

MAHARASHTRA POLLUTION CONTROL BOARD

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<http://mpcb.gov.in>

Kaipataru Point 3<sup>rd</sup> & 4<sup>th</sup> Floor,  
Sion Matunga Scheme Rd No.8,  
Opp. Cine Planet Cinema,  
Near Sion Circle, Sion(E),  
Mumbai - 400 022.

No BO/P&L Div/B-7696

Date: 09/12/2010

To:

The Regional Officer,  
Maharashtra Pollution Control Board,  
Mumbai / Raigad / Navi Mumbai / Thane / Kalyan / Pune / Nashik / Aurangabad / Amravati  
/ Nagpur / Chandrapur / Kolhapur

Sub - Initiating appropriate legal actions against the industries, operations or processes including Industries Associations / CETPs generating hazardous waste and an Action Plan for securing the compliance of Environmental Norms.

Ref - 1) Various incidences of illegal dumping of hazardous wastes and the Complaints thereof received by the Regional Office-Raigad & Navi Mumbai resulting into incidences like fish kill and serious environmental pollution etc.

2) Circular issued by the Policy & Law Division dtd. 9<sup>th</sup> December, 2010

Please find enclosed herewith the Circular issued by the Policy & Law Division, dtd. 9<sup>th</sup> December, 2010, -regarding action plan to be implemented effectively in your jurisdictions. The said Circular is issued with the approval of the Hon'ble Chairperson of the Board.

However, you were requested to submit your detailed action taken report/s within 15 days time, from the receipt of this communication and further follow up report should be submitted as per the action plan circulated to you vide letter dtd. 9.12.2010, for onward submission to the Authorities.

  
(D.T. Devaie)  
Sr. Law Officer

Copy submitted to : The Hon'ble Chairperson, MPCB, Mumbai - for favour of information  
Copy submitted to : The Member Secretary, MPCB, Mumbai - for favour of information

Copy to - Water Pollution Abatement Engineer / Principal Scientific Officer / Air Pollution Abatement Engineer / Regional Officer (HQ) / Regional Officer (PCI-II) / I/c Zonal Officer (PAMS Divn) / Regional Officer (P&P) / I/c Asstt. Secretary (Tech), MPCB, Mumbai - for information and necessary follow up action.

Copy to  Assit. System Officer, MPCB, Mumbai - for information and necessary action - He is directed to place the said letter on the website of the Board.

## MAHARASHTRA POLLUTION CONTROL BOARD

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Kalpataru Point, 2<sup>nd</sup>, 3<sup>rd</sup> & 4<sup>th</sup> Flr,

Sion Matunga Scheme Rd.No.8

Opp. Cine Planet cinema,

Near Sion Circle, Sion (E),

Mumbai – 400 022.

No.BO/P&L Divn./B-- 7636

Date : 09/12/2010

### CIRCULAR

To

Regional Officer,

Maharashtra Pollution Control Board,

Raigad/Navi Mumbai/Thane/Kalyan.

Sub : Initiating appropriate legal actions against the industries, operations or processes including Industries Associations/ CETPs generating hazardous waste and an Action Plan for securing the compliance of Environmental Norms.

Ref : Various incidences of illegal dumping of hazardous wastes and the complaints thereof received by the Regional Office-Raigad and Navi Mumbai, resulting into incidences like fish kill and serious environmental pollution etc.

The incidences of illegal dumping of hazardous waste by the units generating hazardous waste are being increased day by day in spite of stringent provisions in respect of imposition of fine / remediation cost and filing of prosecution as well as issuance of the directions, which includes closure, prohibition or regulation of industry, operation or process and disconnection of electricity/water supply are there. Earlier also, such incidences are reported to the Board in respect of illegal dumping of hazardous waste as well as expired & rejected medicines and the Board had tried to initiate appropriate legal actions against such violators.

It has been observed that in spite of repeated actions initiated by the Board, the incidences of illegal dumping are being increased and the earlier actions also not being taken to its logical conclusion to ensure the compliance of the laws and to impose an appropriate penalties to create deterrent effect of such actions on the violators. In most of cases, the matters of further follow up have been left unattended, once, the FIR lodged with the Police Authorities, when, it is clearly known that lodging of FIR does not itself ensure the compliance of Environmental Laws i.e. taking remedial measures to restore environment to its original status and collecting, transporting hazardous waste to CHWTSDF or appropriately such dumping is rehabilitated as directed by the Hon'ble Supreme Court Monitoring Committee in the Writ Petition No.657/1995 filed by Research Foundation for Science, Technology and Resource Policy v/s Union of India and Ors. The filing of FIR is limited only for the purpose of initiating action under Indian Penal Code / Cr.Procedure Code and other Municipal Laws, whereunder, the public nuisance aspects are taken into consideration. However, as far as the violations of Environmental Laws are concerned and further remedial measures are concerned, the follow-up actions are to be taken by the concerned Regional Officer and Sub-Regional Officer to ensure

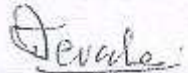
that illegal dumping of hazardous waste / other waste is properly taken care of and disposed off and treated as per the provisions contained in various Environmental Laws such as BMW (M& H) Rules, 1998; MSW Rules, 2000; Maharashtra Bio-Degradable Garbage (Control) Act, 2006; HW (M.H.& T.M.) Rules, 2008 etc.

The Board has taken a serious note of 15 incidences of illegal dumping of hazardous waste more particularly in Navi Mumbai and Raigad areas reported by the Regional Officers of the Board at Navi Mumbai and Raigad as well as the recent dumping of date expired medicines and rejected material by the exporters and other parties from the notable pharmaceutical industries from the MMR area, at Navi Mumbai, Thane and Kalyan area, for which, the actions are initiated but not being taken to the logical conclusion for scientific treatment & disposal thereof till date and reports are called from the respective Regional Officers. The Board has therefore prepared its own Action Plan for dealing sternly with the defaulters in such cases. The Action Plan prepared by the Board is reproduced hereunder for further necessary action and follow up by the concerned Regional Officers, so as to ensure that their actions are being taken to the logical conclusion not only to ensure the compliance of laws but also to confirm that the Environmental Norms are complied with, so as to restore the dumping sites to its original status and the defaulters are heavily penalized by way of fine and restoration cost to discourage further repetitions of such type of incidences.

1. We should identify the sources of above pollution and on the lines of the actions initiated by the Board in the past, in compliance of the directives given by the Hon'ble Supreme Court of India.
2. We may first of all issue appropriate proposed directions to the defaulting industries generating hazardous waste identified by the officers of the Board, pointing out the non-compliances as well as approximate quantity of hazardous waste being illegally dumped into the environment, thereby causing environment damage and remediation measures required to be taken by the responsible industries etc.
3. After receipt of their replies / objections, further investigation report can be called from the respective Regional and Sub-Regional Officers in respect of their objections and steps taken by them, if any to comply with the proposed directions.
4. We may extend personal hearing to all concerned and finalise the directions including closure / prohibition / regulation / remediation of the illegally dumped hazardous waste with the performance as well as operational bank guarantee and proposed fine / remediation cost, if any to be imposed on the responsible agencies.
5. We may thereafter, send a detailed proposal for approval of the CPCB for imposition of fine / remediation cost on the responsible industries, operation or processes.
6. We may also call a detailed prosecution proposal in respect of the industries, which have not complied with our directions and where further action by way of prosecution is necessary to punish the offenders.
7. We may direct the responsible industry, operation or process as well as Associations of Industries / MIDC / CETP to rehabilitate the dumping of hazardous waste either by sending it for further treatment & disposal to CHWTSDF or otherwise.
8. We may also bring such actions to the notice of Hon'ble Supreme Court of India in the CWP No.657/1995 filed by Research Foundation for Science, Technology and Resource Policy v/s Union of India and Ors. by way of quarterly Action Taken Report.

You are, therefore, called upon to carry out a detailed survey of the above dumping sites and to submit a detailed report in respect of the illegal dumping of the hazardous waste with the name of the industry, operation or process generating hazardous waste, which might have been identified by your officers and found to be responsible for such dumping. In case, such industry, operation or process can not be identified, then, the industries generating such type of waste should be identified and you may issue show cause notices, bring to their notice that being generator of such waste, why, joint and several responsibility for further treatment & disposal of such waste shall not be imposed upon them and why based on the approximate quantity of such waste, proportionate fine or remediation cost shall not be imposed upon them as per Rule 25 of the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008 ? and why further necessary legal action shall not be initiated against them ? The above Action Taken Report shall be submitted within 15 days time from the date of receipt of this communication and further follow up report should be submitted as per the above Action Plan to take above actions to its logical conclusion. You shall implement above Action Plan effectively, so as to secure the compliance of the Environmental Laws and Environmental Norms to protect the environment to its original status.

This is issued with the approval of the Hon'ble Chairperson of the Board.

  
( D. T. Devale )  
Sr. Law Officer

Copy submitted to: The Chairperson, MPCB, Mumbai – for favour of information.  
Copy submitted to: The Member Secretary, MPCB, Mumbai – for favour of information

Copy to: Water Pollution Abatement Engineer/Principal Scientific Officer/Air Pollution Abatement Engineer/Regional Officer(HQ)/Regional Officer(PCI-II)/I/c Zonal Officer(PAMS Divn.)/Regional Officer(P&P)/I/c Asstt. Secretary (Tech.), MPCB, Mumbai – for information and necessary follow up action.

Copy to: Regional Officer, MPCB, Mumbai/Pune/Nashik/Aurangabad/Amravati/Nagpur/Chandrapur/Kolhapur – for information and similar line of action.

Copy to: Asstt. System Officer, MPCB, Mumbai – for information and necessary action – He is directed to place the said letter on the website of the Board.