

AGENDA ITEMS FOR 59th MEETING OF TECHNICAL REVIEW COMMITTEE (TRC) UNDER HAZARDOUS WASTE RULES, 2008

Dated: 30th and 31st January 2017, at 10:00 AM

Venue:- Narmada Conference Hall, Ground Floor, Jal Block, Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi-110003

In the Chair: Shri R.K.Garg

AGENDA

AGENDA 1: ISSUES WITH REGARD TO HAZARDOUS AND OTHER WASTES (MANAGEMENT, HANDLING & TRANS-BOUNDARY MOVEMENT) RULES, 2016

AMENDMENTS

1.1 Removal of De-inking Sludge from Hazardous Waste Category Representation of Gujarat Paper Mills Association forwarded by Gujarat Pollution Control Board(23-146/2016-HSMD)

De-Inking Sludge is considered as a Hazardous Waste category. In this regard the applicant has given a work for assessment of De-Inking Sludge for Categorization under Hazardous Waste Rules 2008. Gujarat Paper Mills Association (GPMA) has also attached the detailed Technical report submitted by ERM India Pvt. Ltd on "assessment of Deinking Sludge for categorization under HW Rules, 2008: Vapi, Gujarat"(Shah Paper Mills Limited).

GPMA has submitted that as per their report all parameters are within the limit but in the case of AOX the suggested limit of AOX has not been notified as a standard by the Government of India. As per the Article "Development of AOX Standards for Large Scale Pulp and Paper Industries", that was published by the Central Pollution Control Board, India in the year 2007, a mass based concentration limit of AOX was suggested to Ministry of Environment & Forest for consideration as 2.5 Kg. AOX per MT of dry sludge (i.e. 2,500 mg/kg.) as against their result of AOX which is 263 mg/kg as per the report of ERM on the Pg. No. 10.

The applicant has also enclosed the copy of report of Confederation of European Paper Industry (CEPI) wherein they are using De-Inking Sludge for various purposes mainly for land restoration and mine filling.

As per their report, it is classified that "land restoration covers the use of dried sludge as a product applied on derelict land, damaged industrial sites topsoil, or during road constructions, topping of landfills, mine filling etc." as depicted on Pg. No. 37 of their report.

Ministry has been requested to consider de-inking sludge generating from the process of paper mill as Non-hazardous and to grant necessary permission for the utilization of said waste for land filling/ mine filling.

The matter was considered in the 58th Meeting of the Technical Review committee and was deferred as the applicant was not present for technical discussion.

The Committee may deliberate with regard to Hazardous and other Wastes (Management, Handling and Trans-boundary Movement) Rules, 2016.

1.2 Request for amendment in the HW Rules, 2016-Representation by ACC limited:

ACC has submitted that the authorizations for co-processing as per HWM Rules 2016 are being processed by various SPCBs based on the Form 1 (Application required for grant/renewal of authorisation for generation or collection or storage or transport or reception or recycling or reuse or recovery or pre-processing or co-processing or utilisation or treatment or disposal of hazardous and other waste). We observe that most of the waste generators and cement plants have in their possession recently amended Haz waste authorization and Consent to Operate. These authorizations were granted by SPCBs to them after implementing the review of Form 1, Field inspection by RO, recommendation to HO and authorizations by HO. Implementing is once more as per new HOWM Rules 2016 therefore tends to be a redundant exercise and takes considerable amount of time in receiving the necessary authorisation from SPCBs. Hence the applicant has proposed a small amendment to the Rules which is enumerated as below:

The Rule 4 (Responsibilities of the occupier for management of hazardous and other wastes) of Hazardous & other waste management Rules 2016 (HOWM Rule) have mandated that the waste generator has to respect waste management hierarchy. Further Rule 6 (Responsibilities of State Government for environmentally sound management of hazardous and other wastes) has mandated that the SPCBs must grant necessary authorization to the waste generator and cement kilns to undertake co-processing while ensuring compliance to HOWM Rules and the notified emission norms.

The HOWM Rule also has mandated that the waste generator and cement kilns must submit their applications in FORM 1 to SPCBs by providing the required information on the availability of the infrastructure and operational processes that are required for confirming compliance to the specified provisions of the HOWM Rules. SPCB officer in the region is then required to undertake a field inspection to review and confirm the same and send recommendation to SPCB Head office based on which, SPCB is required to authorize the waste generator or cement kiln to proceed with co-processing in FROM 2. The time line specified for this grant of authorization is 120 days.

Co-processing being an environmentally a better technology and conserves natural resources, it is desired that the autohrizations for this option are granted quickly where feasible.

Hence, following methodology is proposed for inclusion as an amendment to the HOWM Rules 2016.

2. Proposal

a. Waste Generators

The waste generators already have with them valid authorization for generation, storage, handling, transporting and sending their waste for disposal to Treatment, Storage & Disposal Facilities (TSDFs) for landfill or incineration operation. They have been granted this authorization based on the field inspection and recommendation process. For sending the same waste for co-processing, additional infrastructure or operational process modifications are not required at the waste generators end. Hence, waste generators can **submit a self certified declaration to SPCBs** stating that they would like to send their waste for co-processing in a cement plant - rather than or in additional to - incineration or landfill facility and that they shall abide by the relevant provisions of the HOWM Rules 2016.

Based on this self certified declaration, SPCBs may consider amending their Hazardous Waste authorization / Consent to Operate to include the option of co-processing in addition to landfill or incineration option.

b. Cement Plants

Most of the cement plants also have the authorisation to implement receipt, handling, storage, pre-processing and / or co-processing of some of the approved wastes earlier. Hence, cement plants also may be allowed to **submit a self certified declaration** to abide by the HOWM Rules for undertaking pre-processing and / or co-processing of different kinds of hazardous and non-hazardous wastes. SPCB may grant the authorization to the cement plants and then in due course of time undertake the evaluation of the compliance status of the facility in pre-processing & co-processing of wastes.

The Committee may deliberate with regard to Hazardous and other Wastes (Management, Handling and Trans-boundary Movement) Rules, 2016.

CLARIFICATIONS

1.3 Representation from Acid Chem Corporation, Ahemdabad, Gujarat with regard to clarification on by-product

As submitted, Acid Chem Corporation, Ahmedabad, Gujarat deal in trading, service and transporting chemicals and by-product chemicals since 1961 and are also registered in MSME. They are transporting Ammonium Carbonate Solution for Ushanti Colour Chem Pvt. Ltd., Vatva, Ahmedabad, Gujarat to soda ash manufacturer, Nirma Ltd, Kalatalav, Bhavnagar, Gujarat and Saurashtra Chemicals Division of Nirma Limited, Porbandar, Gujarat.

The application has sought the permission to sell and transport Ammonium Carbonate solution to fulfill the requirements of soda ash manufacturers like Nirma Ltd., Kala talav, Bhavnagar. and Saurashtra Chemical unit of Nirma Ltd. These units are producing Ammonium Carbonate solution by the same chemical process, same raw material and of the same quality as produced by Ushanti Colourchem Pvt Ltd.

One such matter of Ushanti Colourchem Pvt Ltd represented by Shri Minku Gandhi as referred by the applicant was considered in the 55th Meeting of the Technical Review Committee held during 27th and 28th June 2016. The Committee was then informed that ammonium carbonate of concentration 40 to 50 percent recovered is of high quality and almost pure form in the process of CPC blue production. Ammonia and carbon dioxide evolved in the process are scrubbed with cold water producing ammonium carbonate. The Committee was also informed that this material is being supplied to soda ash manufacturers and other users for direct use. The Committee recommended that this may be considered as a 'by-product' and not a 'waste' under the HW Rule, 2016.

The Committee may deliberate with regard to Hazardous and other Wastes (Management, Handling and Trans-boundary Movement) Rules, 2016.

1.4 Representation of Indian Agro and Recycled Paper Mills Association forwarded by Department of Industrial Policy (DIPP) and Promotion with regard to Consent to Operate issued to them by concerned SPCB.

The representation of IARPMA has been examined in the DIPP and they have submitted that as pulp and paper units in the country operate only after receiving a “Consent to Operate” certificate from respective State Pollution Control Boards. The same consent may be taken as approval from State Pollution control Board for import of waste paper for use in the manufacturing process. The present requirement under the notification dated 4th April 2016 for a separate consent from State Pollution Control Boards for import of waste paper may not be insisted upon as this may be against the spirit of ease of doing business.

The Committee may deliberate with regard to Hazardous and other Wastes (Management, Handling and Trans-boundary Movement) Rules, 2016.

1.5 Representation from Rubamin Limited with regard to import of zinc dross in India as per HW Rules, 2016

The applicant is a large importer of zinc dross. The earlier HWM Rules, 2008 required customs to draw sample and analyze the sample drawn before clearance of material as per rule 16(6) wherein it was stated that “The customs authority shall collect three randomly drawn samples of the consignment (prior to clearing consignment as per the provisions laid down under the Customs Act, 1962) for analysis and retain the report for a period of two years, in order to ensure that in the event of any dispute, as to whether the consignment conforms or onto to the declaration made in the application and Movement Document”.

As per the new Rules “(10) The Port and Customs authorities shall ensure that shipment is accompanied with the movement document as given in Form 6 (Transboundary Movement- Movement Document) and the test report of analysis of the waste, consignment, wherever applicable, from a laboratory accredited or recognized by the exporting country. In case of any doubt, the customs may verify the analysis”.

As clearly evident from the above, the requirement of first check procedure at the port & Customs has been withdrawn. However the applicant’s imports of Zinc Dross are subject to first check and are not being cleared due to which they are paying heavy demurrage every year.

Ministry has been requested to take up the matter with Central Board of Excise & Customs and the port and save the industry from heavy demurrage expenses and valuable resource time at customs.

The Committee may deliberate with regard to Hazardous and other Wastes (Management, Handling and Trans-boundary Movement) Rules, 2016.

1.6 Clarification with respect to HW Rules, 2016 and E-waste Rules 2016- RTI from the applicant to Mr Satmeet Singh

As submitted by the applicant, HW Rules, 2016 makes EPR-Authorisation under E-waste Rules 2011 as amended from time to time as a pre-requisite for the import of used digital multifunction print and copy machines (MFDs).

The currently applicable E-waste Rules 2016 are not applicable on micro enterprises as per notification dated 23.03.2016. Clarification is sought that can a micro enterprises import used MFDs without obtaining Extended Producer Responsibility authorization under E-waste Rule 2016 as the Rules clearly provide it with an exemption to micro enterprises defined in MSME Development Act,2006.

The Committee may deliberate with regard to Hazardous and other Wastes (Management, Handling and Trans-boundary Movement) Rules, 2016.

AGENDA 2: CLARIFICATIONS WITH REGARD TO E-WASTE (MANAGEMENT) RULES, 2016

AMENDMENTS

2.1 Retrospective Implementation of E-waste (Management) Rules 2016- Representation of CEAMA

Consumer Electronics and Appliances Manufacturers Association (CEAMA) is an all India body of manufacturers of Televisions, Entertainment Electronic Products & Home Appliances It is a non-profit organisation, looking after the common interests of its members for sustainable growth in the sector. It has been in existence for last 37 years. CEAMA acts as a catalyst in the promotion of Industry, trade, technology, entrepreneurship, sustainability and green environment.

CEAMA conducted a series of consultation meetings with its member and other stakeholders regarding the implementation of the new law where the following issues have been brought by the industry:

1. It is impossible to collect 30% of e-waste in the current regime. It was also brought out that it will not be even feasible to collect even 5% of the e-Waste in case of CE, HA and mobile phones under the Extended Producers Responsibility.
2. The End of Life in a developing country like India is not determined by the manufacturer/brand owner as the consumer is not aware enough about the discard of the e-waste. The consumer is the ultimate possessor of the product and it is at consumer's discretion when he intends to discard it. Also the products change many hands before they are sold to the Actual User and also amongst Actual Users, who ultimately decide to scrap the product. It is therefore would not be evident to put no responsibility on the Actual User for E-waste management.
3. This industry encompasses a large hold of SME's and small importers for whom this is a short lived business as they will not able to survive for a longtime under these rules. In fact, the same applies for the large brands too in a longer regime. Therefore, to adopt and follow a EPR is almost impossible for an SME/ small importer. Since it is impossible, the implementation will necessarily become extremely draconian which could be indemnity bond/ securities being demanded at the time of import, rent seeking and corruption because of the threat of appraisers / enforcement action.
4. CEAMA welcomes the RoHS directives, but looking at the current situation of poor infrastructure of test labs the mandate of RoHS cannot be implemented with an ease. The same needs to be revisited and examined critically.

Solutions:

CEAMA has submitted that for proper channelization of E-waste in the country following things must be considered:-

- a) The Central and the State Governments should conduct massive education programs to spread a mass awareness among the consumer and other stakeholders.

- b) If the rules need to operate successfully then the Municipal Corporations should be strengthened to collect e-waste from Individual homes or set up collection points in every ward, where Consumers can conveniently drop their electronic waste.
- c) The regulations should be framed to promote 'Ease of doing Business' in the country. The SME's must not suffer while manufacturing or importing the goods. It's a common myth that the traders are extended arms of the producers, we would like inform that the producers possess no control over the dealers and therefore the responsibility of managing e-waste target should be aligned with the central government.
- d) If the producers have to be made responsible for the collection of targets, then the current draft law should be amended or a new law have to be passed where the possessor of consumer electronic products will be mandated to return the products to the manufacturers and not to throw them/ replace them/ exchange them, etc.

CEAMA has further submitted that from the issues and suggestions made above, it may be gathered that the current rules have too many facets affecting the operations of manufacturers, brand owners, small importers, trade channels and actual users. Ministry has been requested that these rules should be put to suspension with an immediate effect. Also if the government feels that the targets are necessary then it should be made prospective with appropriate consumer and trade laws in place.

CEAMA has also submitted a legal opinion on the E-waste rules 2016, which has been enclosed with their representation.

The Committee may deliberate wrt to E-waste Rules, 2016

2.2 Definition of e-retailer to be reviewed

e-retailer "means an individual or company or business entity that uses an electronic network such as internet, telephone, to sell its goods".

CLARIFICATIONS

2.3 Request for clarification of the scope of the E-waste Rules, 2016 from GE India Industrial Private Limited

Clarification has been sought from this Ministry with regard to the following:

A. Applicability of the Rules on GE's products

GE businesses sell large industrial machinery and medical instrumentation designed for industrial or commercial organizations with specific technical needs -e.g. for grid scale power production, industrial energy controls or medical devices - and not for individual users. These are not in the consumer or retail sector. The equipment has detailed technical specifications and is manufactured to high industry standards. As such, GE's machineries do not fall in the scope of Schedule 1 of the Rules.

However, the industrial machinery and medical devices come with in—built or attached sub-components, which are required for data computation, storage and display such as mainframes, computers And monitors or for control stations, workspaces such as lamps. These sub-components, including mercury containing lamps and desktop computers, may fall in the scope of Schedule-I had they been stand-Alone pieces. However, the sub-components, which are sourced from third parties, ore integrated in the specialized GE applications and are essential to making them functional and not sold as stand-alone items. For example, a wind turbine, cannot be operated and monitored without the required sub-components. Furthermore, GE installs less than 1tonne per annum of such sub-components in the equipment in the India market.

Since these sub-components are integrated to the GE machinery that does not fall in scope of the Rules, and are essential for the functioning of the industrial and medical machinery, we are of the understanding that GE equipment containing the sub- components do not fall in the scope of the E—waste Rules 2016. Therefore, GE should not be considered a producer under the E-waste Rules Z 016, and consequently does not need an EPR authorization. We request you to kindly confirm our understanding of the same.

B. Applicability of the Rules for a producer, which discontinued operations:

GE also operated a lighting business producing lighting equipment. This business division announced on August 28, 2016 that it would globally discontinue the production and sale of its products with effect from March 31,2017 including in India. As a matter of fact, the production and sale of the lamps containing mercury have been stopped since September 30, 2016.

GE lighting used to operate under a multi business legal entity in India which also houses other GE businesses, such as power,

renewable energy and water. All operations concerning the production and sale of lighting equipment in India have been stopped.

Considering the E-waste Rules 2016, which define orphaned products as « non- branded or assembled electrical and electronic equipment as specified in Schedule I or those produced by a company, which has closed its operations », we are of the understanding that the said lighting equipment produced in the past can be considered as orphaned products, and that the GE entity having ceased operations does not require to apply for EPR authorization. As the relevant operations relating to the entire lighting business have been closed, it would not be feasible for the company to support the tracking and disposal of the lighting equipment sold in the past. The orphaned equipment may be dealt with by appropriate collection centres.

The Committee may deliberate with regard to E- Waste (Management) Rules, 2016.

2.4 Review of existing software designed for the UK EPR compliance PRO's by WEEPRO.

WeeePRO has made a presentation before CPCB on 2nd December 2016, the seamless software program they have developed in support of operating their own, open to all, PRO in India. The unique online capability was developed using existing software designed for the UK EPR compliance PRO's owned by the applicants' shareholders. This 100 % digitization of EPR enables quality assured compliance for all producers joining a PRO in India:

1. .WEEE Settlement Centre- a central repository, mirroring the ISO 14001 & 27001 system used by their UK PROs; producing quality assured evidence in support of Form 3 returns via its digitized E-waste Manifest incorporating the E-waste codes from the E-waste (Management) Rules 2016 and its registry of licenced re-furbishers, dismantlers and recyclers.
2. EPR Plan submission: Online tools with a simplified step by step, six stage process enabling any producer, large or small, to form a compliant EPR Plan for submission to CPCB with options to join WeeePRO; Join another PRO; go it alone and/or join a consortium of producers to meet their financial obligations under the E-waste (Management) Rules, 2016.

Following the presentation WEEPRO was requested by CPCB officials to put in writing the critical to success, offer and recommendations.

WEEE settlement Centre has offered to provide free of charge transfer to CPCB, the digitized E waste Manifest, developed by WEEpro. It has further been submitted that the CPCB monitoring process for EPR plans today has no mechanism to distinguish between a producer who has a contingency plan to meet their financial obligations and a producer who has planned to fail sighting the lack of feed stock in the formal market place. Recommendations have been made with respect to failure to meet targets and EEE placed records.

Ministry has been asked to advice on how to follow up the offer and critical to success recommendations with the appropriate persons in the government of India.

3. Serious health & environment Hazards from the use of lead metal based heat stabilizers in PVC Pipes- Representation from Jan Sahyog Manch

PVC pipes are being widely used for extraction, irrigation, potable water transportation, water distribution system and plumbing system. Though PVC is a versatile and food contact safe material, processing of PVC requires a certain heat stabilizer to be incorporated in the material to prevent it from degradation while it is being processed at high temperatures. These heat stabilizers could be food contact approved materials, which are easily available and need no extra equipment or capital cost to replace the toxic metal based heat stabilizers. In absence of a mandate or check, there is a rampant use of lead metal based heat stabilizers in India, since decades.

The organization has submitted that use of lead based heat stabilizers in production process of PVC pipes is polluting the water system resulting in Lead infested drinking water & crops and have reproduced information with regard to the same.

A petition filed with the NGT Ref# 477/2015, filed by an NGO, pleading to check and ban the use of harmful lead in the processing of PVC, and is pending adjudication before the honorable court.

The Committee will deliberate wrt to the HW Rules, 2016.

