

## 10. Enforcement Norms

RSPCB is a regulatory authority. It has been assigned and conferred various functions and powers under the provisions of environmental laws. The primary function of RSPCB is to enforce the laws meant for protection of environment and prevention and control of pollution. The common methods prescribed under the law and practiced in RSPCB for enforcement are stipulating standards, monitoring of compliances, inspection reports, sample analysis, issuance of show cause notices, issuance of directions for regulation and closure / disconnections of services and launching prosecution for violation etc. The two main requirements for processing the cases and decision making are inspection and analysis reports. The inspection report is normally provided by Regional Offices, vigilance unit or teams constituted for it. The analysis reports are provided by the laboratory. Based on the data received through these means, the cases are processed for compliance and observed violations and decision is made concerning the exact type of enforcement warranted in the particular case in light of the facts.

It is worthwhile to state here that these processing guidelines are only indicative in nature and in no circumstance will have any over-riding effect on any of laws, rules etc in force. In other words, these practices are to aid in decision making under the framework of the statutes.

The enforcement norms are prepared keeping the following in view:

- These norms are only indicative in nature and will not override the provisions of Acts/ Rules/ Notifications in any case.
- The totality of various factors and not a single factor should be considered for evaluating the gravity in arriving at any decision. Gravity of the situation shall be adjudged considering the aspects like disposal point/ toxicity/ treatability/ and impact on environment of the recipient system.
- The gravity of the case shall be properly assessed by Group Head/ RO after taking into consideration the relevant Acts, Rules, Notification etc.,
- Decision of Hon'ble Supreme Court/ NGT/ High Court etc. relevant to the issue shall also be taken into consideration.
- All enforcement notices/ orders including show cause notice shall be sent by registered post/ speed post/ Email/ Fax/ hand delivery to the authorized signatory/ owner/ partner/ chairperson/ director etc. as the case may be.
- All closure orders/ revocation orders must be sent by registered post/ speed post/ Email/ fax/ hand delivery to concerned authorities.
- The procedure followed for sample collection, analysis and interpretation shall be strictly as per prescribed procedure in the relevant laws and manuals.
- The officers shall endeavor to follow the principles of natural justice while taking punitive action.

## 10.1 CRITERIA FOR ENFORCEMENT

### 10.1.1 Criteria for issuance of show cause notice under various Environmental Acts/ Rules/ Notifications.

- Improvement is required in pollution control system, ETP units or APCM, handling & management of solid waste/ hazardous waste/ e-waste/ bio-medical waste/ municipal solid waste/ plastic waste.
- Application for renewal is not made after expiry of validity of CTO/ authorization/ registration.
- Adequate safe infrastructural facility for monitoring has not been provided.
- Non- submission of Environment Statement/Annual Report, wherever required.
- In case complaint of causing pollution found correct on verification.
- Non- compliance of the conditions of consent/ authorization/ registration.

### 10.1.2 Criteria for issuance of show cause notice under section 31-A of AirAct-1981, section 33-A of Water Act-1974 and section 5 of EPA-1986 (Legal Notice)

- Non compliance of critical conditions of consent and/ or authorization and/or registration.
- Violation of court orders.
- Non compliance of guidelines and/or directions of MoEF/ DoE/ CPCB.
- Non compliance of actionable points of Action Plans.
- Analytical results not conforming to the prescribed standards (based on significance of specific parameters).
- Production higher than consented quantity, significant change in process/ raw material, change of product or introduction of new product (s), installation of additional plant & machinery, without prior consent/ EC from the competent authorities.
- Continued non-compliance even after issue of show cause notice.
- Establishment and/ or continued operation of industry/ process/ operations without consent/ authorization/ registration.
- Violations of provisions of the Water Act 1974/ Air Act, 1981/ EPA 1986.
- Willful submission of wrong information/ forged documents.

### 10.1.3 Criteria for closure directions

- Non- compliance of directions/ legal notice.
- Not addressing completely the issues cited in the show cause notice.
- Any activity where risk potential of blast, explosion, disaster, toxic emission and other forms of environmental damage of serious nature is imminent.

- In case of likelihood of grave injury to the environment because of direct illegal discharge/ dumping/ continued air emission/effluent discharge above limits or willful non- compliance.
- Non- compliance of Hon’ble Supreme Court/High Court/ NGT orders.
- Non compliance of provisions of Water Act, 1974/ Air Act, 1981/ EPA, 1986.
- Non-submission of the adequate reply of the show cause notice with in stipulated period.
- Willful submission of wrong information/ forged documents.

#### 10.1.4 Criteria for launching prosecution

(Only after issuance of appropriate notice and compliance of procedure prescribed under relevant Acts & Rules)

- Non- compliance of the directions.
- Not addressing completely the issues cited in the notice.
- Non compliance of any or all of the conditions of consent/ authorization/registration.
- Gross violation of norms/ directions which may lead to grave threat/injury to public health, safety and environment.
- Violation of court directions/orders.
- Establishment and/or continued operation of industry/process/operation without consent/authorization/registration.
- Non compliance of provisions of Water Act, 1974/ Air Act, 1981/ EPA, 1986 and Rules made thereunder.
- Willful submission of wrong information/ forged documents.

#### 10.1.5 Criteria for revocation of directions

- Submission of proof of compliance of the directions for closure and disconnection of facilities/services.
- Completion of measures for addressing the grounds for which directions were issued and verification of the same by the Board; or
- Partial completion of measures for addressing the grounds for which directions were issued and verification of the same by the Board along with submission of duly notarized undertaking on Rs. 100/- non judicial stamp paper by owner/ partner/ chairperson/ managing director/ chief operating officer, as the case may be, stating that unit shall address remaining issues within specified time bound manner supported with the bank guarantee of appropriate amount as decided by the Board.

- Submission of the application for consent/authorization/registration, as applicable along with all requisite documents/information.
- On submission of duly sworn affidavit before the first class magistrate on Rs. 100/- stamp paper indicating satisfactory corrective action taken along with modification of pollution control system, to be submitted by owner/ partner/ chairperson/ managing director/ chief operating officer, as the case may be and compliance of closure direction.
- The directed shall submit a Bank Guarantee for an amount equal to five/ten times of the yearly applicable consent fee along with duly notarized affidavit to be submitted by owner/ partner/ chairperson/ managing director/ chief operating officer, as the case may be, on Rs. 10/- non-judicial stamp paper as per office order issued time to time.

#### 10.1.6 Additional Criteria for Enforcement for CETP

In addition to the specified enforcement norms for the industry, additional criteria for CETP are to be taken into consideration, as enumerated below:

- Criteria for issuance of show cause notice or launching prosecution or issuance of directions under various Environmental Acts/ Rules/ Notifications
- Waste water quantity exceeding than the consented quantity.
- Inadequate treatment capacity.
- Inadequate effluent conveyance system.
- Accepting inferior quality of waste water as compared to the specified for inlet norms, from member units.
- Bypassing of untreated effluent or mixing of the other type of waste water with influent/effluent.
- Connectivity provided to industries which have not been accounted for while planning for CETP.

#### 10.1.7 Additional criteria for enforcement for member units of CETP

In addition to the specified enforcement norms for the industry, additional criteria for member units of CETP are to be taken into consideration, as enumerated below:

- Criteria for issuance of show cause notice or launching prosecution or issuance of directions under various Environmental Acts/ Rules/ Notifications.
- Improvement required in primary ETP/or not providing primary ETP to achieve inlet norms of CETP.
- Quantity of wastewater sent to CETP exceeding the allocated quantity.

- Non-compliance of the any of the additional criteria specified for CETP.
- Inadequate conveyance system for effluent transport to CETP.
- The CETP has been directed to close down or suspend its full capacity operation.

These criteria are only for trade effluent which is required to be sent to CETP.

## **10.2 CRITERIA FOR ENFORCEMENT UNDER THE MUNICIPAL SOLID WASTES (MANAGEMENT & HANDLING) RULES, 2000**

### **10.2.1 Criteria for issuance of Show cause notice:-**

- Urban Local Body failing to comply with the authorization conditions.
- Urban Local Body failing to take appropriate action in achieving progress for management & handling of MSW.
- Urban Local Body failing to comply with MSW Rules.

### **10.2.2 Criteria for issuance of notice under section 5 and/or section 19 of EPA-1986:-**

- Urban Local Body failing to take appropriate action after repeated show cause notices.
- Urban Local Body failing to comply with the directives issued by courts.
- Urban Local Body failing to comply with the provisions MSW Rules.

## **10.3 CRITERIA FOR ENFORCEMENT UNDER THE BATTERIES (MANAGEMENT & HANDLING) RULES, 2001**

### **10.3.1 Criteria for issuance of Show cause notice:-**

- The entity fails to comply with the Battery Rules.

### **10.3.2 Criteria for issuance of notice under EPA (Legal Notice):-**

- The entity continuously violates the provisions of the Battery Rules.

## **10.4 CRITERIA FOR LAUNCHING PROSECUTION UNDER ENVIRONMENT (PROTECTION) ACT FOR VIOLATION OF ENVIRONMENT CLEARANCE NOTIFICATION**

- The entity has established or taken steps to establish process/operation/facility covered under EC notification without prior EC from appropriate authority.
- Appropriate authority instruct/direct the Board for launching prosecution.

#### 10.5. Criteria for Accepting/Releasing/Forfeiting Bank Guarantee:

- The bank guarantee may be called for and/or accepted from entities/persons seeking time to provide/ improve upon PCM provided or initiate corrective measures (i) directions under section 31 A of Air Act and/or section 33 A of Water Act and/or section 5 of EP Act have not been confirmed, (ii) detailed proposals with time bound action plan for providing remedial measures are submitted along with an affidavit on non judicial stamp paper of Rs. 100/- to this effect.
- The bank guarantee shall be accepted with due approval from appropriate authority.
- In case of entities against which directions have been confirmed the appropriate compliance shall be ensured before accepting bank guarantee. The amount of bank guarantee shall be as per office orders issued time to time.
- The minimum bank guarantee shall be of Rs 10000/- or 10% of cost of remedial measures/actions, whichever is more (or as per office order issued in this regard from time to time).
- The tenure of bank guarantee shall be atleast six months more than the time sought by the depositor as per action plan or as per office order issued, as the case may be.
- The Regional Officer shall monitor and report the compliance of the action plan/conditions of fulfillment, within a month of the time limits/schedule as per action plan. The report of Regional Officer shall also specify the action to be taken with respect to fate of the bank guarantee.
- In case the entity seeks some additional time above the submitted action plan, the Board may accept the request, subject to adequacy of actions already taken by the industry, and with condition that the industry shall submit additional bank guarantee of similar amount and forfeiting of 50 % of bank guarantee amount.
- The Board may forfeit or release the bank amount on the basis of the verification report, documents submitted and compliance observed.