



# HARYANA STATE POLLUTION CONTROL BOARD

C-11 Sector-6, Panchkula

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## Office Order

Whereas as per provision of section 27 of Water Act, 1974 the State Board can review for making reasonable variation of or revoking any condition of the consent granted under section 25/26 of the said Act or can review the consent refused or granted without any condition, to any unit after giving an opportunity of being heard.

Whereas as per the provision of section 21 of Air Act, 1981, the Board can cancel the consent granted under section 21 of the said Act before the expiry of the period of the consent or refuse further consent after such expiry if the condition subject to which such consent has been granted are not full filled:

Provided further that before cancelling a consent or refusing a further consent reasonable opportunity of being heard shall be given to the person concerned.

Whereas the Board has yet not prescribed the specific procedure for review or revoking the consent refused or granted under the above said Acts.

Whereas The section 33-A of Water Act, 1974 and section 31-A of Air Act, 1981 empowers the State Pollution Control Boards to issue directions in writing to any person, officer or any other authority and such person, officer or authority shall be bound to comply with such directions which includes the power to direct :-

- a) the closure, prohibition or regulation of any industry, operation or process; or
- b) stoppage or regulation of the supply of electricity or water or any other service.

Whereas the closure orders are issued from time to time under the provisions of the above said Acts against the violators including those established and operating without CTE/CTO and those having CTE and CTO but found discharging the pollutant in excess of the prescribed standards in violation of the conditions of CTO. Presently there is no such set procedure to deal with the cases of review/revocation/cancellation of CTO simultaneously with the cases of closure issued against the defaulting units.

Whereas the matter was discussed in the meeting of Technical Advisory Committee of the Board held on 31.05.2019 and after the detail discussion and deliberation on the issue, the procedure for review/withdrawal/cancellation of consent to operate of non complying units under Water Act, 1974 & Air Act, 1981 has been recommended by the TAC and recommendation of the TAC has been accepted and approved and circulated vide letter no. HSPCB/PLG-TAC/2019/322-334 dated 14.06.2019.

Whereas the matter of processing of the cases for sanction of prosecution against the defaulting unit under Water Act, 1974 & Air Act, 1981 was discussed in the officers meeting held on 28.08.2019 and it was decided that the Regional Officers be directed to submit the draft complaint prepared in consultation with the concerned Advocate engaged by the Board, complete in all respect alongwith required documents as per instruction already stand issued in this regard alongwith the case for sanction of the prosecution for filing the same in Special Environment Court so as to avoid delay in prosecuting the defaulting units.

In view of above, it is hereby ordered that the procedure prescribed as per Annexure-A for review/withdrawal/cancellation of consent to operate of non complying units under Water Act, 1974 & Air Act, 1981, shall be adopted and Regional Officers will submit the draft complaint prepared in consultation with the concerned Advocate engaged by the Board, complete in all respect alongwith required documents as per instruction already stand issued in this regard alongwith the case for sanction of the prosecution for filing the same in Special Environment Court to avoid delay in prosecuting the defaulting units.

These orders shall come in to force with immediate effect.

Dated Panchkula, the  
29<sup>th</sup> August, 2019

Ashok Kheterpal  
Chairman

Dated: 16/9/19

Endst. No. HSPCB/PLG/2019/ 380 - 402

A copy of the above is forwarded to the following for information and immediate necessary action:-

1. All section Incharges in Head Office.
2. All Regional officers in Field Officers.
3. Nodal Officer (IT) for uploading the order on the website of the Board.

Sr. Environmental Engineer (HQ)  
For Chairman

Dated: 16/9/19

Endst. No. HSPCB/PLG/2019/

A copy of the above is forwarded to the following for information of the officers please:-

1. P.S. to Chairman
2. P.A. to Member Secretary.

Sr. Environmental Engineer (HQ)  
For Chairman

Annexure-I

Procedure for review/withdrawal/cancellation of consent to operate of non complying units under Water Act, 1974 & Air Act, 1981.

As per provision of section 27 of Water Act, 1974 the State Board can review for making reasonable variation of or revoking any condition of the consent granted under section 25/26 of the said Act or can review the consent refused or granted without any condition, to any unit after giving an opportunity of being heard.

Similarly as per the provision of section 21 of Air Act, 1981, the Board can cancel the consent granted under section 21 of the said Act before the expiry of the period of the consent or refuse further consent after such expiry if the condition subject to which such consent has been granted are not full filled:

Provided further that before cancelling a consent or refusing a further consent reasonable opportunity of being heard shall be given to the person concerned.

The Board has yet not prescribed the specific procedure for review or revoking the consent refused or granted under the above said Acts.

The section 33-A of Water Act, 1974 and section 31-A of Air Act, 1981 empowers the State Pollution Control Boards to issue directions in writing to any person, officer or any other authority and such person, officer or authority shall be bound to comply with such directions which includes the power to direct --

- a) the closure, prohibition or regulation of any industry, operation or process; or
- b) stoppage or regulation of the supply of electricity or water or any other service.

The closure orders are issued from time to time under the provisions of the above said Acts against the violators including those established and operating without CTE/CTO and those having CTE and CTO but found discharging the pollutant in excess of the prescribed standards in violation of the conditions of CTO. Presently there is no such set procedure to deal with the cases of review/revocation/cancellation of CTO simultaneously with the cases of closure issued against the defaulting units.

After the detail discussion and deliberation on the issue, the following procedure for review/withdrawal/cancellation of consent to operate of non complying units under Water Act, 1974 & Air Act, 1981 has been recommended by the TAC:-

1. In case of violation of any condition of the Consent to Operate granted under Water Act, 1974 and/or Air Act, 1981 by any unit or in case of falling of samples of effluent and/or air emissions of such units after grant of Consent to Operate, the Regional Officer concerned will issue the show cause notice under section 27 read with section 25 of Water Act, 1974 and/or section 21 of Air Act, 1981 for review/withdrawal/cancellation of consent to operate of such non complying units, as the case may be, showing the details of violations committed by such units.
2. Separate Show Cause Notice for prosecution as well as for closure and directions for disconnection of electric and water supply will also be issued simultaneously under the relevant sections of the acts violated by such units showing all the violations.
3. All the show cause notices will be issued through registered post with AD and record for the same with receipt will be maintained in Regional Office for evidence purpose.

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4. The reply of the unit if submitted in reference to the show cause notice, will be verified by conducting the fresh inspection of the unit if required with due permission of the Competent Authority as per inspection policy of the Board.

5. In case reply of the unit is treated satisfactory by the RO, the speaking orders will be passed by the RO in this regard and a comprehensive report for the same with justification supported with documentary evidence will be submitted to Head office immediately.

6. In case the unit fails to submit the reply of show cause notice (s) or reply is submitted by the unit will pass the speaking orders on the show cause notice and/or reply submitted by the unit before sending the case to Head office.

7. In case the reply of show cause notice submitted by the unit, is not found satisfactory or unit fails to submit the reply of the show cause notice within stipulated time period, the recommendation for closure order including directions for disconnection of electric and water supply, for review/withdrawal/cancellation of consent to operate as the case may be and for prosecution if applicable, as per policy of the Board, will be submitted by RO to Head office on prescribed performas with all prescribed documents alongwith detail of authority to whom the directions has to be given disconnection of electric and water supply on lapse of period of show cause notice.

8. In view of the fact that once the closure order is issued, the operation of the unit is directed to be stopped and the unit cannot operate and thus under these circumstances CTO will become ineffective. Therefore the CTO can be withdrawn/cancelled/review which already stand granted under Water Act, 1974 and Air Act, 1981 simultaneously at the time of issue of closure order or any other direction under section 33-A of Water Act, 1974 and 31-A of Air Act, 1981 and thus both the cases for issuing closure directions and for review/withdrawal/cancellation of consent to operate of non-complying units under Water Act, 1974 &/or Air Act, 1981 as the case may be, alongwith case of prosecution if applicable, will be dealt in single recommendation.

9. At the time of suspension of closure order, RO will ensure that the unit has applied for fresh CTO with all relevant documents and prescribed consent fee as per consent procedure of the Board and case is fit for grant of CTO due to compliance made by the unit and case for suspension of closure order will be submitted on prescribed format with all prescribed documents after verifying the compliance made by the unit by conducting the inspection of the unit as per the policy/procedure of the Board with status of consent application as mentioned above.

10. No case for suspension of closure order will be recommended <sup>by</sup> any RO without complete compliance of closure orders including disconnection of electric and water supply.

11. Closure order will be suspended in such cases, if it is found fit for suspension of closure order as per policy of the Board simultaneously after vetting of the complaints for filing prosecution if it is required, and with the conditions that the suspension of closure order so issued will be valid and effective only after grant of CTO by the RO.

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