ENVIRONMENTAL REGULATIONS

K. H MUTHUKUDA ARACHCHI
Deputy Director General
Envt. Pollution Control Division
Central Environmental Authority

ENVIRONMENTAL REGULATIONS AND THE ROLE OF THE CENTRAL ENVIRONMENTAL AUTHORITY IN INDUSTRIAL WASTE WATER MANAGEMENT

THE PERFORMANCE OF INDUSTRIAL SECTOR
- Contributed Rs. 635,199 million - 2007
- Representing 28.5% of the total production (GDP)
  - Agriculture sector 11.9%
  - Service sector 59.6%
THE TREND OF THE INDUSTRY SECTOR

- In 2006, grown by 8.1% than in 2005.
- In 2007 - reduced up to 7.6%.
- The growth rate of the industry sector had increased beyond the growth rate of service sector by intersecting service sector line during 2004 (prevailed still)

MAJOR INDUSTRIAL SECTORS CONTRIBUTING TO WATER POLLUTION

- Chemical Industries
- Food and Beverages
- Alcohol and alcoholic beverages
- Metal finishing Industries
- Dairy Industries
- Textile Industries
- Leather Tanning Industries
- Rubber Processing Industries
- Desiccated coconut Industries
- Agrochemical Industries
- Pharmaceutical Industries
- Clay & Glass Industries
CHRONOLOGY OF THE REGULATORY PROVISIONS

- 1980    - National Environmental Act (NEA) No. 47
- 1981    - CEA Established
- 1988    - NEA Amended to include Regulatory Provisions - Amendment Act No. 56 of 1988
  - Regulatory tools:
    + Environmental Impact Assessment Procedure (EIA Procedure for major projects)
    + Environmental Protection Licencing Procedure (EPL procedure for prescribed Industries/Activities)

- 1990    - Regulations gazetted in relation to EPL and Waste Water Discharge Standards.
  - Gazette Extraordinary No. 595/16 dated 1990 February 02.

- 2000    - NEA Amended to Prescribe the EPL Requiring Activities - Amendment Act No. 53.
  - Gazette Extraordinary No. 1159/22 dated 2000 November 22
2008 – Regulations gazetted in relation to scheduled waste management and revised waste water discharge standards.

Gazette Extraordinary No. 1534/18 dated 2008 February 01

THE LAWS RELATING TO INDUSTRIAL POLLUTION

(1) General Laws

(2) Special Laws
GENERAL LAWS

Provisions in the Municipal Council Ordinance

- Industrial Pollution
  - Section 136 A
    “Any person who, within the administrative limits of a Municipal Council operates any factory which causes “pollution” as to endanger or prejudice the health of the neighbourhood, shall be guilty of an offence”.

UNDER THIS SECTION:

- The magistrate can, depending on the degree of pollution, make a fine on the offender
  or
- Even has the power to order the “closure” of such factory.
CONTAMINATION OF WATER WAYS

- Sector 196 prohibits the pollution or
  Contamination of streams which flow into reservoirs or water works and any person who contravenes this provisions is guilty of offence and on conviction before a magistrate;
- Shall be liable to a fine not exceeding Rs. 50/- and
- If such offence is continued and additional fine not exceeding Rs. 10/- can be imposed for each day the offence is committed and continued.

SALIENT FEATURES OF MC ORDINANCE

- The penalty for the violations are really minimal.
- Does not have a deterrent effect on anyone.
- Especially not on industrialists.
- But closure order will make a deterrent effect.
PROVISIONS OF THE NUISANCE ORDINANCE

- Very old ordinance
- Has important provisions with regard to preservation of public health and suppression of nuisances.
- Anyone who contravenes the provisions of the ordinance is guilty of an offence and shall be liable to a fine not exceeding Rs. 50/-

PROVISIONS UNDER THE CRIMINAL PROCEDURE CODE OF 1979

- The procedure for the abatement of public nuisance is laid down here.
- According to section 98 of this code any person can report to the court of the existence of a public nuisance.
Magistrate being satisfied that a public nuisance exists will issue a conditional order for the abatement of that nuisance.

The offender must take action to abate or rectify the nuisance within the time period stipulated in the order.

If such person does not perform such act within the given period the conditional order shall be made absolute. i.e. if the offender is an industrialist the relevant facility

SPECIAL LAWS

Provisions in the National Environmental Act and its Amendments.

Part I - Establishment of CEA
Part II - Powers, functions and duties of the Authority.
Part III - Staff of the Authority
Part IV - Environmental Management
Part IVA - Environmental Protection
Part IVB - Environmental Quality
Part IV C - Approval of Projects
Part V - General
Part IV A

- Section 23A, B, C, D, E of NEA provide for Environmental Protection.
- Contains the enabling legal frame work for issuance of a licence known as Environmental Protection Licence.
- Became operative from 1st July 1990.

- According to 23A of NEA
  “No person shall discharge, deposit or emit waste into the environment which will cause pollution” except.
  (a) Under the authority of a licence issued by the Authority (CEA)
  (b) In accordance with such standards and other criteria as may be prescribed under this Act.
AMENDMENT ACT NO 53 OF 2000

23A :-

1. The minister shall determine by order published in the Gazette the activities in respect of which a licence is required to be obtained under this Act ("Prescribed activities") being activities which involve or result in discharging, depositing or emitting waste into the environment causing pollution.

2. No person shall carry on any prescribed activity except:
   (a) under the authority of a licence issued by the Authority.
   (b) In accordance with such standards and other criteria as

WASTE WATER DISCHARGE STANDARDS

- Tolerance limits for the discharge of Industrial waste into Inland Surface waters.
- Tolerance limits for Industrial waste Discharged on land for irrigation Purposes.
- Tolerance limits for Industrial and Domestic waste Discharged into Marine Coastal Areas.
- Tolerance limits for waste from Rubber Factories being Discharged into Inland Surface waters.
- Tolerance limits for waste from Textile Factories being Discharged into Inland Surface Waters.
- Tolerance limits for waste from being Discharged from Tanning Industries.
- Tolerance limits for discharged of effluents into public Sewers with Central Treatment Plants.
THE PROVISIONS IN THE REGULATIONS

In the following instances, the Authority i.e. CEA can, by order suspend or cancel a licence issued to any person.

(a) If that person violates any of the terms and conditions or standards of the licence; or:

(b) Since the issue of the licence, the receiving environment has been altered or changed due to natural factors or otherwise; or

(c) Where the continued discharge/deposit/emission of waste into the environment under the licence will or could affect any beneficial use adversely.

SECTION 33 DEFINES “BENEFICIAL USE” AS FOLLOWS:

“A use of the environment or any portion thereof that is conducive to public benefit welfare, safety or health and which requires protection from the effects of waste discharge, emissions, and deposits”.
IMPOSING MORE STRINGENT STANDARDS

The CEA is empowered to impose more stringent standards than those specified in the gazette No. 1534/18 dated 2008 Feb. 01 in respect of any industry, operation or process having regard to the need to protect the receiving environment.

The licence (EPL) will only be issued if it is satisfied that

(a) the licence will not be used to contravene the provisions of the Act or regulations.

(b) no irreversible damage or hazard to man and environment or any nuisance will result from the acts authorized by the licence.

(c) the applicant has taken adequate steps for the protection of the environment in accordance with the requirements of...
Every person who carries on any prescribed activity (industry) in contravention of this section (Section 23 A (1) (2) shall be guilty of an offence and on conviction be

(a) Liable to a fine not less than ten thousand rupees or to a term of imprisonment not less than one year or to both such fine and imprisonment and

Where any person convicted continues to carry on such activity without obtaining a licence within the time determined by court, the court shall upon an application for closure being made by the Director General or any Officer authorized in that behalf by the Director General order the closure of the factory or premises carried on, until such person obtains licence (EPL) and copy of the licence so obtained is produced before court.
THE EPL

Objectives:

- To prevent or minimize the discharges and emissions into the environment
  + From the prescribed activities in the gazette 1533/16 dated 25.01.2008.
  + In compliance with the national discharge and emission standards.

- To develop an approach to Pollution Control through
  + The best practicable Environmental Option (BPEO)
  + Best Available Techniques Not Entailing Excessive costs BATNEEC.
The EPL issued to a prescribed activity will stipulate the standards and criteria under which such an activity is allowed to discharge their wastes.

The EPL issued to a prescribed activity is legally binding on such activities.

The violation of the conditions in the EPL is an offence punishable under the provisions of NEA.

The holder of an EPL is under the obligation to comply with any directive given by the CEA to prevent or mitigate environmental pollution and hazards.

The EPL shall ensure that monitoring of environmental pollution.

or

Other acts the CEA considers necessary to protect the environment.
ENVIRONMENTAL QUALITY

- Section 23G, 23J and 23M (subject to section 23A)

  + No person shall
    (a) deposit or emit waste into the inland waters of Sri Lanka.
    (b) discharge or emit waste into the atmosphere.
    (c) discharge or emit waste into the soil.

  Except in accordance with such standards or criteria as may be prescribed under the NEA.

Section 23H:

Section 23H stipulates that no person shall pollute any inland waters or cause or permit to cause pollution so that the physical, chemical or biological condition of waters is so changed as to make those waters unclean, noxious or poisonous, impure, detrimental to the health, welfare, safety or property of human beings, poisonous or harmful to animals, birds, wildlife, fish plants or other forms of life detrimental to any beneficial use made of those waters.
OFFENCES

Pollution of inland waters and atmosphere
Section 23H(3) and 23J(3) respectively
states that every person who contravenes
the provisions of section 23H(I) and
23J(I) respectively shall be guilty of an
offence and on conviction shall be liable to:

(a) a fine not less than Rs. 10,000/- and not
    exceeding Rs. 100,000/- and in
    the event
    the offence is continued, Rs.

(b) take corrective measures within a
    period specified by the Court and
    furnish to Court proof of such
    adoption.

(c) if the offence is being continued
    period of 3 weeks, the Court can
    application made by the Director
    authorized person on that behalf,
    factory, trade or business to be
    until corrective measures are taken.

(d) if the offence is being continued
    period of 3 weeks, the Court can
    application made by the Director
    authorized person on that behalf,
    factory, trade or business to be
    until corrective measures are taken.


Section 23V of the NEA provides that no person can discharge or spill oil or mixture containing oil into the inland waters of Sri Lanka and any person who contravenes this provision is liable on conviction to a fine not less than Rs. 10,000/- and not exceeding Rs. 100,000/- or to imprisonment for a term not exceeding 2 years.

Under the provisions of increase of Fines Act No. 12 of 2005 the fines under above described sections have been increased as follows.

“a fine not less than Rs. 15,000/- and not exceeding Rs. 125,000/-”
Under section 24A the Director General or any other authorized officer has the power to enter any land and premises and

(a) examine any equipment or industrial plant.
(b) take samples of pollutants, fuel, substance or material.
(c) examine documents regarding the performance of such plants.
(d) take photographs of such equipment or take copies of documents.

Any person who prevents or obstruct these officers in their investigations shall be guilty of an offence.

PENALTY FOR OFFENCES FOR WHICH NO PUNISHMENT IS EXPRESSLY PROVIDED FOR

Section 31 :
Every person who contravenes or fails to comply with any provisions of this Act or of any regulations made thereunder for which no punishment is expressly provided for shall be guilty of an offence and on conviction before a Magistrate shall be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine.
SECTION 24B - AUTHORITY TO ISSUE DIRECTIVES

Under section 24B the Authority has the power to issue directive to any person engaged in any development project or scheme which is causing or is likely to cause damage to the environment, to take preventive measures.

In the event such order is not complied with, the authority can apply to the Magistrate for temporary suspension of such project until corrective measures are taken.

OTHER ADMINISTRATIVE PROCEDURES TO CONTROL POLLUTION FROM INDUSTRIAL ACTIVITIES

Issue Environmental Recommendations for siting of industries.

Grant concurrence for BOI industries when issuing site clearance and EPL

Committee for determining the siting of high & medium polluting industries outside industrial estates and EPZs

Technical Advisory Committee for Management of Industrial Chemicals (TACMIC)

E - Waste management programme among identified stake holders.
NEW INITIATIVES.

- Advisory committee on eco friendly livestock farming - advisory committee consists of livestock sector, health and local government authority was formed to solve environmental problems created by livestock industry and to assist them in pollution control.

- National Green Awards - recognizes the industries, schools and local government authorities who have operationalized the green idea.

- Promote Cleaner production principles

NEW INITIATIVES

- Preparation of guidelines to Site industries at up stream to water intakes. A joint cabinet paper submitted by CEA and NWS&DB for policy on locating high polluting activities down streams of the water intakes - but it has approved subject to some amendments.

- Compliance assistance centers for small & medium enterprises - identified stake holder participation to assist in pollution control through low cost techniques.
THANK YOU