

Industrial Compliance Management through Corporate Environment Health and Safety Legislations

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ABSTRACT

Environmental policies of sustainable development are guiding corporate sectors now days to maintain Industrial Compliance Management (ICM) system through cautious application of Environment, Health and Safety Legislations (EHSL). Industries are now obligated to maintain prescribed Environmental Standards of central and state pollution control board and set up corporate environmental management system to achieve high environmental performance. EHSL and ICM legal measures may control level of protection and conservation of environmental qualities. The government of the country provides meticulous pact of laws and rules that help companies to achieve the annual environmental compliance. Thus pollution laws, industrial waste management and disposal measures have been serving industries to build up their contemporary sustainable development policies. This ensures the Environmental Performance of the companies in the market and achieves capacity building for a sustainable growth. Present study is all about the issues of ICM and challenges faced during this process. Scopes and limitations industrial compliance are also discussed. Suitable suggestions are also made to improvise in the overall compliance management process.

Keywords: Compliance, EHS Legislations, Environmental Performance, Pollution Laws

I. INTRODUCTION

Environment, Health and Safety Legislations (EHSLs) are absolutely necessary to obtain Environmental Compliance for industries. These regulations focus towards proper corporate Environmental Management and business strategies for sustainable development (Barbier, 1987 and Najam, 1999). It ensures inclusion of active steps in the ultimate business planning for environmental performance evaluation and disclosure of financial effects of such decisions made (Hossain, 2008). Consequences of conventional accounting and auditing system due to incorporation of sustainability measures in business decisions can also be apprehended by following EHSL (Srivastava, 1996; Agarwal *et al*, 1999 and Mallik and Mittal, 2015).

There have been huge conflicts on the issue of inclusion of Corporate Social Responsibility (CSR) in the business policies (Ramanathan, 1976 and Dierkes, 1979). These conflicts however create arguments on the suitability of legal applications for protection of the environment. Article 21 of the Constitution of India guarantees the right to life and personal liberty as a fundamental right. Introduction of Public Interest Litigation (PIL) has also created liberal provisions of locus standi in this country (Sen, 1997 and Sahu, 2008). Such measures have raised the concept of CSR for environmental restoration and protection. EHSL plays the role of



driving force to assure the execution of CSR. This supports the arguments of quality of life and social contract.

Entire EHSL for industrial compliance is based

Table 1. Legal base of EHSL violation

Compliance	Non-Compliance	Contravention	Non-Conformity
Full implementation of environmental requirements	Breach of EHSL	Infringement or break or violation of the law	Non-fulfillment of a requirement.

on four legal terms given in TABLE 1. Thus violation of the regulations may be decided depending upon the fulfillment of these criteria (Leelakrishnan, 2005 and Divan and Rosencranz, 2005). Entire framework of EHSL is enforced on the industries through a number of organizations. TABLE 2 gives the list of such empowered

Table 2. Enforcement Institutions

1. Ministry of Environment, Forest and Climate Change	6. Chief Inspector of Boilers
2. Central Pollution Control Board	7. State Transport Authority
3. State Pollution Control Boards	8. State Electricity Authority
4. Chief Inspector of Factories	9. State Labour Department
5. Chief Inspector of Explosives	

institutions. Together these institutions enforce the legal follow up measures among industries. Thus EHSL creates provisions for environmental compliance within corporate sectors. Present work explore the importance of EHSL to achieve industrial compliance and summarizes the tools available for its proper implementation. Finally limitations and major challenges faced during this process are highlighted. Some suggestions are also made for holistic improvement.

II. TOOLS FOR EHSL COMPLIANCE

Effective EHSL is necessary to protect market value of industry and also to reduce the risk of losing potential revenue (Kini, 2008). Thus a series of legal as well as management tools are there to ensure the fulfillment of the regulatory criteria. The journey of Indian environmental laws are quite historical as it started with enactment of Indian Penal Code in 1860. Before that the idea of protection of the environment was only under the limits of religious attributes. Developments of International laws also have a significant impact on the development of environmental legal system in India (Greenstone and Hanna, 2012). Basically the doctrine of “sic utero tuoutalienum non laedas” (one must use his own right so as not to injure others) is the main guideline upon which every idea of environmental protection stands (Ahmed, 2001 and Trivedi and Jain, 2007). In due course of time EHSL in India has seen its growth and are now controlled by a number of acts and rules serving as the tool of industrial compliance. Certain practices in Environmental Management System (EMS) also complement them. TABLE 3 enumerates these tools in a single chronological accord.



Table 3. Tools of EHSL in India

Type	Detail		
Legislations	Acts & Rules		
		Year	
	1.	The Explosive Act	1884
	2.	The Explosive Substances Act	1908
	3.	The Indian Boiler Act	1923
	4.	The Petroleum Act (as amended till 1997)	1934
	5.	The Factories Act/ State Factory Rules	1948/1987
	6.	The Indian Boiler Rules	1950
	7.	The Contract Labour (Regulation and Abolition) Act	1970
	8.	The Contract Labour (Regulation and Abolition) Central Rules	1971
	9.	The Water (Prevention and Control of Pollution) Act	1974
	10.	The Water (Prevention and Control of Pollution) Rules	1975
	11.	The Petroleum Rules (as amended till 1995)	1976
	12.	The Water (Prevention and Control of Pollution) Cess Rules	1978/2003
	13.	The Air (Prevention and Control of Pollution) Act	1981
	14.	The Static and Mobile Pressure Vessels (Unfired) Rules, including Amendment Rules	1981/1997
	15.	The Air (Prevention and Control of Pollution) Rules	1982/1983
	16.	The Explosive Rules, including Amendment Rules	1983/1989
	17.	The Environment (Protection) Act	1986
	18.	The Environment (Protection) Rules	1986
	19.	The Calcium Carbide Rules	1987
	20.	Central Motor Vehicle Act/ Rules	1988
	21.	The Hazardous Wastes (Management and Handling) Rules	1989/2000/ 2003
	22.	The Manufacture, Storage and Import of Hazardous Chemical Rules/ Amendment Rules	1989/1994/ 2000
	23.	Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms, Genetically Engineered Micro- organisms or Cells Rules	1989
	24.	The Public Liability Insurance Act	1991
	25.	The Public Liability Insurance Rules	1991
	26.	Environmental (Protection) Rules-“Environmental Statement”	1992/1993
	27.	Environmental (Protection) Rules-“Environmental Standards”	1993
	28.	Environmental (Protection) Rules-“Environmental Clearance”	1994
29.	The National Environment Tribunal Act	1995	
30.	The Environment (Protection) Rules-"Environmental Standards"	1996	



	31.	Chemical Accidents (Emergency Planning, Preparedness & Response) Rules	1996
	32.	Prohibition on the Handling of Azodyes	1997
	33.	Amendments in the Environment (Protection) Rules, 1994 - Public Hearing"	1997
	34.	The Environment (Protection) Rules – Coal Beneficiation	1997
	35.	National Environmental Appellate Authority Act	1998
	36.	Environment (Protection) Second Amendment Rules- "Environmental Standards"	1998
	37.	The Bio- Medical Waste (Management and Handling) Rules	1998
	38.	The Noise (Regulation and Control) Rules	2000
	39.	The Ozone Depleting Substance (Regulation and Control) Rules	2000
	40.	Environment (Protection) Rules	2000
	41.	Workmen Compensation Act, 1923 (as amended in 2002)/ Rules	2000
	42.	Energy Conservation Act	2001
	43.	Emission Limits for Diesel Engines (more than 800 KW for power plant, Generator Set Applications)	2002
	44.	The Indian Electricity Act/ Rules	2003
	45.	Emission Standards for New Diesel Engine (upto 800 KW for Genset Applications)	2003
	46.	The Water (Prevention and Control of Pollution) Cess Act	2003
	47.	Gas Cylinder Rules	2004
Codes	Institutional Criteria		
	1.	CPCB Charter on Corporate Responsibility for Environmental Protection (CREP)	
	2.	National Building Code	
	3.	National Electrical Code	
	4.	Bureau of Indian Standards Codes of Practices	
	5.	International Labour Organization Codes of Practices	
Implementations	Management Strategies		
	1.	ISO 14000	
	2.	Environmental Impact Assessment	
	3.	Environmental Management System	
	4.	Environmental Audit	
	5.	Life Cycle Assessment	
	6.	Environmental Performance Evaluation	
	7.	Applicability Review Tool (ART)	

III. CHALLENGES IN IMPLEMENTATION OF EHSL

Entire process of obtaining environmental compliance varies as per different industries, operations and status. However there are certain generic areas of hindrance in the path of attaining industrial compliance. Fig. 1 summarizes these factors in a schematic diagram. Companies now realize the benefits to be in the compliant side of the rapidly changing EHSL in the country and taking all possible pro-active measures to do so. Some real time dispute found while implementing such measures are summarized as follows -

- Limiting on site conditions during compliance assessment -In most of the cases Compliance Assessor/Auditor are not allowed to access to all parts of the facility and the information and documents requested in the course of assessment are not made available to the extent possible. Even a lot of facility carries a reluctant attitude to disclose information related to EHS compliance.
- Limitation of compliance assessment -The findings of any assessment compliance report are based on the scope and objectives. Compliance assessment is limited strictly to identifying typical environmental conditions associated with the subject property area and does not include evaluation of any other issues.
- Lack of knowledge in EHS compliance leads to deviation of EHSL.
- Central data history is not available for violation/contravention of EHSL.
- Lack of environment prevention and protection infrastructure often leads to damage to environment.
- Most of the large, medium and small scale industries are reluctant to operate air pollution control devices or waste water pollution control measures viz. Electro Static Precipitator (ESP) or Effluent Treatment Plant (ETP) etc.
- Frequent tracking on EHSLs is required as industries most of time are not aware about the time to time changes in laws.

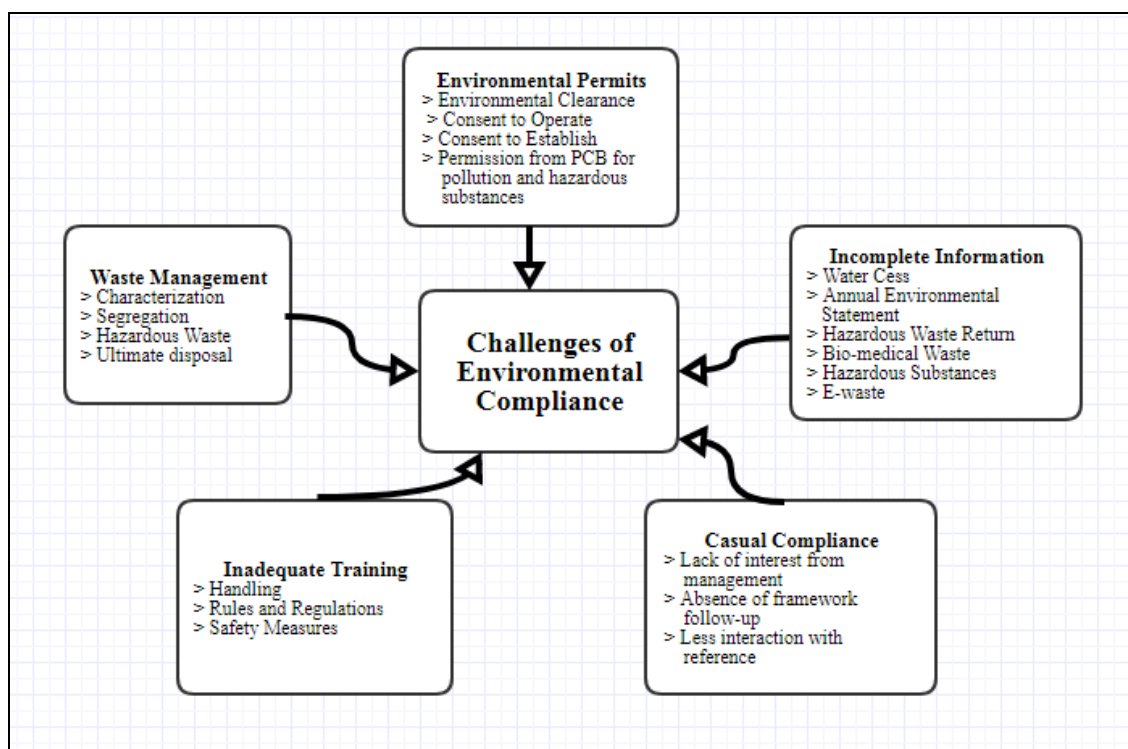


Fig.1. Challenges of Environmental Compliance

The best impression about achievement of industrial compliance is that its proper implementation is surmountable. Indian EHSL system is extensively detailed and well included in the Constitution of the country in a panoramic perspective. Still there are miles to go if the extent of implementation is considered. Most acquainted concerns among lawyers, judges, policy-makers and environmentalists have a set of common propositions to improve status quo. They can be put to a gist as given below–

- Scope of public participation in policy making and involvement of local people in individual Industry-Environment framework is very little. EIA has such provisions but it is absent for other management tools which can be re-considered.
- The attitude of ‘Casual Compliance’ hinders the path of end to end implementation of EHSL for medium to large industries. There should not be any loop-holes in the regulatory framework to be taken advantage of.
- Lack of encouragement and promotion from management often controls the approach towards environmental compliance. It allows having superficial knowledge about EHSL. Thus frequent capacity building workshops should be organized for employees.
- It is also found that the legal enforcement authority is unaware about the real time scenario of environmental concerns of an area. Statutory Authority, NGOs and Industry may come forward to work together to resolve EHS compliance related issues. Public participation or representatives from local communities should be included in ultimate decision making process.
- EHSL has less rigidity in terms of penalty. The idea of ‘polluters pay principle’ gives the provision to pay the suffered individual out of reversible or irreversible damage caused to the environment. Still such promises are not fulfilled every time. PIL may emerge as the most powerful option for such cases. Rigorous awareness campaigns are required to be arranged by enforcement institutions for common people.

Thus the lacuna between the EHSL and industrial compliance exists even today. Still in recent years certain active EMS teams of some good will hunting companies are coming up with extra-ordinary performance in this field. Now-a-days tools like ART is available in more than seventy countries including India. Industries are now utilizing such rigorous systematic regulatory platforms for obtaining proper industrial compliance. It is only a matter of time and awareness to reach the goal of overall successful implementation of EHSL.

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