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KERALA STATE POLLUTION CONTROL BOARD

കേരളസംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

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STANDARD OPERATING PROCEDURE FOR PROCESSING OF ONLINE CONSENT APPLICATIONS

I. Background

The Honorable NGT has pronounced that the entire environmental status of a state is depending upon the functioning of the State Pollution Control Boards. The processing and issue/refusal of the online consent applications is only one among the various activities of the Board. A lot of time and manpower is consumed for this activity because of the absence of a Standard Operating Procedure. This issue was discussed on 22/10/2019 by the Senior Officers of the Board and it was decided to formulate a Standard Operating Procedure for processing the online consent applications. The 205th Board Meeting held on 30/10/2019 also expressed displeasure on the inordinate delay in processing of consent applications.

As the Hon'ble NGT have pronounced so many Judgments for levying Environmental Compensation and Environmental damage assessments as per polluter pays principle, the Board has to bring a revolutionary change in processing consent applications. More emphasis needs to be given by the Board officials on monitoring, legal sampling, levying environmental compensation and environmental damage assessments.

As per Section 25 (7) of Water (Prevention and control of Pollution) Act, consent shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months on submitting application in this behalf complete in all respects to the State Board. Similar deeming provision is in the Air Act Section 21 (4). Though 4 months time is given for processing a completely filled application, priority should be to dispose the application in the minimum possible time.

The 7th monthly Review Meeting of CPCB Regional Directorate (South) held on 7th August 2019 observed that SPCBs are taking more time in renewing consent for without any proper justification.

This Standard Operating Procedure is formulated with a view of creating a uniform procedure for online consent processing throughout the State of Kerala and to help the Board officials to dispose the consent application at the earliest.

II. Procedures to be followed for processing ICE/ICO applications received through OCMMS

A) Preliminary Scrutiny

(i) The concerned Environmental Engineer/Assistant Environmental Engineer shall conduct a preliminary scrutiny and transfer the application to Assistant Engineers with specific directions depending on the category of the industry.

(ii) Enclosures

The enclosures required in a consent application are the following:

- a. Essential documents: Occupier identity proof, land tax receipt, lease deed (if required), Affidavit* & site and layout plan**

- b. Optional documents: Partnership deeds, balance sheet, building tax receipt, certificates/license of other departments like Panchayat, Mining & Geology Department, SEIAA, Certificate from Village Office, Approved building plan/Building Permit, details/proposal of effluent treatment plant/air pollution control measures.
- c. Uploading photos of the unit, its location, its machinery and pollution control measures will help the licensing authority to get an idea of the unit and its location. This is not only beneficial while processing the application without inspection but may help more than the inspection report of the junior level officers.

The concerned issuing authority can decide what all documents are required and if felt that an important document is not enclosed, he/she can return the application to the occupier for want of the same.

***Affidavit**

The Affidavit should necessarily include the following:

- a. The capital investment of the unit with land building & machinery under separate heads.
- b. The IP (in patient) capacity to be specified in case of Health Care Facilities.
- c. The total plot area & built up area to be specified
- d. The machinery details with HP to be reported
- e. The number of patient chairs in case of dental clinics
- f. The facilities provided (scanning, x-ray, pathological test facilities) etc in case of bio-medical laboratories
- g. The distance to the nearest residence & the minimum set back distance

h. Undertaking by the occupier that all the details reported in the application are true and correct to the best of his knowledge & should also declare that in case the Board detects that any of the details are wrong, the Board can take any action against him including refusal of consent.

****Site plan**

The site plan should give correct idea of the plot and the unit. It needs to be countersigned by a licensed Engineer and should include correct details of the unit like route to the unit, residences/ landmarks/ institutions/ water bodies/ forest etc and should ensure verification of distance criteria. The distance to the nearby residence (if more than one machinery in the same building) is to be measured from the geometric centre of the building to the nearest residence and the setback is the shortest distance from the side wall to the plot boundary. In the case of mobile machinery (eg: cement blocks), the distance to the nearby residence is to be measured from the side wall to the nearest residence.

****E mail & mobile number**

E mail and mobile number of the applicant are highly essential for ease of communication.

(iii) Machinery Details

Machinery details are the most important aspect as far as majority of industries are concerned. The pollution potential of an industry (with machinery) is directly

proportional to the Horse Power of the machinery and hence the Horse Power details should be specified in the consent. In the case of poultry/cattle farms, the number of bird/animal is an essential entry to be made in the application. The built up area is the deciding factor in case of Auditoriums, Residential Buildings, and Restaurants/Hotels. These matters may be entered in all type of consents (ICE/ICO/Renewal).

(iv) Capital Investment

There should be proper assessment of capital investment of a unit. The capital investment of a unit is the sum total of investment in land, building & machinery. The audited balance sheet is the recommended way of assessing capital investment in case of units for which balance sheet is mandatory.

In the absence of audited balance sheet, the following thump rules may be used: ₹50,000 per HP (Horse power) may be taken as a thump rule for machinery (including land, building & machinery). This thump rule need not be made applicable to very small units housed in rented buildings. The land value may be decided based on the fair value of the land (which can be obtained from the Revenue Divisional Office).

However, in case of granite/laterite quarries, the land cost is much high and the market value is 1.5-2.0 crores per hectare based on field enquiry. Hence actual land value (or the value reported in EC (Environmental Clearance) may be taken in such cases.

The building value is to be based on the estimates/certificates produced

by a licensed Engineer. Lease value (for 5 years) may be taken into account in case of units on lease. However, the lease deed shall be verified as whether it includes land, building and machinery. If it includes land only, then the value of the building & machinery may be assessed based on the above.

The concerned district officers can make assessment in the capital investment. The District Offices, in case any opinion required, may refer the cases to the Head Office where a committee can finalize the same based on the available documents or after conducting a hearing of the concerned.

(v) Category of the industry

The category has to be correctly selected. Category has to be fixed by Categorization Committee for new industries that are yet to be categorized. District Offices shall not categorize on their own. The District Offices can forward the details of industries (machinery details, production process, raw materials, products, likely pollution to be generated etc) which are not yet categorized to the Categorization Committee and shall proceed further based on the decision of the committee.

(VI) Pollution control measures

The pollution control measures proposed by the industry are to be clearly mentioned in the application. Mode of treatment and disposal of solid & liquid waste and control measures pertaining to air & noise pollution have to be reported in detail. The stack details are to be correctly reported. Small scale non-polluting industries need not be insisted to submit above details.

B) Inspection

Date of inspection should be fixed as far as possible at the time of first scrutiny itself. An inspection schedule may be prepared before the start of each month and inspections shall be scheduled accordingly. A copy of inspection schedule may be forwarded to the Regional Offices & Head Office at the beginning of every month.

The application of those industries not requiring any inspection or serious evaluation and submitted all required documents can be disposed within one or two days. Consent may be issued without inspection in the following cases:

- For ICO small and medium scale GREEN industries based on self certification as per circular no. PCB/HO/EE4/Delegation of Powers/2019 dated 06.07.2019.
- White Category Industries.

C) Consenting Authority

INDUSTRIES			
Sl. No	Category	Consent/Certificate issuing Authority	
1	Green	Integrated Consent to Establish	
		Small, Medium, Large scale	AEE of District Office
		Integrated Consent to Operate	
		Small and Medium scale	AEE of District Office
		Large Scale	AEE of District Office
Integrated consent to Establish/Operate			

2	Orange	Capital investment less than Rs. 25 crore	Head of District Office
		Capital investment Rs. 25 crore to Rs. 50 crore	Head of Regional Office
		Capital investment above Rs. 50 crore	Member Secretary
3	Red	Capital investment less than Rs. 10 crore	Head of District Office
		Capital investment Rs. 10 crore to Rs. 25 crore	Head of Regional Office
		Capital investment above Rs. 25 crore to Rs. 50 crore	Member Secretary
		Capital investment above Rs. 50 crore	Chairman

White Category – AEE of District office

HOSPITALS/HEALTHCARE INSTITUTIONS Integrated consent to Establish/Operate		
Sl. No	Category	Consent/Certificate issuing Authority
1	Less than 100 beds or Capital investment less than Rs. 10 crore	Head of District Office
2	100 to 250 beds or Capital investment Rs. 10 crore to Rs. 25 crore	Head of Regional Office
3	Above 250 to 500 beds or Capital investment above Rs. 25 crore to Rs. 50 crore	Member Secretary

4	Above 500 beds or Capital investment above Rs. 50 crore	Chairman
HOTELS		
Integrated consent to Establish/Operate		
Sl. No	Category	Consent/Certificate issuing Authority
1	Capital investment less than Rs. 10 crore	Head of District Office
2	Capital investment Rs. 10 crore to Rs. 20 crore	Head of Regional Office
3	Capital investment above Rs. 20 crore to Rs. 30 crore	Member Secretary
4	Capital investment above Rs. 30 crore	Chairman

D) Application Processing

- a. In the case of applications complete in all respects the Environmental Engineer or the Assistant Environmental Engineer of the District Office, whoever is the competent officer to issue the consent, can issue the same on the day of receipt itself as far as possible and it shall not be delayed beyond 2 days.
- b. If the application has to be diverted to Assistant Environmental Engineer or Assistant Engineer, for processing or inspection, this shall be done the day of receipt of application itself, if possible. In any case, the application must be diverted to subordinates within 4 days. If the time taken is more than 10 days, the reason for the delay has to be specified.
- c. While rejecting an application, it is compulsory to state the reason for rejection. An application can also be rejected if the directions issued with

a time frame by the Board are not complied with and the reasons to be stated clearly.

E) Forwarding application to Regional Office

The EE shall put up a comprehensive report to the CEE with all details avoiding any further clarification letter from CEE. The report of the EE alone shall represent all the merits & de-merits of the application. The report shall include the following:

- a. the correctness of the application and adequacy of consent fee,
- b. brief description of the production process.
- c. brief description of and adequacy of the pollution control measures.
- d. description of complaints & court cases.
- e. adequacy of other statutory clearances
- f. specific recommendation regarding grant/refusal of consent.

The EE shall ensure that a draft consent/refusal order is generated (as the case may be) with approved site plan/outlet location drawing, while submitting to CEE.

F) Processing the application at RO

As of now, the online stream of Regional Office follows the pattern CEE→AEE→AE. As the consent application has been forwarded from District Office and has been scrutinized by AE, AEE & EE of the District Office, the role of CEE is to verify and approve the report and draft consent already generated from the DO. AE & AEE may be excluded from the online stream in RO's. They may be effectively utilized for other works. Their support may be

called for only in case of complicated applications, but outside the online purview. The CEE can return the file only if there is any unavoidable clarification required from DO. Draft consent/Refusal Orders/Refusal Intention Notice/Letter to the unit may be prepared from DO itself as per the directives of CEE.

G) Forwarding application to Head Office

The CEE of Regional Office shall forward the file to Chairman/Member Secretary, as the case may be with proper remarks/ recommendations within 7 days.

(H) Legal responsibility of consent issuing authority

The legal responsibility in the case of consent issued from DO, RO or HO is with the EE, DO, as consents are issued as per the inspection and report of EE. In the case of consent issued by AEE, the responsibility is with AEE as the EE is not dealing with the respective matter. In the event of legal issues in such matters, the EE as the Head of District Office may file the report before the Court on behalf of the Board.

(I) Time limit for parking of files

7 days will be the maximum time given to each officer for disposal of each application.

(J) Issue/Refusal of consent

The consent issued should be complete in all respects. Consent, either fresh or renewal should necessarily include the following particulars:

- a) Capital Investment
- b) Category

- c) Annual Fee/ Consent Fee Remitted
- d) Machinery details (in HP) in case of industries, total IP facilities in case of hospitals, built up area in case of hotels/restaurants/residential apartments, mining area in case of quarries, number of birds/animals in case of poultry/slaughter houses.
- e) Details of pollution control measures.
- f) Any other details required by the issuing authority.

Before refusing consent application, the applicant shall be given an opportunity for being heard. The application may be rejected first by issuing a refusal intention notice with 7 days time for submission of explanation. After the stipulated time, if the applicant does not submit satisfactory explanation, the rejected application may be retrieved back and refusal order to be issued within 3 days.

III) Monitoring Committee

A committee shall be constituted to monitor the progress for speedy disposal of files. The committee shall forward report to the Chairman/Member Secretary once in two weeks.

The above SOP shall be revised with necessary amendments, if felt necessary after a period of 3 months.

25.01.2021


CHAIRMAN