

**CHAPTER**

**8**



# Monitoring by State Pollution Control Board

## 8.1 Introduction

State Pollution Control Boards (SPCBs) are responsible for implementing environmental legislations in the State, such as Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981, Water (Cess) Act, 1977 and some of the provisions under Environmental (Protection) Act, 1986 and the rules framed there under like, Biomedical Waste (M&H) Rules, 1998, Hazardous Waste (M&H) Rules, 2000, Municipal Solid Waste Rules, 2000, etc.

Under Section 25/26 of Water (Prevention and Control of Pollution) Act, 1974 as amended and under Section 21 of Air (Prevention and Control of Pollution) Act, 1981 as amended, the PPs are required to obtain the Consent to Establish (CTE) and Consent to Operate (CTO) for the project from the SPCB/UTPCC. The SPCBs regulate industries, municipalities, industrial processes, etc. through the mechanism of consent management. While granting consent, SPCBs also integrate the stipulations for abatement of water and air pollution in the ECs. The SPCBs regularly monitor compliance by these industrial/project units/entities. Under the Acts, SPCBs have power to obtain information, take samples, enter and inspect, power to restrain/punish polluters through courts, power to give directions for stoppage/closure/disconnection of electricity, etc.

## 8.2 Ambiguous responsibility of SPCB/UTPCCs under EIA Notification 2006

We observed that there were no clear cut responsibilities assigned to State Pollution Control Boards/Union Territory Pollution Control Committees (SPCB/UTPCCs) under EIA Notification 2006 regarding post EC monitoring.

EC is granted by MoEF&CC on the recommendations of EAC after scrutiny of the EIA report which includes public consultation and also various mitigation measures and commitments made by the PP. MoEF&CC while granting EC to PPs, marks copy to SPCBs, however the exact role of SPCBs was not specified in the EC letter.

MoEF&CC also had the power under Section 23 of the Environmental (Protection) Act, 1986 to delegate its powers to the State Governments and/or SPCBs by issuing notifications. MoEF&CC had not delegated the SPCB/PCCs with the responsibilities and powers for monitoring of EC conditions and hence compliance to various mitigation measures proposed by the PPs in the EIA/EC was not checked by SPCBs. In reply to a Lok Sabha, Unstarred Question No. 1555 (08 Dec 2015), MoEF&CC stated that compliance of

environmental safeguard conditions was monitored regularly through the ROs and SPCBs.

MoEF&CC stated (October 2016) that SPCB/PCCs had very clear defined roles with regard to their regulatory functions, monitoring, enforcement and compliance under the Water Act and Air Act. The SPCB/PCCs are not in a position to monitor the stipulations relating to forest, plantation, activities under ESR, health, etc. due to the reason that these stipulations do not fall under the mandate envisaged in the Water Act and the Air Act as well as delegations made under the Environmental (Protection) Act, 1986.

However, we observed that most of the SPCBs/UTPCCs expressed that compliance of EC conditions was to be done by the concerned ROs of MoEF&CC. Our observations relating to shortfall in monitoring by ROs are discussed in Chapter 7 of this report.

Our observations regarding role of SPCBs/UTPCCs are as follows:

### 8.3 Shortfall in carrying out the verification of compliance to the EC conditions

One of the conditions in the ECs issued by MoEF&CC was that the EC conditions were to be enforced, *inter-alia* under the provisions of the Water (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Water Pollution) Act, 1981, the Environment (Protection) Act, 1986 etc. The power to enforce these Acts lies with the State Government.

EC letter, issued by MoEF&CC are also marked to ROs, MoEF&CC/CPCB/SPCBs. PPs are required to submit six monthly compliance reports and the monitored data alongwith statistical interpretation regularly. Also, PP was required to submit periodical reports pertaining to status of compliance of EC conditions, Annual Environmental Statement in Form V, Reports on soil test and ground water samples, ambient air quality, fugitive or stack emissions, noise levels, compliance to emission norms, etc. to ROs, MoEF&CC/CPCB/SPCBs.

Our findings in respect of the system in place in SPCBs to oversee the compliance of these EC conditions is briefly as under:

- a. 26<sup>30</sup> SPCBs/UTPCCs stated that they issued CTE and CTO with conditions and monitor compliance to those conditions. The SPCBs/UTPCCs stated that the EC conditions were not monitored by them.
- b. Andaman & Nicobar Islands PCC stated that no such delegation had been done for monitoring and ensuring the compliance of conditions stipulated under EC. Manipur SPCB in their report stated that it had been carrying out the

<sup>30</sup> Assam, Andhra Pradesh, Bihar, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Odisha, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Uttar Pradesh, Uttarakhand and West Bengal.

responsibility of verification of compliance to the EC conditions that are relevant to Manipur SPCB only.

- c. Tripura State Pollution Control Board stated that the officials from Zonal Office of CPCB as well as MoEF&CC alongwith Board officials jointly visit the sites to oversee the compliance of EC conditions.
- d. Mizoram Board stated that it checks compliance of certain EC conditions which are within its capacity. However, the Board was unaware of its responsibility to check the compliance as no direction was received by them.
- e. Information was not available in respect of Daman & Diu and Dadra and Nagar Haveli, Puducherry.

Thus, there was no uniform system for monitoring compliance to EC conditions. MoEF&CC replied (October 2016) that SPCBs/ PCCs have been adequately empowered under the Water Act and the Air Act for ensuring effective compliance including monitoring of the stipulations made while granting consent which inter-alia include integration of stipulations made during the grant of EC. Further, MoEF&CC proposed that during the ensuing annual conference proposed to be held in November 2016, all the Chairmen and Member Secretaries of SPCBs/PCCs may be asked to ensure compliance of the EC and consent conditions, specifically related to pollution and different types of waste.

However, in spite of the reply of SPCBs that monitoring was done for compliance of conditions that were linked to CTE/CTO, we observed instances where projects were operating without CTE/CTO, which are discussed in the next para.

#### **8.4 Projects operating without Consent to Establish and Consent to Operate**

All the industries/local bodies discharging any domestic sewage or trade effluent into water, stream, well sewer or on land, which are covered under the provisions of Water (Prevention & control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 are required to obtain CTE for establishment of any new unit or before carrying out expansion/modernization of any existing unit.

These units after establishment are required to obtain CTO before commencing commercial production. CTO is also required for all the existing units which are covered under the provisions of Water (Prevention & control of Pollution) Act, 1974 and Air (Prevention & control of Pollution) Act, 1981.

Thus, CTE is required only at the time of establishment of new unit or before carrying out expansion /modernization in the existing unit whereas CTO is granted for a specific period and needs to be got renewed every time after expiry. The consent was to be granted within four months from the date of application, failing which it would be treated as a deemed consent unless consent is granted or refuse earlier.

We observed several issues relating to projects operating without CTE/CTO and renewal of CTE/CTO, which are discussed in succeeding paragraphs.

- (i) **Projects operating without CTE:** We observed that out of 352 projects, in 117 projects such separate condition was not specified in the EC letter. Out of remaining 235 projects, 162 had obtained the CTE and non compliance of this condition was observed in 10 projects. In 63 projects information was either not available or not applicable.

The details of 10 projects where the CTE was not obtained are given in Table 8.1.

**Table 8.1: Projects operating without Consent to Establish**

	State/UT	Project
1.	Andhra Pradesh	Saripalli Sand Mine, M/s Rashtriya Ispat Nigam
2.	Chandigarh	Rehabilitation scheme and General Housing scheme at village Dhanas, M/s Chandigarh Housing Board
3.	Jammu & Kashmir	Khrew Limestone of M/s Jammu & Kashmir Cement Ltd.
4.	Madhya Pradesh	Rehabilitation & Upgrading of 2 lanes with Paved Shoulders Configuration of Amarwara – Umranala including bypass by NHAI, Chhindwara
5.		Upgradation of Chhindwara/Chourai/Seoni section by NHAI, Chhindwara
6.		Ambara Opencast Batches Coal Mine Project by M/s WCL, Chhindwara
7.		Bhadanpur Limestone Mine Project by M/s Maiher Cement, Satna
8.	Punjab	Metropolitan Mall (commercial complex project), M/s MGF Developments Ltd.
9.	Uttar Pradesh	Municipal Solid Waste Landfill at Mirzapur
10.	Uttarakhand	Collection of Minor minerals from River Kosi, Ramnagar

- (ii) **Projects operating without CTO:** Our scrutiny revealed that out of 352 projects, in 118 projects such separate condition was not specified in the EC letter. Out of remaining 234 projects, 175 had obtained the CTO and in 55 projects information was either not available or not applicable.

CTO was not obtained in the remaining four projects, details of which are given in Table 8.2.

**Table 8.2: Projects operating without Consent to Operate**

State/UT	Project
1. Chandigarh	Rehabilitation scheme and General Housing scheme at village Dhanas, Chandigarh by Chandigarh Housing Board
2. Jammu & Kashmir	Khrew Limestone of M/s Jammu & Kashmir Cement Ltd
3. Jharkhand	Open cast Coal Mines Project, Central Coal Field Ltd
4. Tamil Nadu	Construction of a Group housing complex 'Metropolis', M/s. Akshaya JMB Properties

- (iii) **Delay in renewal of grant of CTO:** We observed that no proper system was evolved to commence and complete the process of renewal of the CTO before expiry of the current CTO by SPCBs. Our scrutiny revealed that out of 352 projects, in 34 projects there were delays ranging between 11 days to six and half years<sup>31</sup> during which the proponents were operating their plants without proper CTO from SPCBs.
- (iv) **Non obtaining the renewal of CTO:** Our scrutiny revealed that out of 352 projects, 25 projects were initially granted CTO, but the PPs did not show any record of having renewal of CTO.

MoEF&CC stated (October 2016) that it had got a generic software for online consent management by SPCBs/PCCs which has been adopted by 18 SPCBs and other remaining Boards are being persuaded to adopt the software. The implementation of the online consent management will minimise the interface between the regulator (SPCB/PCC) and regulate (industry) and bring efficiency, transparency as well as ease of doing business and avoid delays in granting CTE and CTO and renewal of grant of CTO.

### 8.5 Non-submission of half yearly compliance reports to SPCBs/UTPCCs

The PPs were to submit six monthly compliance reports to their respective SPCBs/UTPCCs on 1<sup>st</sup> June and 1<sup>st</sup> December of each calendar year.

Total 352 projects with ECs granted between 2008 and 2012 were selected for audit scrutiny. In 259 cases for which information was made available by the SPCBs/PPs, audit observed that compliance reports were not submitted even once in 53 cases. In three cases it was submitted once, in 113 cases the reports were submitted intermittently and only in 90 cases the reports were submitted regularly. The State/UT wise position is given in **Annexure VII**.

Thus, due to non-submission of half yearly compliance reports, the SPCBs/UTPCCs remained unaware of the compliance of conditions given in the ECs.

<sup>31</sup> CTO in respect of Mohanpur Open Cast Coal Mine, M/s ECL, West Bengal had expired in July 2007. The PP applied for renewal of CTO in October 2012 and the same was renewed in April 2014.

## 8.6 Insufficient infrastructure and manpower at SPCBs/ UTPCCs

The SPCBs/UTPCCs need to have adequate infrastructure, expertise, stability of institutional arrangements, so that they can perform their duties satisfactorily. The infrastructure includes well equipped laboratories and expertise includes sufficient number of technical manpower.

Our observations are as summarised follows:

a. 24 SPCBs/UTPCCs (Andaman & Nicobar Islands, Bihar, Chandigarh, Chhattisgarh, Daman & Diu and Dadra & Nagar Haveli, Delhi, Gujarat, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Meghalaya, Mizoram, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand and West Bengal) did not have infrastructure and expertise and there was shortage of laboratories and manpower. Out of 24 SPCBs/UTPCCs, only 11 SPCBs/UTPCCs, had indicated actual shortfall of manpower which is detailed in the Table 8.3 below.

**Table 8.3: Shortage of manpower in SPCBs/UTPCCs**

SPCB/UTPCC	Sanctioned Strength	Persons in position	Percentage shortfall
1. Bihar*	193	63	67
2. Delhi*	131	34	74
3. Himachal Pradesh*	83	39	53
4. Jharkhand*	271	73	73
5. Karnataka*	409	232	43
6. Madhya Pradesh*	358	209	42
7. Puducherry*	8	2	75
8. Punjab*	665	427	36
9. Rajasthan*	387	261	33
10. Uttarakhand*	69	22	68
11. West Bengal*	197	107	46
<b>*Total Manpower, *Scientific and Technical Manpower</b>			

b. Three SPCBs (Assam, Goa, Manipur) stated that they had adequate infrastructure and expertise

c. Five SPCBs (Andhra Pradesh, Haryana, Maharashtra, Odisha and Telangana) did not furnish specific reply to Audit.

As such, with the limited infrastructure and expertise including well equipped laboratory and technical manpower, most of the SPCBs/UTPCCs were also not in a position to properly monitor the projects for which ECs had been accorded.

MoEF&CC replied (October 2016) that it was a fact that many of the SPCBs/PCCs are not adequately equipped with infrastructure, trained staff and law enforcers particularly of North Eastern States. Under the scheme of “Assistance for Abatement of Pollution”,



MoEF&CC provides financial assistance to SPCBs of NE States as well as PCCs. Moreover, the State Governments were required to provide adequate funds for strengthening their Boards. This issue had been discussed in various meetings and annual conferences of the Chairmen and Member Secretaries and will be taken up again in the proposed conference in November 2016.

### 8.7 Financial position of the SPCBs/UTPCCs

The SPCBs/UTPCCs need to have adequate financial resources, so that they can carry out their functions satisfactorily. We observed that the SPCBs/UTPCCS had sufficient cash balance (including fixed deposits and bank balance) as mentioned below:

- a. 11 SPCBs/UTPCCs (Andhra Pradesh, Delhi, Himachal Pradesh, Karnataka, Kerala, Punjab, Rajasthan, Tamil Nadu, Telangana, Uttarakhand and West Bengal) had cash balances of more than ₹ 100 crore,
- b. Four SPCBs/UTPCCs (Assam, Daman & Diu and Dadra & Nagar Haveli, Gujarat and Uttar Pradesh) had cash balances of between ₹ 50 crore to ₹ 100 crore,
- c. Four SPCBs (Goa, Jammu & Kashmir, Maharashtra and Meghalaya) had cash balances of between ₹ 10 crore to ₹ 50 crore,
- d. Seven SPCBs/UTPCCs (Bihar, Chandigarh, Jharkhand, Madhya Pradesh, Mizoram, Puducherry and Sikkim) had cash balances of less than ₹ 10 crore,
- e. Six SPCBs (Andaman & Nicobar Islands, Chhattisgarh, Haryana, Manipur, Odisha and Tripura) did not give information regarding their financial position.

Thus, SPCBs were having sufficient funds but lacked manpower and infrastructure and coupled with these were the ambiguity in mandate for monitoring of EC conditions.

MoEF&CC replied (October 2016) that the Boards are finding it difficult to effectively implement the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Water Pollution) Act, 1981 due to lack of adequate infrastructure and trained manpower. MoEF&CC as well as CPCB are requesting the State Governments to extend the financial assistance to these State Boards.

### 8.8 Conclusion

SPCBs/UTPCCs had not been carrying out post EC monitoring due to lack of clear cut responsibility assigned to them under EIA Notification 2006. Therefore, compliance to various mitigation measures proposed by the PPs in the EIA/EC were not checked by SPCBs.

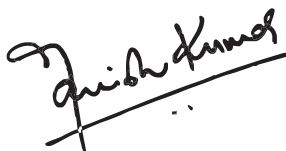
SPCBs/UTPCCs were not able to ensure that projects were running with valid CTE and CTO. There was lack of infrastructure and manpower at SPCBs/UTPCCs despite having sufficient funds.

## 8.9 Recommendations

We recommend that,

- i. MoEF&CC may issue directive to the State Government to frame modalities clearly delegating responsibility of monitoring the compliance to EC letter and commitments made in the EIA reports.  
(Paragraph 8.2)
- ii. MoEF&CC may issue advisory to SPCBs/UTPCCs for periodical monitoring after grant of CTE and CTO to Project Proponents.  
(Paragraph 8.3)
- iii. MoEF&CC may advise the State Governments to strengthen the infrastructure and manpower of SPCBs so that they properly monitor the EC conditions of the projects running in their jurisdictions.  
(Paragraph 8.6)

New Delhi  
Dated: 22 December 2016

  
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Principal Director of Audit  
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Countersigned

New Delhi  
Dated: 26 December 2016

  
(SHASHI KANT SHARMA)  
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