a permit to discharge or release polluted water into water resources (8(h)); - Issue permit for the release or discharge of waste into water resources where the proposed use of water does not entail pollution or harmful effects on the water resource and the environment(14); and unless otherwise provided for in regulations to be issued for the implementation of the proclamation(11(1)(d)); - Rejecting application for permit to release or discharge any waste, which endangers human life, animals, plants and any living things, into water resources unless the applicant engages himself to treat the pollutant before it is released or discharged (13); - Amendment, suspension or revocation of permit on grounds to be determined by the regulations to be issued for the implementation of the Proclamation (16,17); - Decision on applications of grievances regarding, among other things, the release or discharge of waste into water resources (18).	- The use of water in a manner that entails pollution or harmful effects on water resources and the environment (14); - Releasing or discharging waste into water resources without permit (14); - There seems to be inconsistency on referring to the object of regulation i.e. in some instances reference is made to: - Polluted water, and in other instances to waste, and also to pollutant.	Consultation with the public bodies concerned is a legal requirement in the preparation of directives to ensure that water resources are not polluted, and in the formulation of quality and health standards for the discharge or release of polluted water into water resources (8(f) and (h)).
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5. Public Health Proclamation No. 200/2000	Public Health Authority, which means the Ministry of Health or the Health Bureau of a Regional State or of a City accountable to the Federal Government	- Appointment of inspectors who shall have powers and duties, among other things, to enter and inspect any premise which they have sufficient reason to believe that there exists a situation endangering public health (6,7); - Inspection (5); - Verification of drinking water supply(10); - Authorization of a public bathing place or swimming pool service (14); - Standardization of disposal procedure for any solid, liquid and other wastes generated from hospitals(12(3)); - Health permit and registration requirement before resumption and after completion of building construction meant for public services(18(1).	- Discharge of untreated liquid waste from industries into water bodies (19(3); - Disposal of solid, liquid or any other waste in a manner which contaminates the environment or affects the health of society (12(2)); - The use of any machinery or instrument which generates excessive noise unless noise reducing apparatus or instrument is installed (10(2); - Providing water supply service without authorization (10); - The prohibition on disposal of waste (12(2) is too general to be adequately enforced. Specific provisions are required.	No specific requirement of consultation or cooperation is mentioned in the Proclamation.
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6. EIA, proclamation no.299/2002	• EPA(?) • AAEPA (REA) • Ministry of Trade & industry the relevant regional bureau.	• Receive EIA study • Review the study • Release the document for commentary to any member of the public the concerned communities	• There is a power to reject the EIA study or return back for further revision	• Approve or reject the EIA study of the intended development plan in relation to its adversarial impact of environmental damage/hazard • Close cooperation with regional EIA agencies
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7. Envil pollution proclamation No. 300/2002	• EPA • AAEPa • AAWSA • MOH • MWR • MTI • Regional agencies EPA	• Set pollution standards • Observe the compliance of the environmental standards • Deliver the adjudicative bodies	• There are specific sanctions and penalties on pollution • Has the power to deliver a care for the adjudicative bodies for offences committed	• Represent the federal government in are matters in relation to environmental pollution. • Close cooperation with regional environmental protection agencies observe, monitory and take action for the compliance of environmental pollution problems in all sectors.
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Source: Adopted After EPA, situational analysis of the Industry sector, vol. I. pp 37-46 (2000) (unpublished)

CHAPTER 4: THE IMPACT OF INDUSTRIAL POLLUTION IN ADDIS ABABA

4.1 The legal and historical background of industrial development and pollution in Ethiopia- Addis Ababa.

The historical development of manufacturing industry in Ethiopia had began in the second half of the 1940's related with the event of the post Ethio-Italian war. However modern industry in real sense was emerged in the 1950's and 1960's aimed at the production of basic consumer goods. The majorities of manufacturing establishments during this time were heavily dependent on manual operation and were small-scale. The early initiative for establishment of these manufacturing was by individuals seeking for profits. It was only in the mid-sixties that the government initiated policies relating to investment appear t lead the role. This initiative was accompanied by various legislations for the promotion of industrial sector.⁷³

The first important legal notice for the formulation of the first strategic document of the industry sector was "the statement of policy for the encouragement of foreign capital investment " in the 1950. Other notable policy and legal basis pertinent to the expansion of modern industry sectors during 1950 to 1974 decree made for the promotion of capital investment in Ethiopia, the revised proclamation of 1964.Agricultural and industrial expansion proclamation No.242/1966.⁷⁴

In the later history of industrial development of Ethiopia, the imperial government has implemented three successive five-year plans of the industry sector and the fourth year plan ailed on the eve of the 1974 revolution. The key industrial policy strategy of Ethiopia until the last period of dergue regime was import substitution. However, the major difference of the durgue socialist regime was that this strategy was state-led.⁷⁵

73. Admit. Z "Industrialization policy and industrial development strategy of Ethiopia" Digest of Ethiopia National Polices, strategies and programs" (2008) pp(241-243)

74. Ibid. p.242

After the coming into power of the FDRE government , the key national development strategy for the development of the industry sector in Ethiopia is the pursuance of an agricultural-led industrialization(ADLI) as opposed to the previous regimes, the basic aim under the guidance of ADLI is the belief of the government that priority given to agriculture in the short and medium term will guarantee an open market for the products of manufacturing products and a continuous supply of food and raw materials to the industry sector. Nevertheless, the ultimate goal of this strategy is industrialization.⁷⁶

4.1.1 Industrial establishment in Addis Ababa

The historical development of modern industrial establishment I Addis Ababa went back to the 19th century. The significant event among factors that had contributed

For the establishment of modern industries in Addis Ababa city was the installation of the ethio-Djibouti railways and the increasing entry of expatriates from |Armenia, Greece Italy and India. The trend of the late industrial establishment was drawn on the production of consumer goods and building construction materials while this was the time for the introduction of western made modernization to Ethiopia during the reign of Menelik II. There was a high demand for consumer goods and construction materials in Addis Ababa.⁷⁷

The fact that Addis Ababa is the capital city of Ethiopia and a center for technology and industrial diffusion to the rest of the regions, it has relatively long historical backgrounds for the establishment of modern industries than other urban centers in Ethiopia. More over the rise of such industrial establishment in this city is also attributed by the fact that the city had better infrastructural and power access necessary for industrial production than the reset of urban center in the country. For this and other socio-political reasons the majority of manufacturing establishments were mainly concentrated in Addis Ababa.

According to a survey conducted by CSA, the distribution of industries by regional states in the year 2005/06, more than half (54.26%) of the total large and medium scale manufacturing establishments of the country are concentrated in Addis Ababa city administration. On the other hand from the major industrial group categories in Addis Ababa, manufacturing of food and beverages with 10.37% took the highest number of industrial establishments.

76. id. P.242

77. Supra not 3.p.6

On the other hand, manufacture of tobacco products which is only one factory holds the least rank in number of establishments by industrial groups.⁷⁸

According to an inventory of industries and service providing institution found in Addis Ababa which was under taken by EPA in 2007, about 41 of the industries in the city were registered as leather and tanning industries , 378 as health care industries, 110 as food and beverage 35 chemicals , 98 plastics , 504 automotive and electronics and 104 as printing enterprise. From the perspective of industrial pollution in the city, the major pollution source industries such as tanneries, textiles, beverages, paints and garages are located along the banks of little Akaki river disposing their waste effluents in to the river without any treatment.⁷⁹

By the same study , out of the total industries in Addis Ababa 45% are located at 50 meters distance from the river bank of little Akaki river. But, by the same source only 18% of these industries are found in an area that is designated as industrial zone.

4.2 Environmental impacts

The concept “Environmental Pollution” is across-cutting issue.⁸⁰ It transcends to the policy and strategy objectives of the various developmental sectors of the national economy. The focus for the study of environmental impacts of industrial pollution is therefore must not be necessarily confined only to the environmental sector but must also encompass all of the significant policy , legal , technical , economic and social implications and impacts into other sectors.

78. CSA, The distribution of industries by regional states (2005/2006), CSA, Addis Ababa survey. P.8.

79. EPA Inventory of industries and service providing institutions in Addis Ababa (unpublished) p.12

80. Ibid

However, for the sake of simplicity, the discussion under this heading is confined solely to the major impacts of industrial pollutions on environment. On the other hand environmental impacts of industries hold the consideration of a number of variables in the biosphere such as flora and fauna, geology and soils ,ground and surface water, air quality and climate, public health ,landscape and visual amenity, noise and vibration, transport, social and economic ,land use and heritage , accidental ,landfill, gas and residual impacts.⁸¹

Nevertheless, an assessment of industrial pollution on the water bodies, human health fauna and flora is suffice in this study to highlight the major environmental impacts of the industry sector.

4.2.1. Impacts on Water Bodies

There is no so far a comprehensive study about the overall impacts of industrial pollution in Addis Ababa today. However based on some case studies (like the case of Akaki river) one can infer how the state of the problem of industrial pollution is almost on the state of appalling to the socio-economic and health environment of the city.

Under the background part of this study, we have said that according to some studies about 90% of industries in Addis Ababa are discharging their effluents in to the nearby streams ,rivers and open lands without any sort of treatments ⁸².for instances according to a study made by waste water facilities master plan project (1992-1994) 56 factories (80%) from out of the 70 factories taken in the survey were found to dump their effluents into the nearl by water courses and streams wit out any form of treatments.⁸³

Similarly according to the study conducted by WHO and UNICEF in the Akaki river, the pollution of water from solid and liquid wastes of the various sources of the industry sector has already brought negative impacts on socio-economic and environmental conditions of people living in the nearby area of the river.

81. CSA, Survey of the industry sector (2008) CSA, Addis Ababa, p.8

82. Supra note 8. p-14

83. Supra note at 52, ibid

Likewise the study conducted by EPA on the kinds of industrial generates wastes and the proportion of factories with treatment plan for the year 1997 have confirmed the same fact of industrial affluent on the urban water courses and streams .For example from the figures under the following table, out of the 40 industries accessed for the Questionnaires, only 3 factories (nearly 8%) have confirmed to have any form of treatment plant.

Table 1.1 number of factories in Addis Ababa with treatment plants

Factory Sub-Sector	No. of factories		No. of factories with pollution of			With treatment plant
	Richard	Replied	Air	Land	Water	-
Tanneries & Leather Products	9	7				
Chemicals	10	7	1	5	7	1
Textile	9	7	2	4	7	1
Metal	8	2	2	4	7	-
Non-metal	2	4	2	-	-	-
Beverage	7	4	1	1	4	-
Food	5	1	1	2	3	-
Abattoir	1	1	1	1	1	-
Hospital	2	1	-	1	1	1
	1	1	-	1	-	1
Total	54	40	10	33	23	3

(source:- Compiled from data made available by EPA (201)

From the water pollution study made on the upper Awash river Basin in 1974 ,the quality of water abruptly declined to worsen when the stream entered in Addis Ababa than it is outside this urban center. The contamination was vividly evidenced from the typical raw domestic sewerage of the various industrial effluents in to this river.⁸⁴

From this and other facts it is possible to say that the industrial wastes in Addis Ababa are sufficient to render the urban streams and rivers unacceptable for its desired usage and therefore is said to be polluted. Moreover on specific studies made on the major rivers of Addis Ababa such as Akaki and kebona rivers and Aba Samuel dam have confirmed that the content of specific pollutant or pollutants in these water bodies is beyond the trash hold level of waste to be tolerant.⁸⁵

As to the pollution load of these receiving water bodies , a study made by the Addis Ababa water and sewerage authority has confirmed that industrial effluents are found to be the first and major causes of sever pollution problems for Addis Ababa urban streams and lake Aba Samuel both in quantity and quality .The major forms of pollutants consequently from the industrial waste discharges in Adddis Ababa are inorganic salts, Acids, Alkaline ,organic pollutants, suspended solids, floating solids and liquids, Heated water ,color and foam.⁸⁶

84. *ibid.*

85. *Id.* Pp.15-17

86. AWSA waste water facilities master plan (1994) project study. P.18

Table1-2 summery of impact caused by pollutants category on receiving water bodies

Category	Sources	Major Impacts
1. Inorganic Salts	. Industrial waste . Natural	.It causes water to be hard so that the water is undesirable for in tended use. . Hard water affects the dyeing in the textile industry, barring in the beer industry. Poor quality of industry Products.
2.Acids and /or Alkalis	-chemical and related industries	-High concentration of sulpheric acids -causes eye irritation to -harmful to health so that swimming in this water body is difficult. -Damage on aquatic life.
3.Organic Pollutions 3.1 sugars 3.2 starch 3.3 proteins	- dairies Breweries preserve manufacture, glucose and sugar beet factories chocolate and sweet industries - Food processing, textile, ware paper manufacture - Food processing	-Exhaust the oxygen resources of rivers and creates un pleasant tests odious and general septic - reduce aquatic life Sevier damage to

3.4 fat,oils and greases 3.5 hydrocarbons 3.6 chlorinated hydro carbon	Daires tanneries houses	
	- Textile oil refineries, engineering works, wool weaving - Petrol chemical & synthetic rubber factories - Water from manufacture of chemicals including Solgents & pesticides	
3.Suspended solid settle to the bottom or the banks	- Different industries	-oxygen depleting - Fatal to the life of fish - bad odors - sludge creates un dignity and idioms and reduce flee recreational purpose of the river -increases the turbidity of the water courses (b/s of solids)
4.Floating solids and liquids	- Different Industries	- Make the river unsightly - Obstruct passage of light though the water

		- Retard fungous
5.Heated water	- Different industries	-due to warmness, of holds less dissolved oxygen that limits through the water - Less oxygen is available for natural biological degradation of ay organic pollution discharge into there warm water
6Color	-	- Compounds present in waste water absorb certain wave lengths of light and reflect the remainder . -color interference with transmission of sun light into the river over therefore cessions photosynthetic action
7Foam	-textile mills and -pulp and paper mills - chemical plants	- entails in desirable appearance for the reviving river

Source: Adopted from M.A Mohammed (2002) Laugb university it is also adopted from, WHO, 2000 and smith 2001.

From the above summary table of the major categories of pollutants from the various sources of industrial activities in Addis Ababa, we can infer that the impacts of industrial pollutants encompass almost all components of the environment.

Due to the varied nature of pollutants from the Source, almost all forms of the environment such as water air soil and forms of life including that of plant and animal are under the threat of IP in the city

Hence, from the foregoing discussion above, it is possible to conclude that there is a significant amount of industrial pollution that affects the quality of life of all forms of the environment in the out streams and rivers in Addis Ababa. However, the degree of contribution for industrial pollution among the industries varies to their structures of manufacturing. Accordingly the significant amount of waste effluents entering to the water bodies of the major streams of the city with the highest contribution for IP are from Tannery food and textile industries.⁸⁷

4.2.2 Impacts on Human Health

The state of industries population in Addis Ababa is intensified by the generation of hazardous gas emissions from some heavy chemical plastic and related categories of the industries in the city. According to the World Bank source, the amount of carbon dioxide emissions from these industries reaches 0.06 metric tons per capital. This amount of coupled with a half to three times gas emissions from urban transport is significant enough to cause a great health hazards and casualties. This is because some of the emitted gaseous substances such as lead, nitrogen and sulphur oxide are fatal to human life.⁸⁸ Polluted waters from industrial waste effluents and contaminated with chemicals is not suitable for domestic use. It is a direct threat to human health and life.

87. Supra note 3. p.17

For example, According to a study made by WHO and UNICEF on the impact of water pollution of the Akaki river, all people consuming the Akaki River water are believed to be affected by pathogens. As a result, people around this river are commonly exposed for gastro intestinal disorders, diarrhoea, abdominal pain and respiratory health problems such as asthma, cough, wounds, Lesions, rashes on their skin .⁸⁹

Other health related problems like ascariasis and trachoma are also prevalent in this river basin environment. As a result of this health problem even the school attendance and educational performance of children of school age in this area is limited.⁹⁰

Moreover, other than human health problems the discharges of some toxic substance in to the nearby river water are causing also serious health hazard on the livestock's of the river basin inhabitants. Accordingly, the rate of animal death causality along the major river basins of A.A. (esp, calves) is found to be 50% as high as the case of the nearby village areas.⁹¹

Furthermore, According to the same study the water body of the major industries waste recipient rivers is found to be inconvenient ground for fish breeding. The main reason for this effect is the presence of high pollutant induced turbidity of the water body. The water body of the rivers is also full of plastic pieces and high concentration of phosphorus. As a result, the former usually causes intestinal illness to animals whereas the latter resulted high eutrophication (i.e. where there is the growth of algae and weeds created than other relevant marine plant species).⁹²

4.2.2 Impacts on other environmental media

Though varied in intensity, the adverse effect of pollution reaches to the entire members of the ecosystem. The degree of such environmental impact may vary to the extent of the extinction of some species on earth while to a lesser extent of influence to certain tolerant species of both fauna and flora.⁹³

The following table shows the appealing picture of environmental pollution implication to the entire community of the ecosystem.

88. EPA, National industrial environmental policy and strategy (2001) (draft, unpublished) p.8

89. EPA Ethiopia, environment outlook (2007) EPA, Addis Ababa, p.85

90. *ibid.*

91. *ibid.*

92. *ibid.*

93. *Supra* note 4. p.22

Table 1.3 Environmental implications of the discharge of sewage and industrial effluents.

Factor	Principal environment Effect	Potential Ecological Consequence	Mitigation Measure
Degradable Organic Matter 1. High Biochemical Oxygen Demand (BOD) Cause by bacterial Breakdown of organic matter	Reduction in dissolved oxygen concentration	Elimination of sensitive species, increase in some tolerant species, change in community structure	Pre-treatment ensure adequate dilution
2. Partial biodegradation on of proteins and other nitrogenous matter	Elevated ammonia concentrations increased nitrite and nitrate levels	Elimination of intolerant species, reduction in sensitive species	Improved treatment to ensure complete nitrification
3. Release of suspended solid matter	Increased turbidity and reduce of light penetration	Reduce photosynthesis of submerged plants	Ensure adequate dilution
4. Deposition of organic sludges in slower water	Release of methane and hydrogen as sulphide matter decomposes	Loss of species	Discharge where velocity adequate to prevented deposition
Other poisons 1. Presence of poisonous substances	Change in water quality	Water directly and acutely toxic to some organisms causing change in community compositions	Increase dilution

Source: M.A.M Mohammed (2002) after it is adapted from Haslam, 1995 P.23

From table above table we can understand that as a result of varied form and factors of pollution, the negative impacts of industries pollution transcends to the various ecological variables of the urban environment in Addis Ababa. For instance the presence of high degradable organ matters in the polluted water bodies of the rivers strongly damages the life and structure of some intolerant plant and insect species.

Form the table above, there are numerous industrial waste effluent induced agents of environmental pollution that are harming the fauna and flora species of the water resources and disturbed the overall ecological system of such environmental media negatively. For instance, among the stated factors of water pollutants, the Degradable organic matters released from some industrial wastes pollutants, the Degradable organic matters release from some industrial wastes effects the biological oxygen Demand (BOD) of the water body. This is to say that high BOSD is caused by organic water pollutants that are oxidized by actually occurring micro-organisms. This biological oxygen demand removes dissolved oxygen from the water and can seriously damage some valuable riverine species which have adapted to the previous dissolved oxygen level. Low level of dissolved oxygen may enable disease causing pathogens to survive level. Low level of dissolved oxygen may enable disease causing pathologies to survive longer in water. On the other hand the release of suspended solids from some industrial wastes as a polluting factors stated under No 3 of the table above causes environmental damage. These are small particles of non-organic non-toxic solids suspended in waste water and will settle as sludge blankets in clan-water areas of streams and lakes. This can suffocate plant life and purifying microorganisms. The table also has indicated that there are differences mitigating measure of such environmental damage varied up o the nature of the pollutant factors.⁹⁴

Therefore in order to effetely manage the negative impacts of industrial pollution in Addis Ababa, there must be an adoption of legal regulation that sets specific restrictions on discharging industrial releases, provide various enabling measures to reduce pollution, and clear compliance and enforcement mechanisms with details on the type of offences and penalties for the offenders.

94. Islam Faisal, Industrial pollution in Bangladesh (2004) (unpublished) –hup.w.w.word bank (ssen jan 8. 2008) p.4

CHAPTER 5;

LEGAL AND INSTITUTIONAL PROBLEMS IN THE REGULATION OF IP

5.1 Review of the Draft IPPC regulations.

As it is stated in the very outset of this study, there are no so far enacted industrial pollution regulations both at the federal and regional levels. Nevertheless, there are two draft industrial pollution regulations such as the federal draft for “industrial pollution preventions and control”(here in after IPPC)prepared by EPA and the second is the Addis Ababa city government “ industrial pollution prevention and control regulation” (here in after AAIPPC)prepared by the AAEPa at regional level.

5. 1.2 The Federal IPPC draft regulation

From the analysis made on the background of this document, the preparation of IPPC had been started as one of the UNIDO/ESID project together with the federal EPA. After its final deliberation as a draft IPPC regulation by the federal EPA, it has undergone through a number of workshops, assessment of consultants and comments and suggestion at a national level.

According to the background information extracted from a number of papers and reports made for its drafting process, the content of IPPC draft among many other inputs have considered the following important issues.

- Consistency with the relevant laws and regulations in place or to be issued by EPA.
- Consistency with the existing policy and legislative frameworks which are relevant for industrial pollution regulation.
- In corporation of emerging principles values and available techniques for the management of industrial pollution.⁹⁵

95.Comments from the concerned government organs of both at the federal and regional level, industry representatives (public and private), NGO'S and individual experts and consultants in the field of environment.

5.1.2.1 Analysis on the structure and substances

Structurally the draft IPPC is organized in to the following seven parts:

1. Introduction
2. Obligation to prevent and reduce environmental damages
3. Requirements to prevent and reduce industrial pollution.
4. Restrictions on discharging industrial releases
5. Enabling measures to prevent or reduce industrial pollution
6. Compliance and enforcement procedures and :
7. Offences and penalties.

According to its provision the scope of application for this regulation is limited to only the most polluting industries that shall be subsequently classified by the EPA.⁹⁶ In other words this regulation is applicable on certain industrial release which is considered as a threat to the environment where that it attains over a certain standard level of emission.

According to this document, such approach in the scope of application where it is confined only to the most polluting industries is believed to be practical, cost effective and predictable to the Ethiopian context.

Under the obligation to prevent and reduce environmental damages part of its provision, the regulation obligates industries to use the best available technologies (BAT) or when not practicable reduce the generation and discharge of industrial release. According to this regulation the use of the pollution regulating technologies or BAT has become a key provision in providing the basis for emissions limit values designated to prevent and where that is not possible to reduce industrial releases below the settled standard and its impact on the environment. In line with its provision for the adoption of BAT, the regulation also requires EPA to prepare further guidelines on the application of BAT for each category of industry subject to future amendments.⁹⁷ .

96. EPA, (draft) "industrial pollution prevention and control" regulation (2005)EPA, arts (3,3,2)

97.Id. Arts (8.1,8.2)

Next to the above preventive and pollution reduction obligatory provisions of the draft IPPC are the provisions for setting standards and permits of industrial releases.⁹⁸ In conformity with environmental pollution control proclamation No 300 of 2002, the regulation provides for the setting of industrial emission standards by EPA. Accordingly the mandate to prepare the draft standard to be attached as schedule of this document and which is subject to future amendments is given to the federal EPA.⁹⁹ However, by virtue of their respective power given under art 6.4 of environmental pollution control proclamation No 300 of 2002, regional states can have also more stringent emission standards than the federal standards of this regulation whenever it deems it necessary to their regional specific conditions of the environment.

Industrial release permits as under the provision of this regulation are one of the key industrial pollution prevention and control mechanisms. Accordingly, those industries which are going to be classified by EPA as the most polluting industries and subject to this regulation are required to get industrial release permit from EPA/ REA before commencing their operations.¹⁰⁰ According to art.2.12 of the EPC proclamation provisions for responsibilities on environmental protection, the power to issue permits is given both to the federal EPA and REA in accordance with their respective area. In this respect, the regulation sets also an obligation up on both the federal EPA/REA to consult with the competent government agencies before the issuance of emission permits.¹⁰¹

98.Id. Arts (10,11)

99.Id. Arts (10,2)

100 .Id. Art(15); see also that the provision further stated different conditions for the application for the application of this regulation in relation to the issuance of permission to the newly establishing industries and the existing ones (for existing industries the emission permit is asked up on negotiated agreements)

101.Id. Art (112)

From the above approach of the draft for permitting procedure, we can construe that the only competent institutions for the issuance of emission permits are the federal EPA and the REAs in their respective areas. Despite the presence of other sectoral institutions under whom falls the mandate of controlling or inspecting of a certain media of the environment, the denial of issuing industrial permit by separate competent government agencies other than these environmental agencies would avoid the fragmentation of regulations and minimize the cost for the management of different environmental pollution media (like water, air, soil etc).

Second to this is that the designation of the power for issuing permit to release in to the various media of pollution to only such specific institution under integrated approach would enable the regulatory body to follow a comprehensive approach in the enforcement of industrial pollution regulations. Moreover, since the main concern of the federal EPA and the respective REA is environmental sustainability; these institutions are believed to be environmentally more sensitive in the issuance of permits than other sectoral agencies whose concern is mainly of the development of resources in the area of their prior designations than protecting the environment. Furthermore, the fact that such an integrated approach of environmental management requires the application of preventive measures such as cleaner production methods and BAT, the establishment of an independent institutions responsible solely for environmental management measures is preferable than the sectoral agencies. .

In relation to the conflict of interest between EPA and other sectoral organs over the power to permit for waste releases, inspecting, protecting and other related matters of IP regulation for certain environmental media, the overlapping power between EPA and the Ministry of water resource to set standards and the power to permit discharge or release on water bodies is the best example.¹⁰² In this situation, what if the ministry of water resources by virtue of its power under art 11 of proclamation No. 197 of 2000 also opposes the permitting power of EPA invoking to its legal mandate to issue permits for industrial releases in to water bodies.¹⁰³

102.id

103.id.arts(12-16)

In this regard, the designation of the ultimate power on the above issues of environmental regulation only to the respective competent environmental organ is therefore an important contribution of this draft IPPC regulation.

The draft IPPC has also provided detail procedures of industrial release permits. Among the list of requirements and procedures, the requirement for the announcement of the intent of application through different media would give an opportunity for the people to exercise their right to be heard on environmental matters of planned developmental activities from the outset (i.e., during the application process). This is the constitutional right of the people enshrined under the 1995 FDRE constitution and the prominent public participation area of the draft regulation. Furthermore, on one of its relevant provisions of the draft IPPC that is the power to review and decide up on permission applications, is given to the respective inspectors of the EPA. Nevertheless the ultimate power to permit or refuse permits rests up on the heads of the appropriate environmental organs of EPA/REA.

With regards to the right of people in the industrial pollution regulation, the draft further requires the issuance of a procedure by the appropriate environmental authority for public comments against industries even that have been granted permits.¹⁰⁴

The appeal procedure of grievances is one of the essential areas of the draft for further discussion. The draft document in one of its provision has provided two levels of procedures for any aggrieved applicant or third party who is not satisfied by the decision of the appropriate environmental authority in connection with his/her application for a permit or any other cases brought before the authority for its decision. Accordingly the first level of appeal is given to the review of heads. It has also provided the second level of appeal by the same applicant to have recourse to an "environmental tribunal" which cognizant to the need for the consideration of the technical nature of administering environmental matters, is supposed to be established by the subsequent law as the final decision maker.¹⁰⁵

104.id.art.(30)

105.ibid

According to the justification for the need for the setting of environmental tribunals given by the background analysis of the drafters, the administration of environmental matters, in addition to the legal knowledge, requires knowledge of technical issues in the field of environmental protection. Therefore, according to the drafters, disputes over environmental issues must be directed to the "environmental tribunal" consisting of independent and professional experts than ordinary courts. According to their further justification, they believe that such tribunal will also minimize the long adjournment that would have been taken by the ordinary courts for rendering final decisions over environmental cases brought before it. In other words, they believe that the fact that the tribunal members are expected to have an expertise knowledge in the field, setting of special environmental tribunal shall bring about speedy trial.

However, this provision of the draft IPPC that is opting for the establishment of special adjudicating body on environmental matters shall constitute further debate on the overall legal systems of the country. The fact that, the 1995 FDRE constitution prohibits the establishment of special tribunals other than the ordinary court systems, the issue may raise a debate whether such proposal contravene the constitution or not.

In relation to the enabling measures, the draft IPPC Under part five has introduced different incentive methods and systems that can prevent, reduce or recycle industrial wastes and the need for the establishment and administration of environmental fund by EPA. Nevertheless, in relation to the later point, the draft document is silent about the sources for such fund.

In relation to the source for the suggested environmental fund, the incorporation of the principle of "polluters pays" by the draft document would contribute a lot. This is because those industries who are sustaining industrial pollution are supposed to pay the cost to recover the environment that they have damaged due to the release of industrial waste discharges over the standards set. The payment from such source is to be accounted for the would be established environmental fund. However, the otherwise argument of this question can also be that given the context for the need of high industrialization in Ethiopia, the application of such principle may not get strong political support and will from the government side.

Last but not least important point on the draft proclamation is the provision of transitional period and negotiated compliance agreement mechanisms for the existing industries. This is a differential treatment mechanism that enables the existing industries to comply with the applicable standards and for the adoption of best available technologies and other requirements provided in the regulations. This provides wide opportunity for the full enforcement of the regulation objectives.

5.2 Review of the Addis Ababa Draft IPPC Regulation

5.2.1 Structure and Substance

AAIPPC draft regulation is divided in to eight parts. These are; the general provisions mainly for the definition of terms and the scope of application (part one): obligation to prevent environmental damage (part two): conditions to prevent/reduce pollution (part three): to prevent /reduce pollution (part four and five): compliance and enforcement (part six): offences and penalties (part seven) and miscellaneous provisions (part eight). For the sake of simplicity the analysis on this draft document is organized based on the major legal issues of the regulation. Accordingly, the following issues of the provision are the themes selected for discussion: scope of application, adoption of best available techniques (BAT), standards, Permitting procedures, incentives and funds, inspection and transitional provision for the existing industries.¹⁰⁶

1.Scope of Application:- Like the federal EPAPCI draft regulation the intention of the AAIPPC draft regulation scope of application seems to be limited on the most polluted industries for which whose detail shall be determined by the consequent detail classification of the AAEPa. From the present draft provision on this part, the scope of application of the regulation encompasses any industries in the administration. However the drafts man skill of this provision doesn't show the clear intention of the scope like that of the federal EPA draft. Nevertheless, it has also provided the need for subsequent exclusionary provisions of some industries from its scope of application.¹⁰⁷

In consistence with the exclusive power of regional agencies (i.e. to set more stringent standards), the scope of application of the APPC draft seems wider than the federal scope. This can be seen through the reading of some of its strict provisions for the scope of application .For example in relation to the enforcements of pollution reduction or

106.AAEPa,Draft industrial pollution regulation and standards ,(2004)AddisAbaba

107. id.

prevention measures , the regulation in its strict sense says that'' the scope of the application of this regulation shall be on all types of vehicles found within the city council''.

2. Adoption of best available techniques (BAT):-In accordance with the federal EPA draft IPPC relevant provision about the application of BAT, the AAPPC has also provided a provision that imposes an obligation for the application of BAT on the industries in Addis Ababa. Similarly, it also stipulates the need for the preparation of guidelines for each category of the industry subject to future amendment as it deems necessary by the authority.¹⁰⁸

3. The need for standards provision: the AAPPC draft document under its relevant provision has also provided the need for setting standards and the enforcement of its compliance to industrial discharges and emissions into air, water and lands by the authority.

4. Permitting Provisions: The AAIPPC regulation has also adopted an integrated pollution prevention and control approach similar to that of the federal EPA draft IPPC regulation. Accordingly, it has claimed that permitting for industrial releases is the power of the authority. To comply with this mandate, the draft imposes an obligation up any other competent regional agencies to cooperate the authority in the process of preparation and issuance of the permit. The authority in this regulation has also set that the period for any permitting licenses shall not exceed to a maximum of five years.¹⁰⁹

More over to comply with its obligation for public participation the regulation has also provided mandatory provision for any applicant to notify the public about the intended development projects prior to the issuance permission through different Media.

5. Appeal Procedures: The AAPPC document has also provided the appeal procedures for the aggrieved applicant or third party. Accordingly, it has provided two tired procedures of which the first level of appeal is for the head of the regional environmental authority (AAEPA). Whereas, if the said applicant is not satisfied with the decision of the head, He/she will have at second level of procedure the option to have resource to the regional environmental council which will be established by law in the feature within the period

108. id.

109.id,

not exceeding to 30 days. By comparison, unlike to the federal draft, the ultimate power to decide on environmental issue in Addis Ababa is given to the environmental council than the proposed environmental tribunal of IPPC.¹¹⁰

5.3The AAEPD Draft IP standards (Herein after IPSR)

In accordance with the provisions of the federal EPC proclamation no. 300 of 2002, the AAPPC regulation No. 25 of 2007 and the draft AAIPPC regulation, the AAEPD has prepared a draft industrial discharges and emission standard for the various media of the environments.

According to the background information on this draft standard, the final deliberation of this work is made by a team of professionals drawn from the various institutions and sectors organized under the responsibility of the Authority. The team has confirmed that the basic source of this work is based on the analysis of the federal EPA draft IPPC regulation.

In the course of adapting the Federal IPPC regulations into its work, the committee has also mentioned that in accordance with art 6 (4) of the EPC proclamation it has considered the possibility of setting more stringent environmental standards than those determined at the Federal level. Nonetheless, this is made possible on the ground of compatibility to the specific situations of Addis Ababa. In addition to this, it has also confirmed that in the course of accomplishing its work, the committee has applied some more scientific tools, gathered and analyzed relevant data in relation to industrial discharges and releases in Addis Ababa.

Furthermore, the basic environmental principles of the EPC proclamation No. 300 of 2002 have also been incorporated in the preparation of standards. Accordingly, the “precautionary principles” and the “polluter pays principle” of this policy have been considered in the setting of IP prevention/reducing standard. They were the main guiding Principles in the setting of appropriate industrial discharges and emission standards.

¹¹⁰. id.

On the other hand, according to the same source, there were also some constraints with regard to the availability of information on the on the impacts of IP in Addis Ababa that is essential for the setting of standards of this draft documents . In relation to the later, the committee has forwarded the following reasons as the main factors that are attributing for the problem, these are:

- i) Absence of environmental quality data and information system
- ii) Lack of proper laboratories infrastructure.
- iii) Shortage of required expertise.¹¹¹

In relation to the challenges to the enforcement of IPSR, the draft document has provided a transitional solution to combat the problem of setting the standards up on the existing industries. Accordingly, the 5 years time framework is given to bring about the pollution standards of old industries compatible to that of the proposed standards of the IPSR. More over the mode of solutions proposed by the draft IPSR upon industries are;

- a) High technical solution scenarios, for those industries which have convincingly indicators for the convenience of the IPSR
- b) Negotiation plus agreed time framework, for those industries which may not be capable of fulfilling the IPSR
- c) Implement program for those industries which exceeded the standards as indicted in the IPSR¹¹²

As a conclusive remark on this work, despite the fact that evaluating the contents of the draft standards requires a technical skill in the field, based on the above analysis on the background information of this draft, it is possible to conclude that the authority has made a valuable contribution with detail analysis on both the state of industrial pollution in Addis Ababa and contents of the draft IPPC regulation and standards of the federal EPA. In this regard, the efforts made by the committee for the application of scientific tools and the use of relevant data by the concerned professionals of the team are a very remarkable work

111. id.

112.id,

However, the disguising phenomena with regards to the enforcement of this draft document are the slack behind the enactment of this document by the concerned city government. In this regard, according to the interview conducted with legal section head of the AAEP, the failure towards the enactment of these draft standards is basically attributable to the top management of the authority. According to the interview conducted with the legal section representative of the AAEP, since the authority had been busy in the work of organizational restructure under the guiding policy of BPR, the enactment of this document didn't get much attention.¹¹³

5.4 Evaluative account on the draft/endorsed regulations

While this thesis was getting its final print I have made a final visit to the federal EPA authorities to verify the update information on matters under the coverage of my research. Hence, I have known about the endorsement of the federal EPA industrial pollution and prevention regulation enacted as "Industrial pollution prevention council of ministers regulation no.-- /2008"(here in after IPPR). Though the endorsement of such regulation is well come to the field of my study, at this final step of my work, I have been forced to look back for some possible evaluative remarks up on it in light with the key legal provisions of the draft document that was prepared by EPA and the evolving concepts in the field of environmental protection.

As it attached with an appendix of this thesis, the entire content of the newly endorsed IPPR is organized under 15 major articles. Though the content of the latter doesn't vary much from the proposals of the draft IPPC, it is more precise as compared to the 40 articles of the draft which has served as a parent material for the final deliberation of this regulation.

113. Interview conducted with the capital A.A EPA legal section head July 1, 2009

The scope of application of the IPRR is confined to these factories listed in a directive issued under these regulations or who has been notified by the competent environmental organ to take appropriate measures to prevent/ reduce IP even though are not in the category for strict observance.

In comparison with the contents of the draft IPPC, the endorsed document is silent about listing the specific measures under the provision of the obligation to take appropriate IP preventive or reduction measures. In this regard, the draft IPPC has mentioned the need for the adoption and use of BAT, conducting internal environmental management system and other specific provisions for the obligation to take appropriate IP prevention or reduction measures. From this approach it seems that the provisions of the IPRR for the obligation towards the application of specific IP prevention reduction measure are more line ant than the same provision of its draft documents.

On the other hand, unlike the draft IPPC, the strategy of IPRR for IP measures is manifested over its provision for licensing. Under art 6 of its licensing procedure, the respective competent environmental organ is responsible for licensing and is also under obligation to verify whether a certain factory's affluent is pollutant or is within the limit of the standards before its issuance of a license.

By virtue the duty and responsibility legislations of the various sector organs, the power to issue environmental permits in addition to EPA or the REA is given also to some ministries in their respective area of competence. In relation to this situation, as it is discussed under one of the topics above in this study ,there had been a conflict of interest between the competent environmental organs and other organs over the issue of where the ultimate power for environmental permits shall rest. In this respect, the new endorsed IPRR unlike to its draft IPPC did not provided a solution for this problem. It is therefore still remain to be a legal gap towards the enforcement of IP regulations.

On another point of comparison, the appeal procedures for environmental grievances under the new endorsed IPRR are quite different from the intended procedures of the same issue under the draft IPPC. According to the intention of the later draft in consideration of the need to have environmental skills that are to be essential for passing decisions over issues of the environment, it has proposed for the formation of an environmental tribunal than ordinary courts. However, the endorsed IPRR did not stipulate anything about the ultimate power of decision for public grievance aroused against the decision of the head of the competent environmental organs.

On the other hand ,ccording to the interview conducted with one of the AAEPa senior expert and coordinator for environmental awareness and inspection, in spite of the absence of detail enacted legal enforcement instruments such as IP standards and IPPC regulations, the authority is currently working on pollution awareness and prevention or reduction issues with the industries. In this regard, since the main source of IP problems are mainly attached with the old industries of which did not pass under EIA process in the time of their establishment, the authority is working to introduce tools of improvements in their production process and waste discharges through awareness and negotiation process. In this respectsome old industries of the city government have started to make environmental audits, environmental management system on voluntary bases. The same sources have also confirmed that the authority is conducting continues monitoring and evaluation work to some of the major pollution industries through negotiations.

Moreover according to the interviewee, the main technical problems in relation to IP problems of industries in Addis Ababa are the inefficiency in processing of raw materials in industrial production system. As a result of this, most industries of especially the old ones, do not recycle or reuse the byproducts of the raw materials inputs. According to him this is one of the sources of IP problem.

Last but not list is the issue over the provisions of environmental incentive and the need for securing enviromental clearance funds. Though the draft document has provided relevant provisions for industrial pollution prevention/reduction incentive mechanism

including the establishment of an environmental fund, the endorsed regulation didn't mention anything about it. In relation to this, though it was not possible to confirm from the mouth of the house (i.e. council of ministers) from the information that I have got from some concerned staff of the authority informally, the legislative intent or reason of the council of minister's for looking over of this issue is for the sake of avoiding fragmented systems of incentives into the various sectors. However, this may entail slack on the enforcement of local industrial pollution regulations.

5.5 Legal and institutional gaps

As thoroughly discussed under chapter 3 of this paper, there is sufficient but broad legal framework for the regulation of environmental problems at large. Accordingly, in line with the general duties and responsibilities entrusted with them, the federal environmental protection authority and the respective regional environmental organs are undertaking various activities on matters of environmental protection.

It is also encouraging that currently there are different national as well as regional environmental related legislations for the various sector ministries and competent environmental organs of the country. The presence of these enactments enhances the environmental protection work of both federal and regional mandates. The task of the authority and the respective regional agencies is also being enhanced by the issuance of further legislation in other fields related to environmental protection in some ways.. Among these national legislations are namely the EPA establishing proclamation no. 295 of 2002, the environmental impact assessment proclamation No. 300 of 2002 (EPC) and the regional enactments followed this legislation. These are more specific and relevant legal framework for environmental pollution management in general and are also the profound legal basis for the regulation of environmental pollution from the sector industrial pollution prevention and controlling perspective.

However, despite the presence of the general policies and legal framework for environmental protection, there is not yet enacted sector specific environmental pollution regulation such as "industrial pollution prevention and control regulation" in Ethiopia and mainly of Addis Ababa. Whereas Addis Ababa is the center of major industrial establishments and also a center of threat of pollution from industrial discharges and

emission sources ,the adversarial impacts of industrial pollution attributed to the absence of specific regulations essential for the enforcement of local standards and various IP prevention and reduction measures is a disguising phenomena

The absence of specific rules and regulation for setting standards, permitting requirements, discharge limits, clearly defined offenses and penalties to the offenders and lack of effective judicial enforcement mechanisms of industrial pollution is therefore a major legal drawback to regulate industrial pollution in Addis Ababa.

Moreover, according to the interview conducted with one of the senior experts in AAEPa, the federal EPA is not as such supportive beyond consultations. In fact The resources and skilled manpower's that are required for enforcing the AA environmental pollution matters is solely rests up on the mandate of the city government. However the AAEPa the institutional capacity to effectively implement the responsibilities that it has entrusted with it. It has no advanced laboratory equipments and the technical capacity to identify the specific industrial establishment

Nevertheless ,the effective enforcement of environmental protection measures be it the industrial discharges and emission standards, IP rules and regulations is made possible only where there is an effective institutional set up. In relation to this, the Ethiopian government in line with the environmental policies and strategies has also enacted laws for the setting of environmental institution under its environmental protection organ establishing proclamations aimed at the implementation of environmental objectives and strategies.

EPA proclamation no.9 of 1997 was the first proclamation for the setting of competent environmental institution at the federal level. However, incognizant to the need for strengthening the institutional structure and capacity of the authority compatible to the emerging environmental impacts of development activities, the authority is also reestablished by proclamation no.295 of 2002 at the federal level.

By virtue of the above proclamation, the regional state governments are also entitled to organize their own environmental protection organs in their respective regions. Accordingly, the AAEPa is the competent institution responsible for the enforcement of

environmental policies and objectives for its respective city state governments of Addis Ababa,

According to the background information of the IPRR and the interviewee conducted with one of the senior experts of the AAEP, the following are the main institutional problems of the authority in the regulation of IP:-

1. Absence of environmental quality data
2. Lack of proper laboratory
3. Shortage of skilled manpower
4. Absence of an organized legal department necessary for legal enforcements.

Conclusion

It has been said that within the framework of the principle of sustainable development of the country, there are so far significant framework of policies and legislations that are relevant for the regulation of environmental pollution in Ethiopia. Given the fact that environmental protection is becoming the prior task of any responsible governments that requires a multifaceted effort touching to any sectoral and cross sectoral policy issue, the efforts so far made by the Ethiopian government in the setting of general frameworks for environmental protection issues is encouraging.. In this regard the adoption of the Ethiopia environmental protection policy which encompasses the various policy issues in its document and the other consequent legislations are the novel works of the Ethiopian government taken to execute the designed national objectives at the various economic sectors.

However, the mere presence of legislations would not ultimately result the desired objective of environmental protection unless it is supported by the consequent subsidiary laws of enforcement mechanisms such as specific regulating, standards and guide lines to the various sectoral issues environmental protection.

Similarly, the industry sector being one of the vital sectoral policy area of intervention for environmental protection needs to have a specific regulatory, controlling and standard setting subordinate laws and an efficient enforcement institution that could protect the urban environment of Addis Ababa from industrial pollution hazards.

Hence, from the above legal and institutional analysis, we can conclude that the AAEPA has no detail legal regulations, standards and institutional capacity to regulate the problems of industrial pollution in Addis Ababa.

Conclusion and Recommendations

1. Conclusion.

At the closure of this research given the available information about the legal problems in the regulation of IP in Addis Ababa, this study has confirmed that there is an institutional and legal gap for the regulation of industrial Pollution in Addis Ababa.

No matter how an intensive study of impact of industrial pollution on the Addis Ababa urban environment is not taken, it is evident from the case studies taken so far that on some rivers like Akaki, there is an appalling condition of air, water, soil pollution causing serious damage to human and animal health, flora, fauna, water bodies and the associated negative socio-economic impacts. Especially in the major river basin areas of Addis Ababa where the major industries of the city are concentrated, industries are found to be the major point sources that contribute significant amount of pollution into the water bodies of the rivers. On the other hand, from the analysis of the relevant policy and legislative framework for environmental protection in general and IPPC in particular of this study, it is possible to conclude that Ethiopia has established important mile stones towards the implementation of environmental policies and legislative end objectives.

However, due to the absence of clear and specific regulations, standards and out lines to the sectoral issues of environmental protection and the accompanying institutional in capacity for the enforcement of these regulation, there is a gap between the policy intention and its actual implementation on the ground of particular environmental pollution source and recipient media. As a result of this, the sector specific desired goals of environmental protection like regulating industrial pollution in Addis Ababa is far from being realized.

This is mainly attributed by ;

- The presence of high governmental aspiration for industrial development than its adversarial impact on urban environment.
- The reluctance by the government to take an immediate environmental enforcement measure required beyond the legislation of general laws.
- Slow and weak institutional capacity to initiate and prepare detailed regulations for industrial pollution both at national and city state government level.¹⁶⁰

- Absence of effective sectoral environmental sub units both at the federal and REA
- Lack of adequate infrastructure and skilled manpower both at the federal EPA and REA institutions.
- Overlooking the health and environmental damages of the industrial pollution sustained on the urban environment of Addis Ababa by the concerned organs.
- The reluctances of the executive body to initiate the legislative organ to endorse the available draft regulations prepared by the competent agencies both at the federal and regional (city government) level
- Absence of environmental sub units in many of the relevant federal sector institutions.
- Lack of significant societal awareness about the environmental impacts of developmental activities mainly of industries.
- By contrast to the draft regulation, the endorsed industrial pollution regulation omits the obligation for the application of BAT, environmental clearance and internal environmental management system. In this regard, the approach of the endorsed IPPR is less attentive to the precautionary measures than those proposed by the intended draft document of both the IPPC and AAIPPC. This implies that the strategy of the new endorsed regulation for environmental protection as reflected upon the above approach is mainly on the licensing role of the competent environmental organs than the responsibilities of the industries to play preventive/reduction role of IP.

2. Recommendations:-

Taking in to consideration the key legal and institutional problems out lined above to regulate industrial pollution in Addis Ababa in the conclusion, the following recommendations are made.

- Tailor – made emission standards, discharge limits and enforceable regulations are necessary to protect the urban environment of Addis Ababa from industrial pollution.
- Urgent approval and enforcement of the Addis Ababa industrial pollution prevention and reduction regulations.
- Institutional set up of the Addis Ababa industrial pollution prevention and control regulatory body.
- Revise the new endorsed IPPCR in light of the concept of sustainable development and the evolving legal principles and conceptual tools for the regulation of industrial pollution.
- In cognizant to the Ethiopian context of small industrial base and the commonly accepted cost effectiveness principle of “prevention than cure” , the focus for the regulation of industrial pollution in Ethiopia should be geared towards precautionary measures than end of pipe management.
- To cope with and benefit most out of the evolving legal principles and conceptual tools that are relevant in the Ethiopian context for regulating IP, the concerned environmental protection organs should work efficiently, persistently and insistentlly on updating the existing and introducing the new once.

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**COUNCIL OF MINISTERS REGULATIONS TO PROVIDE FOR
THE PREVENTION OF INDUSTRIAL POLLUTION**

These Regulations are issued by the Council of Ministers pursuant to Article 5 of the Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No.471/2005 and Article 20 of the Environmental Pollution Control Proclamation No.300/2002.

1. Short Title

These Regulations may be cited as the "Industrial Pollution Prevention Council of Ministers Regulations No. ----- /2008".

2. Definitions

In these Regulations unless the context otherwise requires:

- 1/ "competent licensing agency" means any federal or regional government organ empowered by law to issue business license;
- 2/ "competent environmental organ" means any federal or regional environmental protection agency;
- 3/ "Authority" means the Environmental Protection Authority established pursuant to Proclamation No. 295/2002;
- 4/ "region" means any region referred to in Article 47 of the Constitution of the Federal Democratic Republic of Ethiopia and includes the Addis Ababa and Dire Dawa city administrations;
- 5/ "existing factory" means a factory that is under operation or a project with respect of which an application to obtain a license to establish a factory has been submitted before or on the date of entry into force of these Regulations;
- 6/ "person" means a natural or juridical person;
- 7/ "pollution" means any condition which is hazardous or potentially hazardous to human health, safety or welfare or to living things created by altering any physical, radioactive, thermal, chemical, biological or other property of any part of the environment in contravention of any condition, limitation or restriction made under these Regulations, the relevant environmental standard or under any other relevant law;
- 8/ any expression in the masculine gender includes the feminine.

3. Scope of Application

The provisions of these Regulations shall apply to a factory which is in an industrial sector listed in a directive issued under these Regulations or has been notified by the competent environmental organ in accordance with sub-article (5) of Article 4 of these Regulations, until it ceases to operate or until such additional time as has been determined by the competent environmental organ.

4. General Obligations

- 1/ A factory subject to these Regulations shall prevent or, if that is not possible, shall minimize the generation of every pollutant to an amount not exceeding the limit set by the relevant environmental standard and dispose of it in an environmentally sound manner.
- 2/ Any factory shall have the obligation to handle equipment, inputs and products in a manner that prevents damage to the environment and to human and animal health.
- 3/ Any factory shall notify the competent environmental organ any dangerous pollutant, input or product under its possession.
- 4/ If any factory loses a dangerous pollutant, input or product it shall immediately notify the competent environmental organ.
- 5/ Even if a factory is not subject to the provisions of these Regulations, the competent environmental organ may require it to take appropriate measures in order to eliminate any risk that might emanate from its operation.
- 6/ The competent environmental organ shall issue a written order to a factory that it believes will entail substantial damage by transgressing the limit set by the environmental standard to take measures to remove the risk.

5. Licensing

The competent licensing agency can grant a license to a factory after verifying that the effluent is not a pollutant or will not exceed the limit set under the relevant environmental standard and it will not entail damage if released into the environment.

6. Varying Licensing Requirements

- 1/ The competent environmental organ may order a variation of the conditions of a license that has been granted whenever:
 - a) the factory introduces change in its operational technique or undertakes an expansion;

- b) the factory does not commence its operations within the set time limit; or
 - c) an unforeseen fact of serious implication is realized.
- 2/ Any order issued pursuant to sub-article (1) of this Article shall state the reason for the issuance of the order and the time limit within which it shall be implemented.
 - 3/ The owner or legal representative of any factory who challenges the appropriateness of the order issued pursuant to sub-article (2) of this Article may, within 30 days from receipt of the order, submit a written complaint to the competent environmental organ.
 - 4/ The competent environmental organ shall, within 30 days, issue its decision on the complaint submitted to it in accordance with sub-article (3) of this Article.

7. **Suspension or Cancellation of License**

- 1/ The competent environmental organ shall suspend or cancel the license of a factory whenever it finds out that the conditions of the license set in accordance with these Regulations have not been complied with.
- 2/ The competent environmental organ shall, despite the factory's observance of the requirements set under the provisions of these Regulations, suspend or cancel a license if it has reason to believe that the continuation in operation of the factory may entail serious pollution.
- 3/ The competent environmental organ shall, when it decides to suspend or cancel a license in accordance with sub-articles (1) or (2) of this Article, notify the competent licensing agency its reason and the time when it shall be implemented. The licensing agency shall ensure the enforcement of the decision accordingly.
- 4/ The owner or legal representative of any factory who challenges the appropriateness of the decision issued pursuant to sub-article (3) of this Article may, within 30 days from receipt of the decision, submit a written complaint to the competent environmental organ.
- 5/ Within 30 working days from the date of receipt of any challenge submitted to it in accordance with sub-article (4) of this Article, the competent environmental organ shall amend, cancel or uphold its decision.

8. **Emergency Response System**

- 1/ Any factory subject to the provisions of these Regulations shall prepare and implement an emergency response system.

- 2/ The emergency response system prepared pursuant to sub-article (1) of this Article shall be notified to the competent environmental organ by the factory.

9. **Monitoring of Environmental Safety**

- 1/ A factory subject to the provisions of these Regulations shall, with a view to ensuring its compliance with these Regulations, prepare and implement its own internal environmental monitoring system.
- 2/ The competent environmental organ may, if it deems it necessary, apply the provisions of sub-article (1) of this Article even if the industrial sector of the factory is not listed in a directive issued pursuant to Article 3 of these Regulations.

10. **Public Complaints**

- 1/ The competent environmental organ shall prepare a mechanism to respond to any person who complains concerning pollution without requiring him to prove vested interest.
- 2/ The competent environmental organ to which a complaint on pollution has been submitted shall investigate the case and take measures and notify to the complainant within 90 days.
- 3/ Any person dissatisfied by the measure taken in accordance with sub-article (2) of this Article may submit a grievance notice to the head of the competent environmental organ in writing within 30 days of the issuance of the decision. The head of the competent environmental organ shall issue his decision within 30 days following the receipt of the grievance notice.

Tell Summary

11. **Information on Pollution Management**

- 1/ Any factory subject to these Regulations shall keep written information describing the equipment and input it has used, the product it has produced, the pollutant it has generated, and the disposal mechanisms it has used to dispose of the pollutant and other related matters.
- 2/ Every factory shall submit to the competent environmental organ an annual report describing how it is complying with the provisions of these Regulations.
- 3/ The Authority shall issue a report on the amount, source, movement and disposal of pollutants in Ethiopia at least every five years.

input for house

12. Existing Factories

- 1/ An existing factory that is in an industrial sector listed in a directive issued under these Regulations shall, within a maximum of 5 years, fully comply with the provisions of these Regulations.
- 2/ Every existing factory that is in an industrial sector subject to these regulations shall, with a view to complying with these Regulations, undertake environmental audit, and prepare and implement an environmental management plan.
- 3/ The competent environmental organ shall, if it is not possible to avoid the adverse impacts likely to emanate from the operation of the factory within the time limit specified in sub-article (1) of this Article, take any measure it deems appropriate to avoid the adverse impacts. The decision may include either the relocation or closure of the factory.

13. Jurisdiction

- 1/ It shall be the responsibility of the Authority to enforce these Regulations with respect to a factory licensed by the Federal Government.
- 2/ It shall be the responsibility of the regional competent environmental organ to enforce these Regulations with respect to a factory licensed by a regional government.

14. Penalties

The provisions of the Criminal Code on environmental pollution shall apply for the enforcement of these Regulations.

15. Effective Date

These Regulations shall come into force as of the date of their publication in the Federal Negarit Gazeta.

Done at Addis Ababa, this ----- day of -----, 2008.

MELES ZENAWI

PRIME MINISTER OF THE FEDERAL DEMOCRATIC
REPUBLIC OF ETHIOPIA

Questions for interview

Name of the interviewee _____

Position _____

Questions on the impacts of industrial pollution, the legal and institutional gaps in regulation industrial pollution in Addis Ababa

1. How do you describe the problem of industrial pollution in Addis Ababa?
2. What do you think are the major sources of pollution in Addis Ababa?
3. What do you think are the major polluting industries in Addis Ababa?
4. Do you have IP regulations for your respective region? (enacted /draft)
5. If your answer for the above question is yes, what do you think are the major differences from the federal draft /enacted laws?
6. Have you participated in the drafting process of IP regulation prepared by the federal EPA? If yes what was your contribution?
7. Do you think that the existing legal and institutional capacities are sufficient for the regulation IP in Addis Ababa?

ደንብ ቁጥር ----- 2001 ዓ.ም.

የአዲስ አበባ ከተማ አስተዳደር

የኢንዱስትሪ ብክለት መከላከያና ቁጥጥር

ደንብ

በኢንዱስትሪ ልማት ጥረት ውስጥ የአካባቢ ታላቢዎችን ማካተት የሚሰጠው ጠቀሜታ ለአካባቢ ብቻ ሳይሆን ለዘላቂ ማህበራዊና ኢኮኖሚያዊ ልማት ዓላማዎች መሳካት ጭምር በመሆኑ፤

የኢንዱስትሪ እንቅስቃሴን በተመለከተ አጠቃላይ ድንጋጌዎችን ያስቀመጠው የአካባቢ ብክለት አዋጅን በግልፅና በማያሻማ ሁኔታ በተግባር ማዋል አስፈላጊ ሆኖ በመገኘቱ፤

ለአሁኑና ለወደፊቱ ትውልድ ተፈጥሮአዊ አካባቢውን ባለው መልሶ የመተካት፣ ተቀብሎ የማዋሃድ አቅም የከተማዋን ሕዝብ ፍላጎትና ምኞት የሚያሳካ የኢንዱስትሪ ልማት ለማስፋፋትና የአካባቢን ደህንነት የሚያስጠብቅ የሕግ መሰረት መጣል አስፈላጊ በመሆኑ፤

በተሻሻለው የአዲስ አበባ ከተማ አስተዳደር ቻርተር አዋጅ ቁጥር 361/1995 አንቀጽ 66 (2) እና 23(1) (ረ) እንዲሁም በአዲስ አበባ ከተማ አስተዳደር የአስፈጻሚና ማዘጋጃ ቤት ማሻሻያ አዋጅ ቁጥር 14/1996 አንቀጽ 17(1) መሠረት የከተማው ጊዜያዊ አስተዳደር ይህን ደንብ አውጥቷል፡፡

ክፍል አንድ

ጠቅላላ

1. አጭር ርዕስ

ይህ ደንብ «የአዲስ አበባ ከተማ አስተዳደር የኢንዱስትሪ ብክለት መከላከያና ቁጥጥር ደንብ ቁጥር -----/1997 ዓ.ም. » ተብሎ ሊጠቀስ ይችላል፡፡

2. ትርጓሜ

የቃሉ አገባብ ሌላ ትርጉም የሚያሰጠው ካልሆነ በስተቀር በዚህ ደንብ ውስጥ፤

1. «አስተዳደር» ማለት የአዲስ አበባ ከተማ አስተዳደር ነው፤
2. «ባለሥልጣን» ማለት የአዲስ አበባ ከተማ የአካባቢ ጥበቃ ባለሥልጣን ነው፤

3. «የላቀ የቴክኒክ አማራጭ» ማለት በአንድ በተወሰነ ጊዜ ውስጥ ከአቅም ጋር መመጣጠንና በቀላሉ መገኘትን ጨምሮ በኢኮኖሚያዊና በቴክኒክ ረገድ አዋጭ ነገራዊ፣ ሥነ- ሕይወታዊ ወይም ሌላ በጎነት ወይም በሌሎች ሕያዋን ላይ አደገኛ ሊሆን የሚችል ሁኔታ ነው፤
4. «የአካባቢ መስሪያ ቤት» ማለት አካባቢን ለመጠበቅ ወይም ለመቆጣጠር በሕግ ስልጣን የተሠጠው የፌዴራል መንግስትና የአስተዳደሩ አካል ነው፤
5. «ኬሚካል» ፣ «አካባቢ» ፣ «ብክለት» የሚሉት ቃላቶች በአዋጁ አንቀጽ 2 (2)፣ (6) እና (12) የተሰጣቸውን ትርጓሜ ይይዛሉ፤
6. «አዋጁ» ማለት የፌዴራል የአካባቢ ብክለት ቁጥጥር አዋጅ ቁጥር 300/1995 ነው፡፡

3. የተፈጻሚነት ወሰን

1. ይህ ደንብ በማናቸውም በአስተዳደሩ በሚገኙ ኢንዱስትሪዎች ላይ ተፈጻሚነት ይኖረዋል፡፡
2. ይህ ደንብ በአንቀጽ 22 ላይ በተመለከተው ሁኔታ ብቻ በአነስተኛ ኢንዱስትሪዎች ላይ ተፈጻሚ ይሆናል፡፡
3. ባለሥልጣኑ ይህ ደንብ ተፈጻሚ የሚሆንባቸውን ኢንዱስትሪዎች ዝርዝር ወደፊት በመመሪያ ሊያወጣና ሊያሻሽል ይችላል፡፡
4. ይህ ደንብ በአስተዳደሩ ውስጥ በሚሸከረከሩ በማናቸውም ተሽከርካሪዎች ላይ ጭምር ተፈጻሚ ይሆናል፡፡

4. የደንቡ ዓላማ

ደንቡ፤

በኢንዱስትሪና በተሽከርካሪ ምክንያት የሚመጣውን የአካባቢ ብክለት በመከላከልና በመቆጣጠር የተሻለ አካባቢ እንዲኖር ለማድረግ ነው፡፡

ክፍል ሁለት

የአካባቢ ጉዳትን የመከላከል ወይም የመቀነስ ግዴታ

5. አጠቃላይ ጥንቃቄ የማድረግ ግዴታ

1. የኢንዱስትሪ ተግባራትን የሚያከናውን ወይም ለማከናወን ዓላማ ያለው ማናቸውም የኢንዱስትሪ ባለቤት ተግባሩ በጤና ወይም በአካባቢ ላይ የሚያደርሰውን ጉዳት ለመከላከል ወይም መልሶ ለማቋቋም በሕግ የተደነገገውን

ግዴታ ስራው ከተቋረጠም በኋላ ቢሆን መልሶ የማቋቋምን ሥራ ጨምሮ ጉዳቱ አግባብ ባለው መንገድ እስከሚወገድ ድረስ የሚቀጥል ይሆናል።

2. ማናቸውም ኢንዱስትሪ ተግባሩን በሚያከናውንበት ወቅት በቁጥጥሩ ስር ያሉትን ማናቸውንም መሳሪያዎች ወይም ንጥረ ነገሮች፣ በጤና እና በአካባቢ ላይ የጎላ ጉዳት በማያደርስበት ሁኔታ መያዝና መጠቀም አለበት።
3. ተጨማሪ ጠንቅ ሊያስከትሉ የሚችሉ ቴክኖሎጂዎችን የሚጠቀሙ ኢንዱስትሪዎች፣ በጤና ወይም በአካባቢ ላይ ሊያደርስ የሚችለውን ጠንቅ መጠን በበቂ ሁኔታ ለመቀነስ እንዲቻል፣ ጥበቅ ክልል ወይም እንደጠንቁ ምንጭ የባህሪ ሁኔታ በሚስማማ ርቀት ቦታ መወሰን አለባቸው።
4. ኢንዱስትሪዎች ተግባራቸውን ሲያከናውኑ አደጋን ለማስወገድ ወይም ለመቀነስ እና በእርሱም ምክንያት የሚመጣውን አሉታዊ ተጽዕኖ ለመቋቋም እንዲሁም እንዲህ ዓይነት አደጋ በሚከሰትበት ወቅት የሚደርሰውን ጉዳት ለማስወገድ የሚያስችል ለአካባቢ የሚስማማ ዘዴና መንገድ መጠቀም አለባቸው።
5. ኢንዱስትሪዎች፣ የኢንዱስትሪ አደጋዎችንና አደጋ ሊያስከትሉ የሚችሉ ሁኔታዎችን ለመከላከል ወይም ለመቀነስ የሚያስችሉ የመጠባበቂያ እና የመቋቋሚያ እቅዶችን በማዘጋጀት ሥራ ላይ ማዋል አለባቸው።
6. ኢንዱስትሪዎች በተግባር የሚውሉ የኢንዱስትሪ የአካባቢ ደህንነት እርምጃዎችን፣ አግባብነት ያላቸውን የአዋጁን ድንጋጌዎች፣ ይህንን ደንብ እና በባለሥልጣኑ የሚወጡ መመሪያዎችን በማናቸውም ጊዜ የሚያሟሉ መሆናቸውን ማረጋገጥ አለባቸው።

6. ስለኢንዱስትሪ ውጋጆች

1. ኢንዱስትሪዎች፣ የኢንዱስትሪ ውጋጆችን የሚከላከሉ ወይም የሚቀንሱ፣ እንደዚህ አይነቶች ውጋጆችን ጉዳት አልባ ሊያደርግ የሚችል አመቺ የኢንዱስትሪ ውጋጅ አያያዝ ሥርዓት አዛምደው ማዘጋጀት እና ሥራ ላይ ማዋል አለባቸው።
2. ማናቸውም ኢንዱስትሪ ውጋጁን ወደ አካባቢው ወይም የፍላጎት መስመር ከመልቀቁ በፊት የኢንዱስትሪ ውጋጁን እስከተፈላጊው ደረጃ ማጣራት አለበት።
3. ማናቸውም አደገኛ ጠጣር የኢንዱስትሪ ውጋጅ በማዘጋጃ ቤት ቆሻሻ መጣያ ቦታ ላይ መጣል የለበትም።

ክፍል ሦስት

ብክለትን ለመከላከል ወይም ለመቀነስ የሚያስፈልጉ ሁኔታዎች

7. የላቀ የቴክኒክ አማራጭን መጠቀም

1. ኢንዱስትሪዎች የስራ ሂደታቸውን ሲተገብሩ፣ የኢንዱስትሪ ውጋጆች እንዳይፈጠሩ ወይም ወደ አካባቢው እንዳይለቀቁ መከላከል የሚያስችል ወይም ፈጽሞ መከላከል ካልተቻለ፣ የውጋጆቹ መፈጠር ወይም ወደ አካባቢው መለቀቅ አነስተኛ እንዲሆን ወይም ጎጂ እንዳይሆን የሚያስችል የላቀ ቴክኒካዊ አማራጭ መጠቀም አለባቸው።
2. ባለሥልጣኑ ይህ ደንብ ለሚመለከተው ለእያንዳንዱ የኢንዱስትሪ ምድብ በየወቅቱና እንደ አስፈላጊነቱ ሊሻሻሉ የሚችሉ የላቀ የቴክኒክ አማራጮችን የሚጠቁም መመሪያ ያወጣል።

ክፍል አራት

የኢንዱስትሪ ውጋጆችን በመልቀቅ ላይ የተጣሉ ገደቦች

8. የኢንዱስትሪ ውጋጆች ደረጃን ስለማክበር

1. ከማናቸውም ኢንዱስትሪ የሚወጣ የኢንዱስትሪ ውጋጅ መጠን ወይም ይዘት፣ ወደ አየር፣ ውሃ ወይም አፈር ከመለቀቃቸው በፊት ከዚህ ደንብ ጋር በተያያዘው አባሪ ውስጥ ከሚገኙት አግባብ ካላቸው ደረጃዎች ጋር የተስማሙ መሆን አለባቸው።
2. ከዚህ ደንብ ጋር ተያይዞ የሚገኘው አባሪ በየጊዜው በከተማው አስተዳደር በሚወጣ ደንብ ሊሻሻል ይችላል።
3. የኢንዱስትሪ ውጋጅ የሚያመነጩ የአመራረት ሂደት ያላቸው ኢንዱስትሪዎች እነዚህ የተጠቀሱት ውጋጆች አግባብነት ካላቸው ደረጃዎች ጋር የሚጣጣሙ መሆናቸውን ለማረጋገጥ በየወቅቱ ክትትል ማድረግ አለባቸው።

9. የኢንዱስትሪ ውጋጅን የማስወገድ ፈቃድ

1. አደገኛ ነው ተብሎ የተፈረጀ የኢንዱስትሪ ውጋጅ የሚያመነጭ ኢንዱስትሪ እነዚህን ውጋጆች ማስቀመጥ፣ ማጣራት ወይም ማስወገድ የሚችለው ባለሥልጣኑ በሚሰጠው ፈቃድ መሠረት ብቻ ይሆናል።
2. ማናቸውም ኢንዱስትሪ ከባለሥልጣኑ ፈቃድ ሳያገኝ የኢንዱስትሪ ውጋጅን ወደ ውሃ፣ አየር ወይም አፈር መልቀቅ አይችልም።
3. ማናቸውም ኢንዱስትሪ አደገኛ ውጋጆችን ለማስቀመጥ፣ ለማጣራት ወይም ለማስወገድ ፈቃድ ያስፈልገዋል ወይም አያስፈልገውም ብሎ ለመወሰን በቅድሚያ ባለሥልጣኑን፣ የአስተዳደሩን የጤና ቢሮ እና ሌሎች የሚመለከታቸውን መስሪያ ቤቶች ማማከር አለበት።
4. ማናቸውም ኢንዱስትሪ አካባቢን ሊበክል በሚችል ወይም በሰዎች ጤና ላይ ጉዳት በሚያደርስ መልክ አደገኛ የሆኑ የኢንዱስትሪ ውጋጆችን ማጣራት፣ ማስቀመጥ ወይም ማስወገድ የለበትም።
5. ከዚህ በላይ የተጠቀሱት አንቀጾች ቢኖሩም አደገኛ የሆነን የኢንዱስትሪ ውጋጅ ለማስቀመጥ፣ ለማጣራት ወይም ለማስወገድ የሚፈልግ ኢንዱስትሪ፣ ጎጂ የኢንዱስትሪ ውጋጆች አያያዝን በሚመለከት የወጡ ሕጎችን፣ ደንቦችንና መመሪያዎችን ማክበር አለበት።
6. በዚህ ደንብ መሠረት የሚሰጥ ፈቃድ ቆይታ ከአምስት ዓመታት ለማይበልጥ ጊዜ ይሆናል። ፈቃዱም ጤናንና አካባቢን በአስተማማኝ ሁኔታ ከጉዳት ለመጠበቅ የሚያስፈልጉ ሁኔታዎችን እና ገደቦችን የሚያካትት መሆን አለበት።

10. ፈቃድ የማውጣት ፍላጎት የማሳወቅ ግዴታ የማሳወቅ ግዴታ

ማናቸውም ኢንዱስትሪ በጋዜጦች ላይና በኢንዱስትሪው ቅጥር ግቢ መግቢያ ላይ ማስታወቂያ በመለጠፍ ለሕዝብ ማስታወቅ አለበት።

11. የኢንዱስትሪ ውጋጅ የማስወገድ ፈቃድ ማመልከቻ ቅጽና ይዘት

1. ባለሥልጣኑ እንደ አስፈላጊነቱ የፈቃድ ማመልከቻዎች አጥጋቢና ወቅታዊ ሆነው መዘጋጀታቸውን፣ መቅረባቸውንና መገምገማቸውን ለማረጋገጥ፣ ለፈቃድ ጠያቂዎች የማመልከቻ ቅጽና ተዛማጅ መግለጫዎችን ጨምሮ መመሪያዎችን ያወጣል።
2. የፈቃድ ማመልከቻ ቅጾች እና ተያያዥ መመሪያዎች በባለሥልጣኑ ተዘጋጅተው ፈቃድ ጠያቂው እንዲያገኛቸው ይደረጋል።

3. ፈቃድ ጠያቂዎች ቢያንስ ከሚያቀርቡት ማመልከቻ ጋር የሚከተሉትን መረጃዎች አሟልተው ማቅረብ አለባቸው፤

ሀ) የኢንዱስትሪውን ዲዛይን፣ የሚገኝበትን ቦታ እና የእንቅስቃሴውን ዓይነት፤

ለ) የኢንዱስትሪው ውጋጅ የኬሚካል ውሁድ፣ ብዛት፣ መጠን፣ ክብደትና ሌሎች አግባብ ያላቸውን ባህሪያት፤

ሐ) ከተቋሙ የሚለቀቁ የውጋጅ ምንጮች፤

መ) ከተቋሙ ሊለቀቁ የሚችሉ ውጋጆች ባህሪና መጠን እንዲሁም እነዚህ ውጋጆች በአካባቢው ላይ የሚያደርሱትን ተፅዕኖ መለየት፤

ሠ) ከተቋሙ የሚወጡትን ውጋጆች ለመከላከል ወይም ይህ በማይቻልበት ሁኔታ ውጋጁን ለመቀነስ ያስችላል ተብሎ የቀረበ የላቀ የቴክኒክ አማራጭ ውጤት ወይም የሌላ ስልት ሃሳብ፤

ረ) አስፈላጊ ሲሆን ከተቋሙ የሚወጣውን ውጋጅ ለመከላከል ወይም መልሶ ለመጠቀም የሚወሰዱ እርምጃዎች፤

ሰ) ኢንዱስትሪው አግባብነት ያላቸውን የአካባቢ ደረጃዎች የሚያከብርበት ሁኔታ እና ደረጃ፤

ሸ) ተረፈ-ምርትን መልሶ መጠቀምን ጨምሮ በቦታው ላይ ቁሳቁስን መልሶ የመጠቀም ዘዴዎችና እርምጃዎች አይነትና መጠን፤

ቀ) የመቀነሻ እና የመጠባበቂያ እቅዶች እንዲሁም ሌሎች የአካባቢ ደህንነት ጥበቃ እርምጃዎች፤ እና

በ) አካባቢን መልሶ ለማቋቋም ሊወሰዱ የታሰቡ እርምጃዎችን ጨምሮ ስራው ከተጠናቀቀ በኋላ የሚወሰዱ እርምጃዎች፡፡

4. ባለሥልጣኑ በቂ ግምገማ ለማካሄድ ያስፈልገኛል ብሎ የሚያምነውን ተጨማሪ መረጃ ሊጠይቅ ይችላል፡፡

5. ማናቸውም ኢንዱስትሪ የብክለት መቆጣጠሪያ ወይም መከላከያ እርምጃዎችን በተወሰነ ጊዜ ውስጥ ለመተግበር ያቀደ እንደሆነ፣ ማመልከቻው በዚህ ደንብ ውስጥ የተጠቀሱትን ተፈላጊ ሁኔታዎች የሚያሟላበትን ፕሮግራም ማካተት አለበት፡፡

12. በማመልከቻዎች ላይ የሚደረግ ግምገማና የሚሰጥ ውሳኔ

1. ባለሥልጣኑ የፈቃድ ማመልከቻ ሲቀርብለት አስፈላጊውን ምርመራ እና ማጣሪያ በማካሄድ በአመልካቹ የቀረቡትን ማናቸውንም መረጃዎች ወይም ሰነዶች የተሟሉ መሆናቸውን እና ትክክለኛነታቸውን፣ እንዲሁም በአመልካቹ የቀረቡት

ማናቸውም የብክለት መከላከያ ወይም መቀነሻ እርምጃዎች ተግባራዊ ሊሆኑ የሚችሉ መሆናቸውን ማረጋገጥ አለበት፡፡

2. ባለሥልጣኑ አስፈላጊውን የቁጥጥር እና የማጣሪያ እርምጃዎችን እንዲያካሄዱ ተቆጣጣሪዎችን ይመድባል፡፡
3. ለቁጥጥርና ማጣራት የተመደበ ተቆጣጣሪ ቁጥጥሩን ካካሄደ በኋላ ረቂቅ ፈቃድ ያዘጋጃል፤ አብሮም ስለሚመለከተው ኢንዱስትሪ፣ የአካባቢ ጥበቃ ሁኔታ፣ በአካባቢው ላይ ሊደርስ የሚችለውን ተፅዕኖ፣ በፈቃዱ ውስጥ የሚታከሉት የውጋጅ መጠን ወሰን እሴቶች የማይታከሉ ከሆኑ፣ ከነዚህ እሴቶች ለምን እንዳፈነገጠ ምክንያቶቹን የሚገልፅ ማስታወሻ የሚያቀርብ ይሆናል፡፡
4. ተቆጣጣሪው የፈቃድ ማመልከቻው ተቀባይነት እንዳይኖረው የውሳኔ ሃሳብ የሚያቀርብ ከሆነ ምክንያቶቹን መግለጽ ይኖርበታል፡፡
5. ባለሥልጣኑ፣ በጤና እና በአካባቢ ላይ ጉልህ አሉታዊ ተጽዕኖ ሊፈጥሩ የሚችሉ ኢንዱስትሪዎችን በተመለከተ የፈቃድ ማመልከቻዎች ወይም ፈቃድ እንዲሰጥ ሃሳብ የተሰጠባቸው ረቂቅ ፈቃዶች ላይ ሕዝብ ሃሳብ እንዲሰጥባቸው ለማድረግ አስፈላጊ የሆኑትን እርምጃዎች ሁሉ መውሰድ አለበት፡፡
6. ባለሥልጣኑ የውሳኔ ሃሳብ የተሰጠበትን ረቂቅ ፈቃድ እና በሕዝብ የተሰጠን ማናቸውንም አስተያየት ከተቀበለ በኋላ ግዴታዎችን በማስቀመጥ ወይም ባለማስቀመጥ ፈቃዱን ሊሰጥ ወይም ሊከለክል ይችላል፡፡
7. በዚህ አንቀፅ መሠረት የሚደረጉ ግምገማዎች፣ የተደረጉ ማጣራቶች እና ውሳኔዎች ማመልከቻው በቀረበ በሰላሳ ቀናት ውስጥ ለአመልካቹ በጽሁፍ እንዲገለጽለት ይደረጋል፡፡
8. የላቀ የህዝብ ጥቅም መጠበቅ አስፈላጊ ሲሆን ባለሥልጣኑ ለተወሰነ ጊዜ የኢንዱስትሪ ውጋጅን በተመለከተ መከበር ያለባቸውን አንዳንድ ተፈላጊ ሁኔታዎች ማንሳት ይችላል፡፡
9. ይህንን ደንብ ለማስፈፀም በተሰጠ ፈቃድ መሠረት የተከናወነ ማናቸውም የግንባታ ወይም የማሻሻል ሥራ ሲጠናቀቅ፣ ባለሥልጣኑ በፈቃዱ ውስጥ የተቀመጡት ተፈላጊ ሁኔታዎች በአጥጋቢ መንገድ መሟላታቸውን ለማረጋገጥ ኢንዱስትሪው ቁጥጥር እንዲደረግበት ሊያዝ ይችላል፡፡

13. የፈቃድ ተፈላጊ ሁኔታዎችን ስለመለወጥ

1. አንድ ኢንዱስትሪ በሚያቀርበው ጥያቄ መሠረት፣ ኢንዱስትሪው የአመራረት ቴክኒክ ወይም ቴክኖሎጂ ለውጥ በማድረግ ምክንያት በፈቃዱ ውስጥ የተጠቀሱ

ሁኔታዎች መለወጥ ይገባቸዋል የሚል አሳማኝ ማስረጃ ካገኘ ባለሥልጣኑ የፈቃዱን ሁኔታዎች ሊለወጥ ይችላል።

2. ባለሥልጣኑ የፈቃዱን ተፈላጊ ሁኔታዎች በራሱ አነሳሽነት ሊለወጥ የሚችለው በሚከተሉት ሁኔታዎች ነው፤

ሀ) ባልታሰቡ ሁኔታዎች መከሰት ምክንያት አዲስ የኢንዱስትሪ ውጋጅ ደረጃዎችን ማካተት አስፈላጊ ከሆነ፤

ለ) የአካባቢ ሁኔታዎች የተለወጡ ከሆኑ፤

ሐ) የተሸሻሉ የላቁ የቴክኒክ አማራጮችን በሥራ ላይ ማዋል አስፈላጊ ከሆነ፤

3. በዚህ አንቀጽ ንዑስ አንቀጽ (2) መሠረት ባለሥልጣኑ የፈቃዱን ተፈላጊ ሁኔታዎች ለመለወጥ የሚወስን ከሆነ፤ ለውጡ የሚደረግበትን ምክንያት በማክል ለኢንዱስትሪው የለውጥ ማስታወቂያ እና ለውጡም ከመቼ ጀምሮ ተፈጻሚነት እንደሚኖረው መግለጽ አለበት። ለውጡ ተፈጻሚ የሚሆንበት ጊዜ ማስታወቂያው ከተሰጠበት ቀን አንስቶ ከሰላሳ ቀናት ያነሰ መሆኑን የለበትም።

4. የፈቃዱ ሁኔታዎች ሲለወጡ ሌሎች የተደረጉ ለውጦች እንደተጠበቁ ሆነው የደንቡ አንቀጽ 12(1)፣(2)፣(3)፣እና (4) ተፈጻሚነት ይኖራቸዋል።

14. ኢንዱስትሪ ውጋጅ ፈቃድን ማገድ ወይም መሰረዝ

1. ማናቸውም ኢንዱስትሪ የፈቃዱን ተፈላጊ ሁኔታዎች አላከበረም ብሎ ባለሥልጣኑ ሲያምን፤ ይህንኑ ፈቃድ ማገድ ወይም መሰረዝ ይችላል።

2. ባለሥልጣኑ ፈቃዱን ለማገድ ወይም ለመሰረዝ የሚወስን ከሆነ ፈቃዱ የሚታገድበትን ወይም የሚሰረዝበትን ምክንያት በመዘርዘር፤ እንዲሁም ይህን አይነቱ እገዳ ወይም ስረዛ ከመቼ ቀን ጀምሮ ተፈጻሚነት እንደሚኖረው ለኢንዱስትሪው ባለቤት ወይም ስራውን ለሚያንቀሳቅሰው ሰው ማስጠንቀቂያ መስጠት አለበት። በሌላ ሁኔታ ካልተገለፀ በስተቀር፤ የፈቃዱ እገዳ ወይም ስረዛ ተፈጻሚ የሚሆንበት ጊዜ፤ ማስጠንቀቂያ ከተሰጠበት ቀን ጀምሮ ከሰላሳ ቀናት በላይ አይሆንም።

3. ፈቃዱን በማገዱ ሂደት፤ ሌሎች የተደረጉ ለውጦች እንደተጠበቁ ሆነው የደንቡ አንቀጽ 12(1)፣(2)፣(3)፣እና (4) ተፈጻሚነት ይኖራቸዋል።

15. ይግባኝ

1. በዚህ ደንብ መሠረት በተሰጠው ውሳኔ ቅር የተሰኘ ይግባኝ ባይ ውሳኔው ከተሰጠበት ቀን አንስቶ በሰላሳ ቀናት ውስጥ ለባለሥልጣኑ የበላይ ኃላፊ ይግባኝ ማለት ይችላል።

2. በዚህ አንቀጽ ንዑስ አንቀጽ (1) መሠረት ባለሥልጣኑ የበላይ ኃላፊ በሰጠው ውሳኔ ቅር የተሰኘ ይግባኝ ባይ ውሳኔ ከተሰጠበት ቀን ጀምሮ በሰላሳ ቀናት ውስጥ ወደፊት በሕግ ለሚቋቋመው የአካባቢ ሽንጎ ይግባኝ ማቅረብ ይችላል።

ክፍል አምስት

ብክለትን ለመከላከል ወይም ለመቀነስ የሚያስችሉ እርምጃዎች

16. ስለማበረታቻ

ብክለትን ሙሉ በሙሉ ለመከላከል ወይም ውጋጆችን ሙሉ በሙሉ መልሶ ለመጠቀም የሚያስችሉ መሳሪያዎችን፣ ማሽኖችን ወይም ሥርዓቶችን የሚተክሉ ኢንዱስትሪዎች በሕግ መሠረት ማበረታቻ ይደረግላቸዋል።

17. የኢንዱስትሪ ልማት ፈንድ

አስተዳደሩ ገንዘብ ለማሰባሰብና የተሳታፊ ኢንዱስትሪዎችን አካባቢ ተግባር ለማሻሻል የሚያስችል «የኢንዱስትሪ ልማት ፈንድ» ተብሎ የሚጠራ ፈንድ ያቋቁማል፤ ባለሥልጣኑ ፈንዱን ያስተዳድራል። የፈንዱ አደረጃጀት፣ አሰራርና ተያያዥ ጉዳዮች በከተማው አስተዳደር በሚወጣ ሕግ ይወሰናል።

18. የኢንዱስትሪ የአካባቢ መረጃ ሥርዓት

ባለሥልጣኑ የተቀናጀ እና በዓለም አቀፍ ደረጃ ተቀባይነት ያለው በኢንዱስትሪ ጥሪ ሀብት ፍጆታ፣ በብክለት ማመንጨት፣ በኢንዱስትሪ ውጋጆች ማስተላለፍ እና ማስወገድ እንዲሁም የላቀ የቴክኒክ አማራጭን በተመለከተ የመረጃ ስርዓት ያደራጃል። የመረጃው ሥርጭት ሥርዓት ባለሥልጣኑ በሚያወጣው መመሪያ ይወሰናል።

19. የአስቸኳይ ጊዜ ዝግጁነትና ምላሽ ሥርዓት

1. አስፈላጊ ሆኖ ሲገኝ ባለሥልጣኑ የአስቸኳይ ጊዜ የአካባቢ ብክለትን ለመቋቋም የአስቸኳይ ጊዜ አገልግሎት የሚያበረክቱ ተቋማት ያቋቁማል።
2. የአስቸኳይ ጊዜ ዝግጁነት አገልግሎቶች የአስቸኳይ ጊዜ ሁኔታን ለመቋቋም የተነደፉት ስልቶች፣ እንደአስፈላጊነቱ ናሙናዎችን ወስዶ ለመፈተሽ ያስችላቸው ዘንድ ከባለሥልጣኑ የክትትል ላቦራቶሪ ጋር መቀናጀት ይኖርባቸዋል።
3. ባለሥልጣኑ በኬሚካል ጠንቆች እና የማጽዳት እርምጃዎች ላይ የመረጃ ማዕከል ያቋቁማል፤ እንዲሁም ይህንን የመረጃ ማዕከል ለተቆጣጣሪዎች ይሰጣል።

20. አነስተኛ ኢንዱስትሪዎችና በአካባቢ ላይ የሚያደርሱት ተጽዕኖ

1. ባለሥልጣኑ ከሚመለከታቸው የአስተዳደሩና ሌሎች አካላት ጋር በመተባበር በመደበኛና መደበኛ ባልሆኑ ዘርፎች ለተሰማሩ የጥገና ወርክሾፕ ስራ ለሚሰሩ፣ አነስተኛ የከተማ አገልግሎት ሰጪዎች እና ለሌሎች በአካባቢ ላይ ጉልህ አሉታዊ የአካባቢ ተፅዕኖ ሊደርሱ ለሚችሉ ከአነስተኛ ኢንዱስትሪዎች ጋር ተዛማጅ ከሆኑ ተግባራት፣ የአፈፃፀም መመሪያዎችን ያዘጋጃል።
2. በዚህ አንቀጽ ንዑስ አንቀጽ (1) መሠረት የሚወጡት መመሪያዎች ከሌሎች ጉዳዮች በተጨማሪ አነስተኛ ኢንዱስትሪዎች በአካባቢ ላይ የሚያደርሱትን ተጽእኖዎች ለመቀነስ የሚረዳቸው የፋይናንስ ወጪን ከግምት ውስጥ በማስገባት፣ አስፈላጊ ድጋፍ እንዲያገኙ ለመፈለግና ለማድላደል የሚያስችሉ ስልቶችን ይቀይሳል።

ክፍል ስድስት

በደንቡ ውስጥ የተጠቀሱትን ሁኔታዎች ማክበርና ማስፈፀም

21. ውስጣዊ የአካባቢ የአስተዳደር ሥርዓት

1. ኢንዱስትሪዎች ደንቡ የሚጠይቃቸውን ሁኔታዎች ወይም ባለሥልጣኑ ወደፊት የሚያወጣቸውን መመሪያዎች ለማክበር የሚያስችላቸው የስራ ክፍል መሰየምን ጨምሮ ውስጣዊ የአካባቢ አስተዳደር ስርዓት መዘርጋት አለባቸው።
2. ከላይ በንዑስ አንቀጽ 1 የተደነገገው እንደተጠበቀ ሆኖ፣ ባለሥልጣኑ ይህ ደንብ የማይመለከታቸው ኢንዱስትሪዎች፣ ባህሪያቸውን፣ መጠናቸውንና የሚገኙበትን ቦታ ከግምት ውስጥ በማስገባት ውስጣዊ የአካባቢ አስተዳደር ስርዓት እንዲያቋቁሙ ሊያስገድድ ይችላል።
3. ውስጣዊ የአካባቢ አስተዳደር ስርዓት የሚከተሉትን ያካትታል፡
 - ሀ) የፖሊሲ፣ ማስፈፀሚያ ስልትና ብክለትን ለመከላከልና ለመቆጣጠር የሚያስችል በራስ የሚተዳደር የአካባቢ ጥበቃ እቅድ፣
 - ለ) የኢንዱስትሪውን አወቃቀር እና የኃላፊነት ክልል መግለጫ፣
 - ሐ) ብክለትን መከላከልና መቆጣጠርን የሚመለከቱ የቴክኒክ መመሪያዎችና የአስተዳደር ደንቦች፣
 - መ) ለድንገተኛ አደጋዎች የመከላከያ እቅድ፣ እና
 - ሠ) የአካባቢ አስተዳደር ስርዓት በየወቅቱ የሚሻሻልበት መግለጫ፣

4. እያንዳንዱ ኢንዱስትሪ፣ ባለሥልጣኑ በሚያወጣው መመሪያ መሠረት የኢንዱስትሪ ውጋጆችንና ቆሻሻዎችን ናሙና የሚወስድ፣ የሚተነተንና መረጃዎችን የሚይዝ የብክለት ቁጥጥር የስራ ክፍል ወይም ተቋም ይኖረዋል።
5. በዚህ አንቀጽ በንዑስ አንቀጽ (1) የተጠቀሰውን ዓላማ ለማስፈጸም ማናቸውም ኢንዱስትሪ በውጭ ላቦራቶሪ አገልግሎት መጠቀም ይችላል።
6. በዚህ አንቀጽ በንዑስ አንቀጽ (1) የተጠቀሰው ቢኖርም፣ ባለሥልጣኑ አነስተኛ የኢንዱስትሪ ተቋሞችን በዚህ አንቀጽ ከተጠቀሱት ሁኔታዎች ሙሉ በሙሉ ወይም በከፊል ነጻ ሊያደርጋቸው ይችላል።
7. በፈቃዱ ውስጥ የተጠቀሱትን ስምምነቶችና ሁኔታዎች መሠረት በማድረግ ማናቸውም ኢንዱስትሪ የውጋጅ ክትትል ሪፖርት ለባለሥልጣኑ ማቅረብ አለበት።
8. ራስን በራስ የመከታተል ሪፖርት ለባለሥልጣኑ የማቅረብ ሁኔታ በውጋጅ የማመንጨት ጉልህነትና በኢንዱስትሪው ደንቡን የማክበር ልምድ ላይ የተመሠረተ ይሆናል።
9. ሪፖርቶቹ የማሻሻያ ፕሮግራሞችን፣ የክርስ-ምድር ውሃዎችን ለመጠበቅ የተሰሩ ተቋማትን፣ ከኢንዱስትሪ የሚወጡ ቆሻሻዎችንና ውጋጆችን መጠንና ብዛት፣ የሃይድሮ ጂኦሎጂ (የክርስ ምድር ውሃ) ጥናት ሪፖርቶችን እንዲሁም የተግባር ዕቅዶችን ማካተት አለባቸው።
10. የሚመለከታቸው ተቆጣጣሪዎች በሪፖርቶቹ ይዘት በመመስረትና ሪፖርቶችን በመገምገም በሚወሰደው ዕርምጃ ላይ ለባለሥልጣኑ የውሳኔ ሃሳብ ያቀርባሉ።
11. አንድ ኢንዱስትሪ የሚያስፈልገውን ሪፖርት ካላቀረበ ወይም የሪፖርቱ ይዘት አጥጋቢ ሆኖ ካልተገኘ ባለሥልጣኑ አስፈላጊውን የማስተካከያ እርምጃ ለመውሰድ ይችላል።

22. በባለሥልጣኑ የሚደረግ ክትትል

1. ባለሥልጣኑ፣ አግባብ ያለው መስሪያ ቤት ወይም በባለሥልጣኑ የሚሰየም ማናቸውም አካል አንድ ኢንዱስትሪ በፈቃዱ ውስጥ የተጠቀሱትን ሁኔታዎች ማሟላቱን ወይም አለማሟላቱን ለማረጋገጥ ይቻል ዘንድ ፈቃዱ በፀናበት በማናቸውም ጊዜያት ውስጥ የተፈቀደለትን ውጋጅ ብቻ መለቀቁን ይከታተላል።
2. ባለሥልጣኑ፣ አግባብ ያለው መሥሪያ ቤት ወይም በባለሥልጣኑ የሚሰየመው አካል የሚያከናውነው የክትትል ጊዜ ብዛት ውጋጅ ሊያስከትል በሚችለው የአካባቢ ብክለት ጉልህነት ባህርይ ላይ ይወስናል።

5ሂ ጀጫጋሂ ራወጽህወኤወ ሃሃላተሃኤወ ሓገብ ጌህጉተ ራወህሁተወ (ጠ
 ፤ሁጆሪ ዝጌወ ራተህሃወኤወ ጆህ ጉሃህ ወጆቅወሓሃኤወ (ሃ
 ፤ጸሃ ቷጸሃ ጸሃወ ወሃ ራተሃሃሃኤወ ወጆቅወሓሃኤወ (ሃ
 ተላጆኔ ጋህኤተወ ራወተሃሃወኤወ (በ

ጽሁፍ 100 ላይ የተጻፈው የጥንቃቄ ደረጃ ሲታይ፡፡

ጋላጭ ቀጋሠመህ ህላኩትሆኔሂ ሕሳው ትኔቀ ነህህህ ህሠመ ወህገኛል
 ፆህ ቋውቶኒብ ገህጉት ሙገጫጋጊ ያህህህህ ሰፊው ስቀግህ ኔሂ ጋዘጋዘመህ
 ተኔጫ ራወገሠሠቀት ተወጉትሆኔሂ ያኔውቁህ ላሠህህህህ ሁጋቀፍህ
 ተጋረገ ጸህህገጫል ራሳብሰሰ ህህህ ሰፊው ራሳብሰሰ ጋህህህህ ራቋሰጉጫጋጊ
 ያህህህህ ሰፊው ራቋውቶኒብ ገህጉት ስቀግህ ጉትሆኔሂ ስሂ ወገሠሠቀት
 ::ህህቋፍ ወሠህህ ያፍውቶህህ ሰፊው ጉትሆኔሂ ህህ ከገህህ ከህህህ

ኢባመህ ቁህኔወል ሕፋግህፍ ጀርወ ጉብኝቲኝዕ ጉብኝቲኝህ ሕረህ ላኪህግህህ ፡፡
ቲግፍቅወቶህህ ልፀፀግህዕ

24. የኢ.ፌ.ዴ.ሪ ማህበራዊና ስነ-ቴክኖሎጂ ሚኒስቴር

[illegible][illegible][illegible]

23. ቅጥር

ኢባህ ሽዝካተታ ሂሳብ ህዝቡ ልማት ተቃራኒ ስራዎችን ያሳካል።

ሠ) ተቆጣጣሪው ወይም ተቆጣጣሪዎች ከቅጥር ግቢው ለመግባትና በዚህ አንቀጽ ንዑስ በአንቀጽ (መ) የተወሰነውን እርምጃ ለመውሰድ እንዲችሉ በአዋጁ የተሰጣቸውን ሥልጣን፤

ረ) በዚህ አንቀጽ በንዑስ አንቀጽ (መ) የተጠቀሰው እርምጃ ያልተወሰደ ከሆነ፤ ሊያስከትል የሚችለውን በአዋጁ የተደነገገውን ቅጣት፤

ሰ) የአካባቢ ጥበቃ የአፈፃፀም ማስታወቂያ የተሰጠው ማናቸውም ሰው ማስታወቂያውን በመቃወም በሕግ በተቋቋመ ፍርድ ቤት ይግባኝ ለማቅረብ የሚኖረውን መብት፤

5. የአፈፃፀም ማስታወቂያው፤ የደረሰውን ወይም ሊደርስ የሚችለውን የደንብ መተላለፍ ዝርዝር ሁኔታዎችን፤ የደንብ መተላለፉን ለማስቀረት መወሰድ ያለባቸውን እርምጃዎች፤ እንዲሁም እነዚህ እርምጃዎች የሚወስዱበትን የጊዜ ገደብ በግልጽ ማስታወቅ አለበት፡፡

6. በዚህ አንቀጽ በንዑስ አንቀጽ (5) የተጠቀሰው እንደተጠበቀ ሆኖ፤ አንድ የአፈፃፀም ማስታወቂያ ለሚከተሉት ማናቸውም ዓላማዎች ሊሰጥ ይችላል፤

ሀ) ማናቸውም ኢንዱስትሪ በፈቃዱ ውስጥ የተጠቀሱትን ተፈላጊ ሁኔታዎች እና ግዴታዎች እንዲያከብር በመሻት፤

ለ) ማናቸውም ኢንዱስትሪ በማሻሻያ ፕሮግራሙ ውስጥ ያሉትን ተፈላጊ ሁኔታዎች እንዲያከብር ለመጠየቅ፤

ሐ) ማናቸውም ኢንዱስትሪ ወይም ሰራተኞቹ የፈቃዱን ግዴታዎች ወይም የማሻሻያ ፕሮግራሙን ተፈላጊ ሁኔታዎች የሚጥስ ምንም አይነት እርምጃ እንዳይወስድ ለመከላከል፤

7. ባለሥልጣኑ በአፈፃፀም ማስታወቂያው ውስጥ ሊካተቱ ስለሚገባቸው ዝርዝር ጉዳዮችና ሁኔታዎች መመሪያ ያወጣል፡፡

25. የማገጃ ማስታወቂያ

1. ባለሥልጣኑ፤ የማናቸውም ኢንዱስትሪ አመራረት ሂደት በተሰጠው ፈቃድ መሠረት በቀጣይነት ስራ ላይ መዋሉ በአካባቢው ላይ ጉልህ የሆነ የብክለት አደጋ ሊያስከትል ይችላል ለማለት የሚያሳምን ምክንያት ካገኘ፤ የአመራረቱን ሂደት ለሚያካሂደው ኢንዱስትሪ የእገዳ ማስታወቂያ ሊሰጠው ይችላል፡፡

2. የማገጃው ማስታወቂያ የአመራረቱ ሂደት ሊያስከትል የሚችለውን አደጋ፤ አደጋውን ለማስወገድ መወሰድ ያለባቸውን እርምጃዎች፤ እርምጃዎቹ ሊወሰዱ የሚችሉበትን የጊዜ ገደብ፤ እንዲሁም የማገጃው ማስጠንቀቂያ እስካልተነሳ ድረስ ፈቃዱ ዋጋ የሌለው መሆኑን በዝርዝር መግለጽ አለበት፡፡

26. ባለሥልጣኑ፣ በአካባቢ ማስፈጸሚያና እና በማገጃ ማስታወቂያዎች ላይ የሚወስደው እርምጃ

1. ማናቸውም የአካባቢ ማስፈጸሚያ ወይም የእገዳ ማስታወቂያ የተሰጠው የኢንዱስትሪ ባለቤት በማስታወቂያው የተገለጸውን እርምጃ ሆን ብሎ ወይም በቸልተኝነት ሳይወሰድ ቢቀር ባለሥልጣኑ አስፈላጊ የሆኑ ሰራተኞችንና ሌሎች ሥልጣን የተሰጣቸውን ሰራተኞች ይዞ ማስታወቂያ በተሰጠው የኢንዱስትሪ ይዞታ ወይም ቅፅር ግቢ ውስጥ በመግባት ወይም ሌላ ሰው እንዲገባ ውክልና በመስጠት ከማስታወቂያው ጋር ከተያያዙ ድርጊቶች አንጻር አስፈላጊ የሆኑ እርምጃዎችን ይወስዳል፤
2. ባለስልጣኑ በዚህ አንቀጽ ንዑስ አንቀጽ (1) የተሰጠውን ሥልጣን በመጠቀሙ ያስከተለበትን ወጪ በማናቸውም ስልጣን ባለው ፍርድ ቤት የፍትሐብሔር ክስ በመመስረት ጥፋተኛ ከሆነው ኢንዱስትሪ ሊያስከፍል ይችላል፡፡
3. ባለሥልጣኑ ለማንኛውም ኢንዱስትሪ በሰጠው የአፈፃፀም ወይም የማገጃ ማስታወቂያውን ሊያነሳ ይችላል፡፡

27. የፍርድ ቤት እርምጃዎች

ማናቸውም ኢንዱስትሪ በፈቃዱ ላይ የተቀመጡትን ግዴታዎች ወይም የማሻሻያ ፕሮግራሞች እንዲሁም ቀደም ብለው የተዘረዘሩትን የአፈፃፀምና የማገጃ ማስታወቂያዎችን ካላከበረ ባለሥልጣኑ ሥልጣን ባለው ፍ/ቤት ዘንድ ክስ በመመሥረት ህጋዊ እርምጃ እንዲወሰድ ያደርጋል፡፡

28. የህዝብ አቤቱታዎች

1. ባለሥልጣኑ ፈቃድ በተሰጣቸው ኢንዱስትሪዎች ላይ የህዝብ አቤቱታ ሲቀርብለት አስፈላጊውን እርምጃ መውሰድ አለበት፡፡
2. ባለሥልጣኑ የሕዝብ አቤቱታዎችን የሚያስተናግድበት ሥርዓት በማዘጋጀት ይህንኑ ሥርዓት ሁሉም ተቆጣጣሪዎች እንዲያውቁት ማድረግ አለበት፡፡
3. በእያንዳንዱ ኢንዱስትሪ ላይ የቀረቡት አቤቱታዎች በመረጃነት እንዲቀመጡ ለማድረግ ባለሥልጣኑ አቤቱታዎችን ይመዘግባል፤ የመረጃ ቅንብር ያደራጃል፡፡

29. የህዝብ የመረጃ መዝገብ

1. ባለሥልጣኑ የኢንዱስትሪ ውጋጆችንና ብካዮችን በተመለከተ የሕዝብ የመረጃ መዝገብ ይይዛል፡፡ ይህ መዝገብ የሚከተሉትን መረጃዎች ያካትታል፤

ሀ) የኢንዱስትሪ ውጋጅ ፈቃድ ለመጠየቅ የቀረበውን ማመልከቻ፤

ለ) ለኢንዱስትሪው ፈቃድ እንደተሰጠ ወይም እንደተከለከለ፤

ሐ) የኢንዱስትሪ ውጋጆችን በተመለከተ በተለያዩ ጊዜዎች በኢንዱስትሪዎች የቀረቡ ሪፖርቶች፤

መ) የኢንዱስትሪ ውጋጅ ፈቃዶችን ለመለወጥ፣ ለማገድ ወይም ለመሰረዝ የተሰጡ ውሳኔዎች፤

ሠ) የተሠጡ የአፈፃፀም ወይም የማገጃ ማስታወቂያዎች፤

ረ) አዋጁን፣ ይህንን ደንብ ወይም ሌሎች አግባብ ያላቸውን ሕጎች በመጣስ በተፈፀሙ ጥፋቶች ላይ የቀረቡ አቤቱታዎችና የፍርድ ቤት ውሳኔዎች፤

2. ባለሥልጣኑ የሚያገኘው መረጃ ብሔራዊ ደህንነትን የሚጎዳ ከሆነ ወይም በሚስጥር መያዝ ያለበት የንግድ መረጃ ከሆነ በህዝብ የመረጃ መዝገብ ውስጥ መካተት የለበትም፡፡

30. ማረጋገጫ ላቦራቶሪዎች

1. ባለሥልጣኑ እንደ አስፈላጊነቱ ይህንን ደንብ ለማስፈፀም የሚረዱ ብቃት ያላቸው የምርመራ እና የማረጋገጫ ላቦራቶሪዎች በመሰየም የሚያከናውኑትን ዝርዝር ስራዎች እንዲሁም ስራቸውን የሚያከናውኑበት አካባቢ ወይም የስራ መስክ መወሰን ይችላል፡፡

2. ባለሥልጣኑ እንደ አስፈላጊነቱ ይህንን ለማስፈፀም የሚረዱ ብቃት ያላቸው የምርመራና የማረጋገጫ ተመራማሪዎችን እንዲሁም ተግባራቸውን፣ የሥራ መስካቸውንና አገልግሎት የሚሰጡበትን አካባቢ በመለየት ባለሙያዎችን መሰየም ይችላል፡፡

3. በዚህ ደንብ መሠረት የሚሰየም ማንኛውም የምርመራና ማረጋገጫ ላቦራቶሪ የሚቀርብለትን የማናቸውንም ንጥረ ነገሮች የምርመራ የምስክር ወረቀት መስጠት ይችላል፡፡

4. እንደ ሁኔታው የምርመራ ምስክር ወረቀቱ የዚህ ደንብ አካል በሆኑ ዘዴዎች መሠረት ምርመራው የተካሄደበትን ዘዴዎች በመግለጽ በምርመራ ተንታኝ ወይም በማረጋገጫ ተመራማሪው መፈረም አለበት፡፡

5. የዚህ አንቀጽ ንዑስ አንቀጽ (1) እና (2)ን የሚያሟላ የምስክር ወረቀት በውስጡ የተጠቀሱት ሁኔታዎች እንደ በቂ ማስረጃ ይወሰዳሉ፡፡

31. ስለየአገልግሎት ክፍያ

1. ባለሥልጣኑ ፈቃድ ለመስጠት፣ ቁጥጥርና ክትትል ለማካሄድ፣ የቴክኒክ አገልግሎት እና የሰነዶች ቅጂዎች ለመስጠት የአገልግሎት ክፍያ ይቀበላል።
2. የአገልግሎት ክፍያን በተመለከተ የከተማው አስተዳደር በሚያወጣው ሕግ መሠረት የሚወሰን ይሆናል።
3. የአገልግሎት ክፍያው የሚመሰረተው ፈቃድ ለመስጠት የሚወስደውን የጊዜ ግምት፣ የክትትል ወይም የቴክኒክ አገልግሎት ለመስጠት እንዲሁም የሰነዶችን ቅጂ ለመስጠት የሚጠይቀውን የቁሳቁስና የሰው ሃይል ፍጆታን ግምት ውስጥ በማስገባት ይሆናል።
4. በባለሥልጣኑ ላቦራቶሪ በተቆጣጣሪዎች የመስክ ስራ እና በአካባቢ ኦዲት ወቅት ለክትትል የሚረዱ ለምርመራና የናሙና መሰብሰብ ስራዎችና የመሳሰሉ ተግባራትን ለመሸፈን ለሚወጡ ወጪዎች ባለሥልጣኑ የክትትል ዋጋዎች እንዲከፈል መወሰን ይችላል።

ክፍል ሰባት

ስለ ጥፋትና ቅጣት

32. ጠቅላላ

1. ማናቸውም ኢንዱስትሪ ከባለሥልጣኑ ፈቃድ ማግኘቱ ለሚያደርሰው ጉዳት ከተጠያቂነት ነፃ አያደርገውም።
2. የዚህ አንቀጽ ንዑስ አንቀጽ (1) ድንጋጌ እንደተጠበቀ ሆኖ፣ ጉዳቱን ያደረሰው በፈቃዱ ከተሰጠው ኃላፊነት ውጭ ከሆነ፣ ባለፈቃዱ ለጉዳቱ ተጠያቂ አይሆንም።

33. ጥፋት

በአዋጁ የተጠቀሱት አግባብነት ያላቸው አንቀጾች እንደተጠቁ ሆነው፣ አንድ ኢንዱስትሪ ጥፋት ፈጽሟል የሚባለው ከሚከተሉት ሁኔታዎች አንዱ ከተረጋገጠበት ይሆናል፡-

1. ፈቃድ ሳይኖረው ወደ ማናቸውም አካል የኢንዱስትሪ ውጋጆችን የለቀቀ እንደሆነ፣
2. በፈቃዱ ውስጥ የተጠቀሱትን ሁኔታዎች ያላከበረ እንደሆነ፣
3. የአፈፃፀም ወይም የማገጃ ማስታወቂያዎች እንዲያሟላ የሚጠይቁትን ሁኔታዎች ያላከበረ ወይም የጣሰ እንደሆነ፣
4. ተቆጣጣሪዎች የተሰጣቸውን ኃላፊነትና ተግባር እንዳያከናውኑ የከለከለ እንደሆነ፣

፡፡ህይወት የሚመስል ፍጥነት ላይ ምሳሌዎችን ማቅረብ ማለት ማለፍ ሲባል፡፡

[illegible]

36. የነበር ኢንፎርሜሽን ወቅት

ቲወንጥረኛ ጳጳ ጳጳ
ቲረጠቢ ሃጅሳ

ኢጅሃኤ ሕፎርጋዮኸመ ኒኃኆመ ዛንዚቶ ኳኒኸመ ብህቀሀ ሰቡበኔሂ ፤ ሀዘነሪፊ
 ኒጠቁሂ ነህኳተቱ ትቁወሀ ብሄሃጦሃህ ፤ አባሂ ቁልሃኸመ ሓህተ ሰሪቷሃሂ ትህኸኤ
 ሕጉኸሃሂ ዛንዚቶቱ ቀህቲ ኒውቀጽሃኸመ (፭) ጸቀሂ ሁረጽ በዝቲ ጉትህኔሂ ጻሂ
 ትኅገህሩ ሁጉቂኸመ ኢጅሃኤ

35. መግቢያ ስርዓት

ጥፋቶች ከፈፀመ ህዳር 16 መጨረሻ ድረስ፡፡

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ተህሊስ ኗሪዎች ልማት ጽ/ቤት ራዕሳቸውን ለማስጠበቅ ለሚገባው ምርመራ ልማት ጽ/ቤት ቀድሞ ማድረግ ይገባል።

37. የመተባበር ግዴታ

ማንኛውም ሰው ለዚህ ደንብ አፈፃፀም የመተባበር ግዴታ አለበት፡፡

38. ተፈፃሚነት ስለማይኖራቸው ሕጎች

ይህን ደንብ የሚቃረን ማንኛውም ሕግ ወይም የአሠራር ልምድ በዚህ ደንብ በተሸፈኑ ጉዳዮች ላይ ተፈፃሚነት አይኖረውም፡፡

39. ደንቡ የሚፀናበት ጊዜ

ይህ ደንብ በአዲስ ነጋሪ ጋዜጣ ታትሞ ከወጣበት ቀን ጀምሮ የፀና ይሆናል፡፡

አዲስ አበባ

..... ቀን 1997 ዓ.ም.

የአዲስ አበባ ከተማ ጊዜያዊ አስተዳደር