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Environmental Protection Policies-An Approach To Legal Framework And Sustainable Development

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Abstract: For more than 45 years, EPA has focused on its mission of protecting human health and the environment by protecting the air we breathe, the water to enjoy and drink and the land to live. Every step along the way has been supported by science. Science and technology have served as the Agency's foundation to uphold the nation's landmark environmental statutes. Along the way, the Agency has continually honed its research to ensure that the information, innovative tools, and technical solutions EPA delivers match the real-world environmental and public health challenges faced by states, tribes, and communities.

Keywords: Environment,EPA,public health

1.Introduction Even before Indian independence in 1947, several environmental legislations existed but the real impetus for bringing about a well- developed framework came only after the UN Conference on the Human Environment. Under the influence of this declaration, the National Council for Environmental Policy and Planning within the Department of Science and Technology was set up in 1972. This Council later evolved into a full-fledged Ministry of Environment and Forests in 1985 which today is the apex administrative body in the country for regulating and ensuring environmental protection. After the Stockholm Conference, in 1976, Constitutional sanction was given to environmental concerns through the 2nd Amendment, which incorporated them into the Directive Principles of State Policy and Fundamental Rights and Duties. Since the 1970s an extensive network of environmental legislation has grown in the country.

The pollution control boards (CPCB Central Pollution Control Board and SPCBs State Pollution Control Boards) form the regulatory and administrative core of the sector. A policy framework has also been developed to complement the legislative provisions. The Policy Statement for Abatement of Pollution and the National

Conservation Strategy and Policy Statement on Environment and Development were brought out by the MOEF in 1992, to develop and promote initiatives for the

protection and improvement of the environment. The EAP (Environmental Action Program) was formulated in 1993 with the objective of improving environmental services and integrating environmental considerations in to development programmers'. Other measures have also been taken by the government to protect and preserve the environment. Several sector-specific

policies have evolved, in the present paper efforts has been taken to give an approach for legal policy framework and it's use for sustainable development.

1.1 **Institutional framework for the study**

Strengthening enforcement and compliance systems has become a subject of particular interest in the context of designing policies

that can stimulate sustainable development and economic growth. Recent discussions have shown the need to promote better understanding of the incentive structures facing firms and the need to provide governments with approaches that can optimize their expenditure on assuring environmental compliance.

Asian Environmental Compliance and Enforcement Network. Established in 2005, AECEN works to promote improved compliance with environmental legal requirements in Asia through regional exchange of innovative policies and practices. Composed of national and sub-national environmental agencies, the objectives of the Network are to:

Promote the development and implementation of improved environmental policies, laws, regulations and institutional arrangements;

Strengthen practitioner capacity through specialized training and skills development; and

Facilitate regional sharing of best practices and information on strategies for strengthening compliance and enforcement.

OECD Compliance Assurance Program. A Conference on Economic Aspects of Environmental Compliance Assurance organized in December 2004 in Paris within the framework of the OECD Global Forum on Sustainable Development facilitated a dialogue between OECD countries and transition and developing economies on designing optimal enforcement strategies and tools that can maximize environmental benefits and minimize costs to the regulators and regulated community.

U.S. EPA and World Bank Studies. The MOEF requested that this rapid assessment complement recent comprehensive efforts by the U.S. Environmental Protection Agency (U.S. EPA) and the World Bank in evaluating environmental compliance and enforcement and institutional reforms in India. The present report attempts to provide further insights into challenges in ensuring effective environmental compliance and enforcement. Both U.S. EPA and the World Bank are AECEN partner organizations, and contribute expertise and resources in supporting members in developing and implementing pilot activities.

2 **Objective and Methodology of the Study:** The objective of this rapid assessment is to help India to define priorities to address its key challenges in

environmental compliance and enforcement and lay the groundwork for potential pilot activities that could be carried out under the aegis of AECEN.

The study followed the AECEN methodology which was also used to prepare similar rapid assessments for Vietnam, the Philippines, and Sri Lanka. In preparing the assessment, a team of consultants, including experts from The Energy and Resources Institute (TERI, India) worked with the CPCB and selected state pollution control board (SPCB) officials to assemble the information via a survey questionnaire and follow-up interviews.

The questionnaire was designed to identify program strengths and weaknesses, priority reform areas and opportunities for strategic interventions in eight principal areas:

Legal enforcement authority;

Institutional arrangements and capacity building;

Compliance monitoring: policies and procedures on inspections, self-monitoring and permitting;

Enforcement response;

Compliance assistance and data management;

Economic and other incentive-based instruments;

Indicators to evaluate program success; and

Public participation in environmental compliance and enforcement.

Participating states were Gujarat, Maharashtra, West Bengal, Andhra Pradesh, Uttar Pradesh, Himachal Pradesh, Jammu and Kashmir, and

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Chhattisgarh. A draft summary of findings was presented for consideration by MOEF and CPCB decision-makers and other relevant stakeholders at a workshop in New Delhi on November 3, 2006.

2.1 Legal framework

India has an elaborate legal framework with over two hundred laws relating to environmental protection. Key national laws for the prevention and control of industrial and urban pollution include the following:

- Water (Prevention and Control of Pollution) Act of 1974, amended in 1988
- Water (Prevention and Control of Pollution) Cess Act of 1977, amended in 1991
- Air (Prevention and Control of Pollution) Act of 1981, amended in 1987
- Environment (Protection) Act of 1986 (EPA) • Public Liability Insurance Act of 1991
- National Environmental Tribunal Act of 1995 • National Environmental Appellate Authority Act of 1997
- The medium-specific legislation (the Air Act and the Water Act) empower the central and state pollution control authorities to enforce emission and eThuent standards for industries discharging pollutants into air and water.
- The Air Act provides for the prevention, control and abatement of air pollution. With a framework similar to the Water Act, the Air Act gave the central and state board's authority to issue consents to industries operating within designated air pollution control areas.

Water and environmental law

Water quality standards especially those for drinking water are set by the Indian Council of Medical Research. These bear close resemblance to WHO standards. The discharge of industrial eThuents is regulated by the Indian Standard Codes and recently, water quality standards for coastal water marine outfalls have also been specified. In addition to the general standards, certain specific standards have been developed for eThuent discharges from industries such as, iron and steel, aluminum, pulp and paper, oil refineries, petrochemicals and thermal power plants.

Water (prevention and control of pollution) act, 1974

This Act represented India first attempts to comprehensively deal with environmental issues. The Act prohibits the discharge of pollutants into water bodies beyond a given standard, and lays down penalties for non-compliance. The Act was amended in 1988 to conform closely to the provisions of the Environment Protection Act, 1986. It set up the CPCB (Central Pollution Control Board) which lays down standards for the prevention and control of water pollution. At the State level, the SPCBs (State Pollution Control Board) function under the direction of the CPCB and the state government.

Water (prevention and control of pollution) amended act, 1977

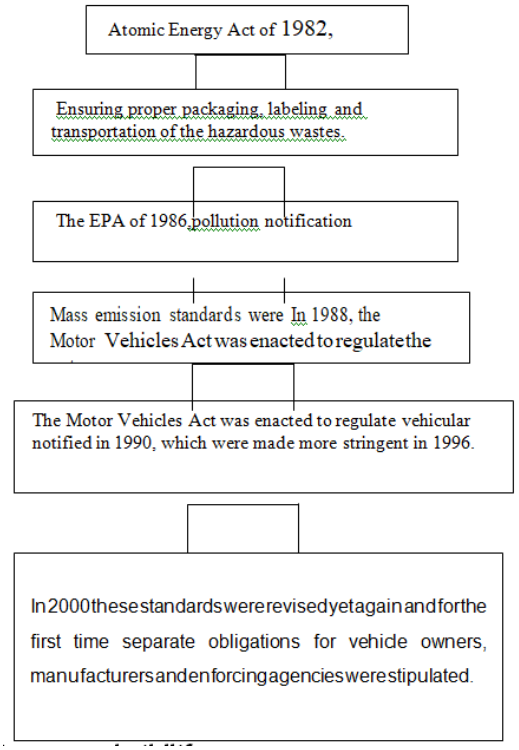
This Act provides for a levy and collection of an Amended on water consumed by industries and local authorities. It aims at augmenting the resources of the central and state boards for prevention and control of water pollution. Following this Act, The Water (Prevention and Control of Pollution) Amended Rules were formulated in 1978 for defining standards and indications for the kind of and location of meters that every consumer of water is required to install.

Control of air pollution and the law in India:

Air (Prevention and Control of Pollution) Act, 1981 To counter the problems associated with air pollution, ambient air quality standards were established, under the 1981 Act. The Act provides means for the control and abatement of air pollution. National Ambient Air Quality Standards (NAAQS), to protect public health, vegetation and property. The NAAQS prescribe specific standards for industrial, residential, rural and other sensitive areas. Industry-specific emission standards have also been developed for iron and steel plants, cement plants, fertilizer plants, oil refineries and the aluminum industry. The ambient quality standards prescribed in India are similar to those prevailing in many developed and developing countries.

The Air (Prevention and Control of Pollution) Rules formulated in 1982, defined the procedures for conducting meetings of the boards, the powers of the presiding officers, decision-making, the quorum; manner in which the records of the meeting were to be set etc.

Other enactments for controlling air pollution:



Forests and wildlife:

The Wildlife (Protection) Act, 1972: The WPA (Wildlife Protection Act), 1972, provides for protection to listed species of flora and fauna and establishes a network of ecologically-important protected areas. The WPA empowers the Central and State governments to declare any area a wildlife sanctuary, national park or closed area. There is a blanket ban on carrying out any industrial activity inside these protected areas.The Act prohibits hunting of animals except with permission of authorized officer when an animal has become dangerous to human life or property or as disabled or diseased as to be beyond recovery (WWF-India, 1999). The near-total prohibition on hunting was made more effective by the Amendment Act of 1991.

The forest (conservation) act, 1980

This Act was adopted to protect and conserve forests. The Act restricts the powers of the state in respect of de-reservation of forests and use of forestland for non-forest purposes (the term non-forest purpose includes clearing any forestland for cultivation of cash crops, plantation crops, horticulture or any purpose other than re-forestation).

General law for protecting environment in India:

Environment (Protection) Act, 1986 (EPA)

This Act is an umbrella legislation designed to provide a framework for the co-ordination of central and state authorities established under

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the Water (Prevention and Control) Act, 1974 and Air (Prevention and Control) Act, 1981. Under this Act, the Central government is empowered to take measures necessary to protect and improve the quality of the environment by setting standards for emissions and discharges; regulating the location of industries; management of hazardous wastes, and protection of public health and welfare.

Somenotificationsissuedunderthis Actare:

Notification	Remark
Doon Valley Notification (1989)	Prohibits consuptionwhich prohibits the setting up of an industry in which the daily consumption of coal/fuel is more than 24 MT (million tons) per day in the Doon Valley.
Coastal Regulation Zone Notification (1991),	Regulates activities along coastal stretches. , dumping ash or any other waste in the CRZ is prohibited
Dhanu Taluka Notification (1991)	The district of Dhanu Taluka has been declared an ecologically fragile region and setting up power plants in its vicinity is prohibited.
Revdanda Creek Notification (1989)	Prohibits setting up industries in the belt around the Revdanda Creek as per the rules laid down in the notification
The Environmental Impact Assessment of Development Projects Notification, (1994 and as amended in 1997)	All projects listed under Schedule I require environmental clearance from the MOEF
Ash Content Notification (1997),	Required the use of beneficiated coal with ash content not exceeding 34% with effect from June 2001, (the date later was extended to June 2002).
Taj Trapezium Notification (1998),	No power plant could be set up within the geographical limit of the Taj Trapezium assigned by the Taj Trapezium Zone Pollution (Prevention and Control) Authority
Fly Ash Notification (1999)	The main objective of which is to conserve the topsoil, protect the environment and prevent the dumping and disposal of fly ash discharged from lignite-based power plants

Legal protection of environment form hazardous wastes:

There are several legislations that directly or indirectly deal with hazardous waste. The relevant legislation as;

Environmental Protection Act of 1986	Notifications to tackle the problem of hazardous waste management.
Hazardous Wastes (Management and Handling) Rules, 1989,	guide for manufacture, storage and import of hazardous chemicals and for management of hazardous wastes.
Biomedical Waste (Management and Handling) Rules, 1998	proper disposal, segregation, transport etc. of infectious wastes.
Municipal Wastes (Management and Handling) Rules, 2000,	To enable municipalities to dispose municipal solid waste in a scientific manner.
Hazardous Wastes (Management and Handling) Amendment Rules, 2000,	providing guidelines for the import and export of hazardous waste in the country.

An assessment of the legal and regulatory framework for environmental protection in India:

The Government of India came out with a Policy Statement for Abatement of Pollution in 1992, before the Rio conference, which declared that market-based approaches would be considered in controlling pollution. It stated that economic instruments will be investigated to encourage the shift from curative to preventive measures, internalize the costs of pollution and conserve resources, particularly water. In 1995, the Ministry of Environment and Forest (MOEF) constituted a task force to evaluate market-based instruments, which strongly advocated their use for the abatement of industrial pollution. Various economic incentives have been used to supplement the command-and-control policies.

Agenda 21 highlights the need for integration of environmental concerns at all stages of policy, planning and decision-making processes including the use of an effective legal and regulatory framework, economic instruments and other incentives. These very principles were fundamental to guiding environmental protection in the country well before Rio and will be reinforced, drawing on India's own experiences and those of other countries.

Conclusion:

The extent of the environmental legislation network is evident from the above discussion but the enforcement of the laws has been a matter of concern. One commonly cited reason is the prevailing command and control nature of the environmental regime. Coupled with this is the prevalence of the all-or nothing approach of the law; they do not consider the extent of violation. Fines are levied on a flat basis and in addition, there are no incentives to lower the discharges below prescribed levels. Various economic incentives have been used to supplement the command-and-control policies. Depreciation allowances, exemptions from excise or customs duty payment, and arrangement of soft loans for the adoption of clean technologies are instances of such incentives. Another aspect that is evident is the shift in the focus from end-of-pipe treatment of pollution to treatment at source. The role of remote sensing and

Protection Act	Remark
Factories Act, 1948	The primary aim of the 1948 Act has been to ensure the welfare of workers not only in their working conditions in the factories but also their employment benefits.
Public Liability Insurance Act, 1991	The Act covers accidents involving hazardous substances
The National Environment Tribunal Act, 1995	legislations that directly or indirectly deal with hazardous waste.

geographical information systems in natural resource management and environmental protection has also gained importance over time.An important recent development is the rise of judicial activism in the enforcement of environmental legislation. This is reflected in the growth of environment-related Public Interest litigations that have led the courts to take major steps such as ordering the shut-down of polluting factories. preventive measures, internalize the costs of pollution and conserve resources, particularly water. In 1995, the Ministry of Environment and Forest (MOEF) constituted a task force to evaluate market-based instruments, which strongly advocated their use for the abatement of industrial pollution. Various economic incentives have been used to supplement the command-and-control policies. Depreciation allowances, exemptions from excise or customs duty payment, and arrangement of soft loans for the adoption of clean technologies are instances of such incentives. Another aspect that is evident is the shift in the focus from end- of-pipe treatment of pollution to treatment at source. The role of remote sensing and geographical information systems in natural resource management and environmental protection has also gained importance over time.

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