

Environmental laws and protection acts

Constitutional provisions

India is the first country in the world to have provisions for the protection and conservation of environment in its constitution. The provisions for environmental protection in the constitution were made after the '**UN conference on Human Environment' held in Stockholm on 5th June, 1972.** (Therefore 5th June is celebrated as World Environment Day all over the world).

The Constitution of India has a number of provisions demarcating the responsibility of the central and state government towards 'Environmental Protection'.

- i) Article 48-A: It declares that "**the state shall try to protect and improve the environment and safeguard the forests and wildlife of the country**".
- ii) Article 51-A(g): It declares that "**it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have sympathy for living creatures**".
- iii) Article 47, 48 and 51A: According to these articles, It is the duty of state to protect and improve the environment and to protect and improve the environment and public health and provide pollution free water, air and environment for the public.

Environmental laws

Major legislations directly dealing with the protection of environment in India are

1. The wild life protection Act, 1972.
2. The water (Prevention and control of pollution) Act, 1974.
3. The forest conservation Act, 1980.
4. The air (Prevention and control of pollution) Act, 1981.
5. The Environment (Protection) Act, 1986.
6. The Public Liability Insurance Act, 1991.
7. The National Environment Tribunal Act, 1995.

The wild life protection Act, 1972 provides for rational and modern wildlife management, while the forest protection Act, 1980 has been enacted to check indiscriminate deforestation and diversion of forest land for non-forest purposes. The water and air Acts are the major instruments for the control of water and air pollution and these have provided for the establishment of the Central and State Pollution Control Boards.

Salient features of

Environmental (Protection) Act, 1986

This act came into force on Nov 19, 1986, the birth anniversary of late Prime Minister Indira Gandhi. She took interest in environmental issues of the country. This act aimed to protect and improve the quality of environment by Central Government with coordination of the State Government.

There are four main chapters and different clauses under various chapters which lay down the standards, policies and act of environmental degradations and policies for improvement of environment and prevention of human beings from environmental hazards.

- **Chapter I:** Describes the definitions of various entities that are related to environment.

- **Chapter II:** Describes the role of central government to take measures for environment protection and its improvement along with the economic development. It includes the appointment of officers, power to give directions, rules to regulate environmental pollution, laying down procedures and standards for industrial waste, emissions, hazardous waste etc.
- **Chapter III:** Deals with the prevention, control and abatement of environmental pollution. As per the guidelines, a person running an industry or operation cannot emit or discharge environmental pollutants in excess of the permissible limit. Central government or its officers may take samples of air, water, soil or other substance from any factory for the purpose of analysis and upon failure to satisfy the norms, shall liable to be proceeded against and punished accordingly. Penalty- Imprisonment of five years with a fine upto one lakh rupees or it extend to Rs 5000 every day.
- **Chapter IV:** Lists miscellaneous articles which are not pertaining to environment but are guidelines for functioning and conduct of officers and government representatives and these guidelines must be laid before parliament for its validity.

The Air (Prevention and Control of Pollution) Act,1981

As a control of the UN conference on Human environment held on June 1972, steps were taken to prevent all natural amenities and with this in view, this act has been enacted in 1981. The main objectives of this act are:

- i) To prevent and control air pollution
- ii) To establish Central and State boards for the prevention and control of air pollution, and
- iii) To provide and confer powers and functions to the Central and State boards to restore wholesomeness of air.

It consists of 7 chapters and 54 sections.

- **Chapter I:** This chapter defines the following terms such as air pollutant, air pollution, approved fuel ,automobile, chimney emission, control equipment etc.,
- **Chapter II:** It deals with the information regarding CPCB and SPCB, their constitutions, terms and conditions of service of members, delegation of powers to various officials.
- **Chapter III:** This chapter emphasizes the function of central board and state board such as to collect, compile and publish the data regarding air pollution and to guide the concerned industry for the effective prevention and control of air pollution.
- **Chapter IV:** This deals with prevention and control of air pollution. The boards are authorized to declare the air pollution control areas, instruct regarding the emission standards from automobiles and restrict the activities of certain industries. According to this chapter the industrial people are not permitted to allow excess pollutants with respect to standards and in such cases the board has the power to enter, inspect and collect sample, find out the reports in the state laboratories. On the basis of the report appeal can be made and the persons may be punished.
- **Chapter V:** This chapter deals with the fund, accounts and auditing of the central and state boards.
- **Chapter VI:** If the industry or person fails to follow the standards, they will be punished. **Punishment:** Imprisonment for not less than one year and 6 months, it may extend to 6 years and with fine.
- **Chapter VII:** It deals with the power to amend the schedules, the necessity of state board to maintain a register containing relevant particulars and about the power of central and state government to make rules regarding the air pollution control.

The Water (Prevention and Control of Pollution) Act, 1974

The Water Act was enacted under article 252(1) of the constitution as a social welfare measure.

- i) To prevent and control water pollution
- ii) To establish Central and State boards for the prevention and control of water pollution, and
- iii) To provide and confer powers and functions to the Central and State boards to restore wholesomeness of water.

This act consists of 8 chapters and 64 sections

- **Chapter I:** This chapter explains the terms such as board, central, state board, member, outlet sewer sewage effluent, trade effluent, stream and pollution.
- **Chapter II:** It elaborates about the constitution of central board, state board, committees, terms and conditions of service of members, meeting of the board. It also explains about delegation of powers to chairman, member secretary, officers and other employees of the board.
- ✓ • **Chapter III:** It deals with the constitution, composition and the special provision of joint board. For eg. A Joint board for the river Cauvery includes officials from Karnataka, Tamilnadu and Pondicherry along with the Central board officials.
- **Chapter IV:** This chapter deals with the functions of central board, state board and their powers to give directions to concerned authorities.
- **Chapter V:** It explains the power of state government to collect samples of effluent, analyze in government laboratory and publish the results. On the basis of the result they may restrict the outlets and discharges into stream or well.
- **Chapter VI:** It deals with the maintenance of funds of central and state board, budgets, annual report submission, account and auditing.
- **Chapter VII:** This elaborates about the penalty in case of offences committed by companies. **Punishment:** Imprisonment for not less than one year and six months but which may extend to 6 years with fine. Incase of failure, an additional fine of Rs.5000/ will be imposed for every day. In such case the names of the offenders may be even published.
- **Chapter VIII:** It explains about the central and state water laboratories, analysts, reports of the analysts, protection, action in good faith and about the power of central and state government to formulate the rules. Important sections under this act are
- **Under Section 19:** The entire National Capital Territory of Delhi has been declared as water pollution prevention control area.
- **Under Section 21:** Officials of DPCC can take samples of the water effluent from any industry stream or well or sewage sample for the purpose of analysis.
- **Under Section 23:** Officials of the state boards can enter any premises for the purpose of examining any plant, record, register etc. or any of the functions of the Board entrusted to him.
- **Under Section 24:** No person shall discharge any poisonous, noxious or any polluting matter into any stream, or well or sewer or on land.

What are the functions of Central and State Pollution Control Board

Functions of the Central Pollution Control Board:

1. The main functions of the central board shall be to promote the cleanliness and improve the quality of the air/water in streams and wells and to prevent control for decrease air pollution/water pollution in the country.
2. Advice the central government, on any matter concerning the improvement of the quality of air and prevention control or abatement of air pollution/water pollution.
3. Plan and cause to be execute a nation wide programme through mass media for the provision, control or abatement of air/water pollution.
4. Provide technical assistance and guidance to the state boards carry out and sponsor investigations and research relating to problems of air pollution/water pollution and its control and abatement.
5. Plan, organize the training of persons engaged or to be engaged in programmes for prevention, control and abatement of air pollution on such terms and conditions as the central board may specify.

Functions of the State Pollution Control Board:

1. To advice the central government in any matter concerning the prevention, control or abatement of air/water pollution.
2. To advice the state government, on any matter to plan and cause to be executed a nation wide programme for the prevention, control or abatement of air/water pollution.
3. To collect information relating air/water pollution and to encourage, conduct, participate in investigations and research relating to problems of water pollutions.
4. To plan a comprehensive programme through mass media for prevention control or abatement of air/water pollution.
5. To inspect sewage or trade effluents, works and plants for the treatment of sewage or trade effluent.
6. To lay down, modify or annual effluent standards for the sewage and trade effluents and for the quality or receiving water s resulting from the discharge of effluents and to classify water resulting from the discharge for effluents and classify waters of the state.
7. To evolve economical and reliable methods of effluents of sewage and trade effluents.
8. To evolve methods of utilization of sewage and suitable trade effluents in agriculture.
9. To evolve efficient methods of disposal of sewage and trade effluents on land.
10. To lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream.
11. For prevention, control, abatement of discharged of wastes into stream or wells.

Step by step procedure of ISO 14000

ISO is a word, derived from the Greek word isos meaning equal. ISO is the International Organization for Standardization. It has a membership of 160 national standards institutes from countries large and small, industrialized, developing and in transition, in all regions of the world. ISO develops only those standards that are required by the market.

ISO 14000 series of standards are the first international environment standards which have been brought out by International Organization for standardization (ISO) based at Geneva, Switzerland.

The main purpose of the ISO 14000 series is to promote effective and efficient environmental management in organization and provide useful and usable tools.

The ISO management system standards have acquired a considerable presence in the market place. ISO 14001, 14004, 14010, 14011 and 14012 which are the management system and audit standards were published and hundreds of companies around the world were certified to these standards before they were even published. Since their publication, hundreds more have applied for certification. Thousands more, who have yet made decision about certification are implementing the standards to gain respectable ground in the market place.

In addition to the above standards, the work is in progress on ISO 14020 to ISO 14024 (dealing with various aspects of environmental labels and declarations), ISO 14031 (dealing with environmental performance evaluation), etc.

Step by step preparation for Environmental Management Systems (EMS) certification

Step - 1: Management commitment

Step - 2: Preliminary review and audit

Step - 3: Framing of Environment policy

Step - 4: Create organization structure and allocate resources

Step - 5: Set objectives and targets and establish review programmes

Step - 6: Write standard operating procedures (SOPs) and manuals and carry out training programmes

Step - 7: Implement SOPs and comply with documentation control

Step - 8: Carry out internal audits and prepare for certification audit

Step - 9: EMS certificate audit by certifying agencies

Step - 10: EMS certificate received. Continuous improvement becomes an organizational culture

Details of the above ten steps

Step - 1: Management commitment

- This is the key factor
- It enhances employee involvement and enthusiasm
- It makes EMS a key determinant for success

Step - 2: Preliminary review and audit

- Characterisation and quantification of all inputs/outputs including environment burden
- Assessing environmental effects of the above during its entire life cycle
- Analysis of inherent risks and opportunities
- Determination of current performance

- Developing plans to improve performance

Step - 3: Framing of Environment policy

- Environment policy is the written statement underlying the top managements commitment to view environment protection as a business goal
- Environment policy should be clear, brief and monitor environmental impact
- Environment policy should highlight the need for sustainable development

Step - 4: Create organization structure and allocate resources

- Management representative should be identified and nominated
- Management representative has his / her other responsibilities shall have defined roles
- All functional groups like production, Engineering, Quality assurance, Finance, Human resources etc., should be named along with their team members and team leaders
- The work concerned should be descriptive as well as matrix form

Step - 5: Set objectives and targets and establish review programmes

- Objective and targets should evolve from preliminary review and audit
- EMS goals should be applicable to new projects/products/services also
- Suitable review programmes should be established to monitor progress, resource requirements, audit findings etc

Step - 6: Write standard operating procedures (SOPs) and manuals and carry out training programmes

- Legal and other requirements which organization has to meet
- Training, awareness and competence of each of its members, e.g. employees, suppliers, customers, distributors, community stakeholders etc
- Communication, both internal and external
- Should be covered by SOPs and all operating techniques should be covered by manuals (like purchasing, manual, process manual etc)
- All concerned employees should be trained as per the SOPs and manuals and their performance should be monitored and recorded

Step - 7: Implement SOPs and comply with documentation control

- All SOPs, manuals and other instructive matters should be written in paper or electronically to describe the core elements of EMS and provide direction for the same
- All SOPs should be fully implemented, any deviation to be documented
- All documents should have cross reference and any change in the documents or the documentation plan should be reflected at all relevant places in the records

Step - 8: Carry out internal audits and prepare for certification audit

- Audits are an essential part of EMS certificate
- It is a management tool comprising a systematic, documented, periodic and objective evaluation
- Pre-Audit activities - It includes scheduling the audit, selecting the audit team and reviewing background information
- During Audit activities - It includes observation, monitoring, querying, inspecting, interviewing a few key persons and checking records and documents

- Post Audit activities – It includes identifying priority areas, determination of workable solutions, carrying out follow up for any pending action and repeating the audit at regular intervals

Step – 9: EMS certificate audit by certifying agencies

- Certifying agency will generally approach the audit in these steps
 - Understand the management systems
 - Evaluate strength and weakness of the management systems
 - Gather audit findings
 - Evaluate audit results
 - Report audit findings in the exit meeting with the management team
 - Issue final report

Step – 10: EMS certificate received. Continuous improvement becomes an organizational culture

- EMS certificate received
- Continuous improvement becomes an organizational culture
- Be ready for six monthly observation audit