

No. HPSPCB/Consent/84th Board Meeting 2024 14644-81

Dated 7/12/2024

Office Order

In pursuant to the decision taken by the State Board in its 84th Board Meeting held on dated 20.08.2024 vide **Agenda item No. 84.07**, the following prepared **REGULATION MECHANISM IN CASE OF VARIOUS NON-COMPLIANCES OF WATER ACT 1974 AND AIR ACT 1981, IMPOSITION OF ENVIRONMENTAL COMPENSATION AND SAMPLING PROTOCOL** shall be followed within immediate effect:

A. Protocol in case of Pollution Control Devices (PCDs) non-compliance for outlet waste water discharge/emission norms

- On the observation of violation of norms for effluent/emission based on sample analysis report for the **first sample** a show cause notice under the Water Act 1974/Air Act, 1981/ Environment (Protection) Act, 1986 as the case will be issued, **for giving opportunity of 15 days**. The notice shall be issued to the unit for compliance within 5 Days after the violation is observed and sent through Registered Posts only and should be e-mailed on the registered email ID as entered in the online profile of OCMMS. In case of non-delivery and/or the email bounces back, the letter has to be delivered by Suitable means.
- The show cause notice essentially needs to have:
 - a) Complete details of non-compliances/violations
 - b) Clear directions as per the non -compliances and as to what time bound action is solicited from the respondent
 - c) Specify time line afforded to the unit to make compliance
 - d) Proposed actions with clear cut recommendations.
- The second sample must strictly be collected within 30 days after the first sample failure observed. In no case any additional time for re-sampling is to be granted to the defaulting unit by the Regional Office concerned.
- If the **second sample complies with the norms**, the notice issued by Regional Office is deemed to be have been withdrawn. However, **Environment Compensation** needs to be levied upon the unit as per OA No.593/2017 (WP (CIVIL) No. 375/2012, Paryavaran Suraksha Samiti & Anr. Vs. Union of India & Ors. For the violation period starting from the **first sample collection date** till **second sample collection date** which is complying with the norms by the concerned Regional Officer and the compliance shall be reported to Head Office.
- In case the **second sample fails**, a letter to the concerned unit conveying the sample failure results shall be issued to the unit within 5 days after the violation is observed through Registered Posts only and should be e-mailed on the registered

email ID as entered in the online profile of OCMMS. In case of non-delivery and/or the email bounces back, the letter has to be delivered by Suitable means. No show cause notice shall be issued by the concerned Regional Office for second sample failure but a comprehensive report along with clear-cut recommendation for the Power disconnection / Environmental Compensation/ Both as deemed fit for the violation of continuous failure of two samples observed received from the concerned Regional Officer as per the history of the case (including replies if any received from the non-complying unit) shall reach HO within 5 days.

- Accordingly, as per the recommendation of the concerned Regional Officer, the case shall be processed at Head Quarter and MS will issue necessary orders in form of Show Cause notice/Power disconnection orders/ Environmental Compensation orders shall be issued as per the provisions of law.
- The directions issued under section 33A of the Water (Prevention and Control of Pollution) Act, 1974 and under section 31-A Air (Prevention and Control of Pollution) Act, 1981 shall be revoked after complete compliance of the cause of action and direction issued by the State Board. The unit shall be made free from obligations when the unit complies with the direction and norms under Water and Air Acts.
- In case the unit again violates the norms under Water Act, 1974 and Air Act, 1981, the State Board shall repeat the procedure as mentioned above.

B. For violations of Bypass of untreated process waste water /Sudden Discharge of untreated effluent/ Solid/Semi Solid material/emissions

- On the observation of sudden discharge of untreated effluent/ Solid/Semi Solid material/emissions / Bypass of untreated process waste water from the unit by way of dedicated pipeline or unplugging of the Pollution control devices, **a show cause notice for suspension of the operation to the violating process/polluting activity(s) in form of restraining order (clearly mentioning the violations and Environment Compensation provisions to be imposed) returnable within 3 days** shall be issued by the concerned Regional Officer on the spot with geo-tagged pictures and videography of the site.
- It is necessary for the concerned Regional Offices to ensure that a sample of the bypass/ sudden discharge must be collected in all such situations and sent to the concerned Regional Laboratory, **which shall be analyzed by the Laboratory on priority for the analysis work and shall be completed within 24 Hrs except for BOD parameter and shall be communicated to the concerned RO immediately.**
- On the basis of analysis result received, if the samples results were complying no action is required and thus the notice issued by Regional Office is deemed to have withdrawn. However if the sample fails immediately a complete comprehensive report with all the facts of the matter shall be forwarded to Head Office with recommendation of action under section 33-A of the Water Act 1974.
- In case of exigency or situation posing imminent threat to any life forms, public at large and damage to the environment, the State Board with powers vested in it under section 32 (1) (a-c) and 33-A may issue direction with immediate effect closing the operation of the polluting entity.

- The directions issued under section 32 and 33-A of the Water (Prevention and Control of Pollution) Act, 1974 shall be revoked after complete compliance of the cause of action and direction issued by the State Board. The unit shall be made free from obligations when the unit complies with the direction and norms under Water and Air Acts.

C. For various violations of sections 25 of Water (Prevention and Control of Pollution) Act, 1974 and section 21 of Air (Prevention and Control of Pollution) Act, 1981


| Non compliance | Action |
|---|--|
| Operating Without CTE / COP Fresh. | <ul style="list-style-type: none"> Follow Notice procedure as above. If compliance is made in the notice period, then EC to be levied shall be – <ul style="list-style-type: none"> ➤ One time EC (in INR) is to be levied on dry units i.e. not producing any effluent / emissions and no specific pollution control devices are required - <p>GREEN - 5000 (small), 10000 (Medium), 25000 (Large)</p> <p>ORANGE-15000(small), 30000(Medium), 40000 (Large)</p> <p>RED- 100000 (large), 75000 (Medium), 50000 (Small).</p> ➤ In case the units produce effluent discharge / emissions in that case one-time EC applicable shall be 1 % of the project cost. If compliance is not made even after Show Cause Notice and stipulated period is exhausted, action shall be recommended to HQ u/s 31-A / 33-A of the relevant acts. |
| Operating without valid Renewal of Consent. | <ul style="list-style-type: none"> Follow Notice procedure as above. If compliance is not made even after Show Cause Notices and stipulated period is exhausted, recommend action to HQ u/s 31-A / 33-A. |
| Unit is operating with valid Consent but Addl products manufactured without prior consent. OR Unit is operating with valid Consent but has enhanced production or carried out expansion beyond what is consented. | <ul style="list-style-type: none"> Follow Notice procedure as above. If compliance is not made even after Show Cause Notices and stipulated period is exhausted, recommend action to HQ u/s 31-A / 33-A. If compliance is made in notice period levy EC for violation period. To calculate violation period - the unit's date of operation is to be ascertained from GST returns/ Commencement of commercial production |

| | |
|--|---|
| | certificate/ nodal deptt. regn etc. |
| Unit is operating with valid Consent but Addl utilities are installed in the form of Boiler/ Thermic Fluid Heater etc, or P&M without enhancement in production or any addition of products OR Unit has switched from consented fuel without prior consent. | <ul style="list-style-type: none"> • Follow notice procedure as above. • In case PCDs were provided over the same and unit complies within notice period then EC to be levied from the date of commissioning till the same is consented by the State Board. • In case requisite PCDs are not provided or are inadequate, recommend action to HQ u/s 31-A / 33-A and additionally levy EC for violation period. |

By Order
Hon’ble Chairman, HPSPCB

Endst. No. HPSPCB/Consent/84th Board Meeting 2024 14644-81 Dated 08/12/24

1. Private Secretary to the Hon’ble Chairman, HPSPCB, Shimla-171009.
2. Secretary (Health) to the Govt. of HP Shimla-171002.
3. The Secretary (Ayurveda) to the Govt. of HP Shimla-171002.
4. The Secretary (Animal Husbandry) to the Govt. of HP Shimla-171002.
5. The Additional Secretary (EST &CC) to the Govt. of HP Shimla- 171002.
6. The Director of Health Services/ Medical Education/ Ayurveda/ Animal Husbandry, Himachal Pradesh.
7. All the Deputy Commissioners in Himachal Pradesh.
8. All the Regional Officer(s), HPSPCB.
9. All the Central/ Regional Laboratory In-charge(s), HPSPCB.
10. Case file/ Notice Board, HPSPCB Shimla 171009.


(Anil Joshi, IFS)
Member Secretary
HPSPCB, Shimla-9



HP State Pollution Control Board
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No. HPSPCB/Consent/84th Board Meeting 2024 14682-14719

Dated

07/12/2024

Office Order

Hon'ble NGT in OA No. 593/2017 (arising from W.P. (Civil) No. 375/2012 on the file of the Hon'ble Supreme Court) dated 28.08.2019, approved CPCB methodology for levying imposition and recovery the Environment Compensation (EC), based on 'Polluter Pays Principle'.

CPCB on 10.04.2019 circulated record notes of discussion and decision taken in 63rd conference of Chairman and Member Secretary of PCBs/Committees held on 18.03.2019, wherein it has been decided that SPCBs/PCCs may frame their guidelines on Environmental Compensation (EC) based on CPCB's report.

The State Board vide order no. HSPCB/PLG/2019/6043-50 dated 29.04.2019 has adopted the modalities/methodology for assessing, imposing and utilization of environmental compensation from the polluting units in the State of Himachal Pradesh.

Now, in pursuant to the decision taken by the State Board in its 84th Board Meeting held on dated 20.08.2024, vide Agenda **Item No. 84.08** and in supersession of all previous orders if any, the area of applicability with formula for assessing and levying of the Environmental Compensation on the Industrial Units/Infrastructure Development Projects/ Tourism Units shall be as follows:

(A) Area of applicability:

- i) Units discharging the environmental pollutants in excess of the standards prescribed under EP Rules, 1986 as amended from time to time and as prescribed in the consent granted to such units under Water Act, 1974/Air Act, 1981.
- ii) Non-compliance of any directions issued by the State Board under the provisions of Water Act, 1974, Air Act, 1981 and EP Act, 1986.
- iii) Non-adherence to the action plans submitted by unit to the State Board or to the Hon'ble Court for making compliances or non-adherence of the same for the timelines prescribed for compliance of action plan.
- iv) Failure to install Online Continuous Emission/Effluent Monitoring system,

- intentional avoidance of data submission or data manipulation by tampering OCEMS.
- v) Accidental discharges lasting for short durations resulting into damage to the environment.
 - vi) Injection of treated/partially treated/untreated effluent to groundwater.
 - vii) Discharge of untreated/partial treated Sewage by STP and/or CETP
 - viii) Failure of preventing the pollutants being discharge in water bodies.
 - ix) Operating without obtaining prior/renew the consent to establish/operate under the Water (Prevention and Control of Pollution) Act, 1974 and/or Air (Prevention and Control of Pollution Act, 1981.
 - x) Operating without installation of pollution control devices of water and/Air emission.
 - xi) Failure to implement Waste Management Rules.
 - xii) Any other violation of Environmental act/rule/policy not covered above. In such cases concerned Regional Officer shall forward the case to HO mentioning all details of violation and grounds on which EC is recommended and is to be levied.
 - xiii) Non-Compliance of the Special Consent Condition in CTE/ CTE-Expansion, CTO/ CTO-Expansion and RCTO by the State Board under the provisions of Water Act, 1974, Air Act, 1981 and EP Act, 1986.
 - xiv) Intentional discharges of effluent and/or emissions to the environment including by passing the pollution control devices on land, water and air, which results damages to the environment.

(C). Actions to be taken in case failure to deposit Environmental Compensation (EC):

- a. The EC imposed upon the violating unit is required to be deposited by Project Proponent within a period of 15 days from the issue of directions. In case of failure to comply, the concerned RO shall issue a show cause notice of 15 days to the violating units for the necessary compliance. If the same persists RO shall accordingly make a case of the unit and intimate to Head Office for further course of action proposed to be taken with clear cut recommendation.
- b. The restoration of the power supply or revocation of closure order of the defaulting unit shall not be entertained until and unless the EC imposed upon the violating unit is deposited.
- c. Legal actions against the defaulter in accordance with law shall also be initiated against the unit by concerned Regional Office.

(D) Environmental Compensation to be levied for cases of illegal muck/ debris dumping.

The Hon'ble National Green Tribunal has passed the following orders on 29.07.2013 in the matter of OA. No. 256 of 2013 "Abhishek Rai Vs. State of HP & Ors."

"..... We also direct all the authorities concerned to keep a strict vigil to prevent throwing of municipal solid waste, untreated sewage, effluent or other material/construction material into river Beas. Whosoever is found to be throwing or dumping any such material, effluent etc. directly or indirectly into the river Beas or its tributaries or even at its banks, will have to pay a sum of Rs. 1.00 lakh as compensation for causing pollution on the basis of the 'polluter pays principle'....."

All such non-compliances observed are divided into two categories, one is individual persons found indulge in unscientific muck disposal while other is major Infrastructure developments projects (Hydroelectric projects, Road constructions, Housing colonies etc.) which during their construction phase are supposed to dispose of the muck into approved designated dumping sites but are found throwing or dumping/disposing of muck in the illegal dumping sites (not approved) without proper protection which directly or indirectly flow into the Rivers/Nallah/Khads blocking the natural course.

In all such cases of illegal muck/ debris dumping, no show cause notice shall be issued either at Regional Office or Head Office level while imposing spot fine of Environmental Compensation amounting to Rs. 1.00 Lakh (per site) which shall be imposed by State Board (Head Office) upon the violator individual in person or the violator unit as when informed by the concerned Regional Officer with a complete comprehensive report on all the non-compliances along with actions to be taken for the compliance to be achieved with geo-tagged pictures.

Accordingly, a direction from Head Office imposing Environmental Compensation upon the individual person or unit shall be issued for the compliance within 7 days. If the unit take all the necessary remedial measures within the specified timeframe and deposit the EC, the matter shall stand disposed-off.

However, if the compliance is still not made, a fresh complete comprehensive latest status report in the matter with photographic evidence shall be submitted to Head Office with clear cut recommendation for the imposition of further EC as per OA no. 593 of 2017 based on Polluter Pay principle.

Thereafter the case shall be divided into two situations, if stipulated period is exhausted, the Environmental Compensation on Polluter Pay Principle as per methodology prescribed by Hon'ble NGT in OA No. 593/2017 shall be imposed upon the unit for the violation period starting from the day after first date of inspection till compliance by the unit is achieved to the satisfaction of Regional Officer concerned. For which a Show Cause Notice of 7 days shall be issued to the individual person for minimum EC of Rs. 5000 per day, for consented industry specific EC shall be imposed. In case of non-consented industry/sector minimum EC of Rs. 5000 per day shall be imposed, which shall be ultimately issued in form of direction to be complied with the violation entity.

By Order
Hon'ble Chairman, HPSPCB

Endst. No. HPSPCB/Consent/84th Board Meeting 2024

14882/14889
Dated

07/12/2024

1. Private Secretary to the Hon'ble Chairman, HPSPCB, Shimla-171009.
2. Secretary (Health) to the Govt. of HP Shimla-171002.
3. The Secretary (Ayurveda) to the Govt. of HP Shimla-171002.
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5. The Additional Secretary (EST &CC) to the Govt. of HP Shimla- 171002.
6. The Director of Health Services/ Medical Education/ Ayurveda/ Animal Husbandry, Himachal Pradesh.
7. All the Deputy Commissioners in Himachal Pradesh.
8. All the Regional Officer(s), HPSPCB.
9. All the Central/ Regional Laboratory In-charge(s), HPSPCB.
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Dated

Office Order

In pursuant to the decision taken by the State Board in its 84th Board Meeting held on dated 20.08.2024, vide **Agenda item No. 84.09, REGARDING APPLICABILITY OF CONSENT DURING THE CONSTRUCTION OF HIGHWAY PROJECTS** subject to the provisions of the Water/Air Act as amended from time to time, following shall be applicable within immediate effect.

CPCB vide its direction dated 7-03-2016, under section 18 (1) (b) of the Water Act 1974 and Air Act 1981 has harmonized the classification of industrial sectors under **Red/Orange/ Green/White categories**.

The State Board vide office order dated 24-02-2021, have already classified 86 nos. of industrial sectors in Red, 107 nos. in Orange, 69 nos. in Green and 137 nos. in White categories.

The State Board on 24-02-2021, categorized **"New Highway Construction Project (Non-Industrial Operation)"** at **Sr. no. 52** of list of Orange category of sector.

Hon'ble High Court in matter of "Kusum Bali Verus State of HP and Others" in CWPIl No. 13/2021 dated 13-01-2023 directed that:

"There shall be no Hill cutting in the entire State of HP, unless permission is obtained from Director, who shall call for a report and No Objection Certificate from the Pollution Control Board, before granting such permission".

As decided, the existing orange category classification at Sr. no. 52 issued vide this office letter dated 24-02-2021, shall also include the expansion/modernization or both for the existing Highways. (Applicable to both National and State Highways).


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Hon'ble Chairman, HPSPCB

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Dated

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