

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

ORIGINAL APPLICATION NO. 88 OF 2024

IN THE MATTER OF:

Siddharth Ambaji Patil & Anr.

.....Applicants

*Versus*

Pen Municipal Council & Ors.

.....Respondents

**INDEX**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Page Nos.</b>
1.	Affidavit in Response to the Joint Committee Report dated 07.11.2024	780 - 786
2.	<b>ANNEXURE R-1</b> – CPCB's 'Guidelines on liabilities for Environmental damages due to handling & disposal of Hazardous Waste and Penalty, January, 2016	787 - 840

Filed by:



Zaman Ali,

Advocate for the Applicants

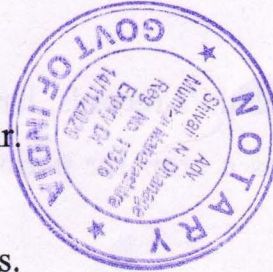
**BEFORE THE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH, PUNE  
ORIGINAL APPLICATION NO. 88 OF 2024**

IN THE MATTER OF:

Siddharth Ambaji Patil & Anr.

*Versus*

Pen Municipal Council & Ors.



Applicants

Respondents

**AFFIDAVIT-IN- RESPONSE TO THE JOINT COMMITTEE  
REPORT DATED 07.11.2024**

I, Siddharth Ambaji Patil, aged 69 years, Indian inhabitant, & having my address at A-8, Nav-Sahajeevan CHS, Shivrushti, Kurla (East), Mumbai – 400 024, do hereby solemnly state that I am filing this affidavit in response to the Joint Committee Report dated 07.11.2024 as under:

1. I say that at the outset, the following findings and conclusions of the Jt. Committee Report clearly vindicates the stand of the Applicants herein that R-1's action of dumping of all forms of waste on the Applicants' private agricultural lands has let to high toxicity and soil contamination:

- (i) From October 2016, the solid waste dumped in Survey No. 156 has entered into Survey No. 157 belonging to the Applicant No. 1 with gradual subsequent increase noticed over the years. In April, 2022, the solid waste had spread to Survey No. 158 belonging to the Applicant No. 2. [Para 5(iii)]

- (ii) In March, 2024, the dumping of solid waste has occupied almost entire area of Survey no. 157 as well as the northern part of Survey no. 158 belonging to the Applicants' agricultural land. [*Para 5(iii)*]
- (iii) As per Talathi's records, lands of Applicants are shown to have 'Paddy' as a crop for period from 2003-04 to 2020-21. [*Para 5(v)*]
- (iv) Not only does R-1 have no valid authorisation as the existing authorisation had expired on 31.12.2023 but the treatment processes undertaken under the erstwhile authorisation were in violation. [*Para 5(vii)*]
- (v) R-1 has commissioned and operated plant without Consent to Establish and Consent to Operate as required u/s 25 of the Water Act, 1974 and 21 of the Air Act, 1974. [*Para 5(viii)*]
- (vi) Most of ferrous and non-ferrous materials separated/segregated as by-product may fall under the category of hazardous or other waste as per the Hazardous Waste Management Rules, 2016. [*Para 5(xi)*] Heavy metals such as cadmium, chromium, nickel, zinc and lead were found in soil samples and a detailed impact study is therefore necessary. [*Para 8(d)*]
- (vii) Leachate is being discharged outside the premises without any treatment into Survey no. 157 & 158 through a small opening/nalah. [*Para 5(xiii)*]



(viii) No buffer zone around the solid waste processing facility.

[Para 5(xiv)]

(ix) R-1 has not cleared the waste from the lands of Applicants and not yet constructed the boundary wall with fencing around the solid waste processing facility. [Para 5(xv)]

(x) Odour & Fly nuisance is noticed near the facility. [Para 5(xvi)]

(xi) Fire Clearance/NOC has not been obtained. [Para 5(xvii)]

2. Bearing in mind that the aforesaid conclusions clearly demonstrate that the Joint Committee has held R-1 to be liable to pay Environment Damage Compensation, I say that the Jt. Committee Report has various deficiencies and has overlooked important components, including assessment of direct and indirect damages, in its calculation and the same are stated hereinunder.

***I. Committee report has failed to calculate the compensation that R-1 is liable to pay the Applicants for direct and indirect damages***

3. I say that the Jt. Committee Report has failed to identify and assess the direct environmental damage caused to Groundwater of the region due to unscientific dumping of municipal solid waste and hazardous waste by R-1 on Applicant's agricultural lands despite CPCB concluding that untreated solid waste causes a direct impact due to leachate. That CPCB in its Framework (annexed at A-16 to the OA) had clearly stated that "*Contaminated aquifers provide a variety of exposure pathways to various receptors, including but not limited to, most importantly Humans, Livestock, including cattle, poultry, flora, fauna etc. These*



pathways include, but are not limited to dermal contact with contaminated groundwater, ingestion of contaminated groundwater and ingestion of crops that are irrigated with contaminated groundwater.” Despite CPCB having provided an exact computation method for quantification of damage to Groundwater, the Jt. Committee Report, comprising of a representative of CPCB, has failed to take cognisance of the same and therefore, the Jt. Committee Report is deficient in that regard and it is necessary that such an assessment is carried out.

4. Further, the Jt. Committee Report has not provided details of the compensation that is required to be paid to the Applicants *qua* the financial damage to their private property due to loss of property value and loss of opportunity to earn the agricultural income from 2016 onwards as well as the expected loss of future agricultural income due to reduced yield owing to contamination in the soil and ground water. I say that CPCB in its framework for EDC (*at Para 1.3.8 of Annexure A-16 read with Appendix III*) has clearly stipulated that payment to affected third-parties form a part of the EDC and that the following are indirect liabilities arising out of unscientific dumping of municipal solid waste and hazardous waste for which private parties, such as the Applicants, are required to be compensated:

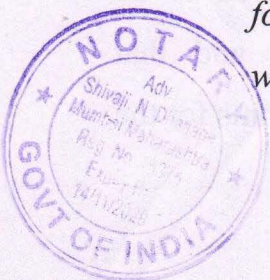
- (i) Property damage
- (ii) Loss of ecological services
- (iii) Loss of recreation
- (iv) Reduced yield in agriculture

That the above important components have been completely overlooked by the Jt. Committee and this Hon'ble Tribunal ought to



calculate the compensation on the basis of the calculation provided by the Applicants herein. I say that damage to property will include damage to the land as 'immovable property' is defined under Section 3(26) of the General Clauses Act, 1897 to include "*lands and benefits to arise out of land*" and therefore, any loss of benefits that have arisen and were to arise out of the lands until the lands are completely remediated and restored to its original position is required to be compensated for, by R-1 to the Applicants, which the Jt. Committee Report has failed to assess and therefore, this Hon'ble Tribunal be pleased to assess the loss for the property damaged on the basis of the calculation done by the Applicants and to direct the Expert committee to further verify, if the need arises.

5. Further, the Jt. Committee Report has concluded that hazardous wastes comprising of toxic chemicals were found in soil and leachate samples. I say that in view of the aforesaid conclusion, CPCB's '*Guidelines on liabilities for Environmental damages due to handling & disposal of Hazardous waste and penalty, January, 2016*' gets immediately attracted which clearly provides for Compensation Liability at Para 4.4 therein that monetary compensation is liable to be paid to the affected party for loss of property, loss of crop, reduced yield of product, *et al.* That such guidelines further provide for the indicative cost for Site assessment and remediation as well as a non-exhaustive list of suggested remediation technologies that a Polluter can implement for the clean-up and restoration. Annexed and marked hereto as **ANNEXURE R-1** is a copy of the CPCB's '*Guidelines on liabilities for Environmental damages due to handling & disposal of Hazardous waste and penalty, January, 2016*'.



**II. Committee report has overlooked that if Hazardous Waste is found in Municipal Solid Waste, then capital cost component of EC has to be increased by multiplication factor of 1.5**

6. I say and submit that the present EDC calculation done by CPCB while relying on the formula as provided under the Report of CPCBs In-House Committee for EDC itself stated in its Recommendation No. at Para 3.4 that “If mixing of Bio-medical Waste or Hazardous Waste is found in Municipal Solid Waste than capital cost component of EC may be increased by a multiplication factor of 1.5.” I say that it is an admitted position that hazardous waste was indeed found mixed with the municipal solid waste that unscientifically dumped on the Applicant’s lands and therefore, it was necessary for the Jt. Committee Report to multiply the capital cost component by 1.5 in its calculation of EDC which they have clearly overlooked and therefore, the calculation as it stands will have to accordingly change and a fresh calculation needs to be provided by the Jt. Committee Report with the instant deficiency as well.

7. Further, R-1 in its reply dated 06.11.2024 has stated that construction of the wall and bioremediation process will be completed only by May, 2025 and therefore, it is necessary that the Jt. Committee Report adds the monthly fine relating to legacy site remediation until May, 2025 while updating the calculation in its additional report.

8. I say that in view of the settled position in law that a polluter is strictly liable to pay the individual sufferers as well as the remediation costs as damages, I say that the aforesaid deficiencies are required to be immediately dealt with by the Jt. Committee Report and that appropriate orders be passed directing R-1 to pay the Applicants for the



direct and indirect damages, which are in addition to the remediation costs.

Solemnly affirmed at Mumbai )

Dated this 16<sup>th</sup> Day of December, 2024 )

16 DEC 2024

Identified by Me

Zaman Ali,

Advocate for Original Applicants



DEPONENT

BEFORE ME

*Dhanage*



Adv. S. N. Dhanage  
Notary Govt. of India  
Regd. No. 15376, MUMBAI (MS)  
404-405, 4th Floor, Davar House,  
197/199, Near Central Camera Bldg.,  
D. N. Road, Fort, Mumbai - 400001.  
Mob.: 8591897834



**Guidelines on  
Implementing Liabilities for Environmental  
Damages due to Handling & Disposal of  
Hazardous Waste and Penalty**



**CPCB**

January 2016

**Central Pollution Control Board  
(Ministry of Environment, Forest & Climate Change, Government of India)  
Parivesh Bhawan, East Arjun Nagar,  
Shahdara, Delhi - 110032**

---

**Published by :** PR Division, Central Pollution Control Board on behalf of Dr. A.B. Akolkar, Member Secretary, CPCB

**Printing Supervision & Layout :** Shri Shriance Jain, Ms Anamika Sagar and Shri Satish Kumar

**Printed at :** Viba Press Pvt. Ltd., C-66/3, Okhla Industrial Area, Phase-II, New Delhi-20 (India)

अरुण कुमार मेहता, आर.ए.सी.  
संयुक्त सचिव  
 (पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय)  
**ARUN KUMAR MEHTA, I.A.S.**  
Joint Secretary  
 (Ministry of Environment, Forest & Climate Change)  
 &  
 अध्यक्ष  
 केन्द्रीय प्रदूषण नियंत्रण बोर्ड  
Chairman  
**CENTRAL POLLUTION CONTROL BOARD**



भारत सरकार  
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय  
 नई दिल्ली - 110003  
**GOVERNMENT OF INDIA**  
**MINISTRY OF ENVIRONMENT, FOREST &**  
**CLIMATE CHANGE**  
**NEW DELHI-110003**

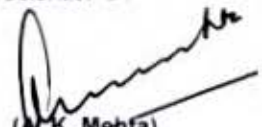
## FOREWORD

Hazardous waste is required to be stored, packaged, transported or recycled/utilized/disposed in an environmentally sound manner in compliance with the provisions stipulated under the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008, notified under the Environment (Protection) Act, 1986. Improper handling or disposal of hazardous waste may lead to environmental damages and violations of provisions laid down under the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008. Rule 25 of the said Rules lays down provisions for liability of occupier, transporter, operator of a facility and importer. The Rule 25(1) stipulates that the occupier, importer, transporter and operator of the facility shall be liable for all damages caused to the environment or third party due to improper handling of the hazardous wastes or disposal of the hazardous wastes. Further, Rule 25(2) stipulates that the occupier and the operator of the facility shall be liable to pay financial penalties as levied for any violation of the provisions under these Rules by the State Pollution Control Board with the prior approval of the Central Pollution Control Board.

Incidences of fire, spillage, illegal disposal, etc. of hazardous waste are being noticed regularly which necessitates systematic imposition of liability on occupier, importer, transporter and operator of the facility, as the case may be, for damages caused to the environment or third party as well as levy financial penalty for violation of the provisions of the Rules so as to enforce Rule 25. However, assessing various types of liabilities and translating the same in terms of monetary value are challenges before the implementing agencies such as State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs). Similar difficulties have also been faced in arriving at financial penalties to be levied for various kind of violations on the occupier, importer, transporter and operator of a facility.

With an objective to address the above, these guidelines have been prepared along with description of liabilities, approach for valuation, methodology for levying financial penalties, role of SPCB/PCC and other stakeholders etc. Consultations were held with industries, experts, academic institutes, SPCBs/PCCs etc. The Ministry of Environment, Forest & Climate Change, Govt. of India, has accorded its approval to these guidelines. I am sure these guidelines shall be very helpful to SPCBs/PCCs and other stake holders in implementing provisions of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008.

I shall like to put on record my appreciation for work done by my colleagues Shri Bharat K Sharma, Scientist, 'E', Shri B. Vinod Babu, Scientist E & I/c HWMD, and Smt. Deepti Kapil, Scientist 'C'.

  
 (A.K. Mehta)  
 Chairman



'परिवेश भवन', सी.बी.डी. कम-ऑफिस कॉम्प्लेक्स, पूर्वी अर्जुन नगर, दिल्ली-110032  
 'PARIVESH BHAWAN', C.B.D.-CUM-OFFICE COMPLEX, EAST ARJUN NAGAR, DELHI-110 032  
 PHONE : 22307233, TEL. FAX : 22304948, E-mail : ccb.cpcb@nic.in, akmehta@nic.in

## INDEX

Section	Description of Item	Page Number
<b>1.0</b>	<b>Background</b>	1
<b>2.0</b>	<b>Legal Framework</b>	2
<b>3.0</b>	<b>Description of Impacts</b>	7
	3.1 Impacts on Soil	8
	3.2 Impacts on Groundwater	9
	3.3 Impacts on Surface water	9
	3.4 Impacts on Human Health	10
	3.5 Impacts on Flora/Fauna	10
	3.6 Impacts on Crops	10
	3.7 Impacts on Property	10
<b>4.0</b>	<b>Environmental Liabilities</b>	11
	4.1 Liability for taking up immediate Emergency Response Plan Measures	12
	4.2 Liability for assessment of contamination.	14
	4.3 Liability for Remediation of Contaminated sites	19
	4.4 Compensation Liability	20
<b>5.0</b>	<b>Approach for valuation of Direct Liability</b>	22
	5.1 Indicative Cost of liabilities for Site Assessment and Remediation	23
<b>6.0</b>	<b>Enforcement of Penalty</b>	26
<b>7.0</b>	<b>Role of State Pollution Control Board/Pollution Control Committee</b>	27
<b>List of Tables</b>		
<b>Table 1</b>	Parameter for assessing Compensation Liability	24
<b>Table 2</b>	Indicative cost for Site Assessment and Remediation	24
<b>List of Annexure</b>		
<b>Annexure I</b>	Schedule II of Rule, 12 of the Environment (Protection) Rules, 1986	32
<b>Annexure II</b>	Schedule II of the section 15 & 17 on the National Green Tribunal Act, 2010	34
<b>Annexure III</b>	Format for Accident Reporting (Form 14)	35
<b>Annexure IV</b>	Format for Environment Pollution Incident Report	36
<b>Annexure V</b>	Factors to be accounted for estimating liability for Remediation of Soil, Groundwater, Surface water and Sediment Contaminate Sites	39

## BACKGROUND

For safe handling and management of hazardous waste in an environmentally sound manner, Government of India (GOI) has notified the Hazardous Waste (Management & Handling) Rules, 1989, under the Environment (Protection) Act, 1986. However, these Rules were suppressed with re-notification of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008.

Under the said Rules, hazardous waste has been defined as those wastes which by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics causes danger or is likely to cause danger to health or environment, whether alone or when in contact with other wastes or substances, and shall include wastes as specified in Schedules of the Rules.

The Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008, lays down provisions for requirement of authorization from the concerned State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC) for generation, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of the hazardous waste, packaging, labeling, transportation, treatment, recycling, disposal, etc. of hazardous waste. The Rules also stipulate provision of liability of occupier, transporter, operator of a facility and importer for all damages caused to the environment or third party due to improper handling or disposal of the hazardous wastes as well provision to pay financial penalties as levied for any violation of provisions under the Rules.

In order to enforce the aforesaid provision of the Rules, assessment of damages caused to the environment or third party due to improper handling or disposal of the hazardous wastes (such as but not limited to, illegal disposal/ spillage of hazardous waste or fire from improper handling/disposal of hazardous waste) is the foremost requirement besides taking immediate measures for control/containment of impacts upon such incidences. Liability to occupier or importer or transporter or operator of the facility, as the case may be, can be assigned for immediate response, site assessment and remediation and also for compensating the damages caused to third parties. Upon immediate reporting of such incidences, every State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC) is expected to have a well-defined system in place to deal with such emergency along with protocol to be followed. A well-defined system will help in adopting a systematic approach towards reporting/inspection of such incidences of spillages/ disposal/ fire because of improper handling/disposal of hazardous wastes and also in implementing environmental damage liability and financial penalty for violation, if any.

This document outlines various liabilities to be imposed on a responsible party for causing environmental damages arising from improper handling/disposal of hazardous waste. These liabilities are applicable to the occupier, transporter, operator of a facility and importer as the case may be, hereinafter referred to as responsible party. The guidelines also identify the compensation liabilities on a responsible party for causing impacts such as injury, loss of life, effects on flora and fauna, loss of livelihood, reduced yield from crops, property loss, etc. However, evaluation and implementation of the same are not covered in the scope of this document, which may be dealt with by the concerned agency of respective State/UT Government. Role of the responsible party and the concerned SPCB/PCC have been outlined in the event of occurrence of incidences. Further, an attempt has also been made to provide an indicative cost for assessment and

remediation, which may, however, vary case to case. The document also provides guidelines for evaluating and implementing financial penalty for violation of provisions stipulated under the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008.

This document is in compliance with the order dated 18/2/2014 of the Hon'ble National Green Tribunal, (Western Zone) Bench, Pune, in the matter of Application No. 87/2013(WZ), Ramubhai Kariyabhai Patel & others versus Union of India & others, wherein it has been ordered that "Gujarat Pollution Control Board and Central Pollution Control Board shall immediately undertake efforts for capacity building within their organizations and also, other SPCBs for scientific handling of such accidents, through training and preparation of guidelines and manuals, particularly enforcement of Rule 25 (1) and (2) of HW Rules, 2008. This is utmost essential to develop such capacity in SPCBs and CPCB as they are the scientific and technical organizations having responsibility to handle such environmental hazards and therefore, it is necessary to ensure adoption of suitable scientific tools and techniques to develop suitable response to such accidents".

The National Environment Policy was published by the Ministry of Environment, Forests & Climate Change, GOI, in 2006. This policy is intended to be a guide to action: in regulatory reform, programmes and projects for environmental conservation; and review and enactment of legislation, by agencies of the Central, State, and Local Governments. One of the guiding principles of the National Environment Policy is legal liability. It stipulates that civil liability for environmental damage would deter environmentally harmful actions, and compensate the victims of environmental damage. Conceptually, the principle of legal liability may be viewed as an embodiment in legal doctrine of the "polluter pays" approach, itself deriving from the principle of economic efficiency.

The Section 9 of the Environment (Protection) Act, 1986, stipulates provision about furnishing of information to authorities and agencies and remedial measures where discharge of any environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event. The same is reproduced as below:

9. *Furnishing of information to authorities and agencies in certain cases*

- (1) *Where the discharge of any environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the place at which such discharge occurs or is apprehended to occur shall be bound to prevent or mitigate the environmental pollution caused as a result of such discharge and shall also forthwith--*
  - (a) *intimate the fact of such occurrence or apprehension of such occurrence; and*
  - (b) *be bound, if called upon, to render all assistance, to such authorities or agencies as may be prescribed.*
- (2) *On receipt of information with respect to the fact or apprehension on any occurrence of the nature referred to in sub-section (1), whether through intimation under that sub-section or otherwise, the authorities or agencies referred to in sub-section (1) shall, as early as practicable, cause such remedial measures to be taken as necessary to prevent or mitigate the environmental pollution.*
- (3) *The expenses, if any, incurred by any authority or agency with respect to the remedial measures referred to in sub-section (2), together with interest (at such reasonable rate as the Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.*

In exercise of powers conferred under Sections 6 and 25 of the Environment (Protection) Act, 1986, GOI has notified Environment (Protection) Rules, 1986. The Rule 12 of the said Rules and amendments made thereof lays down the aforesaid authorities who shall be intimated about the said occurrence or apprehension of such occurrence. The said provision is reproduced as below:

## 12. *Furnishing of information to authorities and agencies in certain cases*

*Where the discharge of environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person in charge of the place at which such discharge occurs or is apprehended to occur shall forth with intimate the fact of such occurrence or apprehension of such occurrence to all the following authorities or agencies, namely:-*

- (i) *The officer-in-charge of emergency or disaster relief operation in a district or other region of a state or Union territory specified by whatever designation by the Government of the said State or Union territory, and in whose jurisdiction the industry, process or operation is located.*
- (ii) *Central Board or a State Board as the case may be and its regional officer having local jurisdiction who have been delegated powers under section 20, 21, 23 of the Water (Prevention and Control of Pollution) Act 1974 (6 of 1974)- and section 24 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981).*
- (iii) *The statutory authorities or agencies specified in column 3 in relation to places mentioned in column 2 against thereof of the Schedule II.*

### **The said Schedule II is given at Annexure I.**

The Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008, has been notified by GOI exercising the powers conferred by Sections 6, 8 and 25 of the Environment (Protection) Act, 1986. Besides laying down provisions for handling and management of hazardous waste, it also stipulates provision of accident reporting and liability of occupier, transporter, operator of a facility and importer with regard to damages caused to the environment or third party due to improper handling of hazardous wastes. Provision of paying financial penalty for any violation of the provisions under the Rules has also been stipulated. The same is reproduced as below:

24. *Accident reporting and follow-up.- Where an accident occurs at the facility or on a hazardous waste site or during transportation of the hazardous waste, the occupier or operator of the facility or the transporter, as the case may be, shall report immediately to the State Pollution Control Board about the accident in Form 14.*
25. *Liability of occupier, transporter, operator of a facility and importer.-*
  - (1) *The occupier, importer, transporter and operator of the facility shall be liable for all damages caused to the environment or third party due to improper handling of the hazardous wastes or disposal of the hazardous wastes.*
  - (2) *The occupier and the operator of the facility shall be liable to pay financial penalties as levied for any violation of the provisions under these rules by the State Pollution Control Board with the prior approval of the Central Pollution Control Board.*

Under the National Green Tribunal Act 2010, the National Green Tribunal has been established for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. The principles of sustainable development, the precautionary principle and the polluter pays principle are applied for passing any order or decision or award by the Tribunal. The National Green

Tribunal Act 2010, lays down provisions for Relief, compensation, restitution and liability vide section 15 and 17 and the same are reproduced as below:

15.(1) *The Tribunal may, by an order, provide,-*

- a. *relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);*
  - b. *for restitution of property damaged;*
  - c. *for restitution of the environment for such area or areas, as the Tribunal may think fit.*
- (2) *The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991.*
- (3) *No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:*
- Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.*
- (4) *The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.*
- (5) *Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.*

17(1) *Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.*

- (2) *If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be attributed to any single activity or operation or process but is the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible for such activities, operations and processes on an equitable basis.*
- (3) *The Tribunal shall, in case of an accident, apply the principle of no fault.*

**The said Schedule II is given at Annexure II.**

The National Green Tribunal Act, 2010, has also provisions of penalty for failure to comply with orders of Tribunal. Section 26 of the Act stipulates that whoever, fails to comply with any order or award or decision

of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention. However, the fine payable by Companies may extend to twenty five crore rupees and one lakh rupees a day in case of continuing default.

Thus, regulatory framework exists in the country that requires a potential polluter to be liable for all damages caused to the environment or third parties due to improper handling of the hazardous wastes or disposal of the hazardous wastes. Further, provisions have also been laid down in respect of financial penalties associated with improper handling or disposal of hazardous wastes.

## 3

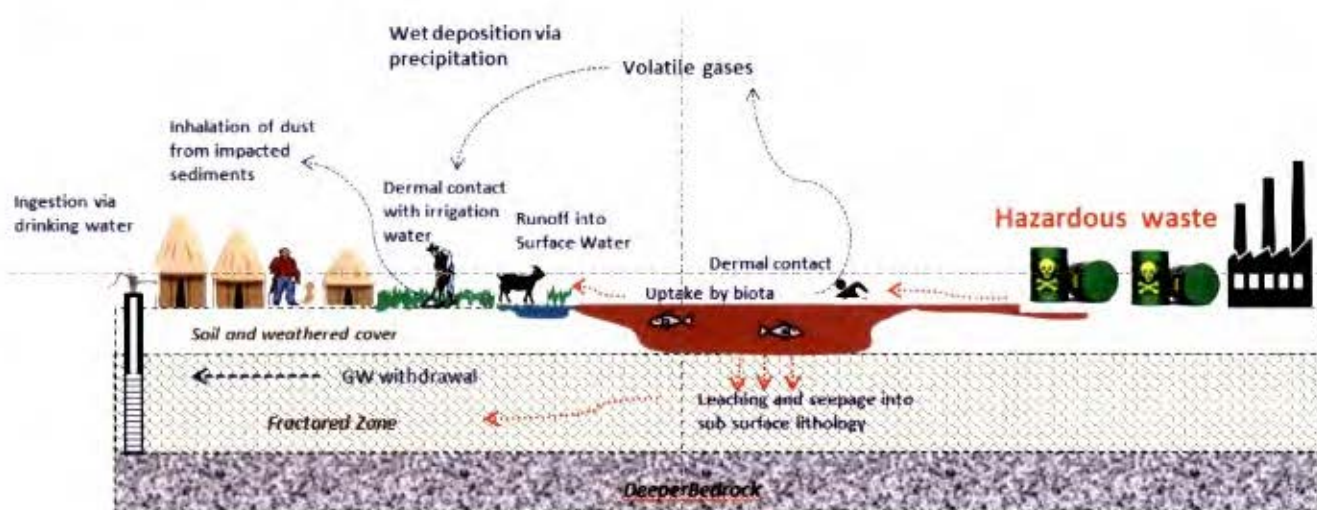
## DESCRIPTION OF IMPACTS

Impacts to the environment can be caused through a variety of mechanisms. It is not the intent of this guideline document to capture all possible contamination scenarios that may occur in a multitude of permutations and combinations (e.g. leaking underground storage tanks, unlined drains, waste dumping, spillage of wastes, leaking pipes, etc.) that may impact the natural resources i.e. soil, groundwater and surface water bodies. However, this document mainly focuses on the issues pertaining to environmental impacts arising from dumping of hazardous wastes in open land, inappropriate handling of hazardous wastes at operating facilities, spillage of hazardous wastes during handling or transportation, failures of various engineering systems that would otherwise contain a hazardous waste (e.g. secure landfills, storage sumps/containers, etc.), etc.

Contamination to soil, groundwater and surface water are the main media of contamination covered under this document (impacts on media such as air, sea/ oceans etc., are currently not covered under this document). Contaminated natural resources (soil, groundwater and surface water) have impacts on various receptors, which need to be addressed when dealing with the liabilities that have to be allocated to the polluters.

Impacts also include long term effects on the natural resources themselves, which if affected by contamination, become unusable by the general public. Once contaminated, natural resources require an inordinately long time to replenish and revert back to original status. In most cases, in spite of active remediation efforts, a contaminated resource does not typically revert back to its original (pre-contaminated) state.

The figure below shows an indicative conceptual site model, depicting the different pathways and receptors that run the risk of being exposed to any contaminant in soil, groundwater and surface water due to impact from hazardous waste dumping/leakages.



### 3.1 Impacts on Soil

Typical examples of how soils are impacted by hazardous wastes include, but are not limited to:

- Clandestine Illegal dumping of hazardous waste on open parcels of land;
- Discharge of liquid hazardous waste onto open parcels of land;
- Breaches of landfill wherein hazardous wastes might either get spilled onto open parcels of adjoining land, and/ or sub grade breaches where hazardous wastes and/ or landfill leachate seeps into the subsoil and potentially into the aquifer;
- Spills/ leaks of hazardous wastes during transportation, leakages from trucks, tanks, pipelines, other fixed or mobile storage containers etc.

Impacted soils can lead to indirect impacts to environment including rendering the land not fit for agricultural purposes, serving as a secondary continuous source of contamination to groundwater, serve as a direct exposure pathway to humans who may come into contact with the contaminated soil media (most significantly children who are most susceptible to health risks).

Soils that are contaminated provide a variety of exposure pathways to various receptors including but not limited to, humans, Livestock, including cattle, poultry, etc. These exposure pathways include, but are not limited to

- Dermal contact with contaminated soils;
- Incidental ingestion of contaminated soils;
- Ingestion of crops that are grown on contaminated soils;
- Inhalation of vapours from the hazardous wastes that are dumped on land

A case example for illustration is where hazardous wastes have been surreptitiously dumped outside plant facilities, and in close vicinity to residential areas. Children will get in touch with this contaminated media, farmers may harvest crops on these parcels of land, all of which cause an immediate exposure of the hazardous (which may be carcinogenic, mutagenic etc.) constituents to human receptors. In India, there are no comprehensive soil quality regulations and standards to ascertain the severity of contamination, however, internationally adopted standards can be applied selectively for setting screening and response levels for contaminated soils in the country.

The table below illustrates the typical source-pathway-receptor linkages that may exist in the event of soil being contamination by hazardous wastes.

Potential Source (primary and secondary)	Potential Exposure Pathways	Receptors		
		Human receptors Including Residents and Workers within the impacted area	Human receptors outside the impacted site, exposed indirectly	Indirect receptors such as cattle, flora, fauna
Soil impacted by Hazardous waste	Incidental ingestion or Dermal contact	✓	X	✓
	Inhalation of dust	✓	X	✓
	Inhalation of volatiles	✓	✓	✓

The impact on soil may further have associated impact on groundwater, surface water, flora, fauna, etc. which has been discussed in subsequent sections below.

### 3.2 *Impacts on Groundwater*

Aquifers being the source of vital element of life (drinking water), tend to be the most vulnerable and sensitive natural resources.

Typical examples of how aquifers are impacted with hazardous wastes include, but are not limited to:

- Leaching of contaminants from hazardous wastes dumped onto open parcels of land;
- Leaching of contaminants from hazardous waste storage tanks or leaking underground storage tanks;
- Leaching of contaminants from landfills that are leaking below ground;
- Reverse injection of liquid hazardous waste into deep injection wells;
- Leaching of contaminants from underground leaking pipelines carrying liquid hazardous waste

Typically for aquifers to get contaminated, overlying soils will tend to be contaminated first. Therefore, soil and groundwater contamination often occur simultaneously and are therefore assessed at the same time.

Contaminated aquifers provide a variety of exposure pathways to various receptors, including but not limited to, most importantly Humans, Livestock, including cattle, poultry, flora, fauna etc. These pathways include, but are not limited to

- Dermal contact with contaminated groundwater;
- Ingestion of contaminated groundwater by humans;
- Ingestion of contaminated groundwater by livestock and its potential bio-accumulation in the food chain;
- Ingestion of crops that are irrigated with contaminated groundwater;

Once a groundwater resource (aquifer) is contaminated, the contamination will migrate and spread in the direction of flow of the local/ regional groundwater. If not addressed early enough, and if the source of contamination is allowed to exist, large areas (regional scale) of the aquifer can easily get contaminated, thereby impacting various facets of life in a much larger area.

### 3.3 *Impacts on Surface Water*

Surface waters are a common affected natural resource due to illegal disposal or improper handling of hazardous wastes. Surface water, are a highly sensitive receptor in the Indian context (used for bathing purposes, washing purposes, irrigation purposes, in some cases drinking purposes etc.). As mentioned above, surface water bodies in India are used for a multitude of reasons by various human and ecological receptors, and therefore the risk of damage to the environment and human health is very high.

Typical examples of how surface water bodies are impacted with hazardous wastes include, but are not limited to:

- Runoff from hazardous waste dumps entering surface water bodies;
- Discharge of liquid hazardous waste directly into nearby streams or nalla's that ultimately discharge into larger surface water bodies;

Contaminated aquifers provide a variety of exposure pathways to various receptors, including but not limited to, most importantly Humans, Livestock, including cattle, poultry, flora, fauna etc. These pathways include, but are not limited to

- Dermal contact with contaminated surface water;
- Ingestion of contaminated surface water;
- Ingestion of contaminated surface water by livestock and its potential bio-accumulation in the food chain;
- Ingestion of aquatic species that live in contaminated surface waters; etc.

### 3.4 *Impacts on Human Health*

Hazardous waste spillage may cause direct effects that could potentially have a long term health impact on humans, long term impacts on flora and fauna, etc. Acute effects could include injury due to direct contact with hazardous waste or inhalation of noxious gases emanated from hazardous wastes. Loss of life may occur in rare cases due to improper handling or disposal of highly reactive wastes such as wastes containing reactive cyanide, reactive sulfide, long term exposure to wastes containing carcinogenic constituents, etc.

Indirect impacts on health may occur to human receptors from incidental ingestion of impacted soils (especially by children), consumption of vegetables grown on soil that is contaminated or irrigated with contaminated water, inhalation of vapors that migrate from contaminated soils/ aquifers into basements of buildings, drinking of contaminated groundwater etc

### 3.5 *Impact on Flora and Fauna (Biodiversity)*

Disposal of hazardous waste on open land may threaten species, populations or endangered ecological communities, or their habitats, known on the site or likely to occur in the locality of the site.

Examples of indirect and direct impacts that are common impacts to biodiversity include clearing/ fragmentation/alteration/destruction of native vegetation and animal habitats, pollution of watercourses and wetlands, sediment, nutrient and pollutant run-off into adjacent vegetation and animal habitats, loss of hollows, nesting and feeding habitats for birds, etc.

Indirect adverse effects on animals may occur from grazing on hazardous waste dumpsites, ingestion of plants grown on contaminated sites, dermal exposure to contaminated ground, drinking of surface water, etc. Contamination in surface water may affect aquatic flora and fauna.

### 3.6 *Impact on Crops*

Hazardous waste if disposed on crop lands may potentially change the characteristics of the soil being used for agricultural purposes thus resulting in reduction or total loss of yield of the crop and further indirect losses to livelihood. Spills of hazardous substances on land may cause negative impact on plant productivity depending on quantity and type of constituents. For example, Waste oil spills creates anaerobic conditions in the soil, coupled to water logging and acidic metabolites, the result is high accumulation of aluminum and manganese ions, which are toxic to plant growth. Soil contaminated with hazardous waste may affect mineral and organic matter content, and the geochemistry (e.g., the cation exchange capacity, redox properties) and physical properties (e.g., pH, electrical conductivity etc.) in soil.

### 3.7 *Impact on Property*

Accidental spillage of hazardous wastes may result into damage to the public buildings or private property. Adverse effects may include corrosion of structures/walls due to acid spillage, release of gaseous inside the basements of houses. Fires or explosion in incinerable hazardous waste may cause damage to adjoining properties.

## 4

**ENVIRONMENTAL LIABILITY**

Liability losses can be incurred through tort, contractual obligations, or violations of statutes. In addition to these traditional sources of liability, there is a unique legal aspect to environmental liability that makes these risks more difficult to manage. An environmental liability is a legal obligation to make a future expenditure due to the past or ongoing manufacture, use, release or threatened release of a particular substance or other activities that adversely affect the environment or human health. Environmental liability is required to be imposed retroactively with strict liability for clean-up costs as per the provisions under environmental protection Acts and Rules notified thereof.

The environmental liability is applicable for the actual environmental damages or alleged releases of pollutants that makes the responsible party obligated to pay for environmental remediation expenses. Environmental liabilities refer to the cleanup obligations and may also refer to potential for fines, penalties for violations of environmental laws.

Environmental liabilities arise from a variety of sources. A detailed list of environmental liabilities would be very lengthy; however, focusing on the environmental liabilities arising from handling and disposal of hazardous wastes, the following are the broad categories of environmental liabilities;

- Compliance obligations related to environmental regulations and Act/Rules that apply for generation, handling, storage, transportation, disposal etc. of hazardous wastes;
- Remediation obligations (existing and future) related to soil/groundwater/surface water contamination or air pollution that pose an environmental risk or potential risk to human health;
- Obligations to compensate the third parties for personal injury, property damage, and economic loss;
- Obligations to pay punitive damages for paying fines/penalties for gross negligence and criminal penalty for statutory or regulatory non-compliance; and
- Obligations to pay for natural resource damages.

The liabilities are applicable to the occupier, transporter, importer of hazardous waste or operator of a facility, as the case may be, referred as responsible party in this document. The liabilities for damages caused to the environment or third party arising due to improper handling, storage, transportation, disposal etc. of hazardous wastes as per the provisions under Rule 25(1) of Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008 have broadly been classified into the following:

- a) Liability for taking up immediate measures
- b) Liability for assessment of contamination
- c) Liability for remediation of contaminated sites
- d) Liability to pay for natural resource damages and compensation to the third parties for personal injury, property damage, and economic loss (i.e. compensation liability).

The principle of strict liability shall be exercised on the responsible party while implementing environment damage liabilities. Strict liability is the imposition of liability on the responsible party without finding a fault (such as negligence or tortious intent). In cases where two or more persons are liable in respect of same liability, the principle of "joint and several liability" shall be imposed. Under joint and several liability, a claimant may pursue an obligation against any one party as if they were jointly liable and it becomes responsibility of the defendants to sort out their respective proportions of liability and payment.

The obligations to pay punitive damages for paying fines/penalties for gross negligence and criminal penalty for statutory or regulatory non-compliance of the provisions under HWMH&TM) Rules, 2008 have been discussed under chapter "Enforcement of Penalty" of this document.

#### 4.1 *Liability for taking up immediate Emergency Response Plan Measures*

The most possible scenarios that may occur while handling or disposal of hazardous waste are listed below.

- i. Fire due to inflammable nature of hazardous wastes
- ii. Explosion due to improper handling of hazardous waste
- iii. Incompatible nature of waste, noxious, corrosive, toxic, poisonous, flammable and/ or fire takes place
- iv. Leakages of hazardous gases from hazardous waste due to improper operation and / or installation problems
- v. Spillages due to failure of piping systems (pipes, pumps, flanges, couplings, hoses, and valves) in handling of hazardous wastes
- vi. Leakages or spillages due to external corrosion and structural failure of transporting or storage system (including landfills)
- vii. Spills and overfills due to manual error
- viii. Leaks or spillages during pumping of liquids or gases from truck or rail car to a storage tank or vice versa
- ix. Spillages due to road accidents of trucks or tankers carrying hazardous waste
- x. Illegal dumping insider outside the facilities of industries
- xi. Spills or leakages due to flooding of hazardous waste containment
- xii. Spills or leakages or fire due to hazardous material shifting
- xiii. Spills/ leakages or fire due to other technical problems
- xiv. Improper storage and disposal of hazardous waste

All occupier, transporter, operator or importer of hazardous waste, as the case may be, are liable for taking up immediate emergency response measures in the event of spillage, improper disposal, fire or mishandling of hazardous waste. The main objective of the emergency response measures is to secure immediate human & environmental safety and contain/control further spillage or release of hazardous waste or release of fumes/gases. Each occupier, transporter, operator or importer of hazardous waste, as the case may be, shall, therefore, develop their own Emergency Response Plan (ERP) in this regard for all

potential spillage/release/fire scenarios, which may vary case to case. Requisite basic safety equipment/ Personal Protective Equipment shall be made available at the site/transportation vehicle and concerned persons shall be trained in implementing ERP. Mock drill shall also be performed time to time.

As discussed above, the ERP may vary from one case to another. However, an ERP should address procedures for dealing with emergency situations and shall comprise the following, but not limited to:

- Containing and controlling incidents so as to minimise the effects and to limit danger to persons, the environment and property;
- Implementing the measures necessary to protect persons and the environment;
- Description of the actions which should be taken to control the conditions at events and to limit their consequences, including a description of the safety equipment and resources available;
- Arrangements for training staff in the duties they will be expected to perform;
- Arrangements for informing concerned authorities and emergency services; and
- Arrangements for providing assistance with off-site mitigatory action.

Detailed instructions shall be prescribed for evacuation, removal of the waste/contaminated substances to safe place, stabilisation, dilution to safe condition etc., wherever applicable. The ERP should be simple and straightforward, flexible and achieve necessary compliance with legislative requirements. Furthermore separate on-site and off-site ERP should be prepared.

Upon incidence, the responsible party shall immediately report the accident in the prescribed Form 14 along with relevant information to the concerned SPCB/PCC. The said Form 14 is given at Annexure III. Further, (i) the officer-in-charge of emergency or disaster relief operation of the district or other region of the state or Union territory specified by whatever designation by the Government of the said State or Union territory, and in whose jurisdiction the industry, process or operation is located; and (ii) the statutory authorities or agencies specified in column 3 in relation to places mentioned in column 2 against thereof of the Annexure I of this document, as applicable; shall also be intimated the fact of such occurrence or apprehension of such occurrence. Fire department, Police department, Hospitals etc. shall also be informed by the responsible party depending upon type of incidence and the emergency phone numbers of such shall be identified and be made available to the concerned person and emergency response team.

#### **Removal of substance to safe place**

The emergency spill control procedure should include the following key sections:

- Spills involving hazardous waste should first be contained to prevent spread of the material to other areas. This may involve the use of temporary diking, sand bags, dry sand, earth or proprietary booms / absorbent pads etc.;
- Wherever possible the waste/contaminated substances should be rendered safe by treating with appropriate chemicals (refer to stabilisation / dilution to safe condition given in succeeding paragraph);
- Waste/contaminated substances in a fine dusty form should not be cleared up by dry brushing. Vacuum cleaners should be used in preference, and for toxic materials one conforming to type H (BS 5415) should be used;
- Treated waste/contaminated substances should be absorbed onto inert carrier material to allow

the material to be cleared up and removed to a safe place for disposal or further treatment as appropriate;

- Waste should not be allowed to accumulate. A regular and frequent waste removal procedure should be adopted.

#### **Stabilisation / dilution to safe condition**

Once the hazardous waste has been contained to prevent spread of the material to other areas, the waste/contaminated substances should be treated wherever possible to render it safe. Acidic and alkaline may be treated with appropriate neutralising agents. Due to the differing properties/characteristics of the various categories of hazardous waste, an appropriate treatment strategy with suitable chemicals should be established in each case. For example, highly concentrated spent acid bath will fume when spilled so prior to neutralisation the spill may be diluted with a water spray. However, such dilution shall be carried out preventing spread of diluted waste and emphasising minimal waste generation. Waste specific neutralizing substances/foam should readily be available, as part of the ERP.

#### **Storage and Disposal of spilled waste/ treated waste/contaminated substances/contaminated water**

Accumulation of spilled waste/ treated waste/contaminated substances/contaminated water shall not be allowed at the site for long periods. Arrangement shall be made to transport such wastes to secured storage facilities and transferring the same to authorised/permitted treatment and disposal facilities like common hazardous waste treatment, storage and disposal facilities for hazardous wastes or common effluent treatment plant. Inside an industry premise, an incidence may lead to abnormal loading on the effluent treatment plant/common treatment, storage and disposal facilities and in any such situation, the operators of such facilities are reported with suitable information so that appropriate arrangements/preparations can be adopted by them.

#### **Initial Sampling**

The responsible party shall carry out sampling of hazardous waste indulged in the incident and spilled/spread waste at various suitable locations for analysis to identify constituents of concern. Samples of soil, surface water, sediment, ground water at appropriate locations, as the case may be, shall also be carried out which shall help in identifying impact. Wherever applicable, air quality monitoring shall also be carried out in upwind, down wind and source area. Responsible party shall submit a report on immediate response taken by them to SPCBs/PCCs within 48 hours of completion of immediate response measures.

#### **Illegal dumping**

In case of illegal dumping, the Regional offices of concerned SPCBs/PCC of a State/UT shall be made nodal agencies for inspection of incident sites, reporting to the officer-in-charge of emergency or disaster relief operation, Fire department, Police department, Hospitals etc. depending upon type of incidence. For this purpose, each SPCB shall identify a response team for each Regional Office and impart necessary training on dealing with the situations. Each regional office of SPCB shall maintain a minimum inventory of safety gadgets, spillage containing material & equipment, sampling tools etc or arrangement of an agency for dealing with such situations at any given time.

#### **4.2 Liability for Assessment of Contamination**

*Note: For de-minimis environmental release situations (specifically, very small and localised spillages of hazardous wastes, cases of improper disposal of very small quantities of hazardous waste or minor fires involving hazardous wastes), wherein the resultant environmental impact or human health risk is deemed to*

be very low in the judgement of either the District Magistrate and/ or Regional Officer of State Pollution Control Board, the Responsible Party may be held liable to take up only the immediate emergency response measures and if the same is completed in a satisfactory manner, may be exempted from undertaking detailed assessment or remediation works. It may be noted that the operative principle in all such situations shall be the potential for environmental impact or risk to human health and not simply the quantity of waste involved. As a starting point for further defining the de-minimis release criteria, it may be assumed that wherein the resultant environmental impact or human health risk is deemed to be very low in the judgement of District Magistrate and/ or Regional Officer of State Pollution Control Board, a release (accidental, negligent or otherwise) not exceeding 50 Litres of a liquid hazardous waste or 200 Kilograms of a solid hazardous waste may not necessarily trigger a requirement to undertake detailed assessments or remediation works. However, these criteria should be considered on a site specific basis, taking into consideration the type of contaminant (for example, the toxicity and exposure of waste), depth to groundwater table, sensitive receptors in the vicinity of the spill/ dump etc. It shall be considered that following the emergency response undertaken by the Responsible Party (specifically, very small and localised spillages of hazardous wastes, cases of improper disposal of very small quantities of hazardous waste or minor fires involving hazardous wastes), there shall still be a need to undertake a validation assessment to confirm that the entire contaminated mass has been removed and that natural resources (Soil, surface water and groundwater) are not impacted. In the event that the validation assessment indicates residual contamination in any of the environmental matrices, exceeding the nominated screening criteria (in the absence of an Indian specific criteria, alternative accepted criteria such as the Dutch Standards, Canadian Standards and/ or USEPA standards may be used), then the Responsible Party shall be held liable to undertake further assessment of contamination and remediation (if warranted) of the impacted area.

*Example: A truck that is transporting hazardous wastes in bags, accidentally drops a bag on the side of the highway. The authorities may consider case by case, that such small incidents (not exceeding the above mentioned trigger criteria), may only require an emergency response (i. e. pick up the wastes and the underlying soils and transport to the TSDF). However, it shall remain the responsibility of the Responsible Party to document and satisfy the regulatory authorities (SPCB/ PCC's) that the underlying soils and/ or other environmental media are not contaminated.*

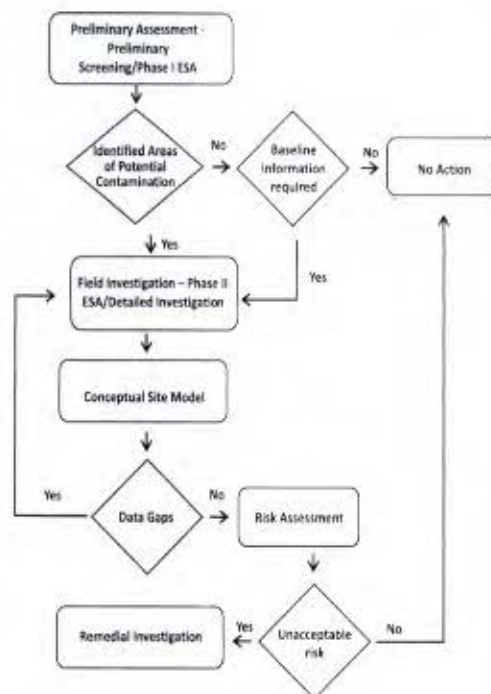
For events involving significant release of hazardous wastes into the environment, the following guidance shall be implemented by the Responsible Party:

- (i) Upon occurrence of an incident, the Responsible Party shall initiate immediate response measures to minimize the environmental impacts as per the guidance laid down in Section 4.1 of this document.
- (ii) The Responsible Party is liable to undertake environmental site assessment to characterise the extent of contamination. Such investigations shall be undertaken by engaging consultant(s) or organization having relevant experience. The said investigations shall also include risk to receptors and based on risk assessment study, various remedial plans shall be outlined.
- (iii) A typical flow chart that may be considered in assessing whether a subject site is contributing to contamination of natural resources and posing a potential risk to the environment and human receptors is provided below.

- (iv) The responsible party shall engage a well-established and experienced professional/organisation to undertake Phase-I and Phase-II environmental site assessment, as given in subsequent paragraphs. As far as possible, the site assessment shall be carried out in line with locally applicable or – preferably – internationally accepted standards, like ASTM methods. The consultant shall have experience in the concerned industrial process or facility operations in which the incidence is reported.

Some of the key parameters that dictate the level of assessment are given below:

- Geology;
- Contaminant or Chemical of Concern;
- Carcinogenic or non-carcinogenic;
- Single contaminant (e.g., Chromium VI) or multiple contaminants (e.g., Chromium VI, Lead and Mercury), single class of contaminants (metals) or multiple class of contaminants (Metals, Benzene, Toluene and Polynuclear Aromatic Hydrocarbons);
- Impacted matrix (only soil, only groundwater, soil & groundwater, sediments, surface water, and combinations thereof);
- Current and future land use (industrial, commercial, agricultural, residential and combinations thereof);
- Offsite migration of contamination or localised to onsite impacts;
- Impacted receptors (drinking water receptors, agricultural fields, marine waters etc., and combinations thereof);
- Impacted media volumes;
- Duration of contamination;
- Free phase liquids in the case of volatile organic compounds and total petroleum hydrocarbons;



It is evident from the list above and the various potential combinations which make each site unique, initial investigation and assessment is of utmost importance and serve as a foundation for all further actions, penalties, remedial actions to be undertaken, liabilities to be assessed etc.

#### *Phase I Environmental Site Assessment (ESA I)*

The responsible party shall submit a Phase I Soil and Groundwater assessment report to the concerned SPCB/PCC within four (04) weeks from date of occurrence of the incidence. This Phase-I assessment report shall provide a description of the incident, land-use, geological and hydrogeological characterization and identify the potential for soil and/or groundwater contamination. This assessment includes limited sampling

and analysis of soil, groundwater and/or surface water samples to identify constituents of concern. Phase-I assessment shall include review of the following aspects;

- Relevant Permits and licenses issued to or held by the Responsible Party
- Site layout plans on suitable maps
- Details type of land use at which the incident occurred including historical use of the land
- Site vicinity/neighbours which may have active or suffer passive impact
- Site situation geographic (including climate conditions, surface waters, geology, hydrology, groundwater flow etc.)
- Cadastral information and ownership documents
- Details of surface water drainage, sewerage and nearby water bodies. Present and former underground structures, including sewers, drains, interceptors and storm water pipes.
- Impacts on air quality and discharge of effluent from incident site
- Presence of nearby wetlands
- Incident report (fires, spills, etc. due to hazardous waste handling)
- Historical maps, plans, photographs
- Records pertaining to generation, storage, transportation or handling of hazardous wastes
- Waste Management practices currently and in the past
- Details of site management, technical staff, employment history of persons involved in handling or management of hazardous wastes
- Neighbours and owners of adjacent properties, if relevant
- The location of the site in relation to sensitive receptors which could drive remedial liabilities shall be identified. Examples include potable water supplies, surface water bodies, sensitive ecosystems (i.e. wetlands), and residential housing location

All analysis of constituent parameters shall be analysed by laboratories accredited under EPA/NABL for those parameters.

In case, the ESA I report reveals non-exceedance of the nominated screening criteria (in the absence of an Indian specific criteria, alternative accepted criteria such as the Dutch Standards, Canadian Standards and/or USEPA standards may be used), then Phase II Environmental Site Assessment may not be required and neither risk assessment or remediation is warranted. However, decision on the same shall be taken by the respective SPCB/PCC of their own or constituting an expert committee thereof, wherein samples taken by the SPCB/PCC during the spill, leakages etc. shall also be taken into consideration.

#### *Phase II Environmental Site Assessment (ESA II)*

The purpose of a Phase II environmental site assessment is to build on ESA I findings by collecting soil, groundwater, surface water and sediment samples and chemical analysis data from Areas of Concern (AOCs) identified in the ESA I in order to determine if impacts are present that could pose a risk to human

health and the environment. The ESA II will also identify costs for obtaining ultimate goal to determine liabilities associated with remediation.

The exact number of intrusive soil and groundwater sampling points will be related to the size of the site, the findings from the ESA I and the overall potential for environmental risk. As a minimum, a ESA II shall include the following objectives, or scope of work items:

- Assessment of potential releases of hazardous waste and impact from such releases. Requisite sampling and analysis of soil, surface water, ground water etc., as applicable, shall be carried out in this regard.
- Media specific (soil, groundwater, surface water and sediment) analytical data shall be collected and analysed in an overall framework of identifying risks and potential pathways and receptors – i.e., direct contact and inhalation pathways for soil and groundwater, ingestion of groundwater, degradation of sensitive ecologies and acute risks (for example potential for spontaneous ignition or explosive decomposition) of hazardous constituents. Soil and groundwater sampling locations should be chosen not only to detect contaminated source areas but also to account for risk pathways toward identified receptors.
- Groundwater flow directions shall be derived and documented for the site, if impacts are known or suspected for groundwater. Both upstream (i.e. background) and downstream (i.e. leaving the site) groundwater quality shall be documented.
- Analysis of soil and groundwater samples shall utilize generally acceptable laboratory techniques (an appropriately certified lab) and include the suite of constituents (which consists of a comprehensive analysis of several groups or classes of constituents such as, but not limited to Metals, volatile organic compounds, semi-volatile organic compounds, petroleum hydrocarbons) for analysis that have been utilized on site particularly if these constituents could pose as a risk driver for damage to the environment and/ or human health.
- Analytical techniques should have method detection limits that are at least, lower than concentrations that could pose a risk (i.e. lower than screening values, intervention values etc.).
- All intrusive work should also include a Health and Safety Plan to ensure that safe practices are followed by personnel in the field, and a plan for dealing with emergencies is documented before any field work is initiated.
- Soil samples should be collected from the surface and from the vadose zone (i.e. above the water table). Screening techniques might be used to focus a subset of samples for laboratory analysis, thereby minimizing a large number of samples for broad analytical suites (i.e. PID screening, headspace analysis, use of NAPL indicator dyes, visual and olfactory observations, etc.).
- Groundwater samples should be collected from different depths to account for potential impacts in different aquifers and/or stratigraphic horizons. Well construction (whether temporary or permanent) should be consistent with the chosen standards and biased vertically to account for the presence of non-aqueous phase liquids if they are suspected (i.e. floating Light NAPLs or sinking Dense NAPLs).

The responsible party shall submit site assessment plan for ESA II along with the estimated cost for review/ approval by SPCB/PCC. The responsible party shall proceed for ESA II as per the approval from the concerned

SPCB/PCC followed by risk assessment and, as required, remediation plan.

#### *Risk Assessment*

Risk based approach for arriving at site-specific target or clean-up levels for an intended land use (which shall be decided by SPCBs/PCCs) shall be adopted. Assessment of human health risk is necessary to support the decision on arriving at site specific target levels for remediation.

Risk Assessment provides an evaluation of the potential threat to human health and the environment. It provides the basis for determining whether or not remedial action is necessary and the justification for performing remedial actions.

*A tiered approach to Risk Assessment should be undertaken:*

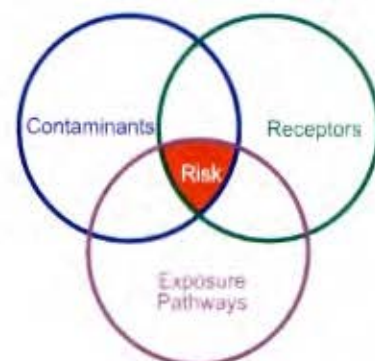
- a) **Generic Quantitative Risk Assessment (Tier 1 Risk Assessment)** - Risk assessment is carried out after ESA II using generic assessment criteria based on local, regional or national screening criteria, international criterion such as Dutch intervention values or US EPA Regional Screening Level.
- b) **Site-specific Quantitative Risk Assessment (Tier 2 Risk Assessment)** - A site specific assessment criteria shall be developed.

*The major components of Risk Assessment are summarized below:*

**Contaminants** - The first step in the Risk Assessment is to identify the type and constituent of concerns (COCs) present at the site as the level of risk posed by COCs is a function of type of contaminants, their impact on human health and environment, toxicity and their concentration at a site.

**Receptors** - The sensitive receptors to which the contamination at the site can reach are identified through receptor survey. Examples of receptors considered in the risk assessment include people (local residents, industrial employee, agricultural worker etc.), animals (cattle), properties (school, hospital etc.), water bodies (groundwater, surface water, etc.).

**Exposure Pathways** - The various pathways through which the contamination at the site can reach the identified sensitive receptors are determined through developing the Conceptual Site Model.



**Components of Risk assessment**

The responsible party shall submit their assessment report including ESA I and II reports, along with risk assessment report and, wherever applicable, remediation plan specifying remedial alternatives and selected remedial technologies, proposed Site Specific Targets Levels (SSTL) indicating remedial costs in executing remedial plan for approval of SPCBs/PCCs.

It is imperative that any assessment/ investigations undertaken by the responsible party should have a formal report with third party analytical reports. Any reports should also be reviewed and finally approved by SPCB/PCC or a third party auditor appointed by SPCB/PCC having expertise on the same.

#### *4.3 Liability for Remediation of Contaminated Sites*

Having completed the environmental site assessment (ESA I and II) and risk assessment, as above, the Responsible Party is also liable to undertake remediation activity, as applicable. With regard to selection

and implementation of remediation activity, the Responsible Party shall submit to SPCBs/PCCs a detailed report based on ESA I and ESA II along with risk assessment report, remediation plan specifying most applicable remedial technology to bring the site-specific contamination levels down to no risk or an accepted risk level (based on environment/ human health scenario) and estimated costs for remediation. Upon review of the same, the concerned SPCB/PCC shall fix and impose remediation objective and Site Specific Target Levels of requisite constituents of concerns along with intermediate target levels of each of the constituent vis-à-vis time schedule so as to monitor the progress of remediation in between also. Evaluation and fixation of the same may be carried out by the concerned SPCB/PCC of their own or by constituting Expert Committee thereof. An indicative approach for arriving at an appropriate remediation option is given in the flow sheet in this section.

Once the said remediation plan with site specific target levels is approved by the SPCBs/PCCS, responsible party shall undertake site remediation accordingly.

The key parameters that ultimately dictate the level and costs of remediation activities are same as identified for ESA i.e. ecology, CoCs, number of contaminants, Impact matrix, Current and intended future land use (industrial, commercial, agricultural, residential and combinations thereof), migration of contamination, Impacted receptors, Impacted media volumes, Free phase liquids etc.

#### 4.4 Compensation Liability

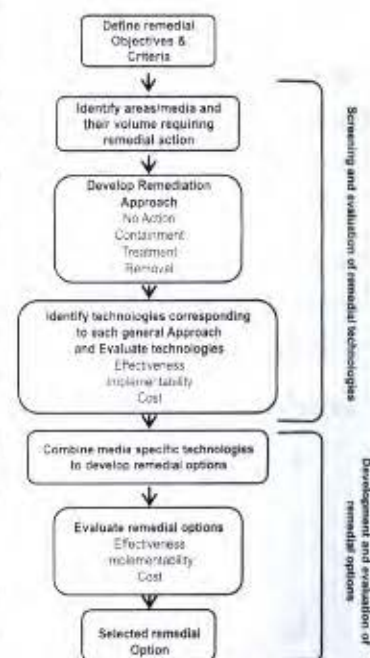
In the cases where handling or disposal of hazardous waste has resulted into contamination that impacted appropriate loss to livelihood, health related effects and impacts or damages to third party etc.; the responsible party is liable to compensate for such losses by paying costs as decided by the District Magistrate or the concerned agency of the State/UT Govt., as the case may be. Compensations shall be applicable in case of loss of property, loss of crop, reduce yield of product, loss of life, hospitalization costs, loss of flora and fauna etc., resulting out of such handling or disposal of hazardous wastes.

The following compensations are envisaged, but not limited to;

- a) Loss of property
- b) Loss of crop
- c) Reduce yield of product
- d) Loss of life
- e) Treatment cost towards human health impacts
- f) Loss of flora and fauna (including cattle and livestock)

Contaminated natural resources (soil, groundwater, surface water and sediments) may have impacts on various receptors, which need to be addressed when dealing with the costs and liabilities that have to be allocated to the responsible party. These may include compensation for Loss of property, loss of crop, reduce yield of product, loss of life and hospitalization treatment cost; cost liability for compensating for damages caused to flora and fauna, etc.

It is not in the scope of this document to prescribe a detailed methodology for assessing aforesaid



compensation liability However, an indicative list of possible impacts and recovery measures which may help in assessing compensation liability is given in the following table:

**Table-1 : Parameters for assessing indirect Compensation Liability**

Indirect Impact	Environment	Economy	Society	Potential indirect impact (detail)	Possible recovery measure
Drinking water			×	Deterioration of the drinking water quality (groundwater, surface water) next to the site or in a distance from the site	Provide replacement drinking water supply, i.e. supplying through piping, tankers or provide treatment stations and develop monitoring systems. Potential liability cost depends on the extent of the impact and magnitude of the recovery measures
Ecology	×			Destruction/perturbation of fauna/flora species and habitats	Develop monitoring, protection and conservation systems
Agriculture		×	×	Loss of crops due to contamination or irrigation with contaminated water	Provide monetary compensation for the loss of crops, provide replacement irrigation systems, provide replacement lands
Infrastructures/property	×	×	×	Disturbance or damage of public or private infrastructures (schools, roads, sewage, etc.), interruption of public services	Provide replacement infrastructures, repair damaged infrastructures, build new structures
Resettlement/Relocation			×	Deterioration of the well-being of populations and living conditions due to adverse effects of the contamination	Definitive or temporary resettlement/relocation
Health			×	Disease, allergies, emotional and psychological effect	Provide monetary compensation, health structures and health monitoring program
Injury			×	Burns, toxic inhalation, physical impact by blast waves	Move the victim from the immediate area of fire, explosion, or spill (if this can be done without further injury to the victim or you).  Locate nearest emergency eyewash or safety shower. Remove any contaminated clothing from the victim and flush all areas of the body contacted by chemical constituents with water. Provide first aid as appropriate and seek medical attention.
Loss of life			×	Death due to chemical spill or occurrence of fire	Provide monetary compensation, employment to the any one member of the family

Assessment of compensation liability and cost thereof for compensating the loss of livelihood, injury, treatment/hospitalization costs, loss of life, damage to property, damage to crop and reduced yield of crops may be imposed by the District Magistrate or the concerned agency of the State/UT Govt., as the case may be.

## 5

## APPROACH FOR VALUATION OF LIABILITIES (IMMEDIATE RESPONSE, SITE ASSESSMENT & REMEDIATION)

- a) Upon receipt of information and site inspection, SPCBs/PCCs taking cognizance of a suspected impact to the environment and/or potential risk to human health, an immediate response liability of not less than INR 10,00,000/- may be levied upon the responsible party for the incident. This would capture only the cost of immediate response and Phase-I environmental assessment. Allocating a liability of INR 10,00,000/- may not mean that the responsible party has to pay this amount, but that he is liable to pay for this. This approach would be to encourage the responsible party to investigate on his own (through a third party auditor and appropriately validated by the regulator), the impacts to the environment/ human health that have occurred on his account. In case the immediate response is initiated by SPCBs / PCCs, the responsible party has a liability to pay two times the immediate response liability i.e. INR 20,00,000/- and interest as decided by the SPCB/PCC.
- b) SPCBs/PCCs shall also impose legal and financial liability for undertaking ESA II, risk assessment and remediation work.
- c) As described in Section 4.2, the scope of assessment varies largely depending on the constituent; extent of contamination, location, nature of physical setting, etc. and, therefore, it is not possible to derive a simplistic formula for allocating a financial liability for assessment on the responsible party. It is, therefore, recommended that initially, SPCBs/PCCs may include a minimum assessment liability of INR 20,00,000/- (in addition to the immediate response liability) which may be increased up to a maximum of INR 4,50,00,000/- depending on the type and extent of contamination. The indicative cost for assessment and remediation works as given in Table 2 may be referred. Further, in addition to assessment liability, SPCB/PCC may impose the remediation liability based on remediation technology and indicative costs thereof given in Table-2. The responsible party shall submit a bank-guarantee equivalent to the sum of liabilities for the assessment and remediation or for the amount as specified by SPCB/PCC. This however does not include compensatory liabilities that may still be present.
- d) Upon finalization of remediation objective and SSTL, the responsible party may approach SPCBs/PCCs for deduction of site assessment liabilities from the total liabilities imposed upon him in the form of bank guarantee.
- e) In the event that the responsible party does not undertake any of the above actions, in spite of the SPCBs/PCCs directions, then SPCB shall undertake the immediate response, assessments and remediation work to the desired clean-up levels (in the larger interest of safeguarding the environment, public health and other relevant mandates under Central/State government regulations) and fix the liability for the same by imposing two to three times the costs incurred along with interest, as decided by the SPCB/PCC. This will serve as a deterrent for operators to follow the status quo of their contamination issue, and encourage them to act by themselves. Further, in case the responsible party does not respond, SPCBs/PCCs shall file FIR under Code of Criminal Procedure (CrPC) or approach National Green Tribunal or appropriate courts, as deemed fit, for initiating proceedings and recovery of the said amount from the responsible party along with the interest.

- f) In the event that the responsible party is not traceable, then the SPCBs/PCCs may undertake the immediate response, assessments and remediation on their own or by engaging third party. In case funds are not available, they may approach respective State / UT Government for the same. Further, in such circumstances, FIR may be filed by SPCBs/PCCs under the Code of Criminal Procedure (CrPC) for necessary investigation and for identifying the responsible party and initiate recovery of liability equivalent to three times the cost incurred.
- g) The occupier, transporter, importer or operator of a facility, may insure for an appropriate amount (depending on types of hazardous waste, quantum, possible impacts etc.) with insurance company to meet various environmental damage liabilities including compensation liability in the event of environmental damages due to handling and disposal of disposal of hazardous waste.

### 5.1 Indicative Cost of liabilities for Site Assessment and Remediation

It is to be noted that in the absence of any detailed database of sites having been assessed and remediated and the associated costs, a simplistic approach is adopted for assessing the cost of liabilities. Therefore the cost range will vary widely from case to case.

Liability for remediation cannot be calculated or judged without undertaking preliminary assessments and investigations. However, in order to aid the SPCBs/PCCs in setting a baseline yardstick with which they can hold the operator financially accountable, based on current Indian scenarios, a reasonable and worst case likely costs (or liability) estimations are possible. It is expected that the initial assessments and liability allocations, may be large, varying and at times inaccurate. Once a database of such liabilities is created, with more data, the ability to allocate these costs/ liabilities more precisely will increase. As a guidance tool and for indicative purposes, in order to assist the SPCB/ PCC's, a very broad order of magnitude cost matrix for allocating direct liability under some common Indian Hazardous Waste release scenarios has been presented in Table 2. It is emphasized that these costs are indicative in nature, will vary on a case to case basis, between different States, for different type of wastes, site physical setting, etc.

**Table 2: Indicative cost for Site Assessment and Remediation**

Scenario (onsite and offsite)	Site Assessment/ Risk Assessment		Remediation	
	Cost of liability (INR)	Notes	Cost of liability (INR)	Notes
Landfill breach and release of hazardous waste into environment	20,00,000 to 15,000,000	Costs can vary depending on volume of breach, whether the breach is above ground surface or below ground surface, whether the groundwater resources have been contaminated etc. Costs can vary in relation to the quantity of waste released, type of wastes, etc.	1,0000,000 to 250,000,000 and higher	Low range is applicable for basic excavation of above ground wastes and high range is applicable for situations where breach has occurred below ground contaminating groundwater resources. These complex situations of below ground breach can further be complicated and costly depending on the type of contaminant leaching into the groundwater, the sensitive receptors using that groundwater resource etc.

Scenario (onsite and offsite)	Site Assessment/ Risk Assessment		Remediation	
	Cost of liability (INR)	Notes	Cost of liability (INR)	Notes
Spillage of liquid hazardous waste due to transportation incident, including pipeline failures, spillage from drums, tanks etc also included	20,00,000 to 22,500,000	Costs can vary depending on what type of environmental receptors are located in the immediate spill vicinity (lake, river, stream, shallow potable groundwater aquifer, flora/ fauna, human receptors, etc.)	10000,000 to 200,000,000 and higher	Low costs may be applicable to sites where the groundwater table is very deep and the overlying strata is confining (example thick clay layer, competent rock with no weathering or fractures etc.). High costs may be applicable where the liquid hazardous waste immediately finds it to sensitive receptors including groundwater resources, surface water bodies used by humans, flora and fauna, etc.
Dumping of hazardous waste on open grounds without secondary containment	20,00,000 to 35,000,000	Costs will vary from a small dump (not exceeding 400 kg) to a large dump covering more than 100 m <sup>2</sup> spatial extent (not considering the vertical depth). Costs will be higher for sites where groundwater table is shallow, where contaminants are carcinogenic, etc.	10000,000 to 250,000,000 and above.	
Costs less than 10,000,000 may be applicable to small volumes of less than 1 ton and immediate lifting and transportation to TSDF and not residual waste further contaminating the subsurface	Low costs may be applicable to sites where the groundwater table is very deep and the overlying strata is confining (example thick clay layer, competent rock with no weathering or fractures, etc.). High costs may be applicable where the liquid hazardous waste immediately finds it to sensitive receptors including groundwater resources, surface water bodies used by humans, flora and fauna, etc.			

Scenario (onsite and offsite)	Site Assessment/ Risk Assessment		Remediation	
	Cost of liability (INR)	Notes	Cost of liability (INR)	Notes
Improper handling and storage of hazardous waste	10,00,000 to 10,000,000	Low costs are applicable for small spatial impacts (less than 10,000 m <sup>2</sup> ), whereas higher costs are for larger spatial impacts (greater than 10,000 m <sup>2</sup> ). Costs will also vary depending upon the local site settings, geology, hydrogeology, etc.	5,000,000 to 75,000,000 and higher	Low costs may be applicable to sites where the groundwater table is very deep and the overlying strata is confining (example thick clay layer, competent rock with no weathering or fractures, etc). High costs may be applicable where the liquid hazardous waste immediately finds it to sensitive receptors including groundwater resources, surface water bodies used by humans, flora and fauna, etc. Costs are also dependent on the type of contaminant etc.
Fire incident leading to spillage of hazardous waste/ contaminated runoff water	20,00,000 to 10,000,000		10000,000 to 75,000,000 and higher	Low costs may be applicable to sites where the water runoff is low and contact with hazardous wastes has been minimal. Higher costs would be applicable to situations where large volume of contaminated runoff has migrated offsite, spills of hazardous wastes have occurred due to the fire, etc. The costs will also get magnified based on the local site settings, depth to groundwater etc.

**Note:** The factors that should be accounted for in estimating remediation liabilities based on the remediation technologies are given at Annexure-V. This Annexure may be referred by SPCBs/PCCs to estimate remediation liability.

## 6

**ENFORCEMENT OF PENALTY**

The Rule 25(2) of the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008 stipulates that *"The occupier and the operator of the facility shall be liable to pay financial penalties as levied for any violation of the provisions under these rules by the State Pollution Control Board with the prior approval of the Central pollution Control Board."*

Section 15 of the Environment (Protection) Act, 1986, lays down provision for penalty for contravention of the provisions of the Act and the Rules, orders and directions issued thereunder. The same is reproduced as below:

**15. PENALTY FOR CONTRAVENTION OF THE PROVISIONS OF THE ACT AND THE RULES, ORDERS AND DIRECTIONS**

- (1) *Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.*
- (2) *If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.*

In view of above, financial penalty to be levied by the concerned SPCB/PCC for any violation may be limited to maximum of one lakh rupees per provision violated so as to ensure that levying of financial penalty remain within the brief of the Environment (Protection) Act, 1986, since the said Rules have been notified under the Environment (Protection) Act, 1986. However, non-compliance may attract violation of one or several provisions of the said Rules and thus the total financial penalty amount may be arrived by adding up number of provisions violated. Further, additional fine up to Rupees five thousand rupees for every day may also be imposed in case of failure continues by the responsible party beyond period by which remedial/corrective measures would have been implemented as suggested by the SPCB/PCC.

SPCBs/PCCs shall, therefore, send proposals of imposing financial penalty to be levied on defaulting party, as above, to CPCB for their approval. Such proposals shall include background and details of each and every violation of various provisions laid down under the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008, and financial penalty for each of such violations including the additional fine for continuing failures, wherever applicable. CPCB, upon examining the violations, may approve the same.

SPCB/PCC shall also ensure that case is filed in the court for invoking criminal case as stipulated under section 15 of the Environment (Protection) Act, 1986, especially in cases of gross violations of the provisions of the said Act/Rules.

## ROLES OF STATE POLLUTION CONTROL BOARD / POLLUTION CONTROL COMMITTEE

- (i) Every SPCB/PCC shall constitute an in-house team which may be named as "Hazardous Waste Incident Response Team" comprising officials having expertise in the field of hazardous waste management, soil, hydrogeology, water pollution, air pollution, and sampling/analysis. The objective of the aforesaid team shall be to collect all relevant data/samples/information which shall help in estimating/implementing environmental damage liability and financial penalty. In case adequate analysis facility is not available with SPCB/PCC, an arrangement may be made with EPA/NABL accredited laboratory for this purpose to handle such situation at any given time. The team shall develop its own protocol for immediate response assigning role of each of the officials/laboratory personnel etc. like team leader, sampling equipment mobilization (such as hand held X-Ray Fluorescence (XRF) tool for metals, hand held Photo-Ionization Detector (PID) for VOCs, soil sampling tools, oil-water interface probe, water level meter, etc.), field reconnaissance, data/information collection, etc. The cost incurred in this regard shall be recovered from the responsible party.
- (ii) In cases of receiving information about any illegal disposal of hazardous waste, that has occurred but not been reported by the responsible party, the concerned SPCBs/PCCs shall act immediately on receipt of such information as per the protocol identified in Section 4.1 of these guidelines.
- (iii) The following data/samples/information (including but not limited to) may be collected by the said Hazardous Waste Incident Response Team:
  - (a) Basic information of incident as per format given in Annexure IV;
  - (b) Background and possible causes of incident;
  - (c) Estimated quantification of each of the affected media such as land, surface water, ground water, air quality, human population, flora, fauna, third party properties, etc. in terms of area (m<sup>2</sup>), volume (m<sup>3</sup>), numbers, percentage etc., as applicable and possible. In case air quality is affected, the same may be reported based on physical observation in terms of area and population under direct impact, physical observation on air quality etc.;
  - (d) Collection of hazardous waste samples (minimum 03 samples at different location) indulged in the incident for characterisation and analysis of parameters of concern (w.r.t. impacts/contamination to land/surface water/ ground water etc.) based on preliminary investigation;
  - (e) Minimum 03 samples each of soil, surface water, sediment, ground water, ambient air etc., as the case may be, at different locations of affected areas as per the judgement of the Hazardous Waste Incident Response Team. However, more number of samples may be required depending on nature of incidence/site conditions;
  - (f) Sampling of atleast one sample in unaffected area/up-gradient, as the case may be, of soil, surface water, sediment, ground water, ambient air etc. for comparison of contamination/impacts and estimating liability;

- (g) Total number of provisions of the HWM Rules, 2008 and conditions of authorisation granted by the concerned SPCB/PCC that violated in the said incident with elaboration of each of such violations. The same shall help in estimating/ implementing the financial penalty, and;
- (h) Note on emergency measures taken by responsible party to alleviate the effect of incident.

More samples/data/information may require to be taken depending upon nature of incidence and site conditions.

- (iv) The Hazardous Waste Incident Response Team shall also co-ordinate with the officer-in-charge of emergency or disaster relief operation of the district or other region of a state or Union territory specified by whatever designation by the Government of the said State or Union territory, and in whose jurisdiction the industry, process or operation is located. It shall also co-ordinate with the statutory authorities or agencies, as the case may be, specified in column 3 in relation to places mentioned in column 2 against thereof of the Annexure I of this guidelines.
- (v) Based on the report of the Hazardous Waste Incident Response Team and accident reporting (submitted by the responsible party), the SPCB/PCC shall ensure that the immediate response measures are taken by the responsible party to contain further environmental damage. In case the said measures are not being taken by the responsible party adequately, SPCB/PCC shall undertake such measures on its own or engaging a third party and two times the amount incurred in this regard along with interest shall be recovered from the responsible party as immediate response liability (as part of direct liability).
- (vi) The SPCB/PCC shall obtain bank guarantee, equivalent to estimated assessment (including risk assessment) and remediation cost liabilities or for the amount as decided by SPCB/PCC, from the responsible party as early as possible but not later than three weeks from day of the incidence. The cost in this regard may be estimated separately (i.e. for assessment and remediation work) by the SPCB/PCC on case to case basis. However, an indicative cost in this regard is given in Section 5.1 which may be helpful.
- (vii) SPCB/PCC shall ensure that ESA I report is received from the responsible party within four weeks of the incidence and shall impose ESA II activity, wherever required, also taking into account of data/information/sampling results provided by the Hazardous Waste Incident Response Team. Upon receipt of sampling (ESA II) and assessment plan by the responsible party along with the estimated cost, the SPCB/PCC shall examine the same. SPCB/PCC may approve the same by modifying or adding to the scope of the said sampling and assessment plan, if required.

The approval of the aforesaid plan, including risk assessment, shall be accorded by the SPCB/PCC to the responsible party and the work of assessment thereof shall be monitored by the SPCB/PCC.

Upon receipt of the assessment report, which shall also comprise of risk assessment, proposed remediation objective and remediation plans along with the cost and time schedule, SPCB/PCC shall examine the same and set remediation objective/standard. If required, SPCB/PCC may ask the responsible party to submit any alternate remediation plan along with cost which has not been given in the said assessment report. The approved remediation objective/standard shall be executed by the responsible party which shall be monitored by SPCB/PCC as per the time schedules and phase wise concentration targets thereof as declared in the assessment report so as to meet the said remediation objective/standard. During such monitoring, few sampling and analysis thereof shall also be carried out by the SPCB/PCC for validation.

Upon satisfactory completion of sampling and assessment work and acceptance of the same along with

finalization of remediation objective and remediation plan and cost thereof, the SPCB/PCC may return the part of bank guarantee retaining the said remediation cost. In case submitted bank guarantee value is lesser than estimated remediation cost or the amount specified by SPCB/PCC, the responsible party shall submit additional bank guarantee within a stipulated time.

- (viii) Upon satisfactory completion and validation of the remediation objective and standards (SSTL), SPCB/PCC may return the remaining bank guarantee submitted by the responsible party.
- (ix) For examining the assessment report, setting remediation objectives/standards, remediation plan and closure reports, SPCB/PCC may carry out the same of their own or constituting an expert committee thereof. Further, to monitor work of assessment and remediation, SPCB may engage a consultant having experience in the field of contaminated site remediation. The cost incurred in this regard shall be paid to SPCB/PCC by the responsible party.
- (x) In case the responsible party fails to undertake timely assessment and remediation work, SPCB/PCC shall carry out the same of its own or by engaging a consultant/contractor. In such case, SPCB/PCC shall impose liability equivalent to two times the cost incurred on the same to the responsible party. The said liability amount shall be recovered with interest as applicable. Further, in case the responsible party does not respond, SPCBs/PCCs shall file FIR under Code of Criminal Procedure (CrPC) or approach National Green Tribunal or appropriate courts, as deemed fit, for initiating proceedings and recovery of the said amount from the responsible party.
- (xi) In the event that the responsible party is not traceable, then the SPCBs/PCCs may undertake the immediate response, assessments and remediation on their own or by engaging third party. In case funds are not available, they may approach respective State / UT Government for the same. Further, in such circumstances, FIR may be filed by SPCBs/PCCs under the Code of Criminal Procedure (CrPC) for necessary investigation and for identifying the responsible party and initiate recovery of liability equivalent to three times the cost incurred.
- (xii) For imposing rate of interest on liability amount to be recovered from the date when the same is raised, SPCB/PCC shall ensure that such rate of interest is fixed by the Government through order in compliance with the provisions stipulated under section 9 of the Environment (Protection) Act, 1986.
- (xiii) SPCB/PCC shall impose following conditions in the existing and new authorisation issued to the occupier, transporter, importer or operator of a facility under the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008:
  - (a) Evolve and implement Emergency Response Plan (ERP) for hazardous wastes for which this authorisation is being granted considering all site specific possible scenarios such as spillages, leakages, fire etc. and their possible impacts. Mock drill in this regard shall be carried out at regular interval of time; and
  - (b) Provisions outlined in these guidelines shall be followed by the unit/person, whom authorisation is hereby granted.

A declaration on non-judicial stamp paper shall be obtained from authorised person/unit that they will follow all provisions including the scope of submitting bank guarantee stipulated in this guidelines in the

event of spillage, leakage or fire while handling hazardous waste by them. All new authorisations shall be granted only after obtaining the said declaration on non-judicial stamp paper.

For ease in implementing environmental damage liability on responsible party, all SPCBs/PCCs may pursue with respective Government for delegation of power to the SPCB/PCC for recovering amount, as mentioned in this document, as land revenue from the responsible party in case immediate response/ site assessment/ risk assessment/ remediation work, as applicable, is carried out by the SPCB/PCC.

# Annexure I

The Environment (Protection) Rules, 1986

**[SCHEDULE V]**

(See rule 12)

S.No	Place at which the discharge of any environmental Pollutant in excess of prescribed standards occurs or is apprehended to occur	Authorities or agencies to be intimated	Appointed under
	2	3	4
1	Factories as defined under the factories Act, 1948		
	(a) owned by Central Government and engaged in carrying out the purposes of the Atomic Energy Act; 1962;	I. the atomic energy regulatory Board (AERB)	The Atomic Energy Act, 1962
		II. The Ministry of Environment and forests.	
	(b) Factories other than those mentioned in paragraph (a)	I. The chief Inspector of Factories.	
2.	Mine as defined under the Mines and Minerals (Regulation and Development) Act, 1957	II. The Inspector of Factories having local jurisdiction.	The Factories Act, 1948.
		III. The Ministry of Environment and Forests.	-do-
3.	Port as defined under the Indian Ports Act, 1908	I. Conservator of Ports	The Indian Ports Act, 1908
		II. The Ministry of Environment & Forests	-
4.	Plantations as defined under the Plantations Labour Act, 1951	I. The Chief Inspector of Plantations.	The Plantations Labour Act, 1951
		II. The Inspector of Plantation having local jurisdiction.	-
		III. the Ministry of Environment & Forests.	-

5.	Motor Vehicles as defined under the Motor Vehicles Act, 1939	I. State Transport Authority	The Motor Vehicles Act, 1939
		II. Regional Transport Authority having regional jurisdiction.	
		III. The Ministry of Environment & Forests	
6.	Ship as defined under the Merchant Shipping Act, 1958	I. Director General of Shipping	The Merchant Shipping Act, 1958
		II. Surveyor having jurisdiction.	-do-
		III. The Ministry of Environment & Forests.	

- 1 Schedule II relating to rule 12 re-numbered as Schedule V vide G.S.R. 422 (E) dated 19.05.1993, published in the Gazette No. 174 dated 19.05.1993.

# Annexure II

## **Schedule II [See Sections 15(4) and 17(1)] Heads under Which Compensation or Relief for Damage May Be Claimed**

- a. Death;
- b. Permanent, temporary, total or partial disability or other injury or sickness;
- c. Loss of wages due to total or partial disability or permanent or temporary disability;
- d. Medical expenses incurred for treatment of injuries or sickness;
- e. Damages to private property;
- f. Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;
- g. Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;
- h. Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;
- i. Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauna;
- j. Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;
- k. Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;
- l. Loss and destruction of any property other than private property;
- m. Loss of business or employment or both;
- n. Any other claim arising out of, or connected with, any activity of handling of hazardous substance.

# Annexure III

## Form 14

(See rule 24)

### FORMAT OF ACCIDENT REPORT

[To be submitted by the occupier or operator of a facility and the transporter to the SPCB/PCC]

1. The date and time of the accident. :
2. Sequence of events leading to accident. :
3. The hazardous waste involvement in accident. :
4. The date for assessing the effects of the accident on health or the environment.
5. The emergency measures taken. :
6. The steps taken to alleviate the effects of accidents. :
7. The steps taken to prevent the recurrence of such an accident. :

**Place:**            **Signature:**

**Date:**            **Designation**

# Annexure IV

## ENVIRONMENT POLLUTION INCIDENT REPORT

INCIDENT REPORTED BY (NAME): CONTACT No.:	ORGANISATION/ AGENCY:
INCIDENT LOCATION:	
RESPONSIBLE PARTY'S NAME:	PHONE & ADDRESS:
<b>HAZARDOUS WASTE INVOLVED</b>	
FORM: SOLID <input type="checkbox"/> TARRY <input type="checkbox"/> SLURRY <input type="checkbox"/> LIQUID <input type="checkbox"/> OTHERS(Please Specify) <input type="text"/>	
QUANTITY OF HAZARDOUS WASTE INDULGED:	
CHARACTERISTICS OF HAZARDOUS WASTE INDULGED:	
EXPLOSIVE <input type="checkbox"/> CORROSIVE <input type="checkbox"/> TOXIC <input type="checkbox"/> FLAMMABLE <input type="checkbox"/>	
OTHER(Please Specify) <input type="text"/>	
SOURCE OF HAZARDOUS WASTE INDULGED:	
NAME OF HAZARDOUS WASTE INDULGED (INCLUDING COMMON & TRADE NAME):	
CATEGORY AS PER THE SCHEDULE OF THE HWM RULES, 2008:	
DATE/TIME INCIDENT OCCURRED:	
TYPE OF INCIDENT: FIRE <input type="checkbox"/> ACCIDENT <input type="checkbox"/> SPILLAGES <input type="checkbox"/> BREACH OF CONTAINMENT <input type="checkbox"/>	
OTHER(Please Specify) <input type="text"/>	
DURATION OF TIME:	

MEDIA POSSIBLY AFFECTED: AIR  GROUND WATER  SOIL  SURFACE WATER

SUSPECTED LOSS OF AQUATIC LIFE: Yes  No

TOP SOIL CHARACTERISTIC IN THE AREA BASED ON PHYSICAL APPEARANCE ( silty, clayey, sandy, etc.):

AQUIFER CHARACTERISTICS: LOCAL POPULATION IN THE VICINITY:

**SITUATION DESCRIPTION:** Below points may be answered, if possible, in addition to any other information that might be available)

**GEOLOGY TYPE:** (Sand, Clay, Silt, Weathered rock, fracture rock, competent rock)

**DEPTH TO GROUNDWATER:** (M BELOW GROUND SURFACE)

**GROUNDWATER USAGE IN VICINITY:** (Drinking, agricultural, bathing, washing, industrial use)

**GROUNDWATER VULNERABILITY :** (Likelihood of contaminants reaching the groundwater)

**GROUNDWATER SENSITIVITY:** ( potential significance of any impact)

**OTHER WATER RESOURCES VULNERABILITY & SENSITIVITY:**

**RECEPTORS IN VICINITY:** (Residential, industrial, agricultural, marine life, wetlands, etc)

---

**CONDITION**

LEAKAGE  LEAKING  FIRE  ACCIDENT  SPILLAGES  OVERFILL ILLEGAL  DUMP

ANY OTHER, PLEASE SPECIFY:

EVACUATION CONDUCTED: Yes  No  IF YES, AT WHAT DISTANCE:

HUMAN INJURIES: Yes  No  IF YES, HOW MANY AND WHAT TYPE:

HUMAN CASUALTY: Yes  No  IF YES, HOW MANY:

EXTENT OF SPILLAGE/FIRE/ACCIDENT:

---

**POSSIBLE SCENARIOS**

FIRE DUE TO INFLAMMABLE NATURE OF HAZARDOUS WASTE  EXPLOSION DUE TO IMPROPER HANDLING

FIRE/EXPLOSION DUE TO INCOMPATIBLE NATURE OF HAZARDOUS WASTE  LEAKAGES/SPILLAGES DUE TO CORROSION

SPILLAGES DUE TO FAILURE OF PIPING SYSTEMS  LEAKAGES/SPILLAGES DURING TRANSFER OF HAZARDOUS WASTES

SPILLS/OVERFILLS DUE TO MANUAL ERROR  SPILLS/FIRE DUE TO ACCIDENTS  ILLEGAL DUMPING   
 SPILLS/LEAKAGES DUE TO FLOODING OF HAZARDOUS WASTE CONTAINMENTS  IMPROPER STORAGE/DISPOSAL   
 SPILLS/LEAKAGES/FIRE DUE TO TECHNICAL ERROR  LEAKAGE OF HAZARDOUS WASTE LANDFILL PRESENT ON-SITE

ANY OTHER, PLEASE SPECIFY:

ANY KNOWN OR ANTICIPATED RISK:

COMMENTS/REMARKS:

DATE:	TIME:	INITIALS:	HAZARDOUS CLASS:
-------	-------	-----------	------------------

NAME & DESIGNATION OF THE OFFICIAL REPORTING THE INCIDENT:

TELEPHONE #:

SIGNATURE:

# Annexure V

Factors to be accounted for estimating liability for remediation of soil, groundwater, surface water and sediment contaminate sites based on the remediation technologies

Note: Considering large number of parameters that ultimately dictate the liability and costs for clean-up to the recommended levels, it is currently not possible to generate a complete table with exact costs. Each case/ site is unique in itself as each site has very different key critical parameters, each of which has a different weightage in terms of gravity or impact.

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
<b>In- Situ Biological Treatments for Soil and Sediment Contaminated Sites</b>				
1.	<p><b>Bioventing</b></p> <p>Oxygen is delivered to contaminated unsaturated soils by forced air movement (either extraction or injection of air) to increase oxygen concentrations and stimulate biodegradation.</p>	<p>Bioventing techniques have been successfully used to remediate soils contaminated by petroleum hydrocarbons, nonchlorinated solvents, some pesticides, wood preservatives, and other organic chemicals.</p>	<p>Key Cost Drivers</p> <p>1) Surface area is the primary cost driver</p> <p>Impacts the number of injection/extraction wells that are installed. The number of wells installed (and cost) increases with surface area.</p> <p>2) Soil containing sand and gravel produced significantly lower costs by reducing the number of injection/extraction wells that needed to be installed.</p> <p>3) Other factors include contaminant type and concentration, soil permeability, well spacing and number, pumping rate, and off-gas treatment. This technology does not require expensive equipment and relatively few personnel are involved in the operation and maintenance of a bioventing system. Periodic maintenance monitoring is conducted.</p>	<p>1. Low degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. Low degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
2.	<p><b>Bioremediation</b></p> <p>The activity of naturally occurring microbes is stimulated by circulating water-based solutions through contaminated soils to enhance in situ biological degradation of organic contaminants or immobilization of inorganic contaminants. Nutrients, oxygen, or other amendments may be used to enhance bioremediation and contaminant desorption from subsurface materials.</p>	Bioremediation techniques have been successfully used to remediate soils, sludges, and ground water contaminated with petroleum hydrocarbons, solvents, pesticides, wood preservatives, and other organic chemicals	Factors that affect cost include the soil type and chemistry, type and quantity of amendments used, and type and extent of contamination	<ol style="list-style-type: none"> <li>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. Average degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. Low degree of general costs</li> </ol>
3.	<p><b>Phytoremediation</b></p> <p>Phytoremediation is a process that uses plants to remove, transfer, stabilize, and destroy contaminants in soil and sediment. Contaminants may be either organic or inorganic.</p>	Phytoremediation may be applicable for the remediation of metals, pesticides, solvents, explosives, crude oil, PAHs, and landfill leachates	<p>Key Cost Drivers</p> <ol style="list-style-type: none"> <li>1) Scale of effort</li> <li>2) Density of sampling</li> </ol> <p>Area of contamination is the primary cost driver</p> <p>Primary cost driver of sampling cost; may be directed by regulatory requirements.</p>	<ol style="list-style-type: none"> <li>1. Low degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. Low degree of capital investment</li> <li>3. Low reliability &amp; low maintenance</li> <li>4. Low degree of general costs</li> </ol>
<b>n- Situ Physical/Chemical Treatments for Soil and Sediment Contaminated Sites</b>				
4.	<p><b>Chemical Oxidation</b></p> <p>Oxidation chemically converts hazardous contaminants to non-hazardous or less toxic compounds that are more stable, less mobile, and/or inert. The oxidizing agents most commonly used are ozone, hydrogen peroxide, hypochlorites, chlorine, and chlorine dioxide.</p>		Data can be gathered from Chemical Oxidation for Groundwater	<ol style="list-style-type: none"> <li>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. Average degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. Average degree of general costs</li> </ol>

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
5.	<p><b>Soil Vapor Extraction</b></p> <p>Vacuum is applied through extraction wells to create a pressure/concentration gradient that induces gas-phase volatiles to be removed from soil through extraction wells. This technology also is known as in situ soil venting, in situ volatilization, enhanced volatilization, or soil vacuum extraction.</p>	<p>The target contaminant groups for in situ SVE are VOCs and some fuels. The technology is typically applicable only to volatile compounds with a Henry's law constant greater than 0.01 or a vapor pressure greater than 0.5 mm Hg (0.02 inches Hg). Other factors, such as the moisture content, organic content, and air permeability of the soil, will also affect in situ SVE's effectiveness.</p>	<p>Key Cost Drivers</p> <p>1) Economy of Scale</p> <p>Quantity of material treated has a large impact</p> <p>2) Soil Type</p> <p>Based on the number of wells required</p> <p>3) Can be radically different if no airflow treatment is required</p> <p>4) The cost of in situ SVE is site-specific, depending on the size of the site, the nature and amount of contamination, and the hydrogeological setting (EPA, July 1989). These factors affect the number of wells, the blower capacity and vacuum level required, and the length of time required to remediate the site. A requirement for off-gas treatment adds significantly to the cost. Water is also frequently extracted during the process and usually requires treatment prior to disposal, further adding to the cost.</p>	<p>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. Average degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>
6.	<p><b>Solidification/Stabilization</b></p> <p>Contaminants are physically bound or enclosed within a stabilized mass (solidification), or chemical reactions are induced between the stabilizing agent and contaminants to reduce their mobility (stabilization).</p>	<p>The target contaminant group for in situ Solidification/Stabilization is generally inorganics (including radionuclides).</p>	<p>Costs for Solidification/Stabilization processes vary widely according to materials or reagents used, their availability, project size, and chemical nature of contaminants (e.g., types and concentration levels for shallow applications). The major factor driving the selection process beyond basic waste compatibility is the availability of suitable reagents</p>	<p>1. Average degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. High degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>
<b>In-Situ Thermal Treatment for Soil and Sediment Contaminated Sites</b>				

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
7.	<p><b>Thermal Treatment</b></p> <p>Steam/hot air injection or electrical resistance/ electromagnetic/fiber optic/radio frequency heating is used to increase the volatilization rate of semi-volatiles and facilitate extraction.</p>	<p>High moisture content is a limitation of standard SVE that thermally enhanced SVE may help overcome. Heating, especially radio frequency heating and electrical resistance heating can improve air flow in high moisture soils by evaporating water. The system is designed to treat SVOCs but will consequently treat VOCs. Thermally enhanced SVE technologies also are effective in treating some pesticides and fuels, depending on the temperatures achieved by the system.</p>	<p>Key Cost Drivers</p> <p>1) Soil Type</p> <p>The primary cost driver is soil type, which once again determines soil permeability. For thermal treatment, soils of lower permeability (silts/silty-clays) are less expensive to remediate as they require less gas flow.</p> <p>2) Depth to Top/Thickness of Contaminated Area</p> <p>The secondary cost drivers are depth to the top and thickness of the contaminated zone. A deeper and thicker region of contaminated soils has higher remedial costs</p>	<p>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. High degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Average degree of general costs</p>
<b>Ex- Situ Biological Treatment for Soil and Sediment Contaminated Sites (assuming excavation)</b>				
8.	<p><b>Biopiles</b></p> <p>Excavated soils are mixed with soil amendments and placed in aboveground enclosures. It is an aerated static pile composting process in which compost is formed into piles and aerated with blowers or vacuum pumps</p>	<p>Biopile treatment has been applied to treatment of nonhalogenated VOCs and fuel hydrocarbons. Halogenated VOCs, SVOCs, and pesticides also can be treated, but the process effectiveness will vary and may be applicable only to some compounds within these contaminant groups.</p>	<p>Costs are dependent on the contaminant, procedure to be used, need for additional pre- and post-treatment, and need for air emission control equipment. Biopiles are relatively simple and require few personnel for operation and maintenance.</p>	<p>1. Low degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. Low degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>
<b>Ex- Situ Physical/Chemical Treatments for Soil and Sediment Contaminated Sites (assuming excavation)</b>				
9.	<p><b>Chemical Reduction/Oxidation</b></p> <p>Reduction/oxidation chemically converts hazardous contaminants to non-hazardous or less toxic compounds that are more stable, less mobile, and/or inert. The oxidizing agents most commonly used are ozone, hydrogen peroxide, hypochlorites, chlorine, and chlorine dioxide.</p>			

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
10.	<p><b>Soil Washing</b></p> <p>Contaminants sorbed onto fine soil particles are separated from bulk soil in an aqueous-based system on the basis of particle size. The wash water may be augmented with a basic leaching agent, surfactant, pH adjustment, or chelating agent to help remove organics and heavy metals.</p>	<p>The target contaminant groups for soil washing are SVOCs, fuels, and heavy metals. The technology can be used on selected VOCs and pesticides. The technology offers the ability for recovery of metals and can clean a wide range of organic and inorganic contaminants from coarse-grained soils.</p>	<p>Key Cost Drivers</p> <p>1) Economy of Scale</p> <p>Quantity of material treated has a large impact</p> <p>2) Processor speed</p> <p>Also depends on the amount of waste being processed</p>	<p>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. High degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Average degree of general costs</p>
11.	<p><b>Solidification/ Stabilization</b></p> <p>Contaminants are physically bound or enclosed within a stabilized mass (solidification), or chemical reactions are induced between the stabilizing agent and contaminants to reduce their mobility (stabilization).</p>	<p>The target contaminant group for ex situ S/S is inorganics, including radionuclides. Most S/S technologies have limited effectiveness against organics and pesticides, except vitrification which destroys most organic contaminants</p>	<p>Key Cost Drivers</p> <p>1) Type of Waste</p> <p>Moisture content in the sludge drives up costs compared to solid</p> <p>Contaminant concentration and type determine the amount of reagents added to the waste to attain the required treatment standards</p> <p>2) Size of the mobile s/s system</p> <p>Choosing the correct size mobile s/s system to adequately handle the throughput of waste volume</p>	<p>1. Average degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. High degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>
<b>Ex- Situ Thermal Treatments for Soil and Sediment Contaminated Sites (assuming excavation)</b>				
12	<p><b>Incineration</b></p> <p>High temperatures, 870-1,200 °C, are used to combust (in the presence of oxygen) organic constituents in hazardous wastes</p>	<p>Incineration is used to remediate soils contaminated with explosives and hazardous wastes, particularly chlorinated hydrocarbons, PCBs, and dioxins.</p>	<p>Key Cost Drivers</p> <p>1) Type of waste</p> <p>Debris &lt; Soil &lt; Sludge &lt; Sediment</p> <p>2) Quantity</p> <p>There is only a INR 18000 - INR 24000 gap in cost for quantities ranging from 5,000 - 100,000.</p>	<p>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. High degree of capital investment</p> <p>3. Average reliability &amp; low maintenance</p> <p>4. High degree of general costs</p>

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
13	<p><b>Thermal Desorption</b></p> <p>Wastes are heated to volatilize water and organic contaminants. A carrier gas or vacuum system transports volatilized water and organics to the gas treatment system.</p>	<p>Thermal desorption systems have varying degrees of effectiveness against the full spectrum of organic contaminants.</p> <p>The target contaminant groups for Low Temperature Thermal Desorption (LTTD) systems are nonhalogenated VOCs and fuels. The technology can be used to treat SVOCs at reduced effectiveness.</p> <p>The target contaminants for High Temperature Thermal Desorption (HTTD) are SVOCs, PAHs, PCBs, and pesticides; however, VOCs and fuels also may be treated, but treatment may be less cost-effective.</p>	<p>Key Cost Drivers</p> <p>1) Economy of Scale</p> <p>Quantity of material treated has a large impact</p> <p>2)Moisture content</p> <p>Increases required heat input (increasing fuel costs)</p>	<p>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. High degree of capital investment</p> <p>3. Average reliability &amp; low maintenance</p> <p>4. Average degree of general costs</p>
<b>Containment for Soil and Sediment Contaminated Sites</b>				
14.	<p><b>Landfill Cap</b></p> <p>Landfill caps are used for contaminant source control.</p>	<p>Landfill Caps may be temporary or final. Temporary caps can be installed before final closure to minimize generation of leachate until a better remedy is selected. They are usually used to minimize infiltration when the underlying waste mass is undergoing settling. A more stable base will thus be provided for the final cover, reducing the cost of the post-closure maintenance. Landfill caps also may be applied to waste masses that are so large that other treatment is impractical.</p>	<p>Landfill caps are generally the least expensive way to manage the human health and ecological risks effectively</p>	<p>1. Average degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. High degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>
<b>Other Treatment for Soil and Sediment Contaminated Sites</b>				
15.	<p><b>Excavation, Retrieval, and Off-Site Disposal</b></p> <p>Contaminated material is removed and transported to permitted off-site treatment and disposal facilities. Pretreatment may be required.</p>	<p>Excavation and off-site disposal is applicable to the complete range of contaminant groups with no particular target group. Excavation and off-site by relocating the waste to a different (and presumably safer) site</p>	<p>These estimates include excavation/removal, transportation, and disposal at a RCRA permitted facility. Additional cost of treatment at disposal facility may also be required. Excavation and off-site disposal is a relatively simple</p>	<p>1. Low degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. Low degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p>

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
			process, with proven procedures. It is a labor-intensive practice with little potential for further automation. Additional costs may include soil characterization and treatment to meet land ban requirements.	
<b>In-Situ Biological Treatments for Groundwater and Surface Water Contaminated Sites</b>				
16.	<p><b>Bioremediation</b></p> <p>The rate of bioremediation of organic contaminants by microbes is enhanced by increasing the concentration of electron acceptors and nutrients in ground water, surface water, and leachate. Oxygen is the main electron acceptor for aerobic bioremediation. Nitrate serves as an alternative electron acceptor under anoxic conditions.</p>	<p>Target contaminants for enhanced biodegradation processes are nonhalogenated VOCs, nonhalogenated SVOCs, and fuels. Pesticides also should have limited treatability. Nitrate enhancement has primarily been used to remediate ground water contaminated by BTEX.</p>	<p>Variables affecting the cost are the nature and depth of the contaminants, use of bioaugmentation and/or hydrogen peroxide or nitrate addition, and ground water pumping rates.</p>	<ol style="list-style-type: none"> <li>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. Average degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. Low degree of general costs</li> </ol>
17.	<p><b>Monitored Natural Attenuation</b></p> <p>Natural subsurface processes—such as dilution, volatilization, biodegradation, adsorption, and chemical reactions with subsurface materials—are allowed to reduce contaminant concentrations to acceptable levels.</p>	<p>Target contaminants for natural attenuation are VOCs and SVOCs and fuel hydrocarbons. Fuel and halogenated VOCs are commonly evaluated for natural attenuation. Pesticides also can be allowed to naturally attenuate, but the process may be less effective and may be applicable to only some compounds within the group.</p>	<p>There are costs for modeling and monitoring. Modeling determines whether natural attenuation is a feasible remedial alternative. The most significant costs associated with natural attenuation are most often due to monitoring requirements, which include two major parts - site characterization and performance monitoring. Site characterization determines the extent of contamination and contaminant degradation rates. Performance monitoring tracks down contaminants migration and degradation and cleanup status</p>	<ol style="list-style-type: none"> <li>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. Average degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. Low degree of general costs</li> </ol>

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
18.	<p><b>Phytoremediation</b></p> <p>Phytoremediation is a set of processes that uses plants to remove, transfer, stabilize and destroy organic/inorganic contamination in ground water, surface water, and leachate.</p>	Phytoremediation can be used to clean up organic contaminants from surface water, ground water, leachate, and municipal and industrial wastewater.	<p>Key Cost Drivers</p> <p>1) Scale of effort</p> <p>Area of contamination is the primary cost driver</p> <p>2) Tree size (maturity) is the secondary cost driver.</p>	<p>1. Low degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. Low degree of capital investment</p> <p>3. Low reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>
<b>In-Situ Physical/Chemical Treatments for Groundwater and Surface Water Contaminated Sites</b>				
19.	<p><b>Air Sparging</b></p> <p>Air is injected into saturated matrices to remove contaminants through volatilization</p>	The target contaminant groups for air sparging are VOCs and fuels.	<p>Key Cost Drivers</p> <p>1) Surface area (contaminant orientation)</p> <p>Surface area of contamination is the primary cost driver, and directly affects the quantity of air sparge points.</p> <p>2) Depth to Contamination</p> <p>Depth is the secondary cost driver. Cost increases with depth since it impacts the drilling costs.</p>	<p>1. Low degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. Low degree of capital investment</p> <p>3. High reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>
20.	<p><b>Bioslurping</b></p> <p>Bioslurping combines the two remedial approaches of bioventing and vacuum-enhanced free-product recovery. Bioventing stimulates the aerobic bioremediation of hydrocarbon-contaminated soils. Vacuum-enhanced free-product recovery extracts LNAPLs from the capillary fringe and the water table.</p>	Bioslurping can be successfully used to remediate soils contaminated by petroleum hydrocarbons. It is a cost-effective in situ remedial technology that simultaneously accomplishes LNAPL removal and soil remediation in the vadose zone. Bioslurping is also applicable at sites with a deep ground water table (>30ft.).		<p>1. Low degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. Low degree of capital investment</p> <p>3. Average reliability &amp; low maintenance</p> <p>4. Low degree of general costs</p>
21.	<p><b>Chemical Oxidation</b></p> <p>Oxidation chemically converts hazardous contaminants to non-hazardous or less toxic compounds that are more stable, less mobile, and/or inert. The oxidizing agents most commonly used are ozone, hydrogen peroxide, hypochlorites, chlorine, and chlorine dioxide.</p>		<p>Key Cost Drivers</p> <p>1) Economy of Scale</p> <p>Quantity of material treated has a large impact</p> <p>2) Moisture content in waste</p> <p>Slight increase in costs between soil and sludge</p> <p>3) Contaminant concentrations</p> <p>High influent and low effluent concentrations will drive up costs</p>	<p>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</p> <p>2. Average degree of capital investment</p> <p>3. Average reliability &amp; low maintenance</p> <p>4. Average degree of general costs</p>

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
22.	<p><b>Dual Phase Extraction</b></p> <p>A high vacuum system is applied to simultaneously remove various combinations of contaminated ground water, separate-phase petroleum product, and hydrocarbon vapor from the subsurface.</p>	<p>The target contaminant groups for dual phase extraction are VOCs and fuels (e.g., LNAPLs). Dual phase vacuum extraction is more effective than SVE for heterogeneous clays and fine sands.</p>	<p>Key Cost Drivers</p> <p>1) Soil Type</p> <p>Soil type determines permeability, which is the primary cost driver. Dual phase extraction works best for permeable sand-silt mixtures. Impermeable (clayey) or excessively permeable (gravel/sand) soils are more recalcitrant.</p> <p>2) Depth to Base of Contamination</p> <p>Depth to the base of contamination is the secondary driver, as an increased thickness and depth of contaminated groundwater increases cost.</p>	<ol style="list-style-type: none"> <li>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. High degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. Average degree of general costs</li> </ol>
23.	<p><b>In-Well Air Stripping</b></p> <p>Air is injected into a double screened well, lifting the water in the well and forcing it out the upper screen. Simultaneously, additional water is drawn in the lower screen. Once in the well, some of the VOCs in the contaminated ground water are transferred from the dissolved phase to the vapor phase by air bubbles. The contaminated air rises in the well to the water surface where vapors are drawn off and treated by a soil vapor extraction system.</p>	<p>The target contaminant groups for vacuum vapor extraction are halogenated VOCs, SVOCs, and fuel s.</p>	<p>Data Not Available</p>	<ol style="list-style-type: none"> <li>1. Average degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. High degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. Average degree of general costs</li> </ol>
24.	<p><b>Passive/Reactive Treatment Walls</b></p> <p>These barriers allow the passage of water while causing the degradation or removal of contaminants.</p>	<p>Target contaminant groups for passive treatment walls are VOCs, SVOCs, and inorganics. The technology can be used, but may be less effective, in treating some fuel hydrocarbons.</p>	<p>Key Cost Drivers</p> <ol style="list-style-type: none"> <li>1) Economy of Scale</li> <li>2) Quantity of material treated has a large impact</li> <li>3) Width of the plume to be treated</li> </ol> <ul style="list-style-type: none"> <li>• Choice of supplemental amendments</li> <li>• Additional monitoring required by regulators</li> </ul>	<ol style="list-style-type: none"> <li>1. Average degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. High degree of capital investment</li> <li>3. Low reliability &amp; low maintenance</li> <li>4. Average degree of general costs</li> </ol>

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
<b>In- Situ Thermal Treatment for Groundwater and Surface Water Contaminated Sites</b>				
25.	<p><b>Thermal Treatment</b></p> <p>Steam is forced into an aquifer through injection wells to vaporize volatile and semivolatile contaminants. Vaporized components rise to the unsaturated zone where they are removed by vacuum extraction and then treated.</p>	<p>The target contaminant groups for hot water or steam flushing/stripping are SVOCs and fuels. VOCs also can be treated by this technology, but there are more cost-effective processes for sites contaminated with VOCs.</p>	<p>The most significant factor affecting cost is the time of treatment or treatment rate. With the mobile system, treatment rate is influenced primarily by the soil type, waste type, and on-line efficiency. Cost estimates for this technology are strongly dependent on the treatment rate and range.</p>	<ol style="list-style-type: none"> <li>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. High degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. Average degree of general costs</li> </ol>
<b>Ex- Situ Biological Treatment for Groundwater and Surface Water Contaminated Sites</b>				
26.	<p><b>Constructed Wetlands</b></p> <p>The constructed wetlands-based treatment technology uses natural geochemical and biological processes inherent in an artificial wetland ecosystem to accumulate and remove metals, explosives, and other contaminants from influent waters.</p>	<p>Constructed wetlands have most commonly been used in wastewater treatment for controlling organic matter; nutrients, such as nitrogen and phosphorus; and suspended sediments.</p>	<p>Data Not Available</p>	<ol style="list-style-type: none"> <li>1. Average degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. High degree of capital investment</li> <li>3. NA</li> <li>4. Average degree of general costs</li> </ol>
<b>Ex- Situ Physical/Chemical Treatment for Groundwater and Surface Water Contaminated Sites</b>				
27.	<p><b>Adsorption/Absorption</b></p> <p>In liquid adsorption, solutes concentrate at the surface of a sorbent, thereby reducing their concentration in the bulk liquid phase.</p>	<p>The target contaminants groups for adsorption/absorption processes are most organic contaminants and selected inorganic contaminants from liquid and gas streams.</p>		<ol style="list-style-type: none"> <li>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. Average degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. High degree of general costs</li> </ol>
28.	<p><b>Advanced Oxidation Processes</b></p> <p>Advanced Oxidation Processes including ultraviolet (UV) radiation, ozone, and/or hydrogen peroxide are used to destroy organic contaminants as water flows into a treatment tank. If ozone is used as the oxidizer, an ozone destruction unit is used to treat collected off gases from the treatment tank and downstream units where ozone gas may collect, or escape.</p>	<p>Practically any organic contaminant that is reactive with the hydroxyl radical can potentially be treated.</p>	<p>Factors that influence the cost to implementing UV/oxidation include:</p> <ul style="list-style-type: none"> <li>- Types and concentration of contaminants (as they affect oxidizer selection, oxidizer dosage, UV light intensity, and treatment time).</li> <li>- Degree of contaminant destruction required.</li> <li>- Desired water flow rates.</li> <li>- Requirements for pretreatment and/or post-treatment.</li> </ul>	<ol style="list-style-type: none"> <li>1. High degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. High degree of capital investment</li> <li>3. Average reliability &amp; low maintenance</li> <li>4. Average degree of general costs</li> </ol>

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
29.	<b>Air Stripping</b> Volatile organics are partitioned from extracted ground water by increasing the surface area of the contaminated water exposed to air. Aeration methods include packed towers, diffused aeration, tray aeration, and spray aeration.	Air stripping is used to separate VOCs from water. It is ineffective for inorganic contaminants. Henry's law constant is used to determine whether air stripping will be effective. Generally, organic compounds with constants greater than 0.01 atmospheres · m <sup>3</sup> /mol are considered amenable to stripping.	Key Cost Drivers • Influent flow rate • Relative contaminant volatility • Off-gas treatment (when necessary)	1. High degree of Operation & Maintenance (O&M) intensity 2. Average degree of capital investment 3. High reliability & low maintenance 4. Low degree of general costs
30.	<b>Granulated Activated Carbon (GAC)/Liquid Phase Carbon Adsorption</b> Ground water is pumped through a series of canisters or columns containing activated carbon to which dissolved organic contaminants adsorb. Periodic replacement or regeneration of saturated carbon is required.	The target contaminant groups for carbon adsorption are hydrocarbons, SVOCs and explosives.	Costs associated with GAC are dependent on wastestream flow rates, type of contaminant, concentration of contaminant, mass loading, required effluent concentration, and site and timing requirements.	1. High degree of Operation & Maintenance (O&M) intensity 2. Average degree of capital investment 3. High reliability & low maintenance 4. Average degree of general costs
31.	<b>Groundwater Pumping/ Pump and Treat</b> Ground water pumping is a component of many pump-and-treat processes, which are some of the most commonly used ground water remediation technologies at contaminated sites.		Cost varies from site to site for ground water pump and treat technology.	1. High degree of Operation & Maintenance (O&M) intensity 2. High degree of capital investment 3. High reliability & low maintenance 4. High degree of general costs
32.	<b>Ion Exchange</b> Ion exchange removes ions from the aqueous phase by exchange with counter ions on the exchange medium.	Ion exchange can remove dissolved metals and radionuclides from aqueous solutions. Other compounds that have been treated include nitrate, ammonia nitrogen, and silicate.	Key cost factors include: -Pretreatment requirements. -Discharge requirements and resin utilization. -Regenerant used and efficiency.	1. High degree of Operation & Maintenance (O&M) intensity 2. High degree of capital investment 3. High reliability & low maintenance 4. Average degree of general costs
33.	<b>Precipitation/ Coagulation/Flocculation</b> This process transforms dissolved contaminants into an insoluble solid, facilitating the contaminant's subsequent removal from the liquid phase by sedimentation or filtration.	Precipitation is used mainly to convert dissolved ionic species into solid-phase particulates that can be removed from the aqueous phase by coagulation and filtration. Remedial application of this technology usually involve removal of dissolved toxic	Key Cost Drivers • No sensitivity analysis possible as only variable is influent flow rate.	1. Average degree of Operation & Maintenance (O&M) intensity 2. High degree of capital investment 3. High reliability & low maintenance 4. Average degree of general costs

Sr No	Remediation Technologies	Applicability	Assumptions	Comments
	The process usually uses pH adjustment, addition of a chemical precipitant, and flocculation.	metals and radionuclides. Depending on the process design, sludges may be amenable to metal recovery		
34.	<b>Separation</b> Separation techniques concentrate contaminated waste water through physical and chemical means.	The ex situ separation process is used mainly as a pretreatment or post-treatment process to remove contaminants from waste water.		<ol style="list-style-type: none"> <li>1. Average degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. High degree of capital investment</li> <li>3. High reliability &amp; low maintenance</li> <li>4. High degree of general costs</li> </ol>
<b>Containment for Groundwater and Surface Water Contaminated Sites</b>				
35.	<b>Physical Barriers</b> These subsurface barriers consist of vertically excavated trenches filled with slurry. The slurry, usually a mixture of bentonite and water, hydraulically shores the trench to prevent collapse and retards ground water flow.	Slurry walls contain the ground water itself, thus treating no particular target group of contaminants. They are used to contain contaminated ground water, divert contaminated ground water from drinking water intake, divert uncontaminated ground water flow, and/or provide a barrier for the ground water treatment system.	<p>Factors that have the most significant impact on the final cost of soil-bentonite slurry wall installation include:</p> <ul style="list-style-type: none"> <li>-Type, activity, and distribution of contaminants.</li> <li>-Depth, length, and width of wall.</li> <li>-Geological and hydrological characteristics.</li> <li>-Distance from source of materials and equipment.</li> <li>-Requirements for wall protection and maintenance.</li> <li>-Type of slurry and backfill used.</li> <li>-Other site-specific requirements as identified in the initial site assessment (e.g., presence of contaminants or debris).</li> <li>-Planning, permitting, regulatory interaction, and site restoration.</li> </ul>	<ol style="list-style-type: none"> <li>1. Average degree of Operation &amp; Maintenance (O&amp;M) intensity</li> <li>2. High degree of capital investment</li> <li>3. High reliability &amp; low maintenance</li> <li>4. Low degree of general costs</li> </ol>

**BEFORE THE NATIONAL GREEN  
TRIBUNAL, WESTERN BENCH  
SITTING AT PUNE  
O.A. NO. 88 OF 2024**

IN THE MATTER BETWEEN

Siddharth Ambaji Patil & Anr. ...

Applicants

*Versus*

Pen Mumbai Council & Ors.

...Respondents

-----  
**AFFIDAVIT IN RESPONSE TO THE JOINT  
COMMITTEE REPORT DATED 07.11.2024**  
-----

ZAMAN ALI

Advocate for the Applicants,

17, 1<sup>st</sup> Floor, Rohit Chambers,

Janmabhoomi Marg,

Fort, Mumbai – 400 001

Advocate Code: I13120

zamanali1602@gmail.com

Contact No.: 9167628833