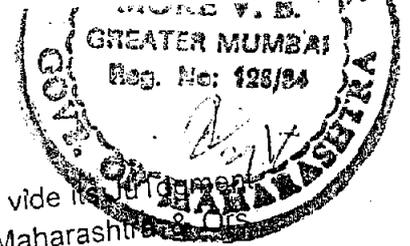


Annexure - B' Amended Draft Enforcement Policy



1. Preamble :-

Hon'ble National Green Tribunal, Western Zone Bench, Pune vide its Judgment dtd.16/5/2014 in the matter of M/s.Vinesh M. Kalwal v/s State of Maharashtra bearing Application No.30/2013 directed the MPCB to frame the Enforcement Policy to integrate various aspects including inspections, monitoring, standards, compliances, directions, remedial measures and filing of complaints before various Courts as per the provisions of the Environment (Protection) Act, 1986 & other Environmental Laws, based on culpability, environmental damages, severity of pollution, repeated violations etc.

The Board has experienced that the issuance of various directions/notices to the industries/local bodies have not been effective remedy to secure compliances. Most of times, even replies to the directions are not being submitted. Even filing of prosecutions against such defaults remain pending years together and in the meantime pollution continues. Therefore, it has been forced to devise different mechanism for securing compliance of conditions imposed in the consents and authorizations granted to Industries/Local Bodies/Common facilities. The Board had studied and identified certain stringent environmental conditions to be imposed in the consent for the purpose to regulate highly polluted stream generating from such activity by taking into consideration the pollution potential of various categories of industries. Such conditions are being imposed to secure compliance in a time bound manner by imposing appropriate bank guarantees to ensure compliance of such conditions. It has been experienced that economic instruments like "polluter pays principle", plays an important role in securing compliance of conditions imposed for the environment protection.

In pursuance of the Order passed by Hon'ble National Green Tribunal (WZ) Bench, at Pune in the Application No. 39 of 2013 in the disposed of an Application No.30 (THC)/2013 (WZ) dated 28-07-2015, the MPCB has taken up review of various aspects given in the preamble viz No. of inspections to be carried out in a year, no. of surprise inspections, formation of a squad for such surprise inspection, the manner in which actions for remedial measures can be initiated against the defaulting and closure industries on the basis of intensity of pollution and its impact on surrounding environment, continuation/refusal/ revocation of consents of such defaulting industries. Similarly, the measures for restoration of environment as well as identification of responsible person for compensation on the basis of "Polluter Pays Principle" and the remedial measures to be undertaken in a time-bound manner as well as liability of the cost for such remedial measures being also taken into consideration. Accordingly, in the enforcement policy, the points of compliance verification, pollution intensity and impact of legal actions, culpability and remedial efforts have been decided to be addressed.

Therefore, it is proposed to formulate an Enforcement Policy duly integrated with various aspects including inspections, monitoring standards, compliance of consent conditions & various directions issued by the Board and remedial measures to be undertaken in case of causing serious pollution, giving rise to serious complaints about environmental damages. The above aspects are incorporated in the existing

Enforcement policy in italics, inviting suggestions, recommendations and objections for the amended portion highlighted in red colour only.

2. Enforcement Policy for Industries, Operations or Processes through Effective Consent Management (Grant of Consent to Establish/1st Operate/Renewal)

The Industries operations are being regulated by issuing consents/permits to the industries. The consent is the basic document through which stringent conditions are being imposed for the prevention, control & abatement of pollution at source, at tail end pipe treatment and controlling discharges of water effluent, air emissions and hazardous waste etc. so as to have minimum impact on the environment/receiving bodies. It regulates establishment of new industry, expansion or modernization of existing industry, operation or process and also existing industries, operations or processes: It has been decided to adopt "Uniform Integrated Approach" while granting Consents and Authorizations by the MPCB. The Bard has adopted such approach from 2011 and is under implementation in the following manner.

It was decided to concentrate more carefully & cautiously on processing of applications for new / fresh consent to establish, expansion or modernization of existing activities and imposing conditions for adopting more cleaner technologies, for eg.- Best available technologies (BAT), the concept of waste minimization, resource conservation, adopting life cycle approach and disposal of waste in an environmental sound & safe manner. The required necessary conditions for prevention, control and abatement of pollution have been formulated taking into consideration the pollution potential of various categories of industries. Such conditions have been imposed to secure compliance in a time bound manner duly supported by appropriate Bank Guarantees (BG). The BG regime has been mainly divided in to main four headings viz Installation/provision of PCS/equipments, Operation and maintenance of PCS, Scientific disposal of treated effluent/emission/HW and submission of mandatory returns. A statement showing the amount of BG regime for all categories of industries prescribed is as under;

Sr No	Non-compliant Activity	Amount of BG for Air/Water/HW	Compliance Period
1.	Installation/provision of PCS/machineries		
a.	Provision of ETP/APC/PCS up-gradation	BG of Rs 5 lakh or upto 10% of eqpt cost whichever is higher. However with regard to the cost of equipment/ PCS, if cost of PCS is less than 50 lakh, then BG will be 10% of PCS.	Not exceeding 6-months to one year. However, requirement of more period than one year on account of nature of PCS like ESP, Secondary Treatment Facilities etc., the period will be prescribed with the

			approval of Consent Granting Authority/ies
b.	To carry out feasibility study for deciding adequacy of PCS/it's up-gradation	BG of Rs 2 lakh	Not exceeding 3-months
c.	Provision of Monitoring facilities	BG of Rs 1 lakh	Not exceeding 2-months
2.	Operation and maintenance of PCS		
a.	Operational issues like scientific operation, segregation of strong streams, leakages in process, taking all emissions through pollution control systems	BG of Rs 2 lakh or 2 months O&M cost of PCS, whichever is higher. However with regard to the cost of O&M, if O&M cost is less than 50 lakh, then BG will be 10% of O&M cost.	Not exceeding 3-months
b.	Overall O&M of PCS so as to meet consented norms	BG of Rs 5 lakh or upto 10% of cost of O & M, whichever is higher. However with regard to the cost of O&M, if O&M cost is less than 50 lakh, then BG will be 05% of O&M cost.	Continuous BG (four months more than the Consent validity period)
3.	Disposal		
a.	To achieve ZLD	BG of Rs 5 lakh or upto 10% of cost of ZLD system whichever is higher. However with regard to the cost of ZLD, if ZLD cost is less than 50 lakh, then BG will be 10% of ZLD cost.	Not exceeding 6-months upto One year
b.	Scientific disposal of treated effluent, emissions, HW	BG of Rs 3 lakh or cost of PCS whichever is higher. However with regard to the cost of PCS, if PCS cost is less than 50 lakh, then BG will be 10% of PCS cost.	Not exceeding 2-months
c.	Provision of adequate land for disposal	BG of Rs 2 lakh or to restrict effluent generation commensurate with land availability.	Not exceeding 3-months
d.	Submission of mandatory returns		
a.	Submission of compulsory return viz. Cess, Environment Statement, HW form-IV etc.	BG of Rs 2 lakh	As per time prescribed for submission. BG shall be return after submission of concerned report immediately.
b.	Submission of imposed BR, BG, affidavit,	BG of Rs 2 lakh	As per time stipulated for

			submission. BG shall be return after submission of concerned report immediately.
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3. Refusal / Revocation of the Consents and Forfeiture of Bank Guarantee

In case, the compliance is not secured within stipulated time given to the concern industry, the Board will initiate action for forfeiture of Bank Guarantee and wherever substantial compliance is there, to consider extension of time for securing full compliance by forfeiting proportionate bank guarantees only. The uniform procedure for imposing bank guarantees and its forfeiture with reference to degree of non compliance has been already adopted from 2011 onward. Wherever there is continuous noncompliance, in spite of sufficient opportunities and with extension of time is given by the Board (not more than 3 times), after third extension, further stringent actions such as refusal/revocation of consent and further final directions of closure etc shall be initiated.

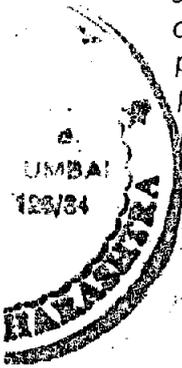
It has been given more trust on enforcement of conditions stipulated while granting consent through effective monitoring & surveillance at the field level. After expiry of the periods granted for implementation of the said conditions on the basis of monitoring reports, further actions shall have to be initiated including forfeiture of bank guarantees, regulation of highly polluting activities with reference to best available technologies (reduction of pollution load by imposing conditions for recycle, reuse of treated effluent, restricting generation of effluent commensurate with land availability/disposal system, reduction of production quantity in exceptional cases, imposing conditions for use of clean fuel- such as CNG/Natural Gases, refusal / revocation of consent; closure, prohibition or regulating highly polluting activities etc. However, depending upon seriousness, the Competent-Authority (Consent Granting Authority) may take decision for refusal/revocation of Consent with reference to the degree of pollution / impact on environment after giving one opportunity of hearing.

The policy frame work for initiating legal action has already been decided, wherein, the time limit to adopt improvement measures duly supported by the bank guarantees for various compliances have been spelt out. The proportionate compliance levels have been categorized in 3 categories as under:-

- a) Average compliance – where compliance is less than 25%.
- b) Medium compliance – where compliance level is from 25% but is less than 75%
- c) Substantial compliance- where compliance level is 75% and below 100%.
- d) Total compliance- where compliance level is 100%

The stages of compliance particularly for new installations of equipments, the exceedance of pollutional discharge and submission of mandatory returns/documents - The compliance level vice-a-versa non-compliance in % will be decided with reference not only to the installation of equipments for pollution control devices, but also taking into consideration the discharge of pollutants on the basis of exceeding standards, observations in the visit and surprise inspections, investigation of

complaint reports, compliance of statutory permissions including EC, C to E and C to U as well as mandatory submissions like hazardous wastes returns, cess returns, submission of feasibility/proposal for upgradation on the basis of feasibility study for deciding adequacy of pollution control devices with regard to the upgradation, environment statement, provision of online monitoring system / monitoring mechanism, operational issues like scientific operations, segregation of strong streams, leakages in processes, emission level in the environment, disposal of pollutants into environment, provision of adequate land for disposal, submission of bank guarantees and concrete proposal for further improvement etc.



It has been decided that 40% weightage will be given for installation of adequate and suitable pollution control arrangements (In case, the process is predominantly water polluting, then out of 40% weightage, 30% will be given for providing adequate and suitable ETP and Disposal arrangement and 10% will be given to other waste management. However, where process is predominantly (mainly) air pollution potential, 30% will be given for providing adequate and suitable APCS and 10% for other waste management (effluent/ HW/MSW etc.). But where the activity is mainly hazardous waste generating, 30% weightage will be given for scientific waste management and disposal. For example, in case of BMW generation, for proper collection, transportation and disposal to common facility, 30% weightage will be given. Similarly, where activity is generating MSW mainly, 30% weightage will be given to MSW generation, its collection, segregation, transportation and scientific disposal thereof). Thus depending upon the major source of pollution like water effluent/air emissions/ hazardous/ solid waste, out of 100% compliance, 40% weightage will be given to adequate waste management provision. The remaining 10% weightage will be given to other wastes other than predominant generation of waste.

Further out of 100% compliance level, 40% weightage will be given for proper operation and maintenance of waste management with reference to achieving standards. Further 20% weightage will be given to mandatory submission of documents, such as application for consent, cess returns, HW returns, environment statement submission etc. However where in spite of provision of adequate waste management system, if it not operated, 40% weightage given to provision of waste management system will be treated as total non compliance as if such waste management is not provided, on account of its non operation in that particular month, even though such non-compliance observed on specific date will be treated as a non-compliance after the previous date of visit, when it was observed to be complied, if the concerned project proponent has not informed well in advance immediately about such non-compliances with proper reason to the satisfaction of the authority.

The weightage of non-compliance will be calculated on the basis of the period for the year, which will be further calculated for a month in percentage. Therefore, the non compliance level will be decided on the basis of pollution potential for the period of one year, causing damage to the environment with reference to the non-compliance. In deciding such non-compliance level and remediation cost for the period of non-compliance, the criteria will be finalised in consultation with reputed institutions like NEERI, IIT Powai, Fisheries Department, NIO, Expert Agriculture Institute/Department etc. As far as hazardous waste non-compliance is concerned, the cost of remediation is well defined in the rules itself taking into consideration land fillable/ Incinerable waste. Similarly, HW Rules further provide for imposition of fines with the approval of CPCB, which will be followed in cases of non-compliances of Hazardous Waste Management, causing pollution. It is understood that now the liability for environmental pollution in terms of cost of remediation is being incorporated under the Environmental Laws, after such incorporation, the said provisions will be followed. MPCB will prepare appropriate

manual for imposing the liability for non-compliance with reference to a period of non-compliance in consultation with various reputed institutions/experts and will separately follow such standard operating practice in due course of time.

The compliance criteria can be decided in three parts w.r.t. installation of adequate and suitable pollution control arrangements (overall 40% weightage w.r.t. Compliance);

A) Statement showing the % given to installation/completion of work in respect of adequate and suitable pollution control devices.

Sr. No.	Particulars of Compliance	% given for Compliance
1.	Submission of concrete proposal	10%
2.	Placing of order.	10%
3.	Actual % of work completed	
Out of remaining 20% weightage, actual % work completion will be calculated w.r.t.100%- of 15% installation weightage excluding 5% for stabilization		
4.	100% completion of installation work	15%
5.	Stabilization of PCS after completion of 100% installations	5%

B) Statement showing compliance level in respect of 40% weightage given for O&M

Sr. No.	Particulars of O&M with reference to source of pollution (water/ Air/HW/MSW/Other Waste).	% given for Compliance
1.	O&M of PCS where process is water polluting in nature on the basis of last three samples-analytical reports	% of compliance will be decided on average basis w.r.t. EPA standards
2.	Where activity is having Air pollution potential in nature on the basis of last three samples-analytical reports	--do--
3.	Where activities are both air and water polluting	% of both reports of monitoring of effluent and emissions of last three results on average basis will be taken into consideration.
4.	Where activity is mainly generating HW/MSW/BMW as the case may be	% of compliance on the basis of proper collection, transportation, treatment and disposal will be taken into consideration.

Note: Where the activity is both water and air polluting and also generating other wastes like HW, BMW, MSW, Fly Ash etc., 40% weightage will be spread over on the basis of pollution potential of such mixed sources of pollution.

3. Statement showing 20% weightage given to mandatory submission of documents

Sr. No.	Particulars of documents to be submitted	% given for Compliance
1.	HW Returns	

2.	Environment Statement	
3.	Cess Returns	
4.	Battery collection and reprocessing returns (Wherever is applicable)	
5.	E waste (Wherever is applicable)	
6.	Fly Ash (Wherever is applicable)	
7.	Feasibility study of PCS	
8.	Any other submission (wherever is applicable)	

Note: 20% weightage will be divided into no of mandatory submission equally.

Statement showing % non-compliances, which will be taken into consideration at the time of initiating various legal actions.

Sr. No.	Particulars of Non-compliances	Action proposed
1.	For achieving ZLD	On the basis of % of discharge into environment with reference to exceeding standards, non compliance level will be decided. For example, the disposal on land without achieving standards ZLD will be treated as non compliance and on the basis of % of exceedance of EPA standards, action will be initiated and the remediation cost for taking remedial measures for restoration will be recovered on the basis of the report from reputed institution for utilisation thereof for restoration. Where in-spite of ZLD condition, effluent/pollutants discharged into environment, it will be treated as violation of ZLD condition and for such discharge of pollution load, appropriate legal action will be initiated including measures for restoration by issuance of appropriate directions duly supported by BG of approximate restoration cost.
2.	Scientific disposal of treated effluent	On the basis of % exceedance in respect of standards laid down under the provisions of EP Act, 1986 further action will be initiated including restoration measures by issuance of appropriate directions duly supported by BG of approximate restoration cost.
3.	Provision of adequate land for disposal	% of treated/undertreated/untreated effluent discharge outside land for disposal and % of exceeding parameters, non-compliance will be taken into consideration while initiating action. The effluent generation will be restricted with production quantity commensurate with availability of land.
4.	Discharge of effluent/emissions in contravention of consent conditions	On the basis of discharge quantity and exceeding parameters %, further action will be initiated by issuance of appropriate directions duly supported by BG of approximate restoration cost

The Regime for forfeiture of BG on the basis of "Polluter Pays Principle" subject to the degree of non-compliance as stated above and for continuous non-compliance, it will be more costlier than securing compliance, so that the project will prefer to secure compliance, rather than "Pay for Pollution", which is decided as below:-

1. In case of substantial compliance is secured, upto 25% of the bank guarantee to be forfeited and top up with double the amount of forfeiture by granting additional time of 25% proportionate time granted for securing total compliance as per earlier directions.
2. In case of medium compliance is secured as defined above, above 25% upto 50% of BG to be forfeited on the basis of % of non-compliance and top up with double the amount of forfeited BG and granting 50% proportionate time of total period granted as per earlier directions.
3. In case of non-compliance below 25%, above 50% upto 100% BG to be forfeited on the basis of % of non-compliance and top up with double the amount of forfeited BG proportionately and giving additional proportionate period with reference to the earlier total period granted by the Board.
4. In case of 100% compliance, the earlier directions given for non-compliance will be withdrawn and bank guarantees will be returned immediately.



If non-compliance of conditions observed, based on the non-compliance level (25% - 50% - 75% and above), BGs will be proportionately forfeited and proportionate time will be granted with top up of forfeited BG while granting further extension of time to secure remaining compliance after obtaining double the amount of forfeited BG. After second extension, if physical steps are taken for compliance of conditions, on the basis of the progress, decision in respect of further extension of time, if required or initiating further stringent action including refusal/revocation of consent, issuance of prohibitory orders, making applications to the JMFC for restraining apprehended pollution, filing of prosecution and/or stoppage of such polluting section etc. can be initiated on the basis of the recommendation of consent granting authority taking into consideration seriousness of non-compliances. While initiating actions for refusal/revocation/review of consent conditions, due procedure laid down by the Board will be followed, which is already placed on the website of MPCB in respect of consent management. The norms for visit and surprise inspections, investigation of complaints, formation of squads for surprise visits, inspections and sampling, and for initiating various legal actions will be prescribed separately in due course of time. While initiating actions, a number of visits, surprise inspections, sampling and analytical reports as well as investigation of complaint reports will be taken in to consideration.

However, in case of serious environmental pollution, causing serious public nuisance, specific orders passed by the various quasi-judicial and judicial forums, the consent granting authority will initiate more stringent action including restraining apprehended or existing pollution, stoppage of highly polluting section of industries, making application to Courts for appropriate orders, filing of prosecution, closure/prohibition/ regulation of activities etc. The consent granting authority may in appropriate cases refuse / revoke consents or review conditions granted in earlier consent as the case may be, till corrective actions are taken or effective steps are taken to prevent, control or abate pollution including remedial and restoration measures.

In cases of common facilities of local bodies, industries, it was decided that after exhausting necessary remedies and actions as per the provisions of various Environmental Laws, such as issuance of prohibitory orders restraining apprehended pollution, issuance of appropriate directions to the defaulters as per the provisions of the Water and Air Acts, issuance of proposed/interim/final directions, grant of consent/authorization with more stringent conditions, refusal/revocation of

consent/authorization and filing of prosecution, CPCB directions etc., it was thought that the best course can be to approach Hon'ble NGT in unsolved substantial questions relating to the environment protection, which may arise due to continuous and serious non-compliances of important environmental norms, causing serious pollution, in spite of a number of remedies exhausted by the Board.

While granting "Consent to Establish," necessary stringent conditions will be imposed taking into consideration the local conditions. For example, in the dense industrial area, taking into consideration the nearby residential areas, most cleaner technologies will be insisted for achieving most stringent standards. Precautionary measures will be suggested for such areas. While granting "Consent to Operate" to such type of industries, after due verification of the consent conditions and precautionary measures undertaken, "Consent to Operate" will be considered. While granting first "Consent to Operate," a detailed verification will be done, more particularly of highly polluting category of industries.

Conditions for Remediation / Restoration to be incorporated/ imposed for damage caused to the environment in Consents / Directions of Defaulting Industries:-

While granting "Renewal of Consent," wherever the said industry has been responsible for causing serious environmental pollution, the concerned industry will be directed to prepare a comprehensive plan for remediation / restoration through the reputed institutes like NEERI / IIT Powai / ICT, Matunga / National Institute of Oceanography / Central Ground Water Board (CGWB)/ State Ground Water Board (SGWB) / Rahuri Krishi Vidypeeth/Konkan Krishi Vidypeeth / Fisheries Department /M.S. University of Baroda / NITIE / ARAI / Savitribai Phule Pune University, Pune / Central Institute of Road Transport (CIRT), Pune etc. and submit such report with time-bound action plan to the MPCB. Such report can also be directly got prepared at the cost of defaulting industries by the MPCB and based on the recommendations in respect of remedial and restoration measures, MPCB may issue appropriate directions to the concerned defaulting industries and also incorporate such conditions in the "Renewal of Consent" after extending an opportunity of hearing to them. Thus, through grant of "Renewal of Consent," the remediation and restoration plan will be implemented in a time bound manner. In case of non-compliances within stipulated time period, MPCB may consider refusal/revocation /review of earlier consent conditions. In appropriate cases, highly polluting activities can be stopped till effective steps are taken for implementing remediation / restoration plan.

4. Effective Consent Management:

The MPCB has adopted "Uniform Integrated Approach For Consent Management." The said policy is under implementation. This policy basically takes into consideration material balance aspect to ensure that nothing is finding its way into the environment in contravention of consent conditions and to the extent possible, most conservative approach will be adopted in use of natural resources like water, raw material, energy etc. The sector specific approach by identifying highly vulnerable pollution streams and imposing more stringent conditions in the consent to regulate such streams have been adopted. Here, the MPCB will taken into consideration classifications

of industries by the CPCB on the basis of pollution potential, various directives issued by the CPCB and other forums as well as various statutory guidelines and circulars issued by the competent authorities from time to time. The following specific measures are taken by the Board for effective consent management for prevention, control and abatement of pollution.

5. Sector-Specific Approach for Consent Management

In 2011, the CAC had taken review of earlier legal actions and decided to adopt Uniform Integrated Approach not only in grant of consent/s, but also issuance of directions and accordingly, decided to implement Enforcement Mechanism in respect of procedure to be followed uniformly in grant of consent/s and also about compliance matrix. Such implementation started of late in 2011 onwards. MPCB has identified sector of industries for the purpose of imposing stringent conditions to regulate highly polluted stream of pollution arises from such activity, by adopting sector specific approach for sugar & distilleries, textile processing, steel industries, cement industries, power plants etc.

MPCB has initially identified highly polluting industries and accordingly adopted sector specific approach for regulating such type of industries through grant of consent/s from 2011 onwards. Sector-specific approach has been adopted for effective consent management and improving the compliance level up to 95% in respect of important conditions imposed in the consent granted to Sugar and Distillery, Textile Processing Cement Plants, Steel Plants and Power Plants respectively. For compliance of those important conditions, reasonable time period prescribed in the consent granted to such units and to ensure time bound compliance of such conditions, uniform BGs have been prescribed. While imposing such conditions the aspects of waste minimization, recycle/reprocess/reuse/re-circulate and recovery of material taken into consideration. The B regime will be followed as a last resort to secure the compliance, but ensuring that the compliance will be more cheaper than submission of BG and forfeiture thereof, so that the industries will prefer to comply with the conditions rather than facing forfeiture of BG and continuing non-compliance. The element of remedial measures and restoration with cost thereof will be incorporated in the Bank Guarantees, so that in case of failure to take remedial measures, out of forfeiture of bank guarantee, through reputed institutions, remedial measures can be taken with the cost of forfeiture of Bank Guarantee.

The present approach is to impose & implement industry specific conditions for pollution prevention on the basis of its pollution potential in a time bound manner. While imposing conditions, the Consent Granting Authorities focus more on the waste minimization, by adopting waste reduction by insisting for providing of cleaner-technologies consisting of recycling, reuse, reprocess and recovery to the extent possible. Wherever possible, the Lifecycle Approach is adopted, by keeping proper material balance etc. Just to cite an example, the Bank Guarantee Regime for the power plant was discussed in the 13th Consent Appraisal Committee Meeting held on 5/10/2013 for sector-specific approach for the Power Plant. After due deliberations, it was decided to lay down specific separate BG Regime for old & new power plants with reference to different standards laid down under the provisions of the Environment (Protection) Rules, 1986. The necessary Guidelines have been formulated in respect of implementation of BG Regime for both the old & new power plants with reference to the exceedance percentage of non-compliance of the standards/conditions stipulated in the consent, on the basis of compliance percentage with reference to time frame given for compliance, taking into consideration verification report and the manner in which, the non-compliance is to be confirmed/decided.

However, as far as BG Regime for Power Plant is concerned, once the ESP installed, the emissions are required to be defined with reference to the documentation

on the basis of which, amount of BG can be forfeited with percentage of non-compliance, including handling & disposal of fly ash as well as CAAQMs results and operation & maintenance of pollution control devices. The forfeiture Regime for various bank guarantees in respect of the BG Regime for power plants has been defined. Similarly, BG Regime for old & new power plants, as per Environment (Protection) Rules, 1986, has been specified on the lines of above Forfeiture Matrix. The sectoral review is being taken on yearly basis.

In Sector-Specific Approach for Consent Management, the MPCB has identified highly vulnerable aspects of pollution being caused from the identified sectors, such as Sugar and Distillery, Textile Processing, Cement Plants, Steel Plants and Power Plants respectively. In order to regulate highly vulnerable waste streams, MPCB has prepared an Action Plan to secure compliance of 80% initially and targeted compliance level upto 95% in a time-bound manner by imposing necessary conditions, granting reasonable time period in the consent renewal for taking improvement measures. After expiry of period granted for making improvement, MPCB takes action to secure the above compliance level through grant / refusal / revocation of consent/s of non-complied industries and initiating other stringent actions like issuance of prohibitory orders, filing of applications before appropriate court of Law for various directions including restraining apprehended pollution, filing of prosecution and issuance of various directions including closure, prohibition or regulation of polluting activities.

6. Enforcement of compliance of various environmental norms through various actions under the provisions of environmental laws:-

MPCB has been empowered to initiate various actions under the provisions of various Environmental Laws, more particularly the Water (Prevention & Control of Pollution) Act, 1974; the Water (Prevention & Control of Pollution) Cess Act, 1977; the Air (Prevention & Control of Pollution) Act, 1981; and the Environment (Protection) Act, 1986 respectively. It becomes necessary to formulate the priority and guidelines for integrating the actions with reference to no. of surprise / regular inspections, the reports of sampling in numbers, investigation of complaints, intensity of pollution, period of non-compliance and its impact on the surrounding environment. After due deliberations, the following criteria are adopted:-

Sr. No.	Category/ Scale of Organisation	No. of visits and samples with dates	Prescribed Standards	Actual Results	Disposal of the Pollutants into Environment	Period & Percentage of compliance-level	Action Proposed
1	Red / Orange / Green / SSI / MSI / LSI		pH BOD COD SS TDS PM10		On Land / Into Surface Water / Underground / Atmosphere/	a) Up to 25%, b) 25% up to 50% c) 50% up to 75% d) above 75%	As mentioned below.

Action Proposed:

1) **Warning Notice (WN)/Letter of Warning/Visit and Inspection Report:** Where non-compliance is less than 25% not having serious impact, WN/Warning letter/Visit and Inspection report can be issued pointing out the observations in respect of a no. of earlier visits, the sample reports having exceedance in percentage, pointing out specific non-compliances observed in the visits and giving warning to take corrective measures within stipulated time;

This should be issued immediately after visit and inspection / surprise visits and sampling, pointing out specific non-compliances observed during said visit, without waiting for analytical reports or samples collected during the course of visit. The observations should be made to point out characteristics of pollutants, operation and maintenance of pollution control devices, requirement of improvement/upgradation on the basis of earlier visits and analytical reports, specifying % non-compliance on the basis of weightage given for the compliance/non-compliance with recommendations to initiate further action as delegation of powers.

2) **Show Cause Notice (SCN):** Where exceedance level is above 25% but not having serious impact on environment, SCN can be issued pointing out non-compliance % and observations with a no. of visits, and sampling as well as results thereof pointing out non-compliances and steps to be taken with show cause as to why further necessary action shall not be initiated in case, satisfactory reply not given and no effective steps are taken to comply with show cause notice. The % non-compliance on the basis of earlier record with reference to various parameters prescribed in the above statements should be pointed out with specific intimation to initiate further action including PD/Conditional Directions/filing of prosecution etc. The SCN will be issued under corresponding sections under which the conditions for compliances are imposed, such as section 25/26/27 of the Water Act, section 21 of the Air Act and concerned rules under which non-compliances are observed under the Environment (Protection) Act, 1986. The format for SCNs are already circulated by the Policy and Law Division to HODs, which will be recalculated in due course of time.

3) **Proposed Directions (PD):** After SCN, if no steps are taken to comply in the reasonable period or where the non-compliance and exceedance observed to be having impact on environment, PD can be issued on the basis of three analytical reports, pointing out the visits, sampling and exceedance above 50% with reference to standards and with reference to non-compliance of show cause notice as well as on the basis of % non-compliance/s given in the above statements.

4) **Conditional Directions:** In order to secure compliance within stipulated time, after issuance of the PD, on the basis of reply/no reply, subsequent to grant of opportunity of hearing, final conditional directions with time-frame to comply with the conditions imposed to be issued, within 45 days. If those conditions are not complied with, then prohibitory/restraining Orders to be issued to stop polluted discharge/emissions u/s 32 of Water & u/s 22 of Air Acts. If compliance is not done after issuance of prohibitory Order, then the application u/s 33 of Water/ u/s 22A of Air Act can be filed before JMFC / CJM for appropriate Orders.

5) Where serious non-compliance is observed on the basis of regular/surprise visit / investigation of complaint and/or any report of committee, in such cases, where exceedance is above 75%, directions of closure/disconnection of electricity/water supply/essential service to the polluting activity can be issued and till effective steps are taken to comply with points addressed in respect of serious non-compliances, conditional permissions to restart manufacturing activities may not be granted. In order to incorporate the element of restoration/remediation, the Third Party will be appointed at the cost of polluter to prepare remedial / restoration plans with cost of remediation /



restoration within stipulated period. Based on such report, while granting restart, conditions for taking restoration / remediation measures in a time-bound manner will be imposed and appropriate BG for ensuring the compliance of conditions imposed for restoration measures duly supported by cost will be obtained. If non-compliance observed, BG can be forfeited and forfeited amount can be utilized on restoration measures through appropriate implementing agency.

6) **Filing of prosecution:** After proper built-up of case in respect of continuous and serious non-compliances with documentary evidence, MPCB may initiate an action for filing of prosecution. Wherever, non-compliances still continues, even after initiating various actions, in appropriate cases, MPCB may take recourse to approach Hon'ble NGT for specific performance. In appropriate cases of urgent nature, with the approval of Board, in the public interest, having no alternative, MPCB may execute certain works of pollution control, provided that the defaulter is not having the requisite resources and the activity needs to be continued in the interest of State and Public at large. However, this can be an exceptional remedy and the Board cannot be expected to perform the works of hardened defaulter, only because of it does not comply with environmental norms having sufficient resources.

Various aspects in respect of regular and surprise inspection, formation of a squad for such surprise inspection, monitoring of standards are being separately formulated. However, as far as visit, inspection and samplings norms are concerned, for each Field Officer, the frequencies prescribed by the MPCB from time to time will be followed. As far as SCN is concerned, it will be issued on the basis of three consecutive reports on sample analysis. In case, after notice period, if no effective steps are taken, on the basis of further three reports, Proposed Directions (PD) will be issued. If within 45 days no compliance steps are taken, then final conditional directions in respect of specific non-compliances will be issued with implementation period. In spite of final conditional directions, if non-compliances continue, after the prescribed period in the said directions, then closure / prohibition / regulation of polluting activity, directions will be issued.

However, where grave and sudden circumstances exist, then final directions will be directly issued pointing out grave and sudden circumstances, even without exhausting above actions in the manner prescribed therein, in order to prevent further serious damage to the environment or in order to prevent any unforeseen act, incidence / event causing apprehended pollution. However, while issuing final directions without exhausting above remedies/without extending opportunity of hearing in exigencies of circumstances, the reasons for initiating such stringent action directly, will be incorporated in the final directions of closure, prohibition or regulation of polluting activities.

7. **Implementation of BG Regime:**

Now, the Board has decided to regulate most vulnerable polluting activities from the pollution prevention point of view and decided to increase the compliance level upto 95% within stipulated time granted in the consent order. Those which have not been complied with in spite of sufficient opportunity given to them by forfeiture and top up of BG will be considered for prohibiting contaminated discharges, by filling of applications before appropriate forum (JMFC/NGT), by filing of prosecution after built up of proper record and in serious cases issuance of closer, prohibition, disconnection of E/W supply and regulating of highly polluting activities etc.

Apart from above, the Board had also launched a scheme of auto-renewal of existing consents by encouraging the steps for compliance voluntarily and to obtain consents on the basis of self-compliance report submitted by the project proponent to the Board. It has been observed that more than 2/3 applications for consent are received for renewal of existing consents without substantial changes in earlier conditions imposed upon them. Therefore, it was thought that the concept of auto-renewal of existing consents on the basis of self-compliance certificate submitted by the industries will not only increase the compliance level, but also will expedite the grant of renewal of consent, thereby, it will reduce the workload of process of such applications without any substantial changes in the consent conditions. Accordingly, the MPCB has prepared draft Enforcement Policy for perusal of various stake holders including industries, operations or processes, local bodies, hospitals, common facilities, construction projects having more than 20,000 sq.mtrs. built up area etc.

MPCB will continue to secure BG for compliance of various conditions to ensure time-bound compliance. However, after exhausting all remedies, MPCB will consider forfeiture of those BGs. MPCB has decided to open region-wise bank account for crediting the amount of forfeiture by the defaulter, so that the forfeited amount can be utilized only on improvement measures / remedial / restoration measures for improvement of environment in that area. Besides that, MPCB has decided to obtain BGs for implementation of restoration / remedial measures on the basis of a report of reputed institutions as mentioned above along with the approximate cost of remediation. Such Bank Guarantees will be newly introduced not only in the consent conditions, but also in the forms of directions, following the "Polluter Pays Principle" in its true sense. At the same time, ensuring that the non-compliances will be more costlier than securing compliance. The Bank Guarantee regime will definitely have back seat and enforcement of above aspects will have front seat.

Since enforcement mechanism is subject to improvement on the basis of execution of enforcement policy, in due course of time, the MPCB will make necessary improvement on the basis of its own experience, amendments in the various Environmental Laws and after perusal of various Orders passed by Hon'ble National Green Tribunal, High Court of Judicatures and Hon'ble Supreme Court of India.
