

Environment Law Monthly Updates – September 2024

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This update covers:

1	Judgments	2
1.1	Supreme Court	2
2	Other relevant developments	2
2.1	CPCB strengthens extended producer responsibility with environmental compensation guidelines	2
2.2	Guidelines to provide one-time financial support to recycling plants in coastal areas	3
2.3	Revised Graded Response Action Plan to combat air pollution in the National Capital Region	3

In September 2024, the Supreme Court issued rulings on several important matters, including setting aside an order by the National Green Tribunal (NGT) to close a garbage plant in Pune, and holding department heads responsible for non-compliance with NGT orders.

On the regulatory front, the Central Pollution Control Board (CPCB) issued guidelines for imposing environmental compensation (EC) under various waste management rules, including those for hazardous waste, batteries, and e-waste.

This update highlights recent developments in Indian environmental law from September 2024, including judicial pronouncements, regulatory measures and administrative actions.

Additionally, CPCB also issued guidelines for establishing recycling plants for plastic waste and abandoned fishing gear in coastal areas.

The Commission for Air Quality Management (**CAQM**) introduced a revised Graded Response Action Plan (**GRAP**) for the National Capital Region (**NCR**) to combat air pollution. This revised plan includes stricter regulations on construction activities, diesel generator usage, and vehicle movement during high-pollution periods.

These key developments are discussed in detail below.

1 Judgments

1.1 Supreme Court

a. Supreme Court sets aside National Green Tribunal's order to close and shift Pune's Baner garbage plant

The Supreme Court set aside an order of the NGT which directed the Pune Municipal Corporation to shut down a garbage plant in Baner and relocate it to another site.¹ The NGT had directed such closure and shifting on the basis of violations of environmental norms by the plant.

The Supreme Court noted that the NGT's approach in the matter was incorrect. Instead of closing the garbage plant, the Court directed the authorities to take steps to ensure that the Baner garbage plant continues its operations without causing any suffering to the residents of the area, including arresting foul odour, installation of portable compactors with hook mechanism so that the reject waste does not touch the ground, construction of a waste segregation plant, and increasing vegetation in the area.

The Supreme Court's decision emphasises the importance of balancing environmental concerns with the needs of the community.

b. Supreme Court holds that if a government department fails to comply with an order of the National Green Tribunal, the head of the department will be held accountable

The Supreme Court has ruled that heads of government departments will be held liable for the failure of their departments to comply with NGT orders. This decision came in response to an appeal challenging the deletion of the names of 15 government officials from an execution application on the ground that they were not parties to the Original Application. These officials were accused of failing to comply with NGT orders aimed at preventing illegal activities in a wildlife sanctuary in the Rann of Kutch.²

The Supreme Court observed that the NGT could not have interfered at the stage of issuing notice and that after receiving notice, the officers could have raised all permissible defences including whether or not they were responsible for the non-compliance.

2 Other relevant developments

2.1 CPCB strengthens extended producer responsibility with environmental compensation guidelines

In a significant move to enforce waste management regulations, the CPCB has issued guidelines for calculating and imposing EC under various waste management rules. These guidelines target specific extended producer responsibility (**EPR**) regimes associated with different waste types:

¹ Civil Appeal Nos. 258-259 of 2021 titled *Pune Municipal Corporation v Sus Road Baner Vikas Manch and Ors*

² Judgment dated 11.09.2024 in Civil Appeal No. 229 of 2024 titled *Katiya Haidarali Ahmadbhai and Ors. v Sanjeev Kumar IAS and Ors.*

- a. Guidelines under the Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2022 were issued on 3 September 2024 to ensure compliance of the waste tyre EPR regime by producers, recyclers, and retraders. Non-compliance with the rules will result in EC based on the cost of recycling waste tyres.³
- b. Guidelines under the Battery Waste Management Rules, 2022 (**Battery Waste Rules**) were issued on 10 September 2024 for imposing EC for non-compliance of the rules by registered producers, recyclers, and refurbishers of batteries. The guidelines establish two separate EC regimes. The first regime addresses producers who fail to meet metal-wise EPR targets, considering factors like handling, collection, and transportation of waste batteries, and processing cost to recover metal. The second regime penalises non-compliance with the broader Battery Waste Rules and considers the application fees for registration as a producer, recycler or refurbisher as a parameter for determining EC.⁴
- c. Guidelines under E-Waste (Management) Rules, 2022 were issued on 9 September 2024 for levying EC for non-compliances of the rules. EC will be derived basis the cost incurred in recycling e-waste.⁵

2.2 Guidelines to provide one-time financial support to recycling plants in coastal areas

The CPCB launched a new initiative in September 2024 to tackle plastic waste and abandoned fishing gear in India's coastal regions. The key objectives of this initiative are to:

- a. reduce plastic waste and abandoned, lost and discarded fishing gear littering the twelve Blue Flag certified beaches⁶ in the country,
- b. facilitate establishment of plastic recycling facilities and thus, encourage channelisation of plastic waste from collection to recycling, and
- c. reduce usage of virgin plastics to promote a circular economy.

Accordingly, the CPCB issued guidelines to provide one-time financial support for establishing recycling plants that process these materials. The guidelines prescribe detailed eligibility criteria for availing the financial support as well as the process of application, evaluation and approval mechanism. The CPCB, State Pollution Control Boards, Urban Local Bodies and Monitoring Committee have been entrusted with oversight mechanism.⁷

2.3 Revised Graded Response Action Plan to combat air pollution in the National Capital Region

The CAQM has implemented a revised GRAP effective 1 October 2024 to curb the level of air pollution in NCR and its adjoining areas.⁸

The revised GRAP classifies the present air quality in NCR into four stages based on the Air Quality Index (AQI):

- a. Stage I - Poor (AQI 201-300)
- b. Stage II - Very Poor (AQI 301-400)

³ [Link to Guidelines](#)

⁴ [Link to Guidelines](#)

⁵ [Link to Guidelines](#)

⁶ Foundation for Environment Education in Denmark accords the globally recognised eco-label - Blue Flag certification to beaches. Twelve such beaches have been certified in India.

⁷ [Link to Guidelines](#)

⁸ [Link to Revised GRAP Schedule](#)

UPDATES

- c. Stage III - Severe (AQI 401-450)
- d. Stage IV - Severe+ (AQI above 450)

The revised GRAP contains targeted actions that need to be taken by the responsible agencies/implementing agencies when AQI of Delhi goes beyond a certain threshold or is expected to go beyond a certain threshold as per the dynamic model and weather/meteorological forecast. Basis this, actions under Stages II, III and IV of the GRAP must be invoked in advance of the AQI reaching the projected levels of that stage, provided also that the higher projected AQI levels are likely to sustain for longer periods (three days or more).

The key revisions to the previous iteration of GRAP include permitting operations of Diesel Generator (DG) sets in Stage II subject to the following conditions:

- a. DG sets with capacity of 62 kW to less than 800 kW can operate without any restrictions if they run on dual fuel mode or have retrofitted emission control devices from certified agencies.
- b. DG Sets with capacity between 19 kW to less than 62 kW can also operate without any restrictions if they run on dual fuel mode. For this category, an exception is provided for emergency services if they are unable to run on account of non-availability of gas infrastructure and supply.

Restrictions have also been introduced on movement of vehicles and goods carriers with an exception being made for transport of essential commodities.

The revised GRAP also introduces a strict ban on dust generating/air pollution causing activities such as:

- a. earthwork for excavation and filling including boring and drilling works,
- b. piling works,
- c. all demolition works,
- d. laying of sewer line, water line, drainage and electric cabling, etc., by open trench system,
- e. road construction activities and major repairs, and
- f. any transportation of demolition waste, etc.

However, projects of public interest such as those for railways, metro, airports, inter-state bus terminals, sanitisation, etc., are exempted from this ban.

These measures are a welcome step reflecting a shift toward a more proactive approach, instead of reactive, to battle air pollution in the NCR.

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