

## **Decisions of 57<sup>th</sup> meeting of the Technical Review Committee (TRC) under the Hazardous Waste (Management, Handling and Trans-boundary Movement) Rules, 2008 held on 18<sup>th</sup> and 19<sup>th</sup> October 2016 under the chairmanship of Shri R.K.Garg**

### **AGENDA ITEM NO 01: ISSUES PERTAINING TO HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANS-BOUNDARY MOVEMENT) RULES, 2016**

#### **Agenda 1.1: Representation of Gujarat Paper Mills Association (GPMA) forwarded by Gujarat Pollution Control Board requesting for removal of De-inking Sludge of the paper mills from Hazardous Waste Category**

De-Inking Sludge falls in hazardous waste category in the newly notified Hazardous Waste Rules, 2016. This is similar to its status in the previous Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008. The applicant has requested for de-categorization of from the hazardous waste category under Hazardous Waste Rules, 2016. In this regard the applicant has got evaluated the matter by an independent consultant, M/s ERM India Pvt. Ltd. They have attached the detailed Technical report submitted by ERM India Pvt. Ltd on "Assessment of De-inking Sludge for categorization under HW Rules, 2008: Vapi, Gujarat" for Shah Paper Mills Limited.

GPMA has contended that according to the report, all parameters of the de-inking sludge are below the standards prescribed in the Rules. In the case of Absorbable Organic Halides (AOX) the suggested limit of AOX has not been notified as a standard by the Government of India either in HW Rules or in any other statute. However, as per the Article "Development of AOX Standards for Large Scale Pulp and Paper Industries", that was published by the Central Pollution Control Board, in the year 2007, a mass based concentration limit of AOX was suggested for consideration by Ministry as 2.5 Kg/MT of dry sludge (i.e. 2,500 mg/kg) as against their result of AOX in the de-inking sludge which is 263 mg/kg as per the report of ERM.

They have 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. They have also informed that GIZ and GCPC has studied for Vapi paper cluster for one year and have prepared a report which indicate that de-inking sludge under the category of land management option which includes land spreading & land restoration.

In view of above, they have requested to classify de-inking sludge of paper mill as non-hazardous and grant necessary permission for the utilization of said waste as an additive fuel into the boiler and for land filling/ mine filling.

**Decision:** *The decision may be deferred and the applicants i.e. Gujarat Paper Mills Association and GPCB may be asked to present their view in the next meeting of TRC.*

**Agenda 1.2: Clarification Sought By M/s Bakul Aromatics and Chemicals Pvt. Limited regarding ammonia produced during urea production to be designated as 'By-Product'-reg.**

The applicant has indicated that Ammonia is produced as unintended product during manufacture of Dimethyl Urea by methylation of Urea with Methyl Amine and is thus not a 'hazardous waste' but a 'by-product'. MOEFCC has been requested to clarify to GPCB not to consider Ammonia production as "waste" so that the applicant can carry on uninterrupted production at their end. Accordingly, the HW Rules, 2016 will not apply to the storing/transport/sale of ammonia referred above and the applicant shall be allowed to sell ammonia to any customer showing the utilization of ammonia.

The matter was considered in the 55<sup>th</sup> Meeting of the Technical Review Committee held during 27<sup>th</sup> and 28<sup>th</sup> June 2016. The Committee recommended that the applicant may be called for technical presentation with regard to details of concentration of ammonia solution generated, impurities therein and the users of ammonia solution as such. The applicant has now confirmed for presentation.

**Decision:** *During the presentation, the applicant provided the following information:*

- i. Concentration of ammonia solution obtained- 17 to 18 percent*
- ii. Impurities- not detected*
- iii. Users of ammonia solution- names of various industries have been provided*

*The Committee observed that the analytical report does not specifically mention the content of methyl amine which is likely to be present in the ammonia solution. The analysis report also does not mention the detection limit of impurities and the names of impurities analyzed in the solution. The Committee suggested that CPCB may carry out an analysis of the solution for determining the concentration of methyl amine in the solution. The analysis report to be provided by CPCB should depict the comparative value of methyl amine vis-à-vis its threshold Limit Value. The matter will be reconsidered subsequent to receipt of aforesaid information.*

**Agenda 1.3: Representation from Maharani Innovative Paints Pvt. Ltd. with regard to categorization of "used waste thinner" in HW Rules, 2016**

The applicant has been granted authorization and registration for recycling of industrial paint sludge (hazardous waste) covered under Schedule I of HW Rules, 2008; which is valid upto December 2018. The applicant is utilizing wastes covered under Item no. 21.1 of Schedule I which is comprise of process wastes, residues and sludges.

In the recent HW Rules, 2016 in Schedule I, Item No. 21.1 remains unchanged i.e. covers process wastes, residues and sludges, but in Item No. 21.2 the 'Filter Residues' have been replaced with 'Spent Solvent'. In industrial paint application, there is no usage of solvents as such. What is used in industrial paint application is thinner which is a mixture of two or more solvents. The used waste thinner is a process residue of the operation of industrial paint application, which is a waste for paint application industry and therefore, as such it is a residual waste only. The applicant has stated that they are using this used waste thinner i.e. the residual waste of industrial painting as a raw material in their paint sludge recycling as replacement to fresh thinners. The practice basically helps in conserving the virgin raw materials.

The used waste thinner which is a residual waste has been transferred to Item No. 21.2 with a name of spent solvent, which was part of Schedule- I, Item no. 21.1 earlier, its generator wants the applicant to provide them a clarification from CPCB that the applicant can continue to use it as a raw material in the process of paint sludge recycling/primer manufacturing.

The applicant has referred to Rule 6.1 and 6.2 of the Hazardous and Others Wastes Rules, 2016 as per which they do not need any fresh authorization or any approval to continue the usage of item no. 21.1 and 21.2 of Schedule-I, just because the name of the Residual waste has been changed as spent solvent i.e. used waste thinner, which was earlier the part of item no. 21.1. The operation remains unchanged and is covered under guidelines of CPCB. The applicant has mentioned that as there is no SOP for "used waste thinner", the Ministry has been requested to kindly grant permission to the applicant to use the waste thinner under item no. 21.2 till such time its SOP is formulated.

**Decision:** *The Committee deliberated on the issue and noted that 'used waste thinners' were being utilized in the past since they were considered as commonly recyclable waste as per Schedule IV of HW Rules, 2008 by recyclers of paint sludge and ink sludge. They continue to feature at Sl no. 19 of Schedule IV of HW Rules, 2016 as part of 'Paint and ink sludge/residues'. Considering the facilities already existing in the country, the Committee is of the view that entry no. 21.2 of 'spent solvent' in the Schedule I of HW Rules, 2016 may be deleted through AMENDMENT of the rules. As far as spent solvents are concerned they are already covered in Schedule I, item no. 20.2 in HW Rules, 2016. Further, since spent solvents are also commonly recycled, this activity should be encouraged and in view of this, the Committee recommended AMENDMENT of Schedule IV by inclusion of 'spent solvent' as a separate entry as item no. 21.*

**Agenda 1.4: Representation from Indian Drug Manufacturers' Association with regard to correct interpretation of HW Rules, 2016 in respect of spent solvents and by-products**

#### ***Issue of spent solvent***

As per the submission by Indian Drug Manufacturers' Association, at present there is some confusion regarding the

classification of “Spent solvents” and “by- products” as hazardous waste and then the subsequent application of rules for treatment of hazardous waste to these substances. This practice does not promote the effective recycling and re-use of these materials and in fact the current enforcement by the State PCBs regarding these issues is adversely impacting the environment as re-use/recycling is being hampered.

In particular, Pharmaceutical operations in many cases require the use of fresh solvents as per GMP guidelines and the spent solvents generated from these processes while not being suitable for the pharmaceutical industry, are perfectly well-suited for other industries such as textiles/dyes and intermediates/construction etc. For several decades, these downstream industries have been acquiring spent solvents from pharmaceutical companies and using them for their applications. Now some State PCBs are preventing this exchange from taking place since they are considering these spent solvents as hazardous waste as the current Rules for Hazardous Waste classify spent solvents as such. This is forcing Pharmaceutical companies to send these solvents for treatment as per Hazardous Waste Rules, which in turn results in their deposition into the environment in one form or another after just a single use. If the spent solvents are continued to be sold to downstream users then they will be re-used/recycled several times or new products will be generated from them, which will result in the reduction of their deposition into the environment. Accordingly, they have requested Ministry to revise the Rules to remove spent solvents from being classified as hazardous waste and allow for their free sale. Particularly in cases where there are already downstream users ready to purchase these items and use them for their applications there should not be any regulation in terms of quality/purity, registration of manufacturer/end user etc. As mentioned above the current rules are not only hammering trade but more importantly are adversely affecting the environment.

### ***Issue of ‘by-product’***

In HW Rules, 2016; by-products have been defined differentiated them from hazardous waste. Inorganic salts , acids and bases such as ammonia often produced as industrial by-products in many cases. These by-products have use in ancillary industries and are commonly sold and used without any further processing. Perhaps the MoEF recognized the additional use of these by-products and thus removed them from the category of hazardous waste. The removal of by-products from hazardous waste classification results in the promoting of re-use/recycling and prevention of damage to environment. While the industry is grateful to the MoEF for amending this Rules, the State PCBs are still not clear on how to interpret this new amendment and are still treating by-products as hazardous waste. Accordingly, they have suggested that the State PBCs be instructed to differentiate between by-products and hazardous waste and in cases where by-products have been incorrectly classified as hazardous waste, swiftly resolve these issues as it will ultimately protect the environment. For cases in which down-stream users already exist for the industrial by-products, the State PCB should not regulate in terms of quality/purity registration of manufacturer/end user etc. but in fact should nurture this process as it promotes the re-use/ recycling of material and prevents the direct deposition of these items into the environment.

Ministry has been requested to clarify the above cited matters regarding spent solvents and by-products.

**Decision:**

*The IDMA raised on specific point in respect of spent solvent and a general issue about categorization of spent solvents as by products versus hazardous waste.*

*The spent solvents have to go through a process of purification normally, distillation and then only can be used as solvents. It has been observed that the units carrying out such processing do not use adequate systems for recovery of solvents from spent solvent and create environmental problems. Therefore, it is necessary that such processes are regulated to ensure that appropriate systems are provided before the spent solvent is taken for recycling. It is for this reason that spent solvents is categorized as hazardous waste and needs approval of CPCB for recovery of solvent in accordance with Rule 9 of HW Rules, 2016.*

*So far as the distinction between hazardous waste and by-product is concerned, the definition of by-product makes it clear that by-product is also not intended to be produced but gets produced in the process and “is used as such”. In case of waste it needs further processing before it can be used and it has to be ensured that the processing is done in an environmentally sound manner.*

**Agenda 1.5: Request for clarification with regard to the definition of ‘Zinc Ash’ and ‘Zinc Skimmings’ as specified in Schedule III Part B under Basel no. 1080 and Schedule III Part D under Basel No. B1100 of HW Rules,2016 from Shri Krishan Kumar Rathi**

There is a public grievance(MOEAF/E/2016/00643) received in this Ministry from the applicant requesting clarification on the definition of ‘Zinc Ash’ and ‘zinc skimming’ as specified in Schedule III Part B under Basel no. B1080 and Schedule III Part D under Basel No. B1100 of Hazardous and other Wastes (Management, Handling and Trans-Boundary Movement) rules, 2016.

**Decision:**

*The Committee noted that in order to resolve this issue the Indian Lead and Zinc Development Association along with a technical representative may be invited in the next TRC meeting. The applicant also may be invited in the same meeting.*

**Agenda 1.6 : Clarification sought by All India Recycled Fiber and Yarn Manufacturers Association and All India Plastic Recyclers association with regard to import of Solid plastic waste (B3010) which now forms part of ‘SCHEDULE VI-Hazardous and Other wastes prohibited for import’ in HW Rules, 2016 (F.No.----)**

**(i) All India Recycled Fiber and Yarn Manufacturers Association**

The applicant highlighted that some manufacturer of recycled polyester staple fiber, who are also member of the Association, import PET washed flakes, which is produced from post-consumer Pet bottles/PET post-industrial, after washing and cutting. The said washed PET flakes are used as raw materials for manufacturing polyester staple fiber. These PET washed flakes does not involve any kind of washing, or cleaning process and as such no kind of pollution is involved in import of these PET washed flakes. The sorting, washing, cleansing and cutting process is done by the exporter in exporting country itself.

However, since custom authorities are expected to create hurdle in import of such goods, the applicant has sought clarification and accordingly necessary advisory/instructions to Custom authorities that the said import of PET washed flakes would not be covered under the definition as contained in Schedule VI of the rules at B3010 comprising of "Waste containing Principal organic constituents".

**Decision:**

***The Committee noted that item B3010 in Schedule VI which is for waste prohibited for import includes solid plastic waste - scrap plastic (various types), cured waste resins and fluorinated polymer waste. The item proposed to be imported namely PET flakes is made from waste PET bottles by a process of washing and shredding where labels including caps are separated. These flakes are directly used for making polyester staple fibers. Although they are made from plastic waste, they are no longer a waste but a product. The Committee is of the view that they do not come in category of wastes/ hazardous waste under HW Rules, 2016.***

***The Committee also noted the discrepancy in the Schedule VI of HW Rules, 2016 in the category B3010 pertaining to "fluorinated polymer wastes (excluding post-consumer waste)" while deliberating on the above issue. The Committee therefore recommended AMENDMENT i.e. what is written in the bracket as "excluding post-consumer waste" may be deleted since it appears to be typographical error which is environmentally unacceptable.***

**(ii) All India Plastic Recyclers Association**

With regard to Policy for the import of Plastic waste & Scrap, the Association has following submissions:

- i. DGFT import policy for PET bottles and plastic waste scrap is quite different. PET bottles comes under the heading of Open General License(OGI) item whereas Plastic waste/ scrap falls under restricted list of items for which import license issued by DGFT is required, with recommendation of this Ministry and Ministry of Chemicals & Petrochemicals;
- ii. The entitlement is based on public notice no. 20 dt 12.03.2003 sr. no. 2 (A). As per the policy, import of 50% of the Manufacturing Capacity is

allowed and rest of the capacity requirement is to be met through indigenously available material.

- iii. As per DGFT public notice No. 392 dt. 01.01.1997, only virgin plastic scrap is allowed as per the definition and description given at S.No. 1& 2 of the said notice and is enumerated as under:

*“Plastic scrap/ waste constitute those fractions of plastics generated by various plastic processing operations or those fractions generated in the production process of plastics in a plant, which have not been put to any use whatsoever and such can be termed as virgin or new material which can be recycled into valuable commercial products using standard plastic processing techniques but without involving any process of cleaning whereby effluents are generated.*

*Such virgin/new plastic scrap/waste shall be permitted for import in the following forms i.e. compressed, films in cut condition, cut tape soft waste, flakes, powders, pieces or irregular shape (not exceeding the size of 3” x 3”).”*

- iv. On import of each consignment, the custom authority draws sample from the consignment and send it to Central Institute of Plastic Engineering Technology (CIPET) and release the consignment only after receipt of confirmatory lab report from CIPET that the imported material is non-toxic and non-hazardous and has not been put to previous use;
- v. The material used is much cheaper than the virgin granules which is used for manufacturing of Kissan pipes, Tarpaulin and dust bins liners etc. which are widely used by poor people;
- vi. The decision wrt to prohibition PET scrap is on the ground that there is enough availability of PET scrap in the country which remains unutilized creating disposal issue. Whereas virgin plastic scrap generated by various factories is not readily available to locally run units smoothly. Unfortunately, plastic waste and scrap is also being denied along with PET OGL item which is not justified.
- vii. Recent changes in the import policy has ‘prohibited’ import of plastic scrap by all actual users including EOUs, clearly separating SEZ units which have been exempted from this prohibition vide recent notification dated 6<sup>th</sup> July 2016.

Import policy is prescribed for five years and thus the previously existing policy of this Ministry wrt regulated import of such virgin plastic scrap shall be resumed to halt the closure of such factories which have employed large number of labors.

**Recommendation:** *Decision on the subject matter is deferred since it is being taken separately by this Ministry on the basis of recommendations of D/o Commerce and representations of various relevant associations.*

**Agenda 1.7 :***CPCB's representations on inclusion of threshold limits on quantity of generation of hazardous waste for applicability of authorization to industries including commercially and domestically generated hazardous waste in the Hazardous and Other Wastes (Management and Transboundary movement) Rules, 2016.*

CPCB has requested for specifying the threshold limits on quantity of generation of hazardous waste in the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016; for applicability of authorization to industries including commercially and domestically generated hazardous waste. Ministry has been requested to examine the matter in context of generation of hazardous waste from the sources other than industries which has already been covered in the Solid Waste Management Rules, 2016.

**Decision:** *So far as domestically and commercially generated hazardous wastes are concerned, they are covered in the Solid Waste Management Rules, 2016 issued by this Ministry. Therefore, the collection of these wastes is the responsibility of the concerned municipal body and they will take necessary steps for management of such wastes as per HW Rules, 2016.*

*In respect of the proposal of fixing threshold limit on quantity of generation of hazardous waste in Schedule I of the Rules, the Committee is of the view that it will be very difficult to arrive at any basis for such threshold. Moreover, the Committee is of the view that it may not be admissible to leave hazardous waste in any quantity unregulated.*

*The basis has to be only the concentration of the hazardous constituents as well as exhibition of hazardous characteristics as already covered in the Rules.*

*While deliberating on this issue, the Committee noted that minimization of waste has been considered as one of the responsibilities of the occupier/ generator as well as regulatory bodies namely CPCB and the SPCBs. There should be a focus on this activity on the part of all the regulatory bodies.*

**Agenda 1.8: Interventions desired from MoEF&CC for effective implementation on the following issues:**

- (i) CPCB has sent a circular dated 30<sup>th</sup> June, 2016 to all SPCBs along with a list of trial runs (Annexure I) conducted for co-processing of wastes in Cement

Kilns, mentioning its calorific value and % utilization of each waste in the respective trials, which is ambiguous.

- (ii) CPCB has issued a notice to Delhi Pollution Control Committee (DPCC) under section 5 in which it has asked DPCC to ensure that incinerable and other compatible hazardous wastes to be sent to cement plants located in other states for co-processing with immediate effect. Unless the cement plants in other states receive authorization, the said action cannot be implemented.
- (iii) As per existing format of FORM 2 defined in the HWM, Rules, 2016 authorization can be granted by SPCBs only for defined categories of wastes and for a specified volumes. For TSDFs for pre-processors or co-processors where the numbers of waste categories are large and the same facility can handle different waste categories, the existing format of FORM 2 is cumbersome for use.

TRC was asked to clarify the above cited issues.

**Decision:** *As there was no clarity with regard to the applicant who has submitted the representation and the purpose, the matter was deferred by the Committee.*

**Agenda 1.9: Communication from office of the Customs, Land Customs Station, Sonauli, Maharajganj, Uttar Pradesh seeking clarification on Chemical Analysis Report in case of import of waste paper which has been necessitated as per HW Rules, 2016.**

Custom Authority has indicated that the import of waste paper is governed by the Hazardous & Other wastes Rules, 2016. Part D of Schedule III of the said Rules provides a list of documents for verification by the Customs at the time of import of the waste. In case of import of waste paper, mentioned at Sl. No 5(Basel no. B 3020) the importer is required to furnish a chemical analysis report of the waste, being imported. However, there is no mention about the parameters/standards that need to be tested by way of chemical analysis of the imported waste paper.

Ministry has been asked to confirm whether there are any specific parameters/ standards that are required for test by means of the chemical analysis report. The clarification would ease processing and clearance of the import consignments of waste paper.

**Decision:** *The Committee noted that in case of waste paper, paper board and paper product wastes (Schedule IID, B3020) chemical analysis is not relevant as prescribed in HW rules, 2016, Schedule VIII item 5(e). Therefore, the Committee recommended AMENDMENT to the HW Rules, 2016 i.e. Schedule VIII item 5(e) should be deleted.*

**Agenda 1.10: Communication from Maharashtra Pollution Control Board seeking clarification with respect to grant of**

## **Authorization to importers of hazardous and other wastes under the HW Rules, 2016**

MPCB has stated that as per the requirement of the Form No. 7 (Application form for traders obtaining Authorisation for import of waste) traders need to furnish the details of actual user for whom they are importing the wastes. The details to be furnished by Traders is Name and Address of authorized actual users. In this reference the board has sought following clarifications:

- i. Whether trader who is importing listed other wastes in the Part D of Schedule III shall furnish copies of authorisation obtained by Actual Users from SPCB as per the provisions of these newly notified Rules.
- ii. Whether actual users who have already obtained combined consents from the State Pollution Control Board are needed to obtain separate authorisation under these rules for utilization of other wastes listed in Part – D of Schedule III? (Steel and Aluminium manufacturing industries use scrap steel, aluminium for manufacturing ingots and other products. However, steel scrap, aluminium scrap were not listed in Schedule IV of HW Rules, 2008). Hence, such industries have obtained only consents from the SPCB?
- iii. Whether SPCB can issue One Time Authorisation to the traders who are importing other wastes listed in Part –D of Schedule-III of these rules on the basis of information furnished by them in form 7 along with copies of consents obtained by the industries.

**Decision:** *The Committee deliberated on the issues raised by Maharashtra Pollution Control Board in respect of one time authorisation for import of other wastes in Part D of Schedule III to traders. In the Form 7 in which the traders have to apply for authorization, they have to mention the names and addresses as well as authorization of the actual users to whom such wastes would be supplied. The Committee felt that the traders should have the flexibility of supplying the wastes to other authorized recyclers in case the recyclers mentioned in the application (Form 7) do not need the wastes or close down their establishment. Therefore, the Committee recommended the following AMENDEMENTS:*

- i. *Form 7, item 5: “names and address of authorized actual user(s)” may be amended to “names and address of authorized actual user(s)\*” followed by note below the Form 7 table as follows:*

**Note:**

\* *In case of supply of waste to authorized recyclers other than those mentioned with reference to item 5 above, the trader has to send prior intimation to the concerned SPCB giving the name and address and copy of authorization of new actual user.*

- ii. *In Form 2 in the table of “Details of authorization”, in the column no. 2 “Category of Hazardous Waste as per Schedule I, II and III of*

***these Rules” should be replaced by “Category of Hazardous and other Wastes as per Schedule I, II and III of these Rules”***

***As per the HW Rules, 2016, import permitted in the country to the actual user or to the trader on behalf of the actual users authorised by SPCB on one time basis and subject to verification of documents specified in Schedule VIII of these rules by the Custom Authority. This remains unchanged.***

**Agenda 1.11: Representation from Ramky Enviro Engineers Ltd proposing amendments in Hazardous and Other Wastes (Management, Handling and Trans-boundary Movement) Rules, 2016**

The applicant has suggested amendment in following clauses of the rules with justifications:

- i. Rule 6(2)- Grant of authorisation for managing hazardous and other wastes;
- ii. Rule 13 (2) Procedure for import of hazardous and other wastes;
- iii. Rule 16 Treatment, storage and disposal facility for hazardous and other wastes;
- iv. Rule 17 Packaging and Labelling;
- v. Rule 18 Transportation of hazardous and other wastes;
- vi. Schedule II- List of waste constituents with concentration limits

**Decision:** ***The Committee recommended to call the applicant for discussion with regard to requested amendments in HW Rules, 2016.***

**Agenda 1.12 Representation by All India Rubber & Tyre Recyclers Association (AIRTRA) with regard to import and storage of used rubber tyre scrap**

The applicant has forwarded request with respect to following two issues pertaining to import and storage of used rubber tyre scrap:

- (i) Request for Ministry’s recommendation to DGFT for revision of import policy wrt import of items “used scrap tyres with one cut in bead wire” prescribed under Exim Code 40040000 under ITC(HS), 2012 Schedule I. As per the ITC(HS) classification of Export and Import items, the present policy for used tyres and tubes is as under:

<b>HS code</b>	<b>Item description</b>	<b>Policy</b>	<b>Policy conditions</b>
40040000	Waste, parings and scrap of rubber (other than hard rubber) and powders & granules	Restricted	Import of used rubber tyres with one cut in bead import or used rubber tubes cut in two pieces,

	obtained therefrom.		however, free.
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Accordingly, 'import of used rubber tyres with one cut in bead or used rubber tubes cut in two pieces' is free. The applicant has requested for amendment in the 'Policy condition' as prescribed above by replacing 'one cut in bead' to 'one cut or multi cut in bead', thus making the multi cut tyre scrap also to fall in free category.

As informed by them, they took up the matter with DGFT who sought DIPP comments for decision on the proposed amendment. DIPP in their response has given following explanation for retaining the present policy conditions:

- i. the above policy was suggested based on fact that when used tyre is cut at two places, the cut tyre becomes in three pieces. It will reduce the volume and transportation costs. If number of pieces is more, there will be more chances of mixing other hazardous scraps along with tyre scrap.
- ii. Used rubber tyres are also used for extracting oil and Oil India Ltd. objecting for allowing used rubber tyres for extracting oil saying that it is being used for adulterating Diesel, Furnace oil and other petroleum products and also polluting environment.

Since DIPP has referred to environmental reasons defending the existing policy conditions, Ministry recommendation has been sought for communicating to DGFT.

**Decision:** *The Committee went through the comments of DIPP and the presentation made by the AIRTRA in respect of import of used/ scrap tyres. The Committee had earlier also deliberated on this issue. The intention is not to allow used tyres for use as such. The import should be only for recycling or for resource recovery. To avoid use as such, the tyre needs to be cut and it doesn't entail into any environmental ramification, whether it is one cut or multi-cut.*

*So far as use of waste rubber tyre in pyrolysis is concerned, SOPs have already been prepared and only applicants who have adopted the prescribed SOPs are given permission for import. On the question of adulteration of diesel, furnace oil and other petroleum products by pyrolysis oil, the Committee is of the view that restricting import of used/scrap tyres for pyrolysis will not serve much purpose in arresting the adulteration as long as the waste tyres from domestic sources or domestically generated are being used for producing pyrolysis oil.*

*On the remaining issues raised by AIRTRA, the Committee has no comments to offer as those issues have no environmental bearing.*

**Agenda 1.13: Representation from All India Scrap Recyclers Association with regard to issue of authorization as per the HW Rules, 2016 for the import of tyre scrap**

All India Scrap Recyclers Association (AISRA) has submitted that inspite of applying umpteen number of times to the SPCBs for the authorisation under the HW Rules, 2016 for the import of tyre scrap, few of the SPCBs are neither issuing any authorisation nor giving any reason in writing for not issuing it.

Ministry has been requested to amend the HW Rules, 2016 by removing the required authorization clause for recycling of tyre scrap or to exempt tyre recycling industry for obtaining authorization for import of tyre scrap till MoEF&CC gets confirmation in writing from all SPCBs.

**Decision:** *The Committee recalled that this issue was earlier discussed and a letter was sent by the Ministry to Chairman, Haryana Pollution Control Board (HPCB) to consider cases of recyclers of hazardous as well as other wastes (Schedule III Part B and D) for issuance of authorization as per Rule 6 of HW Rules, 2016. The representative of Recyclers Association has informed the Committee that some of the boards including Haryana are still not issuing authorization to the recyclers despite the letter issued to HPCB. The Committee suggested that directions may be issued on case to case basis to the concerned SPCB after obtaining the details of the application filed along with date of application from the above association.*

**Agenda 1.14: Insurance policy to be made mandatory for import of hazardous and other waste in line with similar provision for export of such wastes as is provided in Basel Convention to which India is Party**

Member Secretary briefed the committee that as per Article 6 (11) on Transboundary Movement Between Parties of 'Basel Convention on Control of Transboundary Movement of Hazardous Waste' to which India is Party, "Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party".

As per the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, of India which prescribe provisions for effective management of hazardous wastes in the country, no import of hazardous and other wastes from any country to India for disposal shall be permitted. However, import of hazardous and other waste in the country is permitted only for recycling, reuse and utilisation including co-processing subject to complying with the procedure prescribed under the rules. As per Rule 14, any occupier intending to export waste specified in Part A of Schedule III, Part B of Schedule III and Schedule VI, shall make an application in Form 5 along with insurance cover to the Ministry for the proposed transboundary movement of hazardous and other wastes together with the prior informed consent in writing from the importing country in respect of wastes specified in Part A of Schedule III and Schedule VI. Further, insurance cover is

mandatory for transit permission during all such transboundary movement of wastes wherein Indian port is being used for movement of waste from one country to other and India is not the destination. The insurance policy covers liability to health and environment during transit of hazardous and other wastes.

However, no such requirement of insurance cover has been necessitated under the rules for import of hazardous and other wastes from any country to India.

Committee was requested to deliberate on the need of such insurance cover or bond for all such import of hazardous and other wastes in the country under the provision of Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016.

**Decision: the subject matter is policy in nature and would be dealt separately. The decision is deferred.**

## **AGENDA ITEM NO 02: ISSUES PERTAINING TO E-WASTE (MANAGEMENT) RULES, 2016**

### **Agenda 2.1: Review of the Rules wrt specific provisions**

Member Secretary brought to the notice of the Committee, specific provisions of the rules, which indicate some discrepancy thus indicating towards future implementation hurdles. Accordingly, the Committee which was also involved in formulation of the Rules was requested to review the E-Waste Rules, 2016 on the following specific issues.

- i. **SCHEDULE III, Targets for Extended Producer Responsibility Authorisation:** The Schedule may be reviewed with respect to the language in column two, which refers to 'during first two years of implementation of rules' and so on. This creates ambiguity as it may not be applicable to any new company expected to come in future after date of implementation of the Rules.
- ii. **FORM-1, Applicable to producers seeking Extended Producer Responsibility- Authorisation:** the form necessitates '*Details of electrical and electronic equipment placed on market year-wise during previous 10 years in the form of table given below*'. This information for last 10 years from the Producers doesn't serve any purpose, since end-of-life of electrical and electronic equipment (EEE) is already being prescribed in the CPCB guidelines for calculation of targets. The sales figure shall be any how required for the period as prescribed in the guidelines.
- iii. **Unit for calculation of waste generation and target:** It was brought to the notice of the committee that with the present option given to the Producers for calculating the waste generation and accordingly the target in terms of either in number of units or weight; there is always a possibility that

only plastic covers of such units indicating their number wrt the units sold in the market are channelized to meet the EPR obligations; with all possibilities of actual e-waste finding their way to informal sector.

- iv. **Rule 9, Bulk consumers to channelize e-waste to authorized dismantler or recycler either directly or through Producers-** This provision will create a scenario of competition between recyclers and Producers for e-waste. Further when the target is given to Producers and not to recyclers, it will be for feasible option, both for implementation and monitoring if the e-waste from bulk consumers is channelized to authorized recyclers and dismantlers through Producers.

**Decision: The Committee deliberated on the aforesaid issues and recommended amendments to the Rules wrt issues at (i), (ii) and(iii) above. Whereas, for issue at (iv) above, expecting the need of detailed deliberation and noting the time constraint, deferred it for discussion during next TRC. Following are the recommended AMENDMENTS with regard to first three issues above:**

- i. *The Schedule III may be amended at column II replacing the language “during first two years of the implementation of the rules” with “during first two years” and similar pattern will be repeated for the other three rows.*
- ii. *“details of EEE placed on market year-wise during previous 10 years in the form of table 1 as given below” shall be replaced with “details of EEE placed in market year-wise for the period equivalent to average end-of-life mentioned in the guidelines issued by CPCB from time to time”.*
- iii. *While Filing returns in Form 3, FORM FOR FILING ANNUAL RETURNS “Quantity in Metric Tonnes (MT) and numbers” to be replaced by “Quantity in Metric Tonnes (MT)”*

**Agenda 2.2: Representation from Consumer Electronics and Appliances Manufacturers Association (CEAMA) and Manufacturing Association for Information Technology (MAIT) with regard to difficulties in Implementation of E-waste (Management) Rules 2016.**

The Member Secretary informed the committee that these associations have been raising issues wrt implementation of E-Waste Rules, 2016; seeking clarification and wherever pertinent, necessary amendments to the rules. These issues have been regularly deliberated in the TRC and accordingly, necessary clarification and need for amendment, if there is any has been communicated to them with the approval of competent authority in the Ministry. CPCB has recently issued guidelines for implementation of the Rules, which has raised further issues for clarification. The Decision of the committee on the issues also took

into account the deliberations with MAIT representatives who were available during the meeting. The Committee discussed on all the listed issues, as well as the issues raised during the presentation by MAIT representatives and representation from Lenovo and recommended the following:

- (i) **Consumer responsibility:** No responsibility has been put on the consumer for proper disposal of an electronic item where as in India it is the consumer who decides as to when the product has reached to its end life. Typically, an electronic product passes through many hands before its finally scrapped.

**Recommendation:**

*The responsibilities of various stakeholders including bulk consumer and consumer have already been defined in the Rules. As such no change is required in the existing Rules.*

- (ii) **End-of Life of EEE:** By stipulating the end of life which is less than the products are being actually used for, we would be promoting generation of additional waste.

**Recommendation:**

*The issue of average life of the electrical and electronic equipment has been already discussed during the EC meeting of CPCB, wherein the representatives of Producers' associations including CEAMA were present. The figures of average life in the guidelines prepared by CPCB are based on those discussions.*

- (iii) **Effective date for implementation of the EPR authorization conditions including targets:** Clearance of consignments by customs from 1.10.2016 in the absence of EPR authorization from CPCB under the E-waste Rules, 2016 are being effected due to ambiguity on the target implementation timeline.

**Decision:** *The Committee noted the concern of producers regarding clearance of consignments by customs from 1.10.2016 in the absence of EPR authorization from CPCB under the E-waste Rules, 2016. As per the Rules the process of EPR authorization stipulates upto 90 days for submission of the application and upto 120 days for processing the application by CPCB to grant EPR authorization. Thus, the grant of EPR authorization could go up to April 30<sup>th</sup>, 2017. Therefore, it would be reasonable that the implementation of EPR starts from 1<sup>st</sup> May 2017. Accordingly, Customs may be informed to permit clearance of imported consignments without EPR authorization till 30<sup>th</sup> April 2017. However, what is stated above would not be applicable to the new producers or importing entities for their consignments.*

*Accordingly, taking in to consideration the time frame for grant of EPR authorization as*

*mentioned above, the Committee recommended that the implementation of the EPR authorization conditions including targets will be effective from 1<sup>st</sup> May 2017 for existing producers. However, in case of new entities who are planning to carry out their business from October 2016 onwards have to obtain EPR authorization before commencing their business. For new entities, the above stated timeline (90 days plus 120 days) for requirement of EPR authorization will be on the basis of date of registration of the company. The calculation of targets for the year not coinciding with financial year, shall be on pro-rata basis.*

- (iv) **National or State specific target:** confusion was indicated on the issue.

**Recommendation:**

*With respect to a specific query, it was clarified that the target under the rules is national target and thus an average of all the states where Producers have the business need to be provided for showing the compliance.*

- (v) **Documents required with Form 1 wrt ROHS provision:** ROHS compliance shall be on self declaration mode as has also been elaborated in Rule 16 of the E-Waste Rules. The requirement of submission of so many documents defeat the whole purpose of easing the load of both Producers and regulators.

**Decision:** *In respect of ROHS compliance, the representatives expressed the practical difficulty in submitting voluminous documents like test reports of various parts/ sub-assemblies etc. as evidence of ROHS compliance, as has been necessitated under the CPCB guidelines. The Committee recognized this difficulty on the part of the producer as well as on the part of CPCB to carry out the examination of the documents. The Committee recommended that the technical documents in respect of RoHS as given in the guidelines issued by CPCB should be available with the applicant and a declaration to this effect may be submitted to CPCB. The CPCB guidelines need to be **AMENDED**, accordingly.*

*Accordingly, Form 1 (9b) of the E-waste Rules 2016 may also be **AMENDED** to be read as “provide the declaration with regard to technical documents maintained by them in support of ROHS compliance as specified in the guidelines issued by CPCB from time to time” .*

**(vi) Collection Point:** The reference of collection point under collection centre in the CPCB guidelines has created significant implementation hurdle as it is not feasible for small collection points to abide by all the requirements of collection centres as prescribed within the guidelines.

**Recommendation:**

*The representative of the association stated that the no. of collection points would be very large and even dealers would act as collection points. In view of this the guidelines should only be in respect of collection centres and not collection points as given in the guidelines. The Committee agreed to delete the reference to collection points in the CPCB guidelines.*

**(vii) Retrospective Implementation of the E- waste (management) Rules 2016:** The calculation of the target of collection on the basis of data submitted when the Rules were not enacted by essence triggers the retrospective effect of the Rules as the Producer would bear the burden of recycling such products which were produced when the said Rules of 2016 were not in effect. The rules of 2011 had provided for an Extended Producer Responsibility but the same were of a general nature without specifying any targets, time periods or penalties. Any targets will have to be prospective, giving due consideration to the final life of the product.

**Decision:** *The need for environmentally sound management of e-waste has been recognized all over the world. In the EU this need took the form of a directive by the EU to its members way back in 2003 to collect e-waste in certain quantity from all households. In India, the 2011 rules was a response to this need in view of the environmental consequences haphazard recycling or disposal of the e-waste. The main issue in the management of the e-waste is its collection. Taking into consideration the fact that various hazardous constituents form part of the EEE supplied by the producers, the major responsibility of collection of the e-waste and its channelization to the environmentally sound recycling/ disposal facilities should rest with the producers. Accordingly, the 2011 e-waste Rules made this provision as EPR. However, despite EPR there has not been much progress in collection of e-waste or its channelization to recycling and disposal facility as stated above. Therefore, in the E-Waste (Management) Rules, 2016 a provision has been made for every EPR authorization holder to collect and channelize e-waste with respect to annual specified target.*

*The 2016 Rules, therefore were a response to the existing e-waste issues which despite 2011 rules remain unresolved on the ground. The e-waste to be collected by the producers from 2017 onwards is the one which is being currently generated in the*

**country. Moreover, the quantity to be collected during the first two years has been fixed at 30 percent of the estimated generation per annum. Further, the quantity of e-waste generation has been estimated based on the end of life of EEE. The E-waste 2016 Rules provide for prospective targets even to the extent that the targets would become mandatory from 2017 onwards.**

**The collection targets though are based on what had been put out in the market in the previous years do not make the targets, retrospective. If one looks at the WEEE directive of EU in 2003, the targets were prescribed based on the generation at that time. It may also be noted that EU directive of 2003 provides for establishing collection targets based on quantity placed in the market in the previous years. The relevant extract from this EU directive is placed below:**

**“Member states shall ensure that by 31<sup>st</sup> December 2006 at the latest a rate of separate collection of at least four kilograms on average per inhabitant per year of WEEE from private households is achieved”**

**Further, it refers to new mandatory targets on the basis of experiences and taking into account electrical and electronic equipment sold to private households in the preceding years. An extract of EU directive of 2003 states in this regard is reproduced below:**

**“ the European Parliament and the Council, acting on a proposal from the commission and taking account of technical and economic experience in the Member States, shall establish a new mandatory target by 31<sup>st</sup> December 2008”. This may take the form of a percentage of the quantities of electrical and electronic equipment sold to private households in the preceding years”.**

**This clearly establishes the fact that prospective targets can only be based on the EEE sold in the previous years. It may also be noted that as per the e-waste rules, 2016 for meeting the collection target, even historical e-waste of similar EEEs available can also be collected. The provision in this respect in e-waste rules, 2016 is reproduced below: -**

**“collection and channelization of e-waste generated from the ‘end-of-life’ of their products or ‘end-of-life’ products with same electrical and electronic**

*equipment code and historical waste available on the date from which these rules come into force as per Schedule I in line with the targets prescribed in Schedule III in Extended Producer Responsibility – Authorization”.*

**The other amendments with regard to the Hazardous and other Wastes (Management, Handling and Trans-boundary Movement Rules, 2016) and E-waste (Management) Rules, 2016 considered in the earlier meetings of the Technical Review committee will be dealt together with the aforesaid ones.**