

(2) As from the commencement of the 1997 Ordinance, the name of the Corporation shall be deemed to be substituted in terms hereof in any matter pending in or before any Court, tribunal or authority in which the Corporation is involved, and the record shall be so altered either suo motu by the said Court, tribunal or authority or forthwith on an application made by the Corporation.

(3) As from the commencement of the 1997 Ordinance, the name of the Corporation shall be deemed to be substituted in terms hereof in any contract, agreement or other document to which the Corporation is a party.

(4) Without prejudice to anything contained in its Memorandum of Association, the Company shall be deemed to continue and carry on such business (subject to such modifications, additions, alterations or changes as the Company may, from time to time, deem fit) as was being carried on by the Corporation immediately prior to the commencement of the 1997 Ordinance or such other business as the Company may from time to time deem fit or appropriate and, notwithstanding anything contained in any law for the time being in force, the conduct by the company of any such business shall not be called in question by any authority whatsoever in any manner or on any grounds whatsoever, including but not limited to the grounds that the Company was or is not eligible to commence or to carry on such business or that the Company failed to obtain any permission, authorization, consent, approval or sanction under any law in force for the time being.

Explanation.--It shall not be necessary for the Company to obtain any permission, authorization, consent, approval or sanction as may be required under any law in force for the conduct of any business made permissible by or under this Ordinance.

(5) Without prejudice to the other provisions of this Ordinance, the conduct of any business by the Company shall not be called in question by any authority whatsoever on the ground that the Company has or had failed to maintain, meet or comply with any conditions, criteria, specifications, limitations or other requirements prescribed by any law for the time being in force and neither the Company nor any of its officer, agents, servants or employees shall be liable to any penal or punitive action whatsoever under any law for such failure.

36. Company to bring its record in prescribed format, etc.--(1) The Company shall within six months of the date of issuance of the certificate of incorporation as aforementioned, bring its books, registers and accounts in accordance with the Companies Ordinance, 1984 (XLVII of 1984).

(2) If for any reason, the Company is unable to comply with any of the provisions of subsection (1) within the stipulated period, the Company may apply to the Corporate Law Authority and the latter shall grant to the Company an extension in time for such period or periods as may be necessary.

(3) No person or authority shall before the expiry of the period mentioned in subsection (1), or if applicable, subsection (2), take any action against the Company or any of its directors or other officers by reasons of the Company having failed to maintain its books, accounts and registers as prescribed by the Companies Ordinance or any other applicable law or for having failed to make any necessary allotments of shares or for having failed to file the necessary returns.

37. Employees of the Corporation.--For the removal of doubts, it is hereby clarified that all the officers, workmen or other employees of the Corporation (hereinafter referred to as the employees) shall continue as such on the same remuneration and other conditions of service, rights and privileges including, but not limited to, provisions as to pension, provident fund and gratuity, if any, and other matters as were applicable to them before the commencing day:

Provided that the Company may, from time to time, make such changes alterations or modifications in all or any of the foregoing matters as it may deem appropriate.

ORDINANCE LII OF 1997

NATURAL GAS REGULATORY AUTHORITY
ORDINANCE, 1997

*An Ordinance to consolidate and amend the law relating
to natural gas and to provide for the establishment
of a regulatory authority*

[Gazette of Pakistan, Extraordinary, Part I,
21st October, 1997]

F.No.2(1)/97-Pub. dated 21-10-1997.--The following Ordinance made by the President is hereby published for general information:--

Whereas it is expedient to improve the efficiency and availability of natural gas transportation and distribution services through increased private ownership and improved regulation:

And whereas the National Assembly is not in session and the President is satisfied that the circumstances exist which render it necessary to take immediate action.

Now, therefore, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:--

1. Short title and commencement.--(1) This Ordinance may be called the Natural Gas Regulatory Authority Ordinance, 1997.

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(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**--In this Ordinance unless there is anything repugnant in the subject or context,--

(i) "Authority" means the Natural Gas Regulatory Authority established under section 3;

(ii) "category of retail consumer" means a category of retail consumer designated as such by order of the Federal Government from time to time;

(iii) "Chairman" means the Chairman of the Authority;

(iv) "consumers" means retail consumers or wholesale consumers;

(v) "development surcharge" means the amount payable by a licensee under subsection (6) of section 19 and calculated in accordance with the rules and which represents, in respect of each category of retail consumer to which it is applicable, the amount if any by which the sale price exceeds the prescribed price;

(vi) "distribution" means the activity of transporting natural gas through pipelines and associated facilities at a pressure which would not ordinarily be expected to exceed 300 psig;

(vii) "existing companies" means the Sui Southern Gas Company Limited and the Sui Northern Gas Pipelines Limited;

(viii) "existing gas purification facilities" means the facilities at the Sui Gas Field used by the existing companies for purification as on the commencement of this Ordinance;

(ix) "financial year" means the period beginning on the first day of July in a calendar year and ending on thirtieth day of June in the next following calendar year;

(x) "licence" means a licence granted by the Authority under this Ordinance;

(xi) "licensee" means the grantee or holder of a licence;

(xii) "Member" means a member of the Authority including the Chairman;

(xiii) "minimum charges" means the amount a licensee may charge from a retail consumer as notified by the Federal Government under subsection (9) of section 19;

(xiv) "natural gas" means hydrocarbons or mixture of hydrocarbons and

other gases which at sixty degrees Fahrenheit and atmospheric pressure are in the gaseous state (including gas from gas wells, gas produced with crude oil and residue gas resulting from the processing of gas) consisting primarily of methane, together with any other substances produced with such hydrocarbons;

(xv) "person" means an individual firm, association of persons, partnership, company, trust, corporation, or any other legal entity;

(xvi) "prescribed period" means the period of time prescribed in the rules for the giving of a notice or directions or for the performance of any other act or acts by the Federal Government or Authority;

(xvii) "prescribed price" means the amount determined under section 19 which represents the amount a licensee would be entitled to receive from each category of its retail consumers in order to achieve its total revenue requirements;

(xviii) "public emergency" means the occurrence of any natural calamity, or an event which threatens public safety, or the sovereignty, security or integrity of Pakistan or declared as such by the Federal Government;

(xix) "purification" means the purification or processing of natural gas and may include the removal of any of its constituent gases, or the separation from gas of any oil or water;

(xx) "regulated activity" means any of the activities of transmission, distribution or sale of natural gas by any person and the purification of natural gas by an existing companies using the existing gas purification facilities, but shall not include the sale of gas directly by producers at field gate;

(xxi) "retail consumer" means a person who purchases or receives natural gas for consumption and not for delivery or resale to others, and shall include a person who owns or occupies any premises which are connected to supply of natural gas;

(xxii) "rules" means rules made under this Ordinance;

(xxiii) "sale" means the sale of natural gas to retail consumers but shall not include sale of compressed natural gas for vehicular use and self consumption by a licensee in connection with its regulated activity, and the expression "seller" shall be construed accordingly;

(xxiv) "sale price" means the price notified by the Federal Government under subsection (3) of section 19 at which a licensee is authorised under this Ordinance and its licence to sell natural gas to that category of retail consumer, and the expression "sale prices" shall be construed accordingly;

(xxv) "tariff" means the part of any prescribed price determined by the Authority for each licensee in accordance with the terms and conditions of its

person engaged in regulated activities in Pakistan or any related undertaking.

(15) No act or proceeding of the Authority shall be invalid by reason only of the existence of a vacancy in, or a defect in, the constitution of the Authority.

4. Powers and functions of the Authority.—(1) The Authority shall be exclusively responsible for granting licences for the carrying out of regulated activities and regulating such activities.

(2) Without prejudice to the generality of the foregoing the Authority shall--

(a) grant, issue, and renew licences and to modify amend suspend, review, cancel and reissue or terminate any licence for the undertaking of any regulated activity and to prescribe requirements to be satisfied by applicants for the grant of licence;

(b) prescribe, review, approve and regulate tariffs pertaining to regulated activities and operations of the licensees, (which shall include the determination of the total revenue requirements) recommend prescribed prices to the Federal Government and advise the Federal Government on the consequential changes in sale prices of natural gas;

(c) monitor and enforce compliance by licensees with conditions of their licences;

(d) protect the interests of consumers in accordance with the provisions of this Ordinance and the rules;

(e) provide protection to the retail consumers against anti-competitive conduct of the licensees;

(f) resolve complaints and other claims against licensees for contravention of the provisions of this Ordinance or the rules;

(g) in consultation with licensees, specify, administer and enforce performance, service and safety standards and other conditions for undertaking any regulated activity;

(h) in consultation with licensees, specify, review and certify standards for the equipment to be used in undertaking any regulated activity;

(i) determine for each licensee a reasonable rate of return which may be earned by that licensee in the undertaking of regulated activity keeping in view all the circumstances;

(j) prescribe a uniform form of accounts and accounting practices to be complied with by the licensees;

(k) regulate the capital expenditure to be made by licensees in connection with any regulated activity;

(l) prescribe procedures and standards for investment programmes by licensees;

(m) prescribe fines for contravention of the provisions of this Ordinance;

(n) review organisational affairs of licensees to avoid any adverse effect on the operation of regulated activities and for continuous and efficient supply of natural gas;

(o) safeguard the national security interest of Pakistan in relation to the regulated activities;

(p) exercise all such powers as may be incidental or consequential to the performance of any of its functions or the exercise of any of its powers; and

(q) resolve disputes between licensees and between licensees and consumers.

(3) The Authority shall levy and collect licence fees and other charges in respect of any of its functions at such rates as may be determined, from time to time in accordance with the rules.

5. Power of the Federal Government to issue policy guidelines.—The Federal Government may, as and when it considers necessary, issue guidelines to the Authority on matters of policy, not inconsistent with the provisions of this Ordinance or the rules.

6. Delegation of powers.—(1) The Authority may, by general or special order, delegate to any officer of the Authority to exercise on behalf of the Authority any of its powers, duties or functions under this Ordinance subject to such conditions as it may think fit to impose.

(2) Notwithstanding the provisions of subsection (1) the powers specified in clauses (a), (b) and (i) of subsection (2) of section 4 shall only be exercised in a meeting of the Authority.

7. Recruitment of employees.—To carry out the purposes of this Ordinance the Authority may from time to time, employ officers, members of its staff, experts, consultants, advisors and other employees on such terms and conditions as it may deem fit.

8. Chairman, members, employees, consultants and advisers.—(1) The Chairman, Members and employees of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance or the rules or regulations made hereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(2) The employees of the Authority shall be governed by the terms and conditions of their contracts of employment and shall not be deemed to be civil servants within the meaning of the Civil Servants Act, 1973 (LXXI of 1973).

9. **Accounts.**—(1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts.

(2) The accounts of the Authority shall be audited annually by the Auditor-General of Pakistan.

10. **Reports of the Authority.**—(1) The Authority shall submit to the Federal Government at the end of every financial year but before the last day of September of that year---

(a) a report on the conduct of its affairs for that year, including anticipate developments for the following year; and

(b) a report on the state of natural gas in the country identifying the ownership, operation, management, control and efficiency of regulated activities, amount of transmission and distribution capacity, present and future demand of natural gas, cost of regulated activities and other matters relating to natural gas.

11. **Inspection by public.**—(1) The Authority shall maintain public files that shall be kept open in convenient form for public inspection and examination during reasonable business hours.

(2) Subject to procedures and standards for confidentiality, the Authority's public files shall include all relevant documents to be maintained and indexed as the Authority deems fit.

12. **Regulated activities prohibited without licence.**—(1) No person shall undertake any regulated activity without having obtained a licence in the form prescribed by the rules.

(2) Notwithstanding the provisions of subsection (1) the existing companies; and all other persons to the extent they were carrying on the activities of transmission, distribution or sale of natural gas as on the date of commencement of this Ordinance; shall, for such period as may be prescribed in the rules, be deemed to be licensed to carry on regulated activities on such terms and conditions as may be prescribed in the rules.

13. **Exclusive power to grant licences.**—(1) The Authority shall have the exclusive power, to be exercised in the manner prescribed in the rules, to grant, extend, modify, amend, suspend or revoke a licence, in respect of any regulated activity.

(2) As far as practicable every licensee unless specifically exempted by

the Authority shall get itself registered as a company in accordance with the provisions of the Companies Ordinance 1984 (XLVII of 1984).

(3) All applications for the grant of any licence shall contain such information and be in such format as may be prescribed by the rules.

(4) A licence issued by the Authority shall be subject to such terms and conditions as may be prescribed by the Authority under the rules.

(5) A licence may be restricted by category of regulated activity area of operation, period of authorisation, and such other terms as the Authority may in accordance with the rules determine.

(6) The Authority may grant exclusive licences to carry on any of the regulated activities to such persons, and on such terms in respect of such areas or between such places and for such periods as the Authority may determine in accordance with the rules.

14. **Transfer or assignment of licences.**—No licence shall, without the prior written approval of the Authority be assigned or transferred.

15. **Power to take over or interrupt licensed regulated activities in public emergency.**—(1) In the event of any public emergency the Federal Government may, by order in writing, require the Authority, and the Authority shall thereby be empowered to--

(a) take or cause to be taken temporary possession or control of any relevant facility, plant or equipment, maintained or worked by any licensee; or

(b) issue directions to the licensee in relation to the undertaking of any regulated activity governed by the licence;

(c) place such restriction on regulated activities being undertaken by, or provision of regulated activities to, any person or class of persons as may be specified in such order; or

(d) intercept and divert any regulated activity being undertaken by any person specified in such order.

(2) The Federal Government shall provide reasonable compensation to such person or persons as may be affected by the action of the Authority under subsection (1) in such manner as may be prescribed by the rules.

16. **Load management.**—The Federal Government may after consultation with affected licensees and the Authority, by an order in writing direct the Authority, and the Authority shall thereby be empowered to direct any licensee to divert supplies of natural gas from one category of retail consumers to another category of retail consumers or from one licensee to another licensee during specified periods for the purposes of providing security of supply to the category of retail consumer or licensee in favour of which the direction is made. In each

case, such direction will be without prejudice to the affected licensee's entitlement to receive its total revenue requirement for the relevant financial year and the affected licensee shall be compensated pursuant to the terms of its licence.

17. **Accounting requirements.**--All licensees shall maintain books of accounts in a form prescribed by the Authority so as to enable the Authority to obtain all relevant information as it may require in order to determine that licensee's total revenue requirement for each financial year, to establish or vary any tariff or to exercise any other power contained in section 4.

18. **Tariffs for individual regulated activities.**--(1) No licensee shall charge for any regulated activity any fixed or variable amount in excess of the relevant tariff as approved by the Authority from time to time in accordance with the terms and conditions of its licence.

(2) The criteria for the approval and modification of tariffs for regulated activities shall be prescribed in the rules, and in the terms and conditions of each licence and shall, inter alia include--

- (a) provision for the protection of consumers against monopolistic pricing;
- (b) licensee's cost on research, development and capital investment programme;
- (c) provision of reasonable returns to the licensee to attract investment of the quantitative and qualitative improvements of regulated activities;
- (d) encouragement and reward of efficiency;
- (e) sending of appropriate price signals regarding the relative abundance or scarcity of supply of such regulated activity;
- (f) keeping in view the economic and social policies of the Federal Government;
- (g) minimizing economic distortions; and
- (h) keeping in view the costs of alternate or substitute sources of energy.

(3) Once during financial year, at any time the Authority shall determine an estimate of total revenue requirement of each licensee in accordance with the terms and conditions of that licensee's licence and shall inform the Federal Government of each such determination.

19. **Pricing for retail consumers.**--(1) At the time of each determination by the Authority of the total revenue requirement of a licensee pursuant to section 18(3), the Authority shall recommend to the Federal Government the

prescribed price which should apply in relation to each category of retail consumers of that licensee.

(2) The Federal Government shall consider the Authority's recommendations made under subsection (1) and inform the Authority of the prescribed prices which will apply in relation to each category of consumers of a licensee and the Authority shall promptly notify each licensee undertaking sales to consumers as to the prescribed prices applicable to it:

Provided that if the Authority is required to reconsider its recommendations pursuant to subsection (5), it shall only notify each licensee undertaking sales to consumers as to the prescribed prices applicable to it, after reconsideration.

(3) The Federal Government shall, after consideration of the authority's determination under subsection (1) and if applicable subsection (5), notify in the official Gazette the minimum charges and sale prices which a licensee will be permitted to charge each category of retail consumer.

(4) No licensee shall charge any consumer for a supply of natural gas which is of pipeline quality any sale price or minimum charge other than those prices most recently notified by the Federal Government under subsection (3) and applicable to that consumer.

(5) If the Federal Government is of the view that the prescribed prices recommended by the Authority under subsection (1) are not reasonable it shall require the Authority to reconsider its determination under subsection (1). Thereupon the Authority shall recommend the prescribed prices which shall apply to each category of consumers of a licensee again to the Federal Government after reconsideration, pursuant to which the Federal Government shall notify, in the official Gazette, the minimum charges and sale prices specified in subsection (3);

Provided that consideration and reconsideration shall be completed within thirty days.

(6) Each licensee shall pay to the Federal Government the development surcharge in respect of each unit of natural gas sold during the calendar month within two months of the close of that month.

(7) If the amount due by the licensee pursuant to subsection (6) is not paid by the licensee within the period specified to in subsection (6) a surcharge on such amount shall be payable by the licensee at the rate of twenty percent per annum from the date such payment was due until the date such payment is made.

(8) If a licensee requests the opinion of the Authority on any matter for which the opinion of the Authority is required under this section the Authority

shall inform the licensee of its opinion by an order in writing within twenty-one days of the date of such request.

(9) The licensee shall be entitled to charge each retail consumer the applicable minimum charges notified by the Federal Government notwithstanding that no gas has been taken by such retail consumer during the period for which such minimum charges are levied.

20. **Terms and conditions of the licences.**--All licences granted under the Ordinance shall be subject to the following conditions, namely:--

(a) the licensee shall comply with all laws, rules and regulations pertaining to, or relevant to the undertaking of the regulated activity for which such licence is granted;

(b) the licensee shall not exercise undue discrimination against or show undue preference towards any consumer or class of consumers;

(c) unless the contract between the licensee and the retail consumer provides expressly to the contrary, the licensee shall not interrupt its service to its consumers except the retail consumer's failure to comply with its contractual obligations owed to the licensee or for the compliance by the licensee with a direction issued by the Authority under section 15 or 16 or any other reason which is not the fault of, or is not attributable to, the licensee;

(d) the licensee shall provide its service to such persons as the Authority may reasonably direct in accordance with the provisions of its licence by an order in writing.

(e) the licensee shall provide to the Authority such information in respect of its business activities, capital expenditure proposals, expansion programmes and any other matter relevant for the exercising of any of its powers by the Authority, in such form, and in such time as the Authority may, in writing, reasonably require in accordance with the provisions of its licence; and

(f) all contracts entered into by the licensee shall be on arm's length basis and no contract or arrangement shall be entered into by any licensee with any of its associated companies, as defined in the Companies Ordinance 1984 (XLVII of 1984), except with the prior approval of the Authority.

21. **Licence enforcement events.**--(1) If a licence enforcement event shall have occurred in relation to a licensee under or pursuant to subsection (2), the Authority shall have the power, exercisable at such times and in such manner as shall be provided in and subject to and in accordance with, the rules or the licence held by the licensee,--

(a) to levy fines or penalties on the licensee in such amounts as the rules or its licence shall provide;

(b) to suspend the licence or all or any of the regulated activities to which the licence relates for such period as the Authority shall determine;

(c) to take control of the management and conduct of all or any of the regulated activities to which that licence relates and, for such purpose, appoint an administrator of all or any of the business, undertaking and assets of that licensee, such control to be exercised in such manner as shall be provided in, and any such administrator to have such powers as may be conferred upon it by, the rules or that licence;

(d) to revoke the licence in its entirety;

(e) in the case of a licence which relates to more than one regulated activity, if and to the extent that the rules or that licence shall permit, revoke that licence as regards such regulated activity or regulated activities as the Authority shall specify; and

(f) to take such other actions or proceedings as the Authority may be authorised or empowered to take by the rules or the licence held by the licensee.

(2) A licence enforcement event shall occur in relation to a licensee if the Authority is of the opinion that any of the following events shall have occurred, namely:--

(a) a resolution shall have been passed or an order shall have been made for the winding up or administration of that licensee as may be specified in the rules or the licence held by the licensee; or

(b) a receiver (including an administrative receiver) shall have been appointed over or in respect of all, or such part as may be specified in the rules or the licence, of the business, undertaking or assets of that licensee or as may be specified in the rules or the licence held by the licensee; or

(c) that the licensee, as may be specified in the rules or the licence held by the licensee, shall have become insolvent or unable to pay its debts as and when they fall due; or

(d) that licensee shall have contravened any of the terms and conditions of its licence; or

(e) any other event shall have occurred which is designated as a licence revocation event in relation to that licensee in the rules or its licence.

22. **Additional powers.**--If, the Authority suspends or revokes a licence in its entirety or as regards a specified regulated activity under section 21, it shall have the power to make such additional orders as it shall think fit and as it shall by the rules or the licence be authorised or empowered to make in order to ensure continuity of gas supply.

23. **Information.**--The Authority may call for any information, required by

(7) The provisions of Chapter XX of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to the trial of offences punishable under this Ordinance.

(8) Natural gas shall be movable property for the purposes of the Offences Against Property (Enforcement of Hudood Ordinance, 1979) (VI of 1979) and the theft of natural gas shall be dealt with accordingly.

(9) The value of natural gas stolen or unauthorisedly obtained by any person may be recovered by the licensee from such person as arrears of land revenue.

30. **Immunity.**—Except as expressly provided in this Ordinance no suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman or any Member or employee of the Authority in respect of anything done or intended to be done in good faith under this Ordinance the rules or regulations of the Authority.

31. **Power to make rules.**—The Authority may, with the approval of the Federal Government and by publication in the official Gazette, make rules to carry out the purposes of this Ordinance.

32. **Power to make regulations.**—(1) The Authority may, by notification in the official Gazette, make regulations not inconsistent with the provisions of this Ordinance or the rules made thereunder for carrying out its functions under this Ordinance.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for the appointment of its officers, members of staff, consultants, advisors and such other persons and the terms and conditions of their services.

33. **Relationship to other laws, repeal and savings.**—(1) The provisions of this Ordinance rules and regulations made and licences issued thereunder shall have effect notwithstanding anything to the contrary contained in any other law, rule or regulation, for the time being in force, and any such law, rules or regulation shall, to the extent of any inconsistency, cease to have any effect from the date this Ordinance comes into force.

(2) The Natural Gas (Development Surcharge) Ordinance, 1967 (I of 1967) and the Natural Gas (Development Surcharge) Rules, 1967, and the Natural Gas Rules, 1960, so far as their provisions are inconsistent with the provisions of this Ordinance are hereby repealed.

34. **Removal of difficulties.**—If any difficulty arises in giving effect to any

of the provisions of this Ordinance the President may make such order, not inconsistent with the provisions of this Ordinance as may appear to him to be necessary for the purpose of removing the difficulty;

Provided that no such power shall be exercised after the expiry of one year from the coming into force of this Ordinance.

ACT XXXIV OF 1997

PAKISTAN ENVIRONMENTAL PROTECTION ACT, 1997

*An Act to provide for the protection,
conservation, rehabilitation and improvement
of the environment, for the prevention and control
of pollution, and promotion of sustainable development*

[Gazette of Pakistan, Extraordinary, Part I,
6th December, 1997]

F.9(46)/97-Legis., dated 6-12-1997.--The following Act of Majlis-e-Shoora (Parliament) received the assent of the Acting President on the 3rd December, 1997, is hereby published for general information:--

Whereas it is expedient to provide for the protection, conservation, rehabilitation and improvement of the environment, prevention and control of pollution, promotion of sustainable development, and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:

1. **Short title, extent and commencement.**—(1) This Act may be called the Pakistan Environmental Protection Act, 1997.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,--

(i) "adverse environmental effect" means impairment of, or damage to, the environment and includes--

(a) impairment of, or damage to, human health and safety or to biodiversity or property;

(b) pollution; and

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