STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN MALAYSIA’S JUDICIARY: TRAIN-THE-JUDGES PROGRAM (TTJ)

- DOE Enforcement Approaches: CC vs SR
- Environmental Impact Assessment (EIA)

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Director General,
of Environment Malaysia
DEPARTMENT OF ENVIRONMENT

Vision

Environmental conservation (not preservation) for the well-being of the people-sustainable.

Mission

To ensure sustainable development in the process of nation building.

D=E (Target - Balance)
D>E (Preservation – Nature Lover)
D<E (Economic View)

Note:
D - Development
E - Environment
ENVIRONMENTAL QUALITY ACT 1974

REGULATIONS
- Environmental Quality (Control Of Emission From Diesel Engines) (Amendment) Regulations 2000 - P.U.(A) 488/2000
- Environmental Quality (Clean Air) (Amendment) Regulations 2000 - P.U.(A) 309/2000
- Environmental Quality (Scheduled Wastes) Regulations 2005 - P.U.(A) 294/2005
- Environmental Quality (Prescribed Premises) (Crude Palm Oil) Regulations 1977 - P.U.(A) 342/77
- Environmental Quality (Prescribed Premises) (Raw Natural Rubber) (Amendment) Regulations 1980 - P.U.(A) 74/80
- Environmental Quality (Halon Management) Regulations 1999 - P.U.(A) 452/99
- Environmental Quality (Motor Vehicle Noise) Regulations 1987 - P.U.(A) 244/87
- Environmental Quality (Dioxin And Furan) Regulations 2004 - P.U.(A) 104/2004
- Environmental Quality (Industrial Effluent) Regulations 2009 - P.U.(A) 434/2009
- Environmental Quality (Control Of Petrol And Diesel Properties) Regulations 2007 - P.U.(A) 145/2007
- Environmental Quality (Control Of Lead Concentration In Motor Gasoline) Regulations 1985 - P.U.(A) 269/85
- Environmental Quality (Control Of Emission From Petrol Engines) Regulations 1996 - P.U.(A) 543/96
- Environmental Quality (Control Of Emission From Motorcycles) Regulations 2003 - P.U.(A) 464/2003
- Environmental Quality (Control of Pollution From Solid Waste Transfer Station And Landfill) Regulations 2009 - P.U.(A) 433/2009
- Environmental Quality (Sewage) Regulations 2009 - P.U.(A) 432/2009
- Environmental Quality (Appeal Board) Regulations 2003 - P.U.(A) 115/2003
- Environmental Quality (Licensing) Regulations 1977 - P.U.(A) 198/77

RULES
- Environmental Quality (Compounding Of Offences) (Amendment) Rules 1999 - P.U.(A) 12/99
- Environmental Quality (Compounding Of Offences) Rules 1978 - P.U.(A) 281/78
ORDERS

- Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 2015 - P.U.(A) 195/2015
- Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 1987 - P.U.(A) 362/87
- Environmental Quality (Prohibition On The Use Of Chlorofluorocarbons And Other Gases As Propellants And Blowing Agents) Order 1993 - P.U.(A) 434/93
- Environmental Quality (Prescribed Premises) (Scheduled Wastes Treatment And Disposal Facilities Order) 1989 - P.U.(A) 140/89
- Environmental Quality (Prescribed Conveyance) (Scheduled Wastes) Order 2005 - P.U.(A) 293/2005
- Environmental Quality (Delegation Of Powers On Marine Pollution Control) Order 1994 - P.U.(A) 537/94
- Environmental Quality (Delegation Of Powers) Order 2005 - P.U.(A) 365/2005
- Environmental Quality (Prescribed Premises) (Raw Natural Rubber) (Amendment) Order 1978 - P.U.(A) 337/78
- Environmental Quality (Prescribed Premises) (Raw Natural Rubber) Order 1978 - P.U.(A) 250/78
- Environmental Quality (Prescribed Premises) (Crude Palm Oil) Order 1977 - P.U.(A)199/77
ENVIRONMENTAL QUALITY ACT 1974

ARRANGEMENT OF SECTIONS

- PRELIMINARY
- ADMINISTRATION
- LICENCES
- PROHIBITION AND CONTROL OF POLLUTION
- CONTROL OF SCHEDULED WASTES
- APPEAL AND APPEAL BOARD
- PAYMENT OF CESS AND ENVIRONMENTAL FUND
- MISCELLANEOUS
APPLICABILITY OF EQA 1974
ENFORCEMENT APPROACHES

CONVENTIONAL ENFORCEMENT APPROACH

- Command & Control
- Compliance Monitoring (at end of pipes)

NEW INITIATIVE ENFORCEMENT APPROACH

- Self Regulation
- Performance Monitoring (at every Unit Process & Operation)
Conventional Approach
Sampling & Monitoring at Final Discharge (Compliance Monitoring)

Conventional Enforcement Approach

New Initiatives
Enforcement Approach

Innovative Approach: Sampling & Performance Monitoring Upstream Final Discharge
(Performance Monitoring) – New Initiatives Enforcement Approach

EXAMPLE:
Industrial Effluent Treatment Plant

Process
Influent → Equalization Tank → pH Adjustment → Aeration Tank → Clarifier → Final Effluent Discharge

RAS → WAS

Conventional Approach
Sampling & Monitoring at Final Discharge (Compliance Monitoring) – Conventional Enforcement Approach

Air Pollution Control Equipment

Air Pollution Control System (APCS) → Stack (Emission)

Performance Monitoring (PM) Parameter

Bag Filter:
Pressure Drop, Air Flowrate, Temperature, Air Pressure

Scrubber:
Air flowrate, scrubbing liquid flowrate, pH of scrubbing liquid, temperature
DEVELOPMENT PROCESS OF SELF-REGULATION (SR)

PHASE 1
- Full Compliance of the Sources with the Discharge Standards
- Example: Discharge Compliance Enforced 37 years

PHASE 2
- Incorporation Environmental Agenda in Factory’s Decision Making Process (EM)
- Example: PMC for achieving regulatory compliance

PHASE 3
- Full-Pledged EM
- (SR & Pride of Environmental Excellence)
- Example:
  - High Level (ERCMC)
  - Env. Reporting
  - Env. Friendly Contracts
  - Supply Chain Environmental Responsibilities etc.

Phases In Reaching Final Destination Of Guided Self Regulation Implementation
ENFORCEMENT APPROACHES: COMMAND AND CONTROL VS SELF REGULATION

COMMAND & CONTROL

SELF - REGULATION

Complementary
COMMAND & CONTROL APPROACH

Players In Decision Making for Non-Compliance

1. DOE
2. Chemistry Department Malaysia
3. AGC – Attorney General Chamber
4. Court Decision

Non Compliance
(AGC – Attorney General chamber)

Command & Control Approach

Chemistry Department Malaysia

Inspection and Sampling by DOE (Final Discharge Point)

Court
GUIDED SELF-REGULATION APPROACH

Key Players:
1. Industry Management CEO
2. Industry Competent Person/CP
3. DOE

1. Inspection & Sampling (Provides Environmental Faulty Monitoring / PMC)
2. Sample Analysis (Guidance Document)
3. Data Interpretation (Adhere to TGD)
4. Non Comply
5. Corrective Action
6. Environmental Monitoring Committee Reporting & Communication (Internal Reporting to DOE)
7. Industry Provides Environmental Policy Direction, Budgeting & Transparency Decision

Premise Self-Regulation Approach

Note:
TGD: DOE Technical Guidance Document for Performance Monitoring
CEO: Chief Executive Officer
CP: Competent Person
HOW TO ENSURE REGULATED COMMUNITY IMPLEMENT GUIDED SELF REGULATION

1. Ask Industry to report

2. Inspection officers (DOE) check on it during inspection

3. DOE Review the Field Training Report (FTR) for Competency Certification
OUR GOAL - Self-regulation

GSR Initiative: Pathway Towards Achieving Sense of Pride of Environmental Excellence
INTENTION OF INTRODUCING ENVIRONMENTAL MAINSTREAMING

GUIDED SELF-REGULATION

• Facilitate Industries to achieve environmental sustainability

• Portray high degree of environmental transparency, accountability and strong commitment among industries
Environmental Mainstreaming Tools for Guided Self Regulation

- Environmental Policy (EP)
- Environmental Budgeting (EB)
- Environmental Monitoring Committee (EMC)
- Environmental Facility (EF) – *(which includes pollution control systems and laboratory requirements)*
- Environmental Competency (EC) – *(which includes personnel and competent person requirement)*
- Environmental Reporting and Communication (ERC)
- Environmental Transparency (ET)
<table>
<thead>
<tr>
<th>EMT</th>
<th>Date of Implementation</th>
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<tbody>
<tr>
<td><strong>ENVIRONMENTAL POLICY (EP)</strong></td>
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<td><strong>ENVIRONMENTAL BUDGETING (EB)</strong></td>
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<td><strong>ENVIRONMENTAL MONITORING COMMITTEE (EMC)</strong></td>
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<tr>
<td>• EPMC</td>
<td>• ERCMC</td>
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<tr>
<td><strong>ENVIRONMENTAL FACILITY (EF)</strong></td>
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<tr>
<td>• Best Management Practices (BMPs)</td>
<td>• Laboratory Facilities (LABF)</td>
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<tr>
<td>• Industrial Effluent Treatment System (IETS)</td>
<td>• Performance Monitoring (PMI)</td>
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<tr>
<td>• Air Pollution Control System (APCS)</td>
<td>• Others</td>
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<tr>
<td>• Scheduled Waste Management Infrastructure (SWMI)</td>
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<tr>
<td><strong>ENVIRONMENTAL COMPETENCY (EC)</strong></td>
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<tr>
<td>• Certified Sediment &amp; Erosion Control (CSEC)</td>
<td>• Certified Environmental Professional in Scrubber Operation (CePSO)</td>
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<tr>
<td>• Certified Environmental Professional in IETS operation (CePIETSO)</td>
<td>• Certified Environmental Professional in Bag Filter Operation (CeBFO)</td>
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<tr>
<td>• Certified Environmental Professional in Scheduled Waste Management (CePSWAM)</td>
<td>• Others</td>
</tr>
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<td><strong>ENVIRONMENTAL REPORTING AND COMMUNICATION (ERC)</strong></td>
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<tr>
<td>• Communication Channel (CC)</td>
<td>• Internal Reporting (IR)</td>
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<td>• Data Analysis (DA)</td>
<td>• Others</td>
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<tr>
<td><strong>ENVIRONMENTAL TRANSPARENCY (ET)</strong></td>
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<tr>
<td>• Environmental Sustainability Report (ESR)</td>
<td>• Billboard (BB)</td>
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<tr>
<td>• Website (WS)</td>
<td>• Fliers (FL)</td>
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Competency Person (CP) – Approved by DG of Environment

(a) Types of Certification Person

- Competent Person (CP)
  - Pollution Control System

- Qualified Person (QP)
  - EIA Consultant

- Environmental Officer (EO)
  - EIA Project

(b) Certification Process for CP

1. Registration
2. Course
3. Assessment
4. Engagement with premise management
5. Equipment
6. Field Training Report
7. Interview
8. Certification
9. Execute self regulation activities
10. NRCEP: registration & CPD
11. Code of Ethics
NUMBER OF COMPETENT PERSON CERTIFIED VS TYPES OF COURSES

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<tr>
<th>Types of Certified Courses</th>
<th>No. of CP</th>
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<td>CePSWaM</td>
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<tr>
<td>CePIETSO-BP</td>
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<td>CePBFO</td>
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<tr>
<td>CePSO</td>
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<td>CePSTPO</td>
<td>218</td>
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<tr>
<td>CePPOME</td>
<td>419</td>
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</table>

Total: 8,824 CP
To ensure
- Compliance and oversea EMTs Implementation

To ensure
- Effective implementation of environmental mainstreaming tools in reaching self – regulation of the industry

To ensure
- Effective pollution control measures

FIGURE 1: ROLES OF DIFFERENT PLAYERS IN GSR/ EM IMPLEMENTATION IN INDUSTRIAL SECTOR
What if the regulated (Industrial) sectors still flout after all the facilitation??

After all the teaching and training, industries still flout the law, what excuse do they have? What actions would DOE take?

Just compound them, or take them to court, or issue a prohibition order!

Don’t Get It Wrong
- “Bad Guys Must be Punished”

Application of “Punishment (Penalty)” are same for both C&C and SR under EQA 1974

2. Enforcement approaches through conventional & compliment by Self Regulation.

3. Element of competency requirement is emphasize in the enforcement of EQA 1974.
ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

**WHAT IS EIA?**

- EIA IS A DECISION-MAKING PROCESS
- ALTERNATIVE WAYS OF CARRYING OUT A PROJECT, ARRIVING AT THE SELECTION OF PREFERRED ALTERNATIVE.
- A FRAMEWORK FOR GATHERING AND DOCUMENTING PUBLIC AND EXTERNAL KNOWLEDGE OPINION.
- EMPOWERS DECISION-MAKERS TO MAKE INFORMED AND ENVIRONMENTALLY SOUND CHOICES.

**EIA**

- Identify
- Predict
- Evaluate
- Communicate
- Mitigate
LEGAL REQUIREMENT
ENVIRONMENTAL QUALITY ACT (EQA) 1974 (AMENDMENT) 2012

Section 34A
Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 2015

EIA ORDER 2015
FIRST SCHEDULE: 21 ACTIVITIES (45 SUB ACTIVITIES)
SECOND SCHEDULE: 17 ACTIVITIES (42 SUB ACTIVITIES)
EXAMPLES OF PRESCRIBED ACTIVITIES IN EIA ORDER 2015

- AGRICULTURE
- DRAINAGE AND IRRIGATION
- LAND RECLAMATION
- FISHERIES
- FORESTRY
- INDUSTRY
- PORTS
- MINING

- PETROLEUM
- POWER GENERATION AND TRANSMISSION
- QUARRIES
- TRANSPORTATION
- RESORT, RECREATIONAL AND INSTITUTIONAL DEVELOPMENT
- WASTE TREATMENT AND DISPOSAL
- AERODROME
Thank You

https://www.doe.gov.my/

Director General
Department of Environment
12 July 2017