UPDATES

Environment Law Monthly Updates – August 2024

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This update covers:

In August 2024, significant strides were made in streamlining compliance procedures for both state organisations and businesses. The Supreme Court delegated the responsibility of assessing the environmental impact of silicosis-prone industries to the National Green Tribunal (**NGT**) to safeguard the right to life and dignity of workers.

> August 2024 saw significant changes in India's environmental landscape, including stricter compliance measures.

To ensure effective implementation of waste management laws and streamline compliance requirements, the Central Pollution Control Board (**CPCB**) revised its guidelines for assessing environmental compensation (**EC**) for violation of Plastic Waste Management Rules, 2016 (**PWM Rules**) and issued a Standard Operating Procedure for distilleries to obtain Zero Liquid Discharge (**ZLD**) certificates. Additionally, CPCB issued a show cause notice to numerous industries for non-compliance with the PWM Rules.

Meanwhile, the Ministry of Environment, Forests, and Climate Change (**MoEF&CC**) has taken proactive steps to address the remediation of contaminated sites in India by proposing draft rules. This move aims to establish a uniform procedure for conducting such remediation activities, which had been lacking until now.

The key developments are discussed in detail below.

1 Judgments

1.1 Supreme Court

a. ***Supreme Court directs National Green Tribunal to monitor environmental impact of silicosis-prone industries***

The Supreme Court recently addressed the long-standing issue of silicosis among workers across the country by directing the NGT to oversee the environmental impact of industries causing this disease.[1] This decision comes in response to a writ petition filed by Peoples Rights and Social Research Centre (PRASAR), a non-governmental organisation, and others in 2006 seeking the Court's intervention. The petition emphasised the urgent need for systemic reforms to address detection, prevention, and treatment of silicosis to protect the health and rights of workers in terms of Article 21 of the Constitution.

During the pendency of the petition, the Supreme Court passed several orders, including directives for compensation payments to the families of deceased silicosis victims based on National Human Rights Commission's (**NHRC**) recommendations. State governments were instructed to implement corrective measures including payment of compensation to silicosis affected workers and directing CPCB to recommend strategies for reducing silica dust exposure. These orders resulted in several reports being submitted to the Supreme Court by various authorities. After evaluating these reports and submissions from the NHRC, CPCB, and state committees, the Court focused on two key areas: preventing silicosis in industries from an environmental perspective and providing adequate compensation to affected workers.

On the environmental front, the Court has entrusted NGT with overseeing the environmental impact of industries prone to causing silicosis. Regarding compensation for affected workers, the Court has tasked NHRC with supervising the compensation process nationwide.

2 Other relevant developments

2.1 Revised guidelines for assessment of environment compensation for violation of Plastic Waste Management Rules, 2016

CPCB has revised its guidelines of 2020 for levying EC for violation of PWM Rules. This revision follows amendments to the PWM Rules made on 12 August 2021, 16 February 2022 and 6 July 2022, and aligns with the CPCB's responsibility to issue EC guidelines for obligated entities as per the polluter pays principle.[2]

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[1] Order dated 06.08.2024 in *Peoples Rights and Social Research Centre (PRASAR) and Ors. v Union of India & Ors.*, Writ Petition (Civil) No. 110 of 2006

[2] https://cpcb.nic.in/openpdffile.php?id=TGF0ZXN0RmlsZS80MThfMTcyNDMwMzg1MV9tZWRpYXBob3RvMTA3ODkucGRm

The revised EC regime considers the cost incurred in managing plastic waste, estimated at approximately INR 4000 per ton of plastic waste. Given that the responsibility for managing plastic waste is shared between the local bodies and the obligated entities, to ensure equitable cost-sharing, the EC is divided equally between them. A deterrent factor of 2.5 is also applied to the calculated EC, resulting in a total levy of INR 5000 per ton of plastic waste. The prescribed EC is inversely proportional to the collection of each category of plastic packaging waste, with higher ECs imposed for lower collection rates.

This revised EC regime provides a comprehensive framework for plastic waste management in India. By imposing appropriate penalties on violators, the regime aims to incentivise compliance and promote sustainable practices.

2.2 Standard operating procedure for Zero Liquid Discharge verification of distilleries

CPCB has released a Standard Operating Procedure (**SOP**) to streamline ZLD certification for sugar mills and distilleries. This SOP follows a government notification promoting a scheme of financial assistance for expanding ethanol production facilities. Under the scheme, achieving ZLD is mandatory for such facilities to avail of the benefits of the scheme. This SOP will help facilities to produce requisite documents for issuance of ZLD certificate, expedite the certification process, and ensure uniformity in the assessment process under the scheme.

2.3 Draft Remediation of Contaminated Sites Rules, 2024 proposed to consolidate scattered regulations

The MoEF&CC has proposed draft rules to address the remediation of contaminated sites in India.[3] These rules will apply to the remediation of sites contaminated by hazardous substances as defined in the Environment Protection Act, 1986 (**EPA**), in various schedules of Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and in the Public Liability Insurance Act, 1991.

The draft rules define '*confirmed contaminated site*' as a delineated area where after detailed site investigation, the level of contaminants is equal to or more than the response level and higher than the background level as specified by the CPCB.

The draft rules also stipulate that if hazardous substances have been mixed with mining waste, bio-medical waste, or municipal solid waste at a site, and the level of contamination exceeds the specified threshold, then remediation of such sites will be covered under these rules.

The draft rules will not apply to:

a. sites contaminated by radio-active waste (under the Atomic Energy Act, 1962);

b. rehabilitation of abandoned mines, sites contaminated by mining waste, damage to the environment caused by mining (under Mines and Minerals (Development and Regulation) Amendment Act, 2015); and

c. oil spills (under the Merchant Shipping Act, 1958, the Marine Insurance Act, 1963 and the Merchant Shipping (Prevention of Pollution of the Sea by Oil) Rules, 1974).

The draft rules propose to establish a Central Remediation Committee and outline responsibilities for state governments, local bodies, and pollution control boards. They also contain provisions for environmental

[3] Draft Remediation of Contaminated Sites Rules, 2024

compensation, financial mechanisms for remediation activities, liabilities of responsible parties and voluntary remediation.

Given that the regulatory space with respect to remediation of contaminated sites is presently scattered, finalisation of the draft rules will be a welcome step in the direction of environmental preservation.

2.4 Show cause notice issued to numerous industries for non-compliance of Plastic Waste Management Rules, 2016

On 19 August 2024, CPCB issued a show cause notice under Section 5 of the EPA for non-compliance of the PWM Rules. Under the PWM Rules, all producers, brand owners and importers are obligated to file their annual report to comply with their Extended Producer Responsibility (**EPR**) obligations. Through the show cause notice, CPCB granted 996 non-complying industries with time till 1 September 2024 to file their annual reports for FY 2022-2023. Failure to comply with this deadline will result in the imposition of EC on the non-complying industries.

These stringent measures reflect the sincerity on the part of the authorities to implement the EPR regime.
