



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार.
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE, GOVT. OF INDIA.

Speed Post

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F.No.: CM-13011/125/2023-LAW-HO-CPCB-HO

November 25, 2024

To

The Chairman
Delhi Pollution Control Committee
4th Floor, ISBT Building,
Kashmere Gate,
Delhi-110006

Delhi Pollution Control Committee
Dairy No. 154950
11 DEC 2024
Sign of Receiving Officer.

Sub: Direction under Section 5 of the Environment (Protection) Act, 1986 regarding implementation of the CPCB's "Framework on Identification of Materials Generated from Industrial Processes as Wastes or By-products"

WHEREAS, the Ministry of Environment Forest & Climate change (MoEF&CC) in exercise of the powers conferred by sections 6, 8 and 25 of the Environment (Protection) Act, 1986, and in supersession of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008 has notified Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and amendments thereof (herein referred as HOWM Rules, 2016); and

WHEREAS, Rule 3(17) of the HOWM Rules, 2016 stipulates that "hazardous waste" means any waste which by reason of characteristics such as physical, chemical, biological, reactive, toxic, flammable, explosive or corrosive, causes danger or is likely to cause danger to health or environment, whether alone or in contact with other wastes or substances, and shall include -

- waste specified under column (3) of Schedule I;
- waste having equal to or more than the concentration limits specified for the constituents in class A and class B of Schedule II or any of the characteristics as specified in class C of Schedule II; and
- wastes specified in Part A of Schedule III in respect of import or export of such wastes or the wastes not specified in Part A but exhibit hazardous characteristics specified in Part C of Schedule III;

AND WHEREAS, Rule 3(38) of the HOWM Rules, 2016 stipulates that "waste" means materials that are not products or by-products, for which the generator has no further use for the purposes of production, transformation or consumption.

Explanation.- for the purposes of this clause,

- waste includes the materials that may be generated during, the extraction of raw materials, the processing of raw materials into intermediates and final products, the consumption of final products, and through other human activities and excludes residuals recycled or reused at the place of generation; and
- by-product means a material that is not intended to be produced but gets produced in the production process of intended product and is used as such;

AND WHEREAS, Rule 6(1) of the HOWM Rules every occupier of the facility who is engaged in handling, generation, collection, storage, packaging, transportation, use, treatment, processing, recycling, recovery, pre-processing, co-processing, utilization, offering for sale, transfer or disposal of the hazardous and other wastes shall obtain an authorization from the Pollution Control Committee; and

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WHEREAS, Rule 6(2) of the stipulates that the Pollution Control Committee may after such inquiry as it considers necessary, and on being satisfied that the applicant possesses appropriate facilities for collection, storage, packaging, transportation, treatment, processing, use, destruction, recycling, recovery, pre-processing, co-processing, utilization, offering for sale, transfer or disposal of the hazardous and other waste, as the case may be, and after ensuring technical capabilities and equipment complying with the standard operating procedure or other guidelines specified by the Central Pollution Control Board from time to time and through site inspection, may grant Authorization to occupier; and

WHEREAS, Rule 21 of the HOWM Rules, 2016 stipulates that authorities shall perform the duties as specified in the Schedule VII of the said Rules subject to provision of these rules; and

WHEREAS, as per Schedule VII of the HOWM Rules, 2016, the State Pollution Control Boards or Pollution Control Committees are entrusted the duties of grant & renewal of Authorization, Inventorisation of hazardous and other wastes; Monitoring of compliance of various provisions of these rules; Any other function under these Rules assigned by Ministry of Environment, Forest and Climate Change from time to time; and

WHEREAS, the Monitoring Committee constituted by Hon'ble National Green Tribunal the matter of Original Application No. 804/2017: Rajiv Narayan & Anr. Vs Union of India & Ors submitted its observations on 'Hazardous waste identification:- Uniformity in assessment, By products and solvents' and recommended that "There is a need to urgently prepare a guidelines or protocol on how to decide the by-product on specific criteria. This can be done based on chemical process involved in order to bring consistency in approach." The said recommendations was accepted by the Hon'ble NGT vide its orders dated 12/09/2019; and

WHEREAS, CPCB in compliance of the said Hon'ble NGT orders has prepared "Framework on Identification of Materials Generated from Industrial Processes as Wastes or By-products" for identification of material generated from industrial processes as "wastes" and "by-products" thereby resulting into effective enforcement of the HOWM Rules, 2016. The said Framework was circulated by CPCB vide letter dated 23/09/2019 to all SPCBs/PCCs for identification and declaration of any material (generated from the industrial process) as a "waste" or "by-product" as per the criteria and guiding factor laid down under the aforesaid framework; and

WHEREAS, the matter related to non-implementation of the aforesaid framework has been raised before the Hon'ble NGT in the matter of Original Application 502/2023; Society For Protection Of Environment And Biodiversity (SPENBIO) Vs Union of India; and

WHEREAS, CPCB conducted meetings on 09/11/2023 and 13/05/2024 to review the status on implementation of the aforesaid framework wherein it was decided that SPCBs/PCCs will provide various information's related to implementation of the said framework; and

WHEREAS, CPCB vide its various letters has sought status of implementation of the said framework. However, information in this regard have not been provided by SPCB/PCC; and

WHEREAS, CPCB vide its letter dated 02/04/2024 has communicated common application format for receiving any application for identification of industrial material as a by-product as per the "Framework on Identification of Materials Generated from Industrial Processes as Wastes or By-Products" and requested to provide information related to implementation of said framework alongwith annual report; and

WHEREAS, CPCB vide its letter dated 12/07/2024 has also communicated the format for submission of information related to implementation of the said Framework and requested to submit the same alongwith Annual Inventory report; and

WHEREAS, the Hon'ble NGT in its orders dated 09/09/2024 has recorded that the consequences of environmental damage could be huge on account of the non-implementation of the framework of 2019; and

WHEREAS, as on 20/11/2024, CPCB has received limited information related to effective implementation of the "Framework on Identification of Materials Generated from Industrial Processes as Wastes or By-Products"; and

WHEREAS, the Central Government vide Notifications No. S.O. 157(E) of February 27, 1996 and S.O. 730 (E) dated July 10, 2002, has delegated the powers under Section 5 of the Environment (Protection) Act, 1986 (29 Of 1986) to the Chairman, CPCB, to issue directions to any industry or any local or any other authority for the violation of the standards and rules, notified under the Environment (Protection) Act, 1986 and amendments thereof; and

NOW, THEREFORE, in exercise of the powers vested under the Section 5 of the Environment(Protection) Act, 1986, Delhi Pollution Control Committee is directed to comply with the following:

1. Ensure that identification and declaration of any material (generated from the industrial process) as "by-product" shall be carried out as per the criteria and guiding factor laid down under the CPCB's "Framework on Identification of Materials Generated from Industrial Processes as Wastes or By-products".
2. Application for proposals for identification of Materials Generated from Industrial Processes as By-product, be made by the applicant to the SPCB/PCC only in the Common Application form as communicated by CPCB vide its letter dated 02/04/2024. Weblink of the application form in this regard be made available in public domain.
3. Issue necessary directions to the field inspecting teams of the Committee to examine (during routine inspection) that any industrial process material being utilized as by-products, is classified as per the CPCB's framework and stipulated in the authorisation granted by SPCB/PCC.
4. Submit status on the implementation of the CPCB's framework as communicated vide letter dated 12/07/2024. The same be also placed in public domain by providing a weblink. The details of the link be also provided to CPCB.
5. Provide the list of Hazardous Waste (listed in Schedule -I, II, III of HOWM Rules, 2016) classified as "By-product" along with their annual generation quantity.

The receipt of this direction shall be acknowledged within 07 days of issuance of the directions and submit the compliance status to this office by 05/12/2024.

13.2.27/11
(Tanmay Kumar)
Chairman

