

## Proposed National Environment Protection Authority: Will it Work?

The Union Ministry of Environment and Forests has proposed a new National Environment Protection Authority (NEPA) to achieve more effective environmental governance. The Ministry has prepared a discussion paper on its proposal and put it up on its website for public comments. I sincerely congratulate the Ministry for seriously conceding 'fatigue in environmental governance' (words taken from the proposal) and for wanting to take drastic steps to improve the deteriorating environmental scenario this country faces on an urgent basis. The NEPA proposal is ample proof of its intent in this regard. The Ministry in fact has proposed four optional approaches towards the constitution of NEPA.

To create a National Authority focused on compliance and enforcement will create one more agency in addition to three existing ones, namely, State Pollution Control Boards (SPCB), Central Pollution Control Board (CPCB) and the MoEF itself. The SPCBs cannot be divested of their functions under the Water and Air Acts. Moreover, the new authority will not be able to exercise the functions of entry, inspection and taking of samples in cases of water and air pollution as these are also prerogatives of the SPCBs.

India's entire regulatory regime is based on the Water (Prevention and Control of Pollution) Act, 1974. The Central Pollution Control Board (CPCB) and State Pollution Control Board (SPCBs) are formed under this Act. Functions of these Boards (CPCB and SPCBs/PCCs) are interlinked. The Boards are also entrusted with the responsibilities of enforcement of the Water (P&CP) Cess Act, 1971, the Air (P&CP) Act, 1981 and several legislations under the provisions of the Environment



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(Protection) Act, 1986. There are at least 20-plus legislations which fall presently within the responsibilities of the Pollution Control Boards. Any major change in the enforcement mechanism has to be systematic and in a phased manner without upsetting existing mechanisms.

The present constitution of the CPCB and SPCBs is not suitable for implementation of several aspects of environment protection.

Many committees have gone into the functioning of the pollution control boards. The High Courts and Supreme Court have not only made observations but also issued specific and time-bound directions to the concerned authorities for improvements. But nothing has been done by most of the State Governments to improve the situation. The Union Ministry needs to intervene decisively by exercising its constitutional powers. The CPCB and SPCBs are in place for the last 35 years or so. There are several areas of success. Also there are many areas where these Boards were (and are) deficient. NEPA is not the immediate solution to ameliorate the current emergency or crisis affecting environmental governance. Let us take more concrete steps to strengthen the Boards. Time is not matured enough for NEPA.

It would be better if all the existing functions of the Ministry regarding granting of environment clearances are delegated to the CPCB and it is strengthened in terms of technical manpower and resources required for autonomous functioning. What we immediately need is to identify the causes of existing fatigue in environmental governance and take corrective measures immediately as they are available/prescribed by various committees appointed by the Ministry. This will be a big and historical step forward.