

## COMMENTS on ENFORCEMENT POLICY

Prepared by

MAHARASHTRA POLLUTION CONTROL BOARD

01. Maharashtra Pollution Control Board has prepared a draft Enforcement Policy to integrate the inspections, monitoring, standards, compliance, directions, remedial measures, and legal actions as per the Acts and Rules in force.
02. It was experienced by the Board that issuance of directions/ notices have not been effective and not yielded desired results. Many units/ bodies continued to pollute the environment due to long pending cases in courts.
03. Board identified certain stringent measures and imposed these in the form of conditions in the consents issued to industrial units. The compliance is achieved in time-bound manner by imposing appropriate bank guarantees.
04. NGT Bench at Pune during its hearing on July 28, 2015 desired that MPCB review the aspects mentioned in the Preamble of the Policy and mention the process of compliance verification, assessment of pollution intensity and impact of legal actions, and remedial efforts in the document.
05. The Board has adopted "Uniform Integrated Approach" since 2011 while granting Consents and Authorisations. Conditions were being incorporated for adopting Cleaner Technologies, waste minimization, resource conservation, life cycle approach and disposal of wastes in environmentally sound manner.
06. The Board decided to enforce the requisite measures through Bank Guarantee (BG) regime. It decided to create four categories for enforcement of compliance
  - a) Installation/ provision of Pollution Control Systems (PCS) / Machineries
  - b) Operation & Maintenance of PCS
  - c) Scientific disposal of treated effluent/ emission/HW
  - d) Submission of mandatory returns
07. BG has been stipulated by the Board for each activity under these four categories. Time limit has also been proposed for each activity. However, the rationale for fixing the upper limit for BG in each activity is not mentioned. Industrial units have to deposit the BG for regular operation of ETP/ APC equipment and for mandatory submissions every year, while BG is taken for other activities, whenever such activity is executed. For example, specific BG is

- collected at the time of upgradation of ETP or when adequate land provision is to be made.
08. The norms for increasing the BG and forfeiture of BG are mentioned. The final refusal/ revocation of consent or directions for final closure are proposed after the unit is given three chances, i.e., extension of time lines third time.
  09. Same BG for all units irrespective of potential to pollute may have to be looked into by the Board. The insurance firm charges different premium amount for different individuals, based on the health status and life style. Similarly in automobile sector, no claim bonus criterion is followed. Once a claim is submitted, the bonus becomes zero. Habitual violators required to be dealt separately.
  10. The government organisations and municipalities require different treatment in BG regime. It is very difficult to have BG from these organisations and determine the compliance status.
  11. The Board has policy framework for legal action based on proportionate compliance levels. Average compliance level is taken as less than 25%, medium level between 25 & 75% and substantial compliance between 75% & less than 100%. Board should have considered any compliance less than 50% as no compliance.
  12. Three issues are considered for determining the compliance status of the industrial units. The adequacy of pollution control measures/ ETP, etc., operational status of the ETP/ pollution control systems/ equipment and status of submission of mandatory records/ documents.
  13. The Board has mentioned in detail the process it intends to follow for determining the compliance of a unit. However, the present manual sampling and monitoring practices are only considered. In view of Online monitoring started in 17 Categories of industries, the issues related averaging basis should be examined.
  14. Though, exceedance of a parameter beyond the prescribed standard is taken into account, but the extent of exceedance is not given any thought. If BOD value is 35mg/L at Unit A and 155 mg/L at Unit B, then the percentage of compliance should also reflect the severity of the pollution caused by Unit B in comparison to Unit A.
  15. Adequacy of pollution control systems once ascertained, the compliance is totally based on O & M of the systems. As significant weight is given for

- adequacy and mandatory submission of documents, a unit may achieve 75% compliance even when significant lapses are found in ETP operation.
16. The impact of discharge of treated or partially treated effluents and the remediation issues require further examination. Pollution control or enforcement is not just meeting the prescribed standards, but also overall impact of pollutants in quantitative terms.
  17. The need to regulate pollution in an area by capping the emissions and or discharge of effluents is felt in impacted zones/ critically polluted areas. The remediation costs can be estimated in case of damages caused by disposing wastes based on CPCB document ([http://cpcb.nic.in/Guidelines\\_Environmental\\_Damages\\_and\\_Costs\\_17112015.pdf](http://cpcb.nic.in/Guidelines_Environmental_Damages_and_Costs_17112015.pdf)).
  18. The present consent management system practised by the Board is based on the experience and tested. Many changes in approach have taken place in past and many reforms will take place in future as well.
  19. As a policy document, it will communicate the stakeholders the intended actions of the Board to achieve the Compliance. However, the board requires to address various issues identified and also mentioned in the policy document. A guidance notes may be prepared on all the issues identified including the aspects of inspections.
  20. MPCB may also conduct a workshop by involving selected SPCBs and CPCB to further refine the Enforcement Policy and incorporate the views of experienced and learned officers in this field.