

Report

on

**Recommendations of the Committee
On
Issues/challenges faced by Municipalities related to
Implementation of Solid Waste Management Rules, 2016
and
Plastic Waste Management Rules, 2016**

November, 2017

**Hazardous Substance Management Division
MoEFCC**

1.0 Introduction

Ministry notified Solid Waste Management Rules, 2016 on 8th April, 2016 and Plastic Waste Management Rules, 2016 on 18th March, 2016. The Rules mandates several new provisions like; the ambit of the rules has been expanded beyond Municipal area, source segregation of waste, user fee and spot fine, Extended Producers Responsibility etc.

Several representations were received from various stake holders regarding provisions of the Rules. Several meetings were also held in the past to understand the difficulties faced by the stakeholders while following the rules. The regulatory authorities were heard by the Ministry to understand the difficulties faced by them while implementing the rules.

Therefore it was decided that a meeting should be called in the Ministry by inviting Municipal Commissioners of the representative states to understand the issues/challenges faced by them while implementing the Rules and also to discuss the key issues put forth to the Ministry by various stakeholders.

Accordingly, agenda for the meeting was prepared based on the representations received in the Ministry. Municipal Commissioners of Pune, Vijayawada, Ahmedabad, Indore, Lucknow, Patna, Director of Municipal Administration, Karnataka, Representative from Central Pollution Control Board, Ministry of Housing and Urban Affairs were invited for a meeting under the chairmanship of Shri Anil Kumar Jain, Additional Secretary, MoEFCC on 15.09.2017.

2.0 Constitution of the Committee

Some of the issues were resolved during the 1st meeting; however, other issues were needed further deliberations. Therefore, a committee was constituted for providing its recommendations on the issues related to the PWM Rules, 2016 and SWM Rules, 2016 with the following members:

- i. Shri Ritesh Kumar Singh, Joint Secretary, MOEFCC
- ii. Shri Kunal Kumar, Municipal Commissioner, Pune
- iii. Shri J. Nivas, Municipal Commissioner, Vijayawada
- iv. Shri Mukesh Kumar, Municipal Commissioner, Ahmedabad
- v. Dr. Vishal R, Director of Municipal Administration, Karnataka
- vi. Shri Manish Singh, Municipal Commissioner, Indore
- vii. Shri S. K. Nigam, Central Pollution Control Board
- viii. Shri J. B. Ravinder, Jt. Advisor, MoHUA
- ix. Shri Manoj Kumar Gangeya, Director, MoEFCC

Based on the above decision Ministry constituted the Committee vide its order dated 5th October, 2017. The Terms of References for the Committee were as under:

- i. To evaluate mechanism for the implementation of the provisions of Solid Waste Management Rules, 2016 and Plastic Waste Management Rules, 2016 especially with respect to Extended Producer Responsibility (EPR)
- ii. Formulate policy options and evaluate technologies on the issue related to Multi Layered Plastic (MLP)
- iii. Roles and responsibilities of various stakeholders as per Solid Waste Management Rules, 2016 and Plastic Waste Management Rules, 2016

Shri Amardeep Raju, Scientist 'D' in the MoEF&CC has also been participating & assisting the committee in all its meetings.

Further it was decided that the Committee will take views of important stakeholders like Swachh Bharat Mission, Ministry of Rural Development, Ministry of Commerce and Industry, Ministry of Micro, Small & Medium Enterprises and also from Industrial Associations particularly on PWM Rules, 2016 while taking a decision in the matter.

3.0 Second meeting of the Committee

Further to the constitution of the Committee and to deliberate on the un-resolved issues, a meeting was convened at Ahmadabad Municipal Corporation on 03.11.2017. A detailed presentation on the present state of affair on the waste management scenario at Ahmedabad was made by Shri Mukesh Kumar, Municipal Commissioner, Ahmedabad.

Shri Ritesh Kumar Singh, Joint Secretary, MoEFCC provided details regarding the issues discussed in the last meeting and invited all the members of the Committee to participate in discussion to further deliberate on the unresolved issues.

4.0 Stakeholders Consultation Meeting

Further to the meeting held at Ahmedabad, it was decided that a stakeholders consultation meeting on Plastic Waste Management Rules, 2016 and Solid Waste Management Rules, 2016 should also be called at this stage and the views of various stakeholders should be heard by the Committee. Accordingly a stakeholders consultation meeting was convened in the Ministry in the presence of the Committee on 27th December, 2017. Various stakeholders made detailed presentations before Committee on the major issues faced by them in the Rules.

5.0 Third meeting of the Committee

Subsequently, a third meeting of the Committee was held on 27/12/2017 and the various issues highlighted in the stakeholders meeting were deliberated upon.

6.0 Discussion on the provisions of the PWM Rules, 2016

During the course of three meetings, the Committee discussed various issues related to Plastic Waste Management Rules, 2016 and Solid Waste Management Rules, 2016. The Committee's recommendations on the major issues in these rules are as under:

- i. **Rule 4.(b)** Carry bags made of recycled plastic or products made of recycled plastic shall not be used for storing, carrying, dispensing or packaging ready to eat or drink food stuff;

Recommendation: The Committee recommends that the provision has been made in the rules based on the inputs received from Ministry of Health. Therefore this rule is essential and stakeholders are following the rules. Thus no change is necessary to this Rule.

- ii. **Rule 4.(d)** plastic sheet or like, which is not an integral part of multilayered packaging and cover made of plastic sheet used for packaging, wrapping the commodity shall not be less than fifty microns in thickness except where the thickness of such plastic sheets impair the functionality of the product;

Discussion: The Ministry has received representations from various stakeholders. It was observed that the stakeholders are coming up with different reasons to get exemption under this rule. Further it was discussed during the stakeholders consultation that the rule proposes to ban the use of plastics less than 50 microns. However, the packaging material (primary packaging) used in food industry, pharmaceuticals, cosmetics, etc. are of much lesser thickness. Increasing the thickness of these plastics to 50 micron will increase the volume of waste plastics, thus going against the spirit of the Rules.

It was noted by the Committee that there are some commodities where thin layer is required like wrapping of food stuff etc, where only virgin plastic is allowed. Therefore the rules may not have any issue since it is a functional requirement. However, CPCB mentioned that it is very difficult to judge the functionality and that this introduced an element of subjectivity in the Rules.

Recommendation: The matter was further deliberated in the Committee. The Committee noted that the substitution of the thinner plastic sheet used for packaging or wrapping the commodity, with plastic sheet of thickness more than fifty microns is possible in a large number of cases. The Committee further noted that "functionality" would be defined differently by different producers. There would also be scope for subjective interpretation of this term. The Committee also noted the views of the stakeholders. It is true that cooked

food/cut vegetables are frequently covered with clinging plastic sheets of lesser thickness. It was also noted that this is used world over and is not banned in any other countries. It was also noted that banning thin plastic used in industries (for eg. Confectionery, cosmetics etc.) as a wrapping material would impact functionality of the product if this were not permitted. Considering the pros and cons of the proposal the Committee recommends that this provision requires further deliberation, before any changes are made. Therefore as of now, Committee does not recommend any changes to this Rule.

- iii. **Rule 6(1)** Responsibility of local body.- Every local body shall be responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers.

Rule 6(3). The local body for setting up of system for plastic waste management shall seek assistance of producers and such system shall be set up within one year from the date of final publication of these rules in the Official Gazette of India.

And

Rule 9.(1) Responsibility of producers, Importers and Brand Owners.- (1) The producers, within a period of six months from the date of publication of these rules, shall work out modalities for waste collection system based on Extended Producers Responsibility and involving State Urban Development Departments, either individually or collectively, through their own distribution channel or through the local body concerned.

Discussion: Representations were received in the Ministry and various queries have been raised. e.g. When segregation does not take place, what will be the liability of producers, what is demarcation of roles between producers and ULBs? Will trade bodies/associations be considered by Local bodies for partnership rather than individual Producers? How will the quantum of cost from produces be decided? What would be the responsibility of brand owners in this? How would apportionment of costs between ULB & producers be carried out? Further it was stated in the stakeholders meeting that the EPR guidelines need to be well defined and responsibilities in the entire EPR value chain should clearly enumerated. The primary responsibility should be of the local bodies in the entire operations. Value chain for the recyclers also to be included. It was also proposed that cess could be a good option for producer/brand owners.

The above issues were deliberated in the meeting. It was noted that once the modality of EPR is ascertained then the confusion regarding involvement of the producer in setting up of any infrastructure for collection, segregation, transportation etc will be sorted out. However, it was emphasized that the activities falling under the domain of ULBs should remain with them and should not be diverted to the producer/importer/brand owner.

Regarding component of EPR the stakeholders mentioned that there is lack of consistency, clarity and coordination in the PWM Rules, 2016 (especially EPR). How would EPR be done if waste segregation is not done at source? Are there any graded EPR targets or producers have to recycle 100% from 1st year? Will the responsibility of collection be divided amongst the various entities in the value chain (product manufacturer, brand owner, recycler etc) and in what proportion?

Further it was mentioned that clarity is required on whose responsibility it is to submit the waste collection plan and how the implementation of this rule would be monitored in a situation when all the producers are expected to give collection plans to practically all the state PCBs. Since waste is not necessarily restricted to the state where the product is manufactured, how will the implementation of this rule will be monitored?

Recommendation: The Committee noted that the responsibility of waste collection and segregation rests solely with the ULBs. Handing over this responsibility to the producers would be very impractical and inefficient. We would have a situation wherein there would be multiple channels for waste collection leading to large inefficiencies. Similarly, if the waste segregation is not done at source, it would be difficult to expect producers to implement EPR. Further, the committee noted that collection and segregation of household waste is basic responsibility of the ULBs. Shifting them to producers is neither desirable nor feasible.

The committee therefore recommended that under the PW Rules the EPR concept needs to be reworked. We may move to a concept of a “modified EPR” wherein a suitable fee depending on the quantum of production of plastics would be imposed on producers/ brand owners. This fee would get collected into a fund which would be used only for the purpose of plastic waste handling/collection/segregation/treatment/processing. The committee also decided that this principle should be presented before the competent authority in MoEF&CC for consideration and approval. Once this principle was accepted the committee would deliberate on the details of level of fee, constitution of the fund, disbursement from the fund etc in its next report.

The Committee also noted that some producers/brand owners have partnered with local bodies and are participating in various stages of plastic waste handling. It was felt that we should allow these models also to be attempted. The Committee recommends that wherever producer/importer/brand owner etc are working directly with local bodies (or through PRO) a suitable offset would be provided to them on the cess obligation. It was also emphasized that these activities would be done in close collaboration with local bodies and only on the basis of certification by the local bodies would producer/importer/brand owner etc be provided with offsets on their cess obligation. The list of permissible activities and non-permissible activities under the cess model for getting offset shall be brought out by the Committee.

- iv. **Rule 9 (2)** - Primary responsibility for collection of used multi layered plastic sachet or pouches or packaging is of Producers, Importers and Brand Owners who introduce the products in the market. They need to establish a system for collecting back the plastic waste generated due to their products. This plan of collection to be submitted to the State Pollution Control Boards while applying for Consent to Establish or Operate or Renewal. The Brand Owners whose consent has been renewed before the notification of these rules shall submit such plan within one year from the date of notification of these rules and implement with two years thereafter.

Rule 9(3) - Manufacture and use of non recyclable multi-layered plastic, if any, should be phased out in two years' time.

Discussion: Representations mentioned that there is lack of clarity on categorization of items- CPCB guidelines treat MLP used for packaging as non-recyclable plastic waste and hence needs to be phased out though it is considered as recyclable product by the industry. Other countries are developing technologies that can be used to recycle MLP e.g. Pyrolysis. If there are solutions for reuse like cement manufacture/ waste to energy/ use (brick kilns etc), there would be little justification for phase out in view of utility of the products.

The Committee noted that MLP is a very important product and it will be very difficult to phase out MLPs. However, it was also mentioned that the MLP cause lot of nuisance by blocking the drains and littering in the streets. It was suggested that regulations can be made prescribing thickness of the MLP and size of the MLPs for better management of MLPs. A suggestion was whether smaller sachets would be banned, since this cause a major nuisance. Another suggestion was that a strong EPR policy would be prepared so that the collection and canalization of the MLP can be achieved.

Further it was discussed that the one possibility to manage the MLP is by using it in waste to energy plant. However, it was mentioned that the waste-to-energy plant is viable with the supply of plastic more than 300 tons/day. The Ministry opined that to manage MLP/Plastic/Solid Waste, the proposed option of waste to energy should be considered as a solution to the waste management and should not be evaluated based on the power generation and issues related to tariffs. It was also noted that it could be used in cement plants and road manufacture also.

In the stakeholders meeting it was suggested that only non-recyclable and non-energy recoverable plastic should be banned. However, practically there is no plastic which is not recyclable or non energy recoverable. Therefore, there is no need to ban MLP. However, the rules need to be implemented properly. Since there is particular mention of BIS standards, the

definition excludes energy recovery as option. Energy recovery option for all sorts of plastics to be included in the rules.

Recommendations: The committee noted that MLPs are used world over and it is not banned anywhere. The committee also noted that MLPs perform a very important function, especially in the food processing industry. The committee was of the view that we should remove the Rule regarding banning of MLPs from the PW Rules. MLPs waste should be regulated and its use in WE plants, cement plant etc be promoted. CPCB should modify its guidelines to reflect the fact that MLPs would also be used in the above plants in a safe manner.

Further the committee opined that the 'modified EPR' scheme outlined in its recommendations for rules 6 & 9 as mentioned above, should be adopted for MLPs as well. Thus producers/brand owners would be required to pay a specified fee depending on the quantum of production of MLPs. The fees should be higher than that of plastic producers/ brand owners to reflect the fact that processing MLPs is a more resource intensive operation. Details of the fund and related modalities could be worked out separately by the committee, once this principle is accepted.

- v. **Rule 13** - Registration of producer, recyclers and manufacturer,- Every producer shall, for the purpose of registration or for renewal of registration, make an application to the State Pollution Control Board or the Pollution Control Committee of the Union territory concerned, in Form I.

Discussion: Following queries were raised through representations

- i. With respect to registration of Brand Owners who do not have any manufacturing units, are they required to register their administrative/ registered office as a unit?
- ii. Registration process and required documentation as well as online registration procedures are not clarified.
- iii. Is there a Central Registration system to avoid or duplication of registration for the same manufacturer, in case he produces in more than one state? Same for Brand Owners- do they need to apply for registration in every state they produce/sell or is there a Central Registration System for Brand Owners as well.
- iv. Though Importers are covered under Rule 9 as responsible for primary collection as a producer and brand owner. However, they are not required to register under Rules 13 nor are relevant forms available for them.
- v. Rule 13(10) requires pollution control board to provide an opportunity of being heard to the producers etc. before revoking, suspending or cancelling of the registration. Similar opportunity should be given while refusing the registration.

During the stakeholders consultation it was mentioned that the definition of producers to be corrected as it includes all the consumers in its purview. Registration form has options only for registration of producers and brand owners with no provision for registration of manufactures. Further, the rate for the registration has to be fixed. It was also mentioned that the provisions for registration of companies importing products with MLP needs to be incorporated. Responsibility for development of guidelines for national registration is to be vested with CPCB as well as local municipal bodies. Companies are not being able to register as definite guidelines for registration do not exist as of now.

Recommendation: A detailed deliberation on the issue took place in the meeting. The Committee recommended that a centralized registration system should be evolved by CPCB for the registration of the Producer/Importer/Brand owner. The Committee referred to the existing system adopted for the e-waste management system for centralized registration. The committee also noted that the centralized system of registration for e-waste was functional and was working well. Thus the committee recommended that the centralized system would be adopted for this as well. For smaller producers /brand owners who produce / sell within the state, a state level registration system could also be evolved. Similarly a producer with in 2 states could register in 2 states. For producers with presence in more than 2 states, the national registry could be used.

- vi. **Rule 15 Explicit pricing of carry bags:** (1) The shopkeepers and street vendors willing to provide plastic carry bags for dispensing any commodity shall register with local body. The local body shall, within a period of six months from the date of final publication of these rules in the Official Gazette of India notification of these rules, by notification or an order under their appropriate state statute or byelaws shall make provisions for such registration on payment of plastic waste management fee of minimum rupees forty-eight thousand @ rupees four thousand per month. The concerned local body may prescribe higher plastic waste management fee, depending upon the sale capacity. The registered shop keepers shall display at prominent place that plastic carry bags are given on payment.

Recommendation: The Committee recommended that the provision of this rule should be dropped as it is very difficult to keep record of the shopkeepers and vendors. Further, taking action against the defaulters is a herculean task for the regulating agency. Further, it would create an unnecessary regulatory burden on shopkeepers and street vendors, since they are already required to fill up other Govt. forms. Thus this needs to be dropped.

7.0 Discussion and recommendations on the Solid Waste Management Rules, 2016.

- vii. **Rule 4 - Duties of waste generators:** Various duties are defined in the rules like segregation of waste, separating C&D waste, horticulture waste, duties of resident welfare and market association, gated communities, responsibilities of hotels and restaurants etc.

Discussion: The Committee deliberated on the implementation challenges. There is a wide variation across country in levels of segregation. The committee also deliberated whether there was room for simplification in view of implementation challenges.

The Committee was of the view that the rules mentioned in this section are of the nature of guidelines and the Committee felt that these can be followed by the various stakeholders. No changes were proposed for the present moment.

- viii. **Rule 17 - Duty of manufacturers or brand owners of disposable products and sanitary napkins and diapers.**

(1) All manufacturers of disposable products such as tin, glass, plastics packaging, etc., or brand owners who introduce such products in the market shall provide necessary financial assistance to local authorities for establishment of waste management system.

(2) All such brand owners who sell or market their products in such packaging material which are non-biodegradable shall put in place a system to collect back the packaging waste generated due to their production.

(3) Manufacturers or brand owners or marketing companies of sanitary napkins and diapers shall explore the possibility of using all recyclable materials in their products or they shall provide a pouch or wrapper for disposal of each napkin or diapers along with the packet of their sanitary products.

(4) All such manufacturers, brand owners or marketing companies shall educate the masses for wrapping and disposal of their products.

Discussion: A detailed discussion on the Rule 17 of SWM took place in the meeting. For the issues related to EPR, the Committee recommended that the model as outlined for the Plastic Waste Management Rules, 2016 would be adopted for the Solid Waste Management Rules, 2016 also. Necessary fees for each category of producers / brand owners would be defined.

Regarding representations received on the matter related to provision of a pouch or wrapper for disposal of each napkin or diapers along with the packet, the Committee recommended that the existing provision of SWM Rules, 2016 are appropriate and should be implemented.

Looking at the health concerns of rag pickers, since napkin or diapers may cause serious health implications for the rag pickers and the handlers of the such waste, the Committee is of the view that the provision of a pouch or wrapper for disposal of each napkin or diapers along with the packet should be implemented by the producers/importers/brand owners. The concern that this would add to the quantum of plastic waste was noted. However it was felt, that this would be small, compared to the adverse consequences for handling such waste. Thus the committee felt that no changes were necessary in the Rules relating to this issue.

ix. **Rule 21 - Criteria for waste to energy process.-**

(1) Non recyclable waste having calorific value of 1500 K/cal/kg or more shall not be disposed of on landfills and shall only be utilized for generating energy either or through refuse derived fuel or by giving away as feed stock for preparing refuse derived fuel.

(2) High calorific wastes shall be used for co-processing in cement or thermal power plants.

Recommendation: The Committee recommended that this rule may be retained which will help while implementing the PWM Rules, 2016 and SWM Rules, 2016

x. **Development of a national database for production of plastics**

The Committee felt that a proper database for production of plastic would be of paramount importance if EPR/Modified EPR (Cess) based norms are to be enforced. The Committee recommends that CPCB should take up the work of development of the database based on which the quantum of EPR/Modified EPR targets can be finalized. The registration as well as the management of database for the EPR may be online. This would allow for easy monitoring of EPR/Modifies EPR targets and also make the entire monitoring transparent and monitorable.