THE DEPARTMENT OF FORESTS & ENVIRONMENT
MEGHALAYA



COMPENDIUM OF ENVIRONMENTAL LEGISLATIONS

VOLUME -IV

सत्यमेव जयते

Government of Meghalaya
Forests and Environment Department

COMPENDIUM OF ENVIRONMENTAL LEGISLATIONS

VOLUME - IV

Published By :

The Principal Chief Conservator of Forests & HOFF
Meghalaya

PREFACE

The Forests and Environment Department since its inception, has undertaken the onerous task of managing and protecting the flora and fauna of the State and the Country. For this purpose, several Acts & Rules have been passed both by the Central and the State Legislatures to empower the Department in fulfilling its mandate. These Acts & Rules have enabled the Department to manage and control the natural resources.

With the publication of the 5 (five) volumes of the State and the Central Forests Acts & Rules being implemented in the State of Meghalaya, the long felt need to provide a compilation of these Acts, Rules, Regulations and Executive instructions relating to Forests, Wildlife, Bio-Diversity and Environment etc has been realised. The painstaking work undertaken by a team of Officers viz Shri B. K. Lyngwa, IFS, Principal Chief Conservator of Forests (Admn), Shri J. M. Pohsngap, IFS, Conservator of Forests (CC, R & T) and Dr Manjunatha C, IFS, Planning Officer O/O Principal Chief Conservator of Forests & Head of Forests Force spread over a period of 10 (ten) Months has finally borne fruit. I commend the good work done by this team of dedicated Officers and assisting Staff.

I take great pleasure to dedicate this compilation of 5 (five) volumes in a set to the Officers and Staff of the Forests & Environment Department with a hope that it will help in effective functioning of the Department in general and the Executive frontline staff in particular who are, day in and day out, executing works to preserve and protect the rich natural resources of the State. This compilation will act as a useful guide to the forest staff to effectively carry out their duties to preserve our precious natural heritage for now and for the future generations.

Dated: Shillong
The 31st March, 2019

(C P Marak, IFS)
Principal Chief Conservator of Forests & HoFF
Shillong, Meghalaya.

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ACTS

THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

[Act No. 6 of Year 1974]

This document is available at www.ielrc.org/content/e7402.pdf

An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

WHEREAS it is expedient to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution and for conferring on and assigning to such Boards powers and functions relating thereto;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal to the effect that the matters aforesaid should be regulated in those States by Parliament by law; Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows: -

CHAPTER I

PRELIMINARY

1. Short title, application and commencement.

(1) This Act may be called the Water (Prevention and Control of Pollution) Act, 1974.

(2) It applies in the first instance to the whole of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and the Union Territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(3) It shall come into force at once in the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and in the Union Territories, and in any other State which

adopts this Act under clause (1) of article 252 of the Constitution on the date of such adoption and any reference in this Act to the commencement of this Act shall, in relation to any State or Union Territory, means the date on which this Act comes into force in such State or Union Territory.

2. Definitions

In this Act, unless the context otherwise requires,-

(a) "Board" means the Central Board or a State Board;

(b) ["Central Board" means the Central Pollution Control Board constituted under section 3;]

(c) "member" means a member of a Board and includes the Chairman thereof;

[1]*[(d)* "occupier" in relation to any factory or premises, means the person who has control over the affairs of the factory or the premises, and includes, in relation to any substance, the person in possession of the substance;]

[2][(dd) "outlet" includes any conduit pipe or channel, open or closed, carrying sewage or trade effluent or any other holding arrangement which causes or is likely to cause, pollution;]

(e) "pollution" means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms;

(f) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(g) "sewage effluent" means effluent from any sewerage system or sewage disposal works and includes sullage from open drains;

[2][(gg)"sewer" means any conduit pipe or channel, open or closed, carrying sewage or trade effluent;]

[1]*[(h)* "State Board" means a State Pollution Control Board constituted under section 4;]

(i) "State Government" in relation to a Union Territory means the Administrator thereof appointed under article 239 of the Constitution;

(j) "stream" includes-

(i) river;

(ii) water course (whether flowing or for the time being dry);

(iii) inland water (whether natural or artificial);

(iv) sub-terranean waters;

(v) sea or tidal waters to such extent or, as the case may be, to such point as the State Government may, by notification in the Official Gazette, specify in this behalf;

(k) "trade effluent" includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any [3][industry, operation or process, or treatment and disposal system], other than domestic sewage.

CHAPTER II
THE CENTRAL AND STATE BOARDS FOR PREVENTION AND CONTROL OF WATER POLLUTION

3. Constitution of Central Board

(1) The Central Government shall, with effect from such date (being a date not later than six months of the commencement of this Act in the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and in the Union Territories) as it may, by notification in the Official Gazette, appoint, constitute a Central Board to be called the [4][Central Pollution Control Board] to exercise the powers conferred on and perform the functions assigned to that Board under this Act.

(2) The Central Board shall consist of the following members, namely,-

(a) a full-time Chairman, being a person having special knowledge or practical experience in respect of [5][matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;

(b) [6][such number of officials, not exceeding five], to be nominated by the Central Government to represent that government;

(c) such number of persons, not exceeding five to be nominated by the Central Government, from amongst the members of the State Boards, of whom not exceeding two shall be from those referred to in clause (c) of sub-section (2) of section 4;

(d) [7][such number of non-officials, not exceeding three], to be nominated by the Central Government, to represent the interests of agriculture, fishery or industry or trade or any other interest which, in the opinion of the Central Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the Central Government, to be nominated by that government;

[8][(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.]

(3) The Central Board shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the aforesaid name, sue or be sued.

4. Constitution of State Boards

(1) The State Government shall, with effect from such date [9][***] as it may, by notification in the Official Gazette, appoint, constitute a [10][State Pollution Control Board,] under such name as may be specified in the notification, to exercise the powers conferred on and perform the functions assigned to that Board under this Act.

(2) A State Board shall consist of the following members, namely,-

(a) [11][***] Chairman, being, a person having special knowledge or practical experience in respect of [5][matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the State Government:

[2][PROVIDED that the Chairman may be either whole-time or part-time as the State Government may think fit;]

(b) [6][such number of officials, not exceeding five,] to be nominated by the State Government to represent that government;

(c) [12][such number of persons, not exceeding five,] to be nominated by the State Government from amongst the members of the local authorities functioning within the State;

(d) [7][such number of non-officials, not exceeding three] to be nominated by the State Government to represent the interests of agriculture, fishery or industry or trade or any other interest which, in the opinion of the State Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the State Government, to be nominated by that government;

[8][(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the State Government.]

(3) Every State Board shall be a body corporate with the name specified by the State Government in the notification under sub-section (1), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire hold and dispose of property and to contract, and may, by the said name, sue or be sued.

(4) Notwithstanding anything contained in this section, no State Board shall be constituted for a Union Territory and in relation to a Union Territory, the Central Board shall exercise the powers and perform the functions of a State Board for that Union Territory:

PROVIDED that in relation to any Union Territory the Central Board may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

5. Terms and conditions of service of members

(1) Save as otherwise provided by or under this Act, a member of a Board, other than a member-secretary, shall hold office for a term of three years from the date of his nomination:

PROVIDED that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

[13][(2) The term of office of a member of a Board nominated under clause (b) or clause (e) of sub-section (2) of section 3 or clause (b) or clause (e) of sub-section (2) of section 4 shall come to an end as soon as he ceases to hold the office under the Central Government or the State Government or, as the case may be, the company or corporation owned, controlled or managed by the Central Government or the State Government, by virtue of which he was nominated.]

(3) The Central Government or, as the case may be, the State Government may, if it thinks fit, remove any member of a Board before the expiry of his term of office, after giving him a reasonable opportunity of showing cause against the same.

(4) A member of a Board, other than the member-secretary, may at any time resign his office by writing under his hand addressed-

(a) in the case of the Chairman, to the Central Government or, as the case may be, the State Government; and

(b) in any other case, to the Chairman of the Board; and the seat of the Chairman or such other member shall thereupon become vacant.

(5) A member of a Board, other than the member-secretary, shall be deemed to have vacated his seat if he is absent without reason, sufficient in the opinion of the Board, from three consecutive meetings of the Board, [5][or where he is nominated under clause (c) or clause (e) of sub-section (2) of section 3 or under clause (c) or clause (e) of sub-section (2) of section 4, if he ceases to be a member of the State Board or of the local authority or, as the case may be, of the company or corporation owned, controlled or managed by the Central Government or the State Government and such vacation of seat shall, in either case, take effect from such date as the Central Government or, as the case may be, the State Government may, by notification in the Official Gazette, specify.]

(6) A casual vacancy in a Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member in whose place he was nominated.

(7) A member of a Board [14][shall be eligible for renomination.]

(8) The other terms and conditions of service of a member of a Board, other than the Chairman and member-secretary, shall be such as may be prescribed.

(9) The other terms and conditions of service of the Chairman shall be such as may be prescribed.

6. Disqualifications

(1) No person shall be a member of Board, who-

(a) is, or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or

(b) is of unsound mind and stands so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the Central Government or, as the case may be, of the State Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or

(e) has directly or indirectly by himself or by any partner, any share or interest in any firm or company carrying on the business of manufacture, sale or hire of machinery, plant, equipment, apparatus or fittings for the treatment of sewage or trade effluents, or

(f) is a director or a secretary, manager or other salaried officer or employee of any company or firm having any contract with the Board, or with the government constituting the Board, or with a local authority in the State, or with a company or corporation owned, controlled or managed by the government, for the carrying out of sewerage schemes or for the installation of plants for the treatment of sewage or trade effluents, or

(g) has so abused, in the opinion of the Central Government or as the case may be, of the State Government, his position as a member, as to render his continuance on the Board detrimental to the interest of the general public.

(2) No order of removal shall be made by the Central Government or the State Government, as the case may be, under this section unless the member concerned has been given a reasonable opportunity of showing cause against the same.

(3) Notwithstanding anything contained in sub-sections (1) and (7) of section 5, a member who has been removed under this section shall not be eligible for renomination as a member.

7. **Vacation of seats by members**

If a member of a Board becomes subject to any of the disqualifications specified in section 6, his seat shall become vacant.

8. Meetings of Boards

A Board shall meet at least once in every three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed: PROVIDED that if, in the opinion of the Chairman, any business of an urgent nature is to be transacted, he may convene a meeting of the Board at such time as he thinks fit for the aforesaid purpose.

9. Constitution of committees

(1) A Board may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons, and for such purpose or purposes as it may think fit.

(2) A committee constituted under this section shall meet at such time and at such place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(3) The members of a committee (other than the members of the Board) shall be paid

such fees and allowances, for attending its meetings and for attending to any other work of the Board as may be prescribed.

10. Temporary association of persons with Board for particular purposes

(1) A Board may associate with itself in such manner, and for such purposes, as may be prescribed any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.

(2) A person associated with the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member for any other purpose.

[2][(3) A person associated with the Board under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board, as may be prescribed.]

11. Vacancy in Board not to invalidate acts or proceedings

No act or proceeding of a Board or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board or such committee, as the case may be.

[2][11A. Delegation of powers to Chairman

The Chairman of a Board shall exercise such powers and perform such duties as may be prescribed or as may, from time to time, be delegated to him by the Board.]

12. Member-secretary and officers and other employees of Board

(1) The terms and conditions of service of the member-secretary shall be such as may be prescribed.

(2) The member-secretary shall exercise such powers and perform such duties as may be prescribed or as may, from time to time, be delegated to him by the Board or its Chairman.

(3) Subject to such rules as may be made by the Central Government or, as the case may be, the State Government in this behalf, a Board may appoint such officers and employees as it considers necessary for the efficient performance of its functions.

[2][(3 A) The method of recruitment and the terms and conditions of service (including the scales of pay) of the officers (other than the member-secretary) and other employees of the Central Board or a State Board shall be such as may be determined by regulations made by the Central Board or, as the case may be, by the State Board: PROVIDED that no regulation made under this sub-section shall take effect unless-

(a) in the case of a regulation made by the Central Board, it is approved by the Central Government; and

(b) in the case of a regulation made by a State Board, it is approved by the State Government.]

[15][(3B) The Board may, by general or special order, and subject to such conditions and limitations, if any, as may be specified in the order, delegate to any officer of the Board such of its powers and functions under this Act as it may deem necessary.]

(4) Subject to such conditions as may be prescribed, a Board may from time to time appoint any qualified person to be a consulting engineer to the Board and pay him such salaries and allowances and subject him to such other terms and conditions of service as it thinks fit.

CHAPTER III

JOINT BOARDS

13. Constitution of Joint Boards

(1) Notwithstanding anything contained in this Act, an agreement may be entered into-

(a) by two or more governments of contiguous States, or

(b) by the Central Government (in respect of one or more Union Territories) and one or more governments of States contiguous to such Union Territory or Union Territories, to be in force for such period and to be subject to renewal for such further period, if any, as may be specified in the agreement to provide for the constitution of a Joint Board-

(i) in a case referred to in clause (a), for all the participating States, and

(ii) in a case referred to in clause (b), for the participating Union Territory or Union Territories and the State or States.

(2) An agreement under this section may-

(a) provide, in a case referred to in clause (a) of sub-section (1), for the apportionment between the participating States and in a case referred to in clause (b) of that sub-section, for the apportionments between the Central Government and the participating State Government or State Governments, of the expenditure in connection with the Joint Board;

(b) determine, in a case referred to in clause (a) of sub-section (1), which of the participating State Governments and in a case referred to in clause (b) of that sub-section, whether the Central Government or the participating State Government (if there are more than one participating State, also which of the participating State Governments) shall exercise and perform the several powers and functions of the State Government under this Act and the references in this Act to the State Government shall be construed accordingly;

(c) provide for consultation, in a case referred to in clause (a) of sub-section (1), between the participating State Governments and in a case referred to in clause (b) of that sub-section, between the Central Government and the

participating State Government or State Governments either generally or with reference to particular matters arising under this Act;

(d) make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) An agreement under this section shall be published, in a case referred to in clause (a) of sub-section (1), in the Official Gazette of the participating States and in a case referred to in clause (b) of that sub-section, in the Official Gazette of the participating Union Territory or Union Territories and participating State or States.

14. Composition of Joint Boards

(1) A Joint Board constituted in pursuance of an agreement entered into under clause (a) of sub-section (1) of section 13 shall consist of the following members namely,-

(a) a full-time chairman, being a person having special knowledge or practical experience in respect of [5][matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;

(b) two officials from each of the participating States to be nominated by the concerned participating State Government to represent that government;

(c) one person to be nominated by each of the participating State Governments from amongst the members of the local authorities functioning within the State concerned;

(d) one non-official to be nominated by each of the participating State Governments to represent the interests of agriculture, fishery or industry or trade in the State concerned or any other interest which, in the opinion of the participating State Government, is to be represented;

(e) two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the participating State Governments;

[8][(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.]

(2) A Joint Board constituted in pursuance of an agreement entered into under clause (b) of sub-section (1) of section 13 shall consist of the following members, namely,-

(a) a full-time Chairman, being a person having special knowledge or practical experience in respect of [5][matters relating to environmental protection] or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;

(b) two officials to be nominated by the Central Government from the participating Union Territory or each of the participating Union Territories, as the case may be, and two officials to be nominated, from the participating State or each of the

participating States, as the case may be, by the concerned participating State Government;

(c) one person to be nominated by the Central Government from amongst the members of the local authorities functioning within the participating Union Territory or each of the participating Union Territories, as the case may be, and one person to be nominated, from amongst the members of the local authorities functioning within the participating State or each of the pa ticipating States, as the case may be, by the concerned participating State Government;

(d) one non-official to be nominated by Central Government and one person to be nominated by the participating State Government or State Governments to represent the interests of agriculture, fishery or industry or trade in the Union Territory or in each of the Union Territories or the State or in each of the States, as the case may be, or any other interest which in the opinion of the Central Government or, as the case may be, of the State Government is to be represented;

(e) two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the Central Government and situate in the participating Union Territory or Territories and two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the participating State Governments;

[4][(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.

(3) When a Joint Board is constituted in pursuance of an agreement under clause (b) of sub-section (1) of section 13, the provisions of sub-section (4) of section 4 shall cease to apply in relation to the Union Territory for which the Joint Board is constituted.

(4) Subject to the provisions of sub-section (3), the provisions of sub-section (3) of section 4 and sections 5 to 12 (inclusive) shall apply in relation to the Joint Board and its member-secretary as they apply in relation to a State Board and its member-secretary.

(5) Any reference in this Act to the State Board shall, unless the context otherwise requires, be construed as including a Joint Board.

15. Special provisions relating to giving of directions

Notwithstanding anything contained in this Act where any Joint Board is constituted under section 13-

(a) the government of the State for which the Joint Board is constituted shall be competent to give any direction under this Act only in cases where such direction relates to a matter within the exclusive territorial jurisdiction of the State;

(b) the Central Government alone shall be competent to give any direction under

this Act where such direction relates to a matter within the territorial jurisdiction of two or more States or pertaining to a Union Territory.

CHAPTER IV

POWERS AND FUNCTIONS OF BOARDS

16. Functions of Central Board

(1) Subject to the provisions of this Act, the main function of the Central Board shall be to promote cleanliness of streams and wells in different areas of the States.

(2) In particular and without prejudice to the generality of the foregoing function, the Central Board may perform all or any of the following functions, namely,-

(a) advise the Central Government on any matter concerning the prevention and control of water pollution;

(b) co-ordinate the activities of the State Boards and resolve disputes among them;

(c) provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(d) plan and organise the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of water pollution on such terms and conditions as the Central Board may specify;

(e) organise through mass media a comprehensive programme regarding the prevention and control of water pollution;

[15][(ee) perform such of the functions of any State Board as may be specified in an order made under sub-section (2) of section 18;]

(f) collect, compile and publish technical and statistical data relating to water pollution and the measures devised for its effective prevention and control and prepare manuals, codes or guides relating to treatment and disposal of sewage and trade effluents and disseminate information connected therewith;

(g) lay down, modify or annul, in consultation with the State Governmen concerned, the standards for a stream or well:

PROVIDED that different standards may be laid down for the same stream or well or for different streams or wells, having regard to the quality of water, flow characteristics of the stream or well and the nature of the use of the water in such stream or well or streams or wells;

(h) plan and cause to be executed a nation-wide programme for the prevention, control or abatement of water pollution;

(i) perform such other functions as may be prescribed.

(3) The Board may establish or recognise a laboratory or laboratories to enable the Board to perform its functions under this section efficiently, including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.

17. Functions of State Board

(1) Subject to the provisions of this Act, the functions of a State Board shall be-

(a) to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement of water pollution;

(c) to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof;

(d) to encourage, conduct and participate in investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;

(e) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto;

(f) to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plans, specifications or other data relating to plants set up for the treatment of water, works for the purification thereof and the system for the disposal of sewage or trade effluents or in connection with the grant of any consent as required by this Act;

(g) to lay down, modify or annul effluent standards for the sewage and trade effluents and for the quality of receiving waters (not being water in an inter-State stream) resulting from the discharge of effluents and to classify waters of the State;

(h) to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soils, climate and water resources of different regions and more especially the prevailing flow characteristics of water in streams and wells which render it impossible to attain even the minimum degree of dilution;

(i) to evolve methods of utilisation of sewage and suitable trade effluents in agriculture;

(j) to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of scant stream flows that do not provide for major part of the year the minimum degree of dilution;

(k) to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution

available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents;

(l) to make, vary or revoke any order-

(i) for the prevention, control or abatement of discharges of waste into streams or wells;

(ii) requiring any person concerned to construct new systems for the disposal of sewage and trade effluents or to modify, alter or extend any such existing system or to adopt such remedial measures as are necessary to prevent, control or abate water pollution;

(m) to lay down effluent standards to be complied with by persons while causing discharge of sewage or sullage or both and to lay down, modify or annul effluent standards for the sewage and trade effluents;

(n) to advise the State Government with respect to the location of any industry the carrying on of which is likely to pollute a stream or well;

(o) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government.

(2) The Board may establish or recognise a laboratory or laboratories to enable the Board to perform its functions under this section efficiently, including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.

18. Power to give directions

[16][(1)] In the performance of its functions under this Act-

(a) the Central Board shall be bound by such directions in writing as the Central Government may give to it; and

(b) every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it:

PROVIDED that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision.

[15][(2) Where the Central Government is of the opinion that any State Board has defaulted in complying with any directions given by the Central Board under subsection (1) and as a result of such default a grave emergency has arisen and it is necessary or expedient so to do in the public interest, it may, by order, direct the Central Board to perform any of the functions of the State Board in relation to such area for such period and for such purposes, as may be specified in the order.

(3) Where the Central Board performs any of the functions of the State Board in pursuance of a direction under sub-section (2), the expenses, if any, incurred by the

Central Board with respect to the performance of such functions may, if the State Board is empowered to recover such expenses, be recovered by the Central Board with interest (at such reasonable rate as the Central Government may, by order, fix) from the date when a demand for such expenses is made until it is paid from the person or persons concerned as arrears of land revenue or of public demand.

(4) For the removal of doubts, it is hereby declared that any directions to perform the functions of any State Board given under sub-section (2) in respect of any area would not preclude the State Board from performing such functions in any other area in the State or any of its other functions in that area.]

CHAPTER V

PREVENTION AND CONTROL OF WATER POLLUTION

19. Power of State Government to restrict the application of the Act to certain areas

(1) Notwithstanding anything contained in this Act, if the State Government, after consultation with, or on the recommendation of the State Board, is of opinion that the provisions of this Act need not apply to entire State, it may, by notification in the Official Gazette, restrict the application of this Act to such area or areas as may be declared therein as water pollution, prevention and control area or areas and thereupon the provisions of this Act shall apply only to such area or areas.

(2) Each water pollution, prevention and control area may be declared either by reference to a map or by reference to the line of any watershed or the boundary of any district or partly by one method and partly by another.

(3) The State Government may, by notification in the Official Gazette-

(a) alter any water pollution, prevention and control area whether by way of extension or reduction; or

(b) define a new water pollution, prevention and control area in which may be merged one or more water pollution, prevention and control areas, or any part or parts thereof.

20. Power to obtain information

(1) For the purpose of enabling a State Board to perform the functions conferred on it by or under this Act, the State Board or any officer empowered by it in that behalf, may make surveys of any area and gauge and keep records of the flow or volume and other characteristics of any stream or well in such area, and may take steps for the measurement and recording of the rainfall in such area or any part thereof and for the installation and maintenance for those purposes of gauges or other apparatus and works connected therewith, and carry out stream surveys and may take such other steps as may be necessary in order to obtain any information required for the purposes aforesaid.

(2) A State Board may give directions requiring any person who in its opinion is abstracting water from any such stream or well in the area in quantities which are substantial in relation to the flow or volume of that stream or well or is discharging sewage or trade effluent into any such stream or well, give such information as to the abstraction or the discharge at such times and in such form as may be specified in the directions.

(3) Without prejudice to the provisions of sub-section (2), a State Board may, with a view to preventing or controlling pollution of water, give directions requiring any person in charge of any establishment where any [17][industry, operation or process, or treatment and disposal system] is carried on, to furnish to it information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto in such establishment and such other particulars as may be prescribed.

21. Power to take samples of effluents and procedure to be followed in connection therewith

(1) A State Board or any officer empowered by it in this behalf shall have power to take for the purpose of analysis samples of water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into any such stream or well.

(2) The result of any analysis of a sample of any sewage or trade effluent taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3), (4) and (5) are complied with.

(3) Subject to the provisions of sub-sections (4) and (5), when a sample (composite or otherwise as may be warranted by the process used) of any sewage or trade effluent is taken for analysis under sub-section (1), the person taking the sample shall-

(a) serve on the person in charge of, or having control over, the plant or vessel or in occupation of the place (which person is hereinafter referred to as the occupier) or any agent of such occupier, a notice, then and there in such form as may be prescribed of his intention to have it so analysed;

(b) in the presence of the occupier or his agent, divide the sample into two parts;

(c) cause each Part to be placed in a container which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;

(d) send one container forthwith-

(i) in a case where such sample is taken from any area situated in a Union Territory, to the laboratory established or recognised by the Central Board under section 16; and

(ii) in any other case, to the laboratory established or recognised by the State Board under section 17;

(e) on the request of the occupier or his agent, send the second container-

(i) in a case where such sample is taken from any area situated in a Union Territory, to the laboratory established or specified under sub-section (1) of section 51; and

(ii) in any other case, to the laboratory established or specified under subsection (1) of section 52.

[18][(4) When a sample of any sewage or trade affluent is taken for analysis under subsection (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3) and the occupier or his agent wilfully absents himself, then-

(a) the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (e) of sub-section (3) and such person shall inform the government analyst appointed under sub-section (1) or sub-section (2), as the case may be, of section 53, in writing about the wilful absence of the occupier or his agent; and

(b) the cost incurred in getting such sample analysed shall be payable by the occupier or his agent and in case of default of such payment, the same shall be recoverable from the occupier or his agent, as the case may be, as an arrear of land revenue or of public demand:

PROVIDED that no such recovery shall be made unless the occupier or, as the case may be, his agent has been given a reasonable opportunity of being heard in the matter.]

(5) When a sample of any sewage or trade effluent is taken for analysis under subsection (1) and the person taking the sample serves on the occupier or his agent a notice under clause (a) of sub-section (3) and the occupier or his agent who is present at the time of taking the sample does not make a request for dividing the sample into two parts as provided in clause (b) of sub-section (3), then, the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (d) of sub-section (3).

22. Reports of the result of analysis on samples taken under section 21

(1) Where a sample of any sewage or trade effluent has been sent for analysis to the laboratory established or recognised by the Central Board or, as the case may be, the State Board, the concerned Board analyst appointed under sub-section (3) of section 53 shall analyse the sample and submit a report in the prescribed form of the result of such analysis in triplicate to the Central Board or the State Board as the case may be.

(2) On receipt of the report under sub-section (1), one copy of the report shall be sent by the Central Board or the State Board, as the case may be, to the occupier or his agent referred to in section 21, another copy shall be preserved for production before the court in case any legal proceedings are taken against him and the other copy shall be kept by

the concerned Board.

(3) Where a sample has been sent for analysis under clause (e) of sub-section (3) or sub-section (4) of section 21 to any laboratory mentioned therein, the government analyst referred to in that sub-section shall analyse the sample and submit a report in the prescribed form of the result of the analysis in triplicate to the Central Board or, as the case may be, the State Board which shall comply with the provisions of sub section (2).

(4) If there is any inconsistency or discrepancy between, or variation in the results of, the analysis carried out by the laboratory established or recognised by the Central Board or the State Board, as the case may be, and that of the laboratory established or specified under section 51 or section 52, as the case may be, the report of the latter shall prevail.

(5) Any cost incurred in getting any sample analysed at the request of the occupier or his agent shall be payable by such occupier or his agent and in case of default the same shall be recoverable from him as arrears of land revenue or of public demand.

23. Power of entry and inspection

(1) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right at any time to enter, with such assistance as he considers necessary, any place-

(a) for the purpose of performing any of the functions of the Board entrusted to him; for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder of any notice, order, direction or authorisation served, made, given, or granted under this Act is being or has been complied with;

(b) for the purpose of examining any plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such plant, record, register, document or other material object, if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder: PROVIDED that the right to enter under this sub-section for the inspection of a well shall be exercised only at reasonable hours in a case where such well is situated in any premises used for residential purposes and the water thereof is used exclusively for domestic purposes.

(2) The provisions of the [19][Code of Criminal Procedure, 1973 (2 of 1974)], or, in relation to the State of Jammu and Kashmir, the provisions of any corresponding law in force in that State, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under 20[section 94] of the said Code, or, as the case may be, under the corresponding provisions of the said law.

Explanation : For the purposes of this section, “place” includes vessel.

24. Prohibition on use of stream or well for disposal of polluting matter, etc.

(1) Subject to the provisions of this section-

(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any [21] [Stream or well or sewer or on land]; or

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely,-

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land, or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;

(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.

25. Restrictions on new outlets and new discharges

[22][(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board-

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage:

PROVIDED that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

[23][(4) The State Board may-

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being-

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system or extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent,

from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.]

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30-

(a) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;

(b) the expression "new discharge" means a discharge which is not, as respects the nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.

26. Provision regarding existing discharge of sewage or trade effluent

Where immediately before the commencement of this Act any person was discharging any sewage or trade effluent into a [21] [stream or well or sewer or on land], the provisions of section 25 shall, so far as may be, apply in relation to such person as they apply in relation to the person referred to in that section subject to the modification that the application for consent to be made under sub-section (2) of that section [5][shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette.]

27. Refusal or withdrawal of consent by State Board

[24][(1) A State Board shall not grant its consent under sub-section (4) of section 25 for the establishment of any industry, operation or process, or treatment and disposal system or extension or addition thereto, or to the bringing into use of a new or altered outlet unless the industry, operation or process, or treatment and disposal system or extension or addition thereto, or the outlet is so established as to comply with any conditions imposed by the Board to enable it to exercise its right to take samples of the effluent.] [13][(2) A State Board may from time to time review-

[25][(a) any condition imposed under section 25 or section 26 and may serve on the person to whom a consent under section 25 or section 26 is granted a notice making any reasonable variation of or revoking any such condition.]

(b) the refusal of any consent referred to in sub-section (1) of section 25 or section

26 or the grant of such consent without any condition, and may make such orders as it deemed fit.]

(3) Any condition imposed under section 25 or section 26 shall be subject to any variation made under sub-section (2) and shall continue in force until revoked under that sub-section.

28. Appeals

(1) Any person aggrieved by an order made by the State Board under section 25, section 26 or section 27 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the Appellate Authority) as the State Government may think fit to constitute: PROVIDED that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

[13][(2) An Appellate Authority shall consist of a single person or three persons as the State Government may think fit, to be appointed by that government.]

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the Appellate Authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the Appellate Authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(5) If the Appellate Authority determines that any condition imposed, or the variation of any condition, as the case may be, was unreasonable, then-

(a) where the appeal is in respect of the unreasonableness of any condition imposed, such authority may direct either that the condition shall be treated as annulled or that there shall be substituted for it such condition as appears to it to be reasonable;

(b) where the appeal is in respect of the unreasonableness of any variation of a condition, such authority may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to it to be reasonable.

29. Revision

(1) The State Government may at any time either of its own motion or on an application made to it in this behalf, call for the records of any case where an order has been made by the State Board under section 25, section 26 or section 27 for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it may think it:

PROVIDED that the State Government shall not pass any order under this sub-section without affording the State Board and the person who may be affected by such order a reasonable opportunity of being heard in the matter.

(2) The State Government shall not revise any order made under section 25, section 26, or section 27 where an appeal against that order lies to the Appellate Authority, but has not been preferred or where an appeal has been preferred such appeal is pending before the Appellate Authority.

30. Power of State Board to carry out certain works

[24][(1) Where under this Act, any conditions have been imposed on any person while granting consent under section 25 or section 26 and such conditions require such person to execute any work in connection therewith and such work has not been executed within such time as may be specified in this behalf, the State Board may serve on the person concerned a notice requiring him within such time (not being less than thirty days) as may be specified in the notice to execute the work specified therein.]

(2) If the person concerned fails to execute the work as required in the notice referred to in sub-section (1), then, after the expiration of the time specified in the said notice, the State Board may itself execute or cause to be executed such work.

(3) All expenses incurred by the State Board for the execution of the aforesaid work, together with interest, at such rate as the State Government may, by order, fix, from the date when a demand for the expenses is made until it is paid, may be recovered by that Board from the person concerned, as arrears of land revenue, or of public demand.

31. Furnishing of information to State Board and other agencies in certain cases

[24][(1) If at any place where any industry, operation or process, or any treatment and disposal system or any extension or addition thereto is being carried on, due to accident or other unforeseen act or event, any poisonous, noxious or polluting matter is being discharged, or is likely to be discharged into a stream or well or sewer or on land and, as a result of such discharge, the water in any stream or well is being polluted, or is likely to be polluted, then the person in charge of such place shall forthwith intimate the occurrence of such accident, act or event to the State Board and such other authorities or agencies as may be prescribed.]

(2) Where any local authority operates any sewerage system or sewage works, the provisions of sub-section (1) shall apply to such local authority as they apply in relation to the person in charge of the place where any industry or trade is being carried on.

32. Emergency measures in case of pollution of stream or well

(1) Where it appears to the State Board that any poisonous, noxious or polluting matter is present in [26][any stream or well or on land by reason of the discharge of such matter in such stream or well or on such land] or has entered into that stream or well due to any accident or other unforeseen act or event, and if the Board is of opinion that it is necessary or expedient to take immediate action, it may for reasons to be recorded in writing, carry out such operations, as it may consider necessary for all or any of the following purposes, that is to say-

(a) removing that matter from the [21] [stream or well or on land] and disposing it of in such manner as the Board considers appropriate;

(b) remedying or mitigating any pollution caused by its presence in the stream or well;

(c) issuing orders immediately restraining or prohibiting the person concerned from discharging any poisonous, noxious or polluting matter [27][into the stream or well or on land] or from making insanitary use of the stream or well.

(2) The power conferred by sub-section (1) does not include the power to construct any works other than works of a temporary character which are removed on or before the completion of the operation.

33. Power of Board to make application to courts for restraining apprehended pollution of water in streams or wells

[24][(1) Where it is apprehended by a Board that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such stream or well or in any sewer or on any land, or otherwise, the Board may make an application to a court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, for restraining the person who is likely to cause such pollution from so causing.]

(2) On receipt of an application under sub-section (1) the court may make such order as it deems fit.

(3) Where under sub-section (2) the court makes an order restraining any person from polluting the water in any stream or well, it may in that order-

(i) direct the person who is likely to cause or has caused the pollution of the water in the stream or well, to desist from taking such action as is likely to cause pollution or, as the case may be, to remove from such stream or well, such matter, and

(ii) authorise the Board, if the direction under clause (i) (being a direction for the removal of any matter from such stream or well) is not complied with by the person to whom such direction is issued, to undertake the removal and disposal of the matter in such manner as may be specified by the court.

(4) All expenses incurred by the Board in removing any matter in pursuance of the authorisation under clause (ii) of sub-section (3) or in the disposal of any such matter may be defrayed out of any money obtained by the Board from such disposal and any balance outstanding shall be recoverable from the person concerned as arrears of land revenue or of public demand.

[15] **[33A. Power to give directions**

Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions. *Explanation :* For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct-

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) the storage or regulation of supply of electricity, water or any other service.]

CHAPTER VI
FUNDS, ACCOUNTS AND AUDIT

34. Contributions by Central Government

The Central Government may, after due appropriation made by Parliament by law in this behalf, make in each financial year such contributions to the Central Board as it may think necessary to enable the Board to perform its functions under this Act.

35. Contributions by State Government

The State Government may, after due appropriation made by the Legislature of the State by law in this behalf, make in each financial year such contributions to the State Board as it may think necessary to enable that Board to perform its functions under this Act.

36. Fund of Central Board

(1) The Central Board shall have its own fund, and all sums which may, from time to time, be paid to it by the Central Government and all other receipts (by way of gifts, grants, donations, benefactions [2][fees] or otherwise) of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom. (2) The Central Board may expend such sums as it thinks fit for performing its functions under this Act, [2][and, where any law for the time being in force relating to the prevention, control or abatement of air pollution provides for the performance of any function under such law by the Central Board, also for performing its functions under such law] and such sums shall be treated as expenditure payable out of the fund of the Board.

37. Fund of State Board

(1) The State Board shall have its own fund, and the sums which may, from time to time, be paid to it by the State Government and all other receipts (by way of gifts, grants, donations, benefactions [2][fees] or otherwise) of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

(2) The State Board may expend such sums as it thinks fit for performing its functions under this Act, [2][and, where any law for the time being in force relating to the prevention, control or abatement of air pollution provides for the performance of any function under such law by the State Board, also for performing its functions under such law] and such sums shall be treated as expenditure payable out of the fund of the Board.

[15][37A. Borrowing powers of Board

A Board may, with the consent of, or in accordance with, the terms of any general or special authority given to it by the Central Government or, as the case may be, the State Government, borrow money from any source by way of loans or issue of bonds, debentures or such other instruments, as it may deem fit, for the performance of all or any of its functions under this Act.]

38. Budget

The Central Board or, as the case may be, the State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure, and copies thereof shall be forwarded to the Central Government or, as the case may be, the State Government.

[4][39. Annual report

(1) The Central Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the Central Government within four months from the last date of the previous financial year and that government shall cause every such report to be laid before both Houses of Parliament within nine months from the last date of the previous financial year.

(2) Every State Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the State Government within four months from the last date of the previous financial year and that government shall cause every such report to be laid before the State Legislature within a period of nine months from the last date of the previous financial year.]

40. Accounts and audit

(1) Every Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government or, as the case may be, the State Government.

(2) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956 (1 of 1956).

(3) The said auditor shall be appointed by the Central Government or, as the case may be, the State Government on the advice of the Comptroller and Auditor-General of India.

(4) Every auditor appointed to audit the accounts of the Board under this Act shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(5) Every such auditor shall send a copy of his report together with an audited copy of the accounts to the Central Government or, as case may be, the State Government.

(6) The Central Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before both Houses of Parliament.

(7) The State Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before the State Legislature.

CHAPTER VII

PENALTIES AND PROCEDURE

[4][41. Failure to comply with directions under sub-section (2) or sub-section (3) of section 20, or orders issued under clause (c) of sub-section (1) of section 32 or directions issued under sub-section (2) of section 33 or section 33A

(1) Whoever fails to comply with the direction given under sub-section (2) or sub-section (3) of section 20 within such time as may be specified in the direction shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(2) Whoever fails to comply with any order issued under clause (e) of sub-section (1) of section 32 or any direction issued by a court under sub-section (2) of section 33 or any direction issued under section 33A shall, in respect of each such failure and on conviction, be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for everyday during which such failure continues after the conviction for the first such failure.

(3) If the failure referred to in sub-section (2) continues beyond a period of one year after the date of conviction, the offender shall, on conviction, be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.]

42. Penalty for certain acts

(1) Whoever-

(a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board, or

(b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act, or

(c) damages any works or property belonging to the Board, or

(d) fails to furnish to any officer or other employee of the Board any information required by him for the purpose of this Act, or

(e) fails to intimate the occurrence of any accident or other unforeseen act or event under section 31 to the Board and other authorities or agencies as required by that section, or

(f) in giving any information which he is required to give under this Act, knowingly or wilfully makes a statement which is false in any material particular, or

(g) for the purpose of obtaining any consent under section 25 or section 26, knowingly or wilfully makes a statement which is false in any material particular, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to [28][ten thousand rupees] or with both.

(2) Where for the grant of a consent in pursuance of the provisions of section 25 or section 26 the use of meter or gauge or other measure or monitoring device is required and such device is used for the purposes of those provisions, any person who knowingly or wilfully alters or interferes with that device so as to prevent it from monitoring or measuring correctly shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to [28][ten thousand rupees] or with both.

43. Penalty for contravention of provisions of section 24

Whoever contravenes the provisions of section 24 shall be punishable with imprisonment for a term which shall not be less than [29][one year and six months] but which may extend to six years and with fine.

44. Penalty for contravention of section 25 or section 26

Whoever contravenes the provisions of section 25 or section 26 shall be punishable with imprisonment for a term which shall not be less than [29][one year and six months] but which may extend to six years and with fine.

45. Enhanced penalty after previous conviction

If any person who has been convicted of any offence under section 24 or section 25 or section 26 is again found guilty of an offence involving a contravention of the same provision, he shall, on the second and on every subsequent conviction, be punishable with imprisonment for a term which shall not be less than [30][two years] but which may extend to seven years and with fine:

PROVIDED that for the purpose of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

[15][45A. Penalty for contravention of certain provisions of the Act

Whoever contravenes any of the provisions of this Act or fails to comply with any order or direction given under this Act, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees or with both and in the case of a continuing contravention or failure, with an additional fine which may extend to five thousand rupees for every day during which such contravention or failure continues after conviction for the first such contravention or failure.]

46. Publication of names of offenders

If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be

published at the offender's expense in such newspapers or in such other manner as the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

47. Offences by companies

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

PROVIDED that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section-

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

48. Offences by government departments

Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: PROVIDED that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

49. Cognizance of offences

[24][(1) No court shall take cognizance of any offence under this Act except on a complaint made by-

(a) a Board or any officer authorised in this behalf by it; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Board or officer authorised as aforesaid, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.]

[15][(2) Where a complaint has been made under clause (b) of sub-section (1), the Board shall, on demand by such person, make available the relevant reports in its possession to that person:

PROVIDED that the Board may refuse to make any such report available to such person if the same is in its opinion, against the public interest.]

[31] [(3)] Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any [5][Judicial Magistrate of the first class or for any Metropolitan Magistrate] to pass a sentence of imprisonment for a term exceeding two years or of fine exceeding two thousand rupees on any person convicted of an offence punishable under this Act.

50. Members, officers and servants of Board to be public servants

All members, officers and servants of a Board when acting or purporting to act in pursuance of any of the provisions of this Act and the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

CHAPTER VII

MISCELLANEOUS

51. Central Water Laboratory

(1) The Central Government may, by notification in the Official Gazette-

(a) establish a Central Water Laboratory; or

(b) specify any laboratory or institute as a Central Water Laboratory, to carry out the functions entrusted to the Central Water Laboratory under this Act.

(2) The Central Government may, after consultation with the Central Board, make rules prescribing-

(a) the functions of the Central Water Laboratory;

(b) the procedure for the submission to the said laboratory of samples of water or of sewage or trade effluent for analysis or tests, the form of the laboratory's report thereunder and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

52. State Water Laboratory

(1) The State Government may, by notification in the Official Gazette-

(a) establish a State Water Laboratory; or

(b) specify any laboratory or institute as a State Water Laboratory, to carry out the functions entrusted to the State Water Laboratory under this Act.

(2) The State Government may, after consultation with the State Board, make rules prescribing-

(a) the functions of the State Water Laboratory;

(b) the procedure for the submission to the said laboratory of samples of water or of sewage or trade effluent for analysis or tests, the form of the laboratory's report thereon and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

53. Analysts

(1) The Central Government may, by notification in the Official Gazette, appoint such persons as it thinks fit and having the prescribed qualifications to be government analysts for the purpose of analysis of samples of water or of sewage or trade effluent sent for analysis to any laboratory established or specified under sub-section (1) of section 51.

(2) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit and having the prescribed qualifications to be government analysts for the purpose of analysis of samples of water or of sewage or trade effluent sent for analysis to any laboratory established or specified under sub-section (1) of section 52.

(3) Without prejudice to the provisions of sub-section (3) of section 12, the Central Board or, as the case may be, the State Board may, by notification in the Official Gazette, and with the approval of the Central Government or the State Government, as the case may be, appoint such persons as it thinks fit and having the prescribed qualifications to be Board analysts for the purpose of analysis of samples of water or of sewage or trade effluent sent for analysis to any laboratory established or recognised under section 16, or, as the case may be, under section 17.

54. Reports of analysts

Any document purporting to be a report signed by a government analyst or, as the case may be, a Board analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

55. Local authorities to assist

All local authorities shall render such help and assistance and furnish such information to the Board as it may require for the discharge of its functions, and shall make available to the Board for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.

56. Compulsory acquisition of land for the State Board

Any land required by a State Board for the efficient performance of its functions under this Act shall be deemed to be needed for a public purpose and such land shall be acquired for the State Board under the provisions of the Land Acquisition Act, 1894 (1 of 1894), or under any other corresponding law for the time being in force:

57. Returns and reports

The Central Board shall furnish to the Central Government, and a State Board shall furnish to the State Government and to the Central Board such reports, returns, statistics, accounts and other information with respect to its fund or activities as that government, or, as the case may be, the Central Board may, from time to time, require.

58. Bar of jurisdiction

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Appellate Authority constituted under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

59. Protection of action taken in good faith

No suit or other legal proceedings shall lie against the government or any officer of government or any member or officer of a Board in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

60. Overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

61. Power of Central Government to supersede the Central Board and Joint Boards

(1) If at any time the Central Government is of opinion-

(a) that the Central Board or any Joint Board has persistently made default in the performance of the functions imposed on it by or under this Act; or

(b) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification in the Official Gazette, supersede the Central Board or such Joint Board, as the case may be, for such period, not exceeding one year, as may be specified in the notification: PROVIDED that before issuing a notification under this sub-section for the reasons mentioned in clause (a), the Central Government shall give a reasonable opportunity to the Central Board or such Joint Board, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections if any, of the Central Board or such Joint Board, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Central Board or any Joint Board-

(a) all the members shall, as from the date of supersession vacate their offices as such;

(b) all the powers, functions and duties which may, by or under this Act, be exercised,

performed or discharged by the Central Board or such Joint board shall, until the Central Board or the Joint Board, as the case may be, is reconstituted under sub-section (3) be exercised, performed or discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Central Board or such Joint Board shall, until the Central Board or the Joint Board, as the case may be, is reconstituted under sub-section (3) vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may-

(a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary; or

(b) reconstitute the Central Board or the Joint Board, as the case may be, by fresh nomination or appointment, as the case may be, and in such case any person who vacated his office under clause (a) of sub-section (2) shall not be deemed disqualified for nomination or appointment:

PROVIDED that the Central Government may at any time before the expiration of the period of supersession, whether originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

62. Power of State Government to supersede State Board

(1) If at any time the State Government is of opinion-

(a) that the State Board has persistently made default in the performance of the functions imposed on it by or under this Act; or

(b) that circumstances exist which render it necessary in the public interest so to do, the State Government may, by notification in the Official Gazette, supersede the State Board for such period, not exceeding one year, as may be specified in the notification:

PROVIDED that before issuing a notification under this sub-section for the reasons mentioned in clause (a), the State Government shall give a reasonable opportunity to the State Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the State Board.

(2) Upon the publication, of a notification under sub-section (1) superseding the State Board, the provisions of sub-sections (2) and (3) of section 61 shall apply in relation to the supersession of the State Board as they apply in relation to the supersession of the Central Board or a Joint Board by the Central Government.

63. Power of Central Government to make rules

(1) The Central Government may, simultaneously with the constitution of the Central Board, make rules in respect of the matters specified in sub-section (2):

PROVIDED that when the Central Board has been constituted, no such rule shall be made, varied, amended or repealed without consulting the Board.

(1) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely,-

(a) the terms and conditions of service of the members (other than the Chairman and member-secretary) of the Central Board under sub-section (8) of section 5;

(b) the intervals and the time and place at which meetings of the Central Board or of any committee thereof constituted under this Act, shall be held and the procedure to be followed at such meetings, including the quorum necessary for the transaction of business under section 8, and under sub-section (2) of section 9;

(c) the fees and allowances to be paid to such members of a committee of the Central Board as are not members of the Board under sub-section (3) of section 9;

[32][(d)the manner in which and the purposes for which persons may be associated with the Central Board under sub-section (1) of section 10 and the fees and allowances payable to such persons;]

(e) the terms and conditions of service of the Chairman and the member-secretary of the Central Board under sub-section (9) of section 5 and under sub-section (1) of section 12;

(f) conditions subject to which a person may be appointed as a consulting engineer to the Central Board under sub-section (4) of section 12;

(g) the powers and duties to be exercised and performed by the Chairman and the member-secretary of the Central Board;

[9][(h) ***

(i) ***]

(j) the form of the report of the Central Board analyst under sub-section (1) of section 22;

(k) the form of the report of the government analyst under sub-section (3) of section 22;

[4][(l) the form in which and the time within which the budget of the Central Board may be prepared and forwarded to the Central Government under section 38; (ll) the form in which the annual report of the Central Board may be prepared under section 39;]

(m) the form in which the accounts of the Central Board may be maintained under section 40;

[15][(mm) the manner in which notice of intention to make a complaint shall be given to the Central Board or officer authorised by it under section 49;]

(n) any other matter relating to the Central Board, including the powers and functions of that Board in relation to Union Territories;

(o) any other matter which has to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, [5][before the expiry of the session immediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

64. Power of State Government to make rules

(1) The State Government may, simultaneously with the constitution of the State Board, make rules to carry out the purposes of this Act, in respect of matters not falling within the purview of section 63:

PROVIDED that when the State Board has been constituted, no such rule shall be made, varied, amended or repealed without consulting that Board.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely,-

(a) the terms and conditions of service of members (other than the Chairman and the member-secretary) of the State Board under sub-section (8) of section 5;

(b) the time and place of meetings of the State Board or of any committee of that Board constituted under this Act and the procedure to be followed at such meeting, including the quorum necessary for the transaction of business under section 8 and under sub-section (2) of section 9;

(c) the fees and allowances to be paid to such members of a committee of the State Board as are not members of the Board under sub-section (3) of section 9;

(d) the manner in which and the purposes for which persons may be associated with the State Board under sub-section (1) of section 10 [2][and the fees and allowances payable to such persons;]

(e) the terms and conditions of service of the Chairman and the member-secretary of the State Board under sub-section (9) of section 5 and under sub-section (1) of section 12;

(f) the conditions subject to which a person may be appointed as a consulting engineer to the State Board under sub-section (4) of section 12;

(g) the powers and duties to be exercised and discharged by the Chairman and the member-secretary of the State Board;

(h) the form of the notice referred to in section 21;

(i) the form of the report of the State Board analyst under sub-section (1) of section 22;

(j) the form of the report of the government analyst under sub-section (3) of section 22;

(k) the form of application for the consent of the State Board under sub-section (2) of section 25, and the particulars it may contain;

(l) the manner in which inquiry under sub-section (3) of section 25 may be made in respect of an application for obtaining consent of the State Board and the matters to be taken into account in granting or refusing such consent;

(m) the form and manner in which appeals may be filed, the fees payable in respect of such appeals and the procedure to be followed by the Appellate Authority in disposing of the appeals under sub-section(3) of section 28;

[33][(n)the form in which and the time within which the budget of the State Board may be prepared and forwarded to the State Government under section 38;

(nn) the form in which the annual report of the State Board may be prepared under section 39;]

(o) the form in which the accounts of the State Board may be maintained under sub-section (1) of section 40;

[15][(oo) the manner in which notice of intention to make a complaint shall be given to the State Board or officer authorised by it under section 49;]

(p) any other matter which has to be, or may be, prescribed.

Foot Notes

1. Substituted by Act No. 53 of 1988, for clauses (b), (d) and (h).
2. Inserted by Act No. 44 of 1978.
3. Substituted for the words “trade or industry” by Act No. 53 of 1988.
4. Substituted by Act No. 53 of 1988.
5. Substituted by Act No. 44 of 1978.
6. Substituted for the words “five officials” by Act No. 44 of 1978.
7. Substituted for the words “three non-officials” by Act No. 44 of 1978.
8. Substituted for clause (f) by Act No. 53 of 1988.
9. Omitted by Act No. 44 of 1978.
10. Substituted by Act No. 53 of 1988, for the words “State Board”.

11. The words “full time” omitted by Act No. 44 of 1978.
12. Substituted by Act No. 44 of 1978, for the words “five persons”.
13. Substituted for sub-section (2) by Act No. 44 of 1978.
14. Substituted by Act No. 53 of 1988, for the words “shall not be eligible for renomination for more than two terms”.
15. Inserted by ActNo. 53 of 1988.
16. Section 18 renumbered as sub-section (1) thereof by ActNo. 53 of 1988.
17. Substituted by Act No. 53 of 1988, for the words “industry or trade”.
18. Substituted for sub-section (4) by Act No. 44 of 1978,
19. Substituted by Act No. 44 of 1978, for the words and figures “Code of Criminal Procedure, 1898 (5 of 1898)”.
20. Substituted by Act No. 44 of 1978, for the words and figures “section 98”.
21. Substituted by Act No. 53 of 1988, for the words “stream or well”.
22. Substituted by Act No. 53 of 1988, for sub-sections (1) and (2).
23. Substituted by Act No. 53 of 1988, for sub-sections (4), (5) and (6).
24. Substituted by Act No. 53 of 1988, for sub-section (1).
25. Substituted by Act No. 53 of 1988, for clause (a).
26. Substituted by Act No. 53 of 1988, for the words “any stream or well”.
27. Substituted by Act No. 53 of 1988, for the words “into the stream or well”.
28. Substituted by Act No. 53 of 1988, for the words “one thousand rupees”.
39. Substituted by Act No. 53 of 1988, for the words “six months”.
30. Substituted by Act No. 53 of 1988, for the words “one year”.
31. Sub-section (2) renumbered as sub-section (3) by Act No. 53 of 1988.
32. Substituted by Act No. 44 of 1978, for clause (d).
33. Substituted by Act No. 53 of 1988, for clause (n).

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ACTS

THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

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THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981
ACT NO. 14 OF 1981

[29th March, 1981.]

An Act to provide for the prevention, control and abatement of air pollution, for the establishment, with a view to carrying out the aforesaid purposes, of Boards, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

WHEREAS decisions were taken at the United Nations Conference on the Human Environment held in Stockholm in June, 1972, in which India participated, to take appropriate steps for the preservation of the natural resources of the earth which, among other things, include the preservation of the quality of air and control of air pollution;

AND WHEREAS it is considered necessary to implement the decisions aforesaid in so far as they relate to the preservation of the quality of air and control of air pollution;

BE it enacted by Parliament in the Thirty-second Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Air (Prevention and Control of Pollution) Act, 1981.

(2) It extends to the whole of India.

(3) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "air pollutant" means any solid, liquid or gaseous substance [2] [(including noise)] present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment;

(b) "air pollution" means the presence in the atmosphere of any air pollutant;

(c) "approved appliance" means any equipment or gadget used for the bringing of any combustible material or for generating or consuming any fume, gas of particulate matter and approved by the State Board for the purposes of this Act;

(d) "approved fuel" means any fuel approved by the State Board for the purposes of this Act;

(e) "automobile" means any vehicle powered either by internal combustion engine or by any method of generating power to drive such vehicle by burning fuel;

(f) "Board" means the Central Board or a State Board;

(g) "Central Board" means the [3][Central Pollution Control Board] constituted under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(h) "chimney" includes any structure with an opening or outlet from or through which any air pollutant may be emitted;

(i) "control equipment" means any apparatus, device, equipment or system to control the quality and manner of emission of any air pollutant and includes any device used for securing the efficient operation of any industrial plant;

1. 16th May, 1981, *vide* notification No. G.S.R. 351 (E), dated 15th May, 1981, *see* Gazette of India, Extraordinary, PartII, sec. 3 (i).
2. Ins. by Act 47 of 1987, s. 2 (w.e.f 1-4-1988).
3. Subs, by s. 2, *ibid.,* for "Central Board for the Prevention and Control of Water Pollution" (w.e.f. 1-4-1988).

(j) "emission" means any solid or liquid or gaseous substance coming out of any chimney, duct or flue or any other outlet;

(k) "industrial plant" means any plant used for any industrial or trade purposes and emitting any air pollutant into the atmosphere;

(l) "member" means a member of the Central Board or a State Board, as the case may be, and includes the Chairman thereof;

[1][*(m)* "occupier", in relation to any factory or premises, means the person who has control over the affairs of the factory or the premises, and includes, in relation to any substance, the person in possession of the substance;]

(n) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(*o*) "State Board" means,—

(*i*) in relation to a State in which the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), is in force and the State Government has constituted for that State a [2][State Pollution Control Board] under section 4 of that Act, the said State Board; and

(ii) in relation to any other State, the State Board for the Prevention and Control of Air Pollution constituted by the State Government under section 5 of this Act.

CHAPTER II

Central and State Boards for the Prevention and Control of Air Pollution

[3]**[3. Central Pollution Control Board.**—The Central Pollution Control Board constituted under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), shall, without prejudice to the exercise and performance of its powers and functions under that Act, exercise the powers and perform the functions of the Central Pollution Control Board for the prevention and control of air pollution under this Act.

4. State Pollution Control Boards constituted under section 4 of Act 6 of 1974 to be State Boards under this Act.—In any State in which the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), is in force and the State Government has constituted for that State a State Pollution Control Board under section 4 of that Act, such State Board shall be deemed to be the State Board for the Prevention and Control of air Pollution constituted under section 5 of this Act, and accordingly that State Pollution Control Board shall, without prejudice to the exercise and performance of its powers and functions under that Act, exercise the powers and perform the functions of the State Board for the prevention and control of air pollution under this Act.]

5. Constitution of State Boards.—(*1*) In any State in which the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), is not in force, or that Act is in force but the State Government has not constituted a[4][State Pollution Control Board] under that Act, the State Government shall, with effect from such date as it may, by notification in the Official Gazette, appoint, constitute a State Board for the Prevention and Control of Air Pollution under such name as may be specified in the notification, to exercise the powers conferred on, and perform the functions assigned to, that Board under this Act.

(2) A State Board constituted under this Act shall consist of the following members, namely:-

(a) a Chairman, being a person, having special knowledge or practical experience in respect of matters relating to environmental protection, to be nominated by the State Government:

Provided that the Chairman may be either whole-time or part-time as the State Government may think fit;

1. Subs, by Act 47 of 1987, s. 2, for clause *(m)* (w.e.f. 1-4-1988).
2. Subs, by s. 2, *ibid.,* for "State Board for the Prevention and Control of Water Pollution" (w.e.f. 1-4-1988).
3. Subs, by s. 3, *ibid.,* for sections 3 and 4 (w.e.f. 1-4-1988).
4. Subs, by s. 4, *ibid.,* for "State Board for the Prevention and Control of Water Pollution" (w.e.f. 1-4-1988).

(b) such number of officials, not exceeding five, as the State Government may think fit, to be nominated by the State Government to represent that Government;

(c) such number of persons, not exceeding five, as the State Government may think fit, to be nominated by the State Government from amongst the members of the local authorities functioning within the State;

(d) such number of non-officials, not exceeding three, as the State Government may think fit, to be nominated by the State Government to represent the interest of agriculture, fishery or industry or trade or labour or any other interest, which, in the opinion of that Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the State Government, to be nominated by that Government;

[1][*(f)* a full-time member-secretary having such qualifications knowledge and experience of scientific, engineering or management aspects of pollution control as may be prescribed, to be appointed by the State Government:]

Provided that the State Government shall ensure that not less than two of the members are persons having special knowledge or practical experience in respect of matters relating to the improvement of the quality of air or the prevention, control or abatement of air pollution.

(*3*) Every State Board constituted under this Act shall be a body corporate with the name specified by the State Government in the notification issued under sub-section (*1*), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire and dispose of property and to contract, and may by the said name sue or be sued.

6. Central Board to exercise the powers and perform the functions of a State Board in the Union territories.—No State Board shall be constituted for a Union territory and in relation to a Union territory, the Central Board shall exercise the powers and perform the functions of a State Board under this Act for that Union territory:

Provided that in relation to any Union territory the Central Board may delegate all or any of its powers and functions under this section to such person or body of persons as the Central Government may specify.

7. Terms and conditions of service of members.—(*1*) Save as otherwise provided by or under this Act, a member of a State Board constituted under this Act, other than the member-secretary, shall hold office for a term of three years from the date on which his nomination is notified in the Official Gazette:

Provided that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(*2*) The terms of office of a member of a State Board constituted under this Act and nominated under clause *(b)* or clause *(e)* of sub-section (*2*) of section 5 shall come to an end as soon as he ceases to hold the office under the State Government or, as the case may be, the company or corporation owned, controlled or managed by the State Government, by virtue of which he was nominated.

(*3*) A member of a State Board constituted under this Act, other than the member-secretary, may at any time resign his office by writing under his hand addressed,—

(a) in the case of the Chairman, to the State Government; and

(b) in any other case, to the Chairman of the State Board, and the seat of the Chairman or such other member shall thereupon become vacant.

(4) A member of a State Board constituted under this Act, other than the member-secretary, shall be deemed to have vacated his seat, if he is absent without reason, sufficient in the opinion of the State Board, from three consecutive meetings of the State Board or where he is

1. Subs, by Act 47 of 1987, s. 4, for clause (*f*)(w.e.f. 1-4-1988).

nominated under clause (c) of sub-section (2) of section 5, he ceases to be a member of the local authority and such vacation of seat shall, in either case, take effect from such date as the State Government may, by notification in the Official Gazette, specify.

(5) A casual vacancy in a State Board constituted under this Act shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated.

(6) A member of a State Board constituted under this Act shall be eligible for re-nomination [1]***

(7) The other terms and conditions of service of the Chairman and other members (except the member-secretary) of a State Board constituted under this Act shall be such as may be prescribed.

8. Disqualifications.—(*1*) No person shall be a member of a State Board constituted under this Act, who—

(a) is, or at any time has been, adjudged insolvent, or

(b) is of unsound mind and has been so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or

(e) has directly or indirectly by himself on by any partner, any share or interest in any Firm or company carrying on the business of manufacture, sale, or hire of machinery, industrial plant, control equipment or any other apparatus for the improvement of the quality of air or for the prevention, control or abatement of air pollution, or

(*f*) is a director or a secretary, manager or other salaried officer or employee of any company or firm having any contract with the Board, or with the Government constituting the Board or with a local authority in the State, or with a company or corporation owned, controlled or managed by the Government, for the carrying out of programmes for the improvement of the quality of air or for the prevention, control or abatement of air pollution, or

(g) has so abused, in the opinion of the State Government, his position as a member, as to render his continuance on the State Board detrimental to the interest of the general public.

(2) The State Government shall, by order in writing, remove any member who is, or has become, subject to any disqualification mentioned in sub-section (*1*).

Provided that no order of removal shall be made by the State Government under this section unless the member concerned has been given a reasonable opportunity of showing cause against the same.

(3) Notwithstanding anything contained in sub-section (*1*) or sub-section (6) of section 7, a member who has been removed under this section shall not be eligible to continue to hold office until his successor enters upon his office, or, as the case may be, for re-nomination as a member.

9. Vacation of seats by members.—If a member of a State Board constituted under this Act becomes subject to any of the disqualifications specified in section 8, his seat shall become vacant.

10. Meetings of Board.—(*1*) For the purposes of this Act, a Board shall meet at least once in every three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed:

Provided that if, in the opinion of the Chairman, any business of an urgent nature is to be transacted, he may convene a meeting of the Board at such time as he thinks fit for the aforesaid purpose.

(2) Copies of minutes of the meetings under sub-section (*1*) shall be forwarded to the Central Board and to the State Government concerned.

1. The words “but not for more than two terms” omitted by Act 47 of 1987, s. 5 (w.e.f 1 -4-1988).

11. Constitution of committees.—(*1*) A Board may constitute as many committees consisting wholly of members or partly of members and partly of other persons and for such purpose or purposes as it may think fit.

(2) A committee constituted under this section shall meet at such time and at such place, and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(3) The members of a committee other than the members of the Board shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board as may be prescribed.

12. Temporary association of persons with Board for particular purpose.—(*1*) A Board may associate with itself in such manner, and for such purposes, as may be prescribed, any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.

(2) A person associated with the Board under sub-section (*1*) for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member of the Board for any other purpose.

(3) A person associated with a Board under sub-section (*1*) shall be entitled to receive such fees and allowances as may be prescribed.

13. Vacancy in Board not to invalidate acts or proceedings.—No act or proceeding of a Board or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board or such committee, as the case may be.

14. Member-secretary and officers and other employees of State Boards.—(*1*) The terms and conditions of service of the member-secretary of a State Board constituted under this Act shall be such as may be prescribed.

[1][*(2)* The member-secretary of a State Board, whether constituted under this Act or not, shall exercise such powers and perform such duties as may be prescribed, or as may, from time to time, be delegated to him by the State Board or its Chairman.]

(3) Subject to such rules as may be made by the State Government in this behalf, a State Board, whether constituted under this Act or not, may appoint such officers and other employees as it considers necessary for the efficient performance of its functions under this Act.

(4) The method of appointment, the conditions of service and the scales of pay of the officers (other than the member-secretary) and other employees of a State Board appointed under sub-section *(3)* shall be such as may be determined by regulations made by the State Board under this Act.

(5) Subject to such conditions as may be prescribed, a State Board constituted under this Act may from time to time appoint any qualified person to be a consultant to the Board and pay him such salary and allowances or fees, as it thinks fit.

15. Delegation of powers.—A State Board may, by general or special order, delegate to the Chairman or the member-secretary or any other officer of the Board subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

CHAPTER III

Powers and functions of Boards

16. Functions of Central Board.—(*1*) Subject to the provisions of this Act, and without prejudice to the performance, of its functions under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), the main functions of the Central Board shall be to improve the quality of air and to prevent, control or abate air pollution in the country.

1. Subs, by Act 47 of 1987, s. 6, for sub-section (2) (w.e.f. 1-4-1988).

(2) In particular and without prejudice to the generality of the foregoing functions, the Central Board may—

(a) advise the Central Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution;

(b) plan and cause to be executed a nation wide programme for the prevention, control or abatement of air pollution;

(c) co-ordinate the activities of the State and resolve disputes among them;

(d) provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of air pollution and prevention, control or abatement of air pollution;

[1]*[(dd)* perform such of the functions of any State Board as may be specified in and order made under sub-section (2) of section 18;]

(e) plan and organise the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of air pollution on such terms and conditions as the Central Board may specify;

(f) organise through mass media a comprehensive programme regarding the prevention, control or abatement of air pollution;

(g) collect, compile and publish technical and statistical data relating to air pollution and the measures devised for its effective prevention, control or abatement and prepare manuals, codes or guides relating to prevention, control or abatement of air pollution;

(h) lay down standards for the quality of air;

(i) collect and disseminate information in respect of matters relating to air pollution;

(j) perform such other functions as may be prescribed.

(3) The Central Board may establish or recognise a laboratory or laboratories to enable the Central Board to perform its functions under this section efficiently.

(1) The Central Board may—

(a) delegate any of its functions under this Act generally or specially to any of the committees appointed by it;

(b) do such other things and perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

17. Functions of State Boards.—(*1*) Subject to the provisions of this Act, and without prejudice to the performance of its functions, if any, under the Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974), the functions of a State Board shall be—

(a) to plan a comprehensive programme for the prevention, control or abatement of air pollution and to secure the execution thereof;

(b) to advise the State Government on any matter concerning the prevention, control or abatement of air pollution;

(c) to collect and disseminate information relating to air pollution;

(d) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating to prevention, control or abatement of air pollution and to organise mass-education programme relating thereto;

(e) to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider

1. Ins. by Act 47 of 1987, s. 7 (w.e.f. 1-4-1988).

necessary to take steps for the prevention, control or abatement of air pollution;

(f) to inspect air pollution control areas at such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas;

(g) to lay down, in consultation with the Central Board and having regard to the standards for the quality of air laid down by the Central Board, standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source whatsoever not being a ship or an aircraft:

Provided that different standards for emission may be laid down under this clause for different industrial plants having regard to the quantity and composition of emission of air pollutants into the atmosphere from such industrial plants;

(h) to advise the State Government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution;

(i) to Perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government;

(j) to do such other things and to perform such other acts as it may think necessary for the proper discharge of its functions and generally for the purpose of carrying into effect the purposes of this Act.

(2) A State Board may establish or recognise a laboratory or laboratories to enable the State Board to perform its functions under this section efficiently.

18. Power to give directions.—[1][(*1*)] In the performance of its functions under this Act—

(a) the Central Board shall be bound by such directions in writing as the Central Government may give to it; and

(b) every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it:

Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision.

[2][(2) Where the Central Government is of the opinion that any State Board has defaulted in complying with any directions given by the Central Board under sub-section (*1*) and as a result of such default a grave emergency has arisen and it is necessary or expedient so to do in the public interest, it may, by order, direct the Central Board to perform any of the functions of the State Board in relation to such area, for such period and for such purposes, as may be specified in the order.

(3) Where the Central Board performs any of the functions of the State Board in pursuance of a direction under sub-section (2), the expenes, if any, incurred by the Central Board with respect to the performance of such functions may, if the State Board is empowered to recover such expenses, be recovered by the Central Board with interest (at such reasonable rate as the Central Government may, by order, fix) from the date when a demand for such expenses is made until it is paid from the person or persons concerned as arrears of land revenue or of public demand.

(4) For the removal of doubts, it is hereby declared that any directions to perform the functions of any State Board given under sub-section (2) in respect of any area would not preclude the State Board from performing such functions in any other area in the State or any of its other functions' in that area.]

1. Section 18 renumbered as sub-section *(1)* thereof by Act 47 of 1987, s. 8 (w.e.f 1-4-1988).
2. Ins. by s. 8, *ibid,* (w.e.f. 1-4-1988).

CHAPTER IV

Prevention and control of air pollution

19. Power to declare air pollution control areas.—(*1*) The State Government may, after consultation with the State Board, by notification in the Official Gazette declare in such manner as may be prescribed, any area or areas within the State as air pollution control area or areas for the purposes of this Act.

(2) The State Government may, after consultation with the State Board, by notification in the Official Gazette,—

(a) alter any air pollution control area whether by way of extension or reduction;

(b) declare a new air pollution control area in which may be merged one or more existing air pollution control areas or any part or parts thereof.

(3) If the State Government, after consultation with the State Board, is of opinion that the use of any fuel, other than an approved fuel, in any air pollution control area or part thereof, may cause or is likely to cause air pollution, it may, by notification in the Official Gazette, prohibit the use of such fuel in such area or part thereof with effect from such date (being not less than three months from the date of publication of the notification) as may be specified in the notification.

(4) The State Government may, after consultation with the State Board, by notification in the Official Gazette, direct that with effect from such date as may be specified therein, no appliance, other than an approved appliance, shall be used in the premises situated in an air pollution control area:

Provided that different dates may be specified for different parts of an air pollution control area or for the use of different appliances.

(*5*) If the State Government, after consultation with the State Board, is of opinion that the burning of any material (not being fuel) in any air pollution control area or part thereof may cause or is likely to cause air pollution, it may, by notification in the Official Gazette, prohibit the burning of such material in such area or part thereof.

20. Power to give instructions for ensuring standards for emission from automobiles.—With a view to ensuring that the standards for emission of air pollutants from automobiles laid down by the State Board under clause (g) of sub-section (*1*) of section 17 are complied with, the State Government shall, in consultation with the State Board, give such instructions as may be deemed necessary to the concerned authority in charge of registration of motor vehicles under the Motor Vehicles Act, 1939 (4 of 1939), and such authority shall, notwithstanding anything contained in that Act or the rules made thereunder be bound to comply with such instructions.

21. Restrictions on use of certain industrial plants.—[1][(*1*) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area:

Provided that a person operating any industrial plant in any air pollution control area immediately before the commencement of section 9 of the Air (Prevention and Control of Pollution) Amendment Act, 1987, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent within the said period of three months, till the disposal of such application.]

(2) An application for consent of the State Board under sub-section (*1*) shall be accompanied by such fees as may be prescribed and shall be made in the prescribed form and shall contain the particulars of the industrial plant and such other particulars as may be prescribed:

Provided that where any person, immediately before the declaration of any area as an air pollution control area, operates in such area any industrial plant, [2]***such person shall make the application under this sub-section within such period (being not less than three months from the date of such declaration) as

1. Subs, by Act 47 of 1987, s. 9, for sub-section *(1)* (w.e.f 1-4-1988).
2. The words “for the purpose of any industry specified in the Schedule” omitted by s. 9, *ibid,* (w.e.f. 1-4-1988).

may be prescribed and where such person makes such application, he shall be deemed to be operating such industrial plant with the consent of the State Board until the consent applied for has been refused.

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (*1*) and in making any such inquiry, shall follow such procedure as may be prescribed.

(4) Within a period of four months after the receipt of the application for consent referred to in sub-section (*1*), the State Board shall, by order in writing, [1][and for reasons to be recorded in the order, grant the consent applied for subject to such conditions and for such period as may be specified in the order, or refuse such consent]:

[2][Provided that it shall be open to the State Board to cancel such consent before the expiry of the period for which it is granted or refuse further consent after such expiry if the conditions subject to which such consent has been granted are not fulfilled:

Provided further that before cancelling a consent or refusing a further consent under the first provision, a reasonable opportunity of being heard shall be given to the person concerned.]

(5) Every person to whom consent has been granted by the State Board under sub-section (4), shall comply with the following conditions, namely:—

(*i*) the control equipment of such specifications as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on;

(ii) the existing control equipment, if any, shall be altered or replaced in accordance with the directions of the State Board;

(iii) the control equipment referred to in clause (*i*) or clause *(ii)* shall be kept at all times in good running condition;

(*iv*) chimney, wherever necessary, of such specifications as the State Board may approve in this behalf shall be erected or re-erected in such premises; and

(*v*) such other conditions as the State Board, may specify in this behalf; and

(*vi*) the conditions referred to in clauses (*i*), *(ii)* and (*iv*) shall be complied with within such period as the State Board may specify in this behalf:

Provided that in the case of a person operating any industrial plant[3]*** in an air pollution control area immediately before the date of declaration of such area as an air pollution control area, the period so specified shall not be less than six months:

Provided further that—

(a) after the installation of any control equipment in accordance with the specifications under clause (*i*), or

(b) after the alteration or replacement of any control equipment in accordance with the directions of the State Board under clause *(ii),* or

(c) after the erection or re-erection of any chimney under clause (*iv*), no control equipment or chimney shall be altered or replaced or, as the case may be, erected or re-erected except with the previous approval of the State Board.

(6) If due to any technological improvement or otherwise the State Board is of opinion that all or any of the conditions referred to in sub-section *(5)* require or requires variation (including the change of any control equipment, either in whole or in part), the State Board shall, after giving the person to whom

1. Subs, by Act 47 of 1987, s. 9, for certain words (w.e.f. 1-4-1988).
2. Ins. by s. 9, *ibid,* (w.e.f. 1-4-1988).
3. The words “for the purpose of any industry specified in the Schedule” omitted by s. 9, *ibid,* (w.e.f. 1-4-1988).

consent has been granted an opportunity of being heard, vary all or any of such conditions and thereupon such person shall be bound to comply with the conditions as so varied.

(7) Where a person to whom consent has been granted by the State Board under sub-section *(4)* transfers his interest in the industry to any other person, such consent shall be deemed to have been granted to such other person and he shall be bound to comply with all the conditions subject to which it was granted as if the consent was granted to him originally.

22. Persons carrying on industry, etc., not to allow emission of air pollutants in excess of the standard laid down by State Board.—No person [1]**** operating any industrial plant, in any air pollution control area shall discharge or cause or permit to be discharged the emission of any air pollutant in excess of the standards laid down by the State Board under clause *(g)* of sub-section (*1*) of section 17.

[2]**[22A. Power of Board to make application to court for restraining person from causing air pollution.**— (*1*) Where it is apprehended by a Board that emission of any air pollutant, in excess of the standards laid down by the State Board under clause *(g)* of sub-section (*1*) of section 17, is likely to occur by reason of any person operating an industrial plant or otherwise in any air pollution control area, the Board may make an application to a court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class for restraining such person from emitting such air pollutant.

(*2*) On receipt of the application under sub-section (*1*), the court may make such order as it deems fit.

(*3*) Where under sub-section (2), the court makes an order restraining any person from discharging or causing or permitting to be discharged the emission of any air pollutant, it may, in that order,—

(a) direct such person to desist from taking such action as is likely to cause emission;

(b) authorise the Board, if the direction under clause (a) is not complied with by the person to whom such direction is issued, to implement the direction in such manner as may be specified by the court.

(4) All expenses incurred by the Board in implementing the directions of the court under clause *(b)* of sub-section *(3)* shall be recoverable from the person concerned as arrears of land revenue or of public demand.]

23. Furnishing of information to State Board and other agencies in certain cases.—(*1*) Where in any [3]*** area the emission of any air pollutant into the atmosphere in excess of the standards laid down by the State Board occurs or is apprehended to occur due to accident or other unforeseen act or event, the person in charge of the premises from where such emission occurs or is apprehended to occur shall forthwith intimate the fact of such occurrence or the apprehension of such occurrence to the State Board and to such authorities or agencies as may be prescribed.

(*2*) On receipt of information with respect to the fact or the apprehension of any occurrence of the nature referred to in sub-section (*1*), whether through intimation under that sub-section or otherwise, the State Board and the authorities or agencies shall, as early as practicable, cause such remedial measure to be taken as are necessary to mitigate the emission of such air pollutants.

(*3*) Expenses, if any, incurred by the State Board, authority or agency with respect to the remedial measures referred to in sub-section (2) together with interest (at such reasonable rate, as the State Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by that Board, authority or agency from the person concerned, as arrears of land revenue, or of public demand.

24. Power of entry and inspection.—(*1*) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place—

(a) for the purpose of performing any of the functions of the State Board entrusted to him;

1. The words "carrying on any industry specified in the Schedule or" omitted by Act 47 of 1987, s. 10 (w.e.f. 1 -4-1988).
2. Ins. by s. 11, *ibid,* (w.e.f. 1-4-1988).
3. The words "air pollution control" omitted by s. 12, *ibid,* (w.e.f. 1-4-1988).

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(c) for the purpose of examining and testing any control equipment, industrial plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such control equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder.

(2) Every person [1]*** operating any control equipment or any industrial plant, in an air pollution control area shall be bound to render all assistance to the person empowered by the State Board under sub-section (*1*) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act.

(3) If any person willfully delays or obstructs any person empowered by the State Board under sub-section (*1*) in the discharge of his duties, he shall be guilty of an offence under this Act.

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), or, in relation to the State of Jammu and Kashmir, or any area, in which that Code is not in force, the provisions of any corresponding law in force in that State or area, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law.

25. Power to obtain information.—For the purposes of carrying out the functions entrusted to it, the State Board or any officer empowered by it in that behalf may call for any information (including information regarding the types of air pollutants emitted into the atmosphere and the level of the emission of such air pollutants) from the occupier or any other person carrying on any industry or operating any control equipment or industrial plant and for the purpose of verifying the correctness of such information, the State Board or such officer shall have the right to inspect the premises where such industry, control equipment or industrial plant is being carried on or operated.

26. Power to take samples of air or emission and procedure to be followed in connection therewith.—(*1*) A State Board or any officer empowered by it in this behalf shall have power to take, for the purpose of analysis, samples of air or emission from any chimney, flue or duct or any other outlet in such manner as may be prescribed.

(2) The result of any analysis of a sample of emission taken under sub-section (*1*) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections *(3)* and *(4)* are complied with.

(3) Subject to the provisions of sub-section *(4),* when a sample of emission is taken for analysis under sub-section (*1*), the person taking the sample shall—

(a) serve on the occupier or his agent, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(b) in the presence of the occupier or his agent, collect a sample of emission for analysis;

(c) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;

(d) send, without delay, the container or containers to the laboratory established or recognised by the State Board under section 17 or, if a request in that behalf is made by the occupier or his agent when the notice is served on him under clause (a), to the laboratory established or specified under sub-section (*1*) of section 28.

1. The words “carrying on any industry specified in the Schedule and every person” omitted by Act 47 of 1987, s. 13 (w.e.f 1-4-1988).

(4) When a sample of emission is taken for analysis under sub-section (*1*) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section *(3),* then,—

(a) in a case where the occupier or his agent wilfully absents himself, the person taking the sample shall collect the sample of emission for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and

(b) in a case where the occupier or his agent is present at the time of taking the sample but refuses to sign the marked and sealed container or containers of the sample of emission as required under clause (c) of sub-section *(3),* the marked and sealed container or containers shall be signed by the person taking the sample,

and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or specified under sub-section (*1*) of section 28 and such person shall inform the Government analyst appointed under sub-section (*1*) of section 29, in writing, about the wilful absence of the occupier or his agent, or, as the case may be, his refusal to sign the container or containers.

27. Reports of the result of analysis on samples taken under section 26.—(*1*) Where a sample of emission has been sent for analysis to the laboratory established or recognised by the State Board, the Board analyst appointed under sub-section (2) of section 29 shall analyse the sample and submit a report in the prescribed form of such analysis in triplicate to the State Board.

(*2*) On receipt of the report under sub-section (*1*), one copy of the report shall be sent by the State Board to the occupier or his agent referred to in section 26, another copy shall be preserved for production before the court in case any legal proceedings are taken against him and the other copy shall be kept by the State Board.

(*3*) Where a sample has been sent for analysis under clause of sub-section *(3)* or sub-section *(4)* of section 26 to any laboratory mentioned therein, the Government analyst referred to in the said sub-section *(4)* shall analyse the sample and submit a report in the prescribed form of the result of the analysis in triplicate to the State Board which shall comply with the provisions of sub-section (2).

(*4*) Any cost incurred in getting any sample analysed at the request of the occupier or his agent as provided in clause *(d)* of sub-section *(3)* of section 26 or when he wilfully absents himself or refuses to sign the marked and sealed container or containers of sample of emission under sub-section *(4)* of that section, shall be payable by such occupier or his agent and in case of default the same shall be recoverable from him as arrears of land revenue or of public demand.

28. State Air Laboratory.—(*1*) The State Government may, by notification in the Official Gazette, —

(a) establish one or more State Air Laboratories; or

(b) specify one or more laboratories or institutes as State Air Laboratories to carry out the functions entrusted to the State Air Laboratory under this Act.

(2) The State Government may, after consultation with the State Board, make rules prescribing—

(a) the functions of the State Air Laboratory;

(b) the procedure for the submission to the said Laboratory of samples of air or emission for analysis or tests, the form of the Laboratory's report thereon and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that Laboratory to carry out its functions.

29. Analysts.—(1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit and having the prescribed qualifications to be Government analysts for the purpose of analysis of samples of air or emission sent for analysis to any laboratory established or specified under sub-section (*1*) of section 28.

(2) Without prejudice to the provisions of section 14, the State Board may, by notification in the Official Gazette, and with the approval of the State Government, appoint such persons as it thinks fit and having the prescribed qualifications to be Board analysts for the purpose of analysis of samples of air or emission sent for analysis to any laboratory established or recognised under section 17.

30. Reports of analysts.—Any document purporting to be a report signed by a Government analyst or, as the case may be, a State Board analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

31. Appeals.—(*1*) Any person aggrieved by an order made by the State Board under this Act may, within thirty day from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the Appellate Authority) as the State Government may think fit to constitute:

Provided that the Appellate Authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(*2*) The Appellate Authority shall consist of a single person or three persons as the State Government may think fit to be appointed by the State Government.

(*3*) The form and the manner in which an appeal may be preferred under sub-section (*1*), the fees payable for such appeal and the procedure to be followed by the Appellate Authority shall be such as may be prescribed.

(*4*) On receipt of an appeal preferred under sub-section (*1*), the Appellate Authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

[1]**[31A. Power to give directions.**—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) the stoppage or regulation of supply of electricity, water or any other service.]

CHAPTER V

Fund, accounts and audit

32. Contributions by Central Government.—The Central Government may, after due appropriation made by Parliament by law in this behalf make in each financial year such contributions to the State Boards as it may think necessary to enable the State Boards to perform their functions under this Act:

Provided that nothing in this section shall apply to any [2][State Pollution Control Board] constituted under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), which is empowered by that Act to expend money from its fund thereunder also for performing its functions, under any law for the time being in force relating to the prevention, control or abatement of air pollution.

33. Fund of Board.—(*1*) Every State Board shall have its own fund for the purposes of this Act and all sums which may, from time to time, be paid to it by the Central Government and all other receipts (by way of contributions, if any, from the State Government, fees, gifts, grants, donations benefactions or otherwise) of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

1. Ins. by Act 47 of 1987, s. 14 (w.e.f. 1-4-1988).
2. Subs, by s. 15, *ibid.,* for "State Board for the Prevention and Control of water Pollution" (w.e.f. 1-4-1988).

(*2*) Every State Board may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the fund of that Board.

(*3*) Nothing in this section shall apply to any [1][State Pollution Control Board] constituted under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), which is empowered by that Act to expend money from its fund thereunder also for performing its functions, under any law for the time being in force relating to the prevention, control or abatement of air pollution.

[2]**[33A. Borrowing powers of Board.**—A Board may, with the consent of, or in accordance with the terms of any general or special authority given to it by, the Central Government or, as the case may be, the State Government, borrow money from any source by way of loans or issue of bonds, debentures or such other instruments, as it may deem fit, for discharging all or any of its functions under this Act.]

34. Budget.—The Central Board or, as the case may be, the State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure under this Act, and copies thereof shall be forwarded to the Central Government or, as the case may be, the State Government.

[3]**[35. Annual report.**—(*1*) The Central Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the Central Government within four months from the last date of the previous financial year and that Government shall cause every such report to be laid before both Houses of Parliament within nine months of the last date of the previous financial year.

(2) Every State Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the State Government within four months from the last date of the previous financial year and that Government shall cause every such report to be laid before the State Legislature within a period of nine months from the last date of the previous financial year.]

36. Accounts and audit.—(*1*) Every Board shall, in relation to its functions under this Act, maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government or, as the case may be, the State Government.

(2) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956 (1 of 1956).

(3) The said auditor shall be appointed by the Central Government or, as the case may be, the State Government on the advice of the Comptroller and Auditor General of India.

(4) Every auditor appointed to audit the accounts of the Board under this Act shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(5) Every such auditor shall send a copy of his report together with an audited copy of the accounts to the Central Government or, as the case may be, the State Government.

(6) The Central Government shall, as soon as may be after the receipt of the audit report under sub-section *(5),* cause the same to be laid before both Houses of Parliament

(7) The State Government shall, as soon as may be after the receipt of the audit report under sub-section *(5),* cause the same to be laid before the State Legislature.

1. Subs, by Act 47 of 1987, s. 15, for "State Board for the Prevention and Control of Water Pollution" (w.e.f. 1-4-1988).
2. Ins. by s. 16, *ibid,* (w.e.f. 1-4-1988).
3. Subs, by s. 17, *ibid.,* for section 35 (w.e.f. 1-4-1988).

CHAPTER VI

PENALTIES AND PROCEDURE

[1][**37. Failure to comply with the provisions of section 21 or section 22 or with the directions issued under section 31A.**—(*1*) whoever fails to comply with the provisions of section 21 or section 22 or directions issued under section 31 A, shall, in respect of each such failure, be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(2) If the failure referred to in sub-section (*1*) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.]

38. Penalties for certain acts.—Whoever—

(a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board, or

(b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act, or

(c) damages any works or property belonging to the Board, or

(d) fails to furnish to the Board or any officer or other employee of the Board any information required by the Board or such officer or other employee for the purpose of this Act, or

(e) fails to intimate the occurrence of the emission of air pollutants into the atmosphere in excess of the standards laid down by the State Board or the apprehension of such occurrence, to the State Board and other prescribed authorities or agencies as required under sub-section (*1*) of section 23, or

(f) in giving any information which he is required to give under this Act, makes a statement which is false in any material particular, or

(g) for the purpose of obtaining any consent under section 21, makes a statement which is false in any material particular, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to [2][ten thousand rupees] or with both.

[3][**39. Penalty for contravention of certain provisions of the Act.**—Whoever contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both, and in the case of continuing contravention, with an additional fine which may extend to five thousand rupees for every day during which such contravention continues after conviction for the first such contravention.]

40. Offences by companies.—(*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other

1. Subs, by Act 47 of 1987, s. 18, for section 37 (w.e.f. 1-4-1988).
2. Subs, by s. 19, *ibid.,* for "five hundred rupees" (w.e.f. 1-4-1988).
3. Subs, by s. 20, *ibid.,* for section 39 (w.e.f. 1-4-1988).

officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

41. Offences by Government Departments.—(*1*) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

42. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or any member or any officer or other employee of the Board in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made thereunder.

[1]**[43. Cognizance of offences.**—(*1*) No court shall take cognizance of any offence under this Act except on a complaint made by—

(a) a Board or any officer authorised in this behalf by it; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint to the Board or officer authorised asaforesaid,

and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(*2*) Where a complaint has been made under clause *(b)* of sub-section (*1*), the Board shall, on demand by such person, make available the relevant reports in its possession to that person:

Provided that the Board may refuse to make any such report available to such person if the same is, in its opinion, against the public interest.]

44. Members, officers and employees of Board to be public servants.—All the members and all officers and other employees of a Board when acting or purporting to act in pursuance of any of the provisions of this Act or the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

45. Reports and returns.—The Central Board shall, in relation to its functions under this Act, furnish to the Central Government, and a State Board shall, in relation to its functions under this Act, furnish to the State Government and to the Central Board such reports, returns, statistics, accounts and other information as that Government, or, as the case may be, the Central Board may, from time to time,require.

46. Bar of jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Appellate Authority constituted under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

1. Subs, by Act 47 of 1987, s. 21, for section 43 (w.e.f 1-4-1988).

CHAPTER **VII**

MISCELLANEOUS

47. Power of State Government to supersede State Board.—(*1*) If at any time the State Government is of opinion—

(a) that a State Board constituted under this Act has persistently made default in the performance of the functions imposed on it by or under this Act, or

(b) that circumstances exist which render it necessary in the public interest so to do.

the State Government may, by notification in the Official Gazette, supersede the State Board for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (a), the State Government shall give a reasonable opportunity to the State Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the State Board.

(2) Upon the publication of a notification under sub-section (*1*) superseding the State Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under this Act, be exercised, performed or discharged by the State Board shall, until the State Board is reconstituted under sub-section *(3),* be exercised, performed or discharged by such person or persons as the State Government may direct;

(c) all property owned or controlled by the State Board shall, until the Board is reconstituted under sub-section *(3),* vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the State Government may—

(a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary; or

(b) reconstitute the State Board by a fresh nomination or appointment, as the case may be, and in such case any person who vacated his office under clause (a) of sub-section (2) shall also be eligible for nomination or appointment:

Provided that the State Government may at any time before the expiration of the period of supersession, whether originally specified under sub-section (*1*) or as extended under this sub-section, take action under clause *(b)* of this sub-section.

48. Special provision in the case of supersession of the Central Board or the State Boards constituted under the Water (Prevention and Control of Pollution) Act, 1974.—Where the Central Board or any State Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974), is superseded by the Central Government or the State Government, as the case may be, under that Act, all the powers, functions and duties of the Central Board or such State Board under this Act shall be exercised, performed or discharged during the period of such supersession by the person or persons, exercising, preforming or discharging the powers, functions and duties of the Central Board or such State Board under the Water (Prevention and Control of Pollution) Act, 1974, during such period.

49. Dissolution of State Boards constituted under the Act.—(*1*) As and when the Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974), comes into force in any State and the State Government constitutes [1][State Pollution Control Board] under that Act, the State Board constituted by the State Government under this Act shall stand dissolved and the Board first-mentioned shall exercise the powers and perform the functions of the Board second-mentioned in that State.

(2) On the dissolution of the State Board constituted under this Act,—

(a) all the members shall vacate their offices as such;

1. Subs, by Act 47 of 1987, s. 15, for "State Board for the Prevention and Control of Water Pollution" (w.e.f. 1-4-1988).

(b) all moneys and other property of whatever kind (including the fund of the State Board) owned by, or vested in, the State Board, immediately before such dissolution, shall stand transferred to and vest in the [1][State Pollution Control Board];

(c) every officer and other employee serving under the State Board immediately before such dissolution shall be transferred to and become an officer or other employee of the [1][State Pollution Control Board] and hold office by the same tenure and at the same remuneration and on the same terms and conditions of service as he would have held the same if the State Board constituted under this Act had not been dissolved and shall continue to do so unless and until such tenure, remuneration and terms and conditions of service are duly altered by the [1][State Pollution Control Board]:

Provided that the tenure, remuneration and terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage without the previous sanction of the State Government;

(d) all liabilities and obligations of the State Board of whatever kind, immediately before such dissolution, shall be deemed to be the liabilities or obligations, as the case may be, of the [1][State Pollution Control Board] and any proceeding or cause of action, pending or existing immediately before such dissolution by or against the State Board constituted under this Act in relation to such liability or obligation may be continued and enforced by or against the [1][State Pollution Control Board.]

50. *[Power to amend the Schedule.].—Omitted by the Air (Prevention and Control of Pollution) Amendment Act,* 1987 (47 *of 1987), s.* 22 *(w.e.f* 1-4-1988)

51. Maintenance of register.—(1) Every State Board shall maintain a register containing particulars of the persons to whom consent has been granted under section 21, the standards for emission laid down by it in relation to each such consent and such other particulars as may be prescribed.

(2) The register maintained under sub-section (1) shall be open to inspection at all reasonable hours by any person interested in or affected by such standards for emission or by any other person authorised by such person in this behalf.

52. Effect of other laws.—Save as otherwise provided by or under the Atomic Energy Act, 1962 (33 of 1962), in relation to radioactive air pollution the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

53. Power of Central Government to make rules.—(1) The Central Government may, in consultation with the Central Board, by notification in the Official Gazette, make rules in respect of the following matters, namely:—

(a) the intervals and the time and place at which meetings of the Central Board or any committee thereof shall be held and the procedure to be followed at such meetings, including the quorum necessary for the transaction of business thereat, under sub-section (1) of section 10 and under sub-section (2) of section 11;

(b) the fees and allowances to be paid to the members of a committee of the Central Board, not being members of the Board, under sub-section *(3)* of section 11;

(c) the manner in which and the purposes for which persons may be associated with the Central Board under sub-section (1) of section 12;

(d) the fees and allowance to be paid under sub-section *(3)* of section 12 to persons associated with the Central Board under sub-section (1) of section 12;

(e) the functions to be performed by the Central Board under clause (j) of sub-section (2) of section 16:

1. Subs, by Act 47 of 1987, s. 15 for "State Board for the Prevention and Control of Water Pollution" (w.e.f. 1-4-1988).

[1][(*f*) the form in which and the time within which the budget of the Central Board may be prepared and forwarded to the Central Government under section 34;

(ff) the form in which the annual report of die Central Board may be prepared under section 35;]

(g) the form in which the accounts of the Central Board may be maintained under sub-section (1) of section 36.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

54. Power of State Government to make rules.—(1) Subject to the provisions of sub-section *(3),* the State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act in respect of matter not falling within the purview of section 53.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

[2][(a) the qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control required for appointment as member-secretary of a State Board constituted under the Act;]

[3][(aa)] the terms and conditions of service of the Chairman and other members (other than the member-secretary) of the State Board constituted under this Act under sub-section (7) of section 7;

(b) the intervals and the time and place at which meetings of the State Board or any committee thereof shall be held and the procedure to be followed at such meetings, including the quorum necessary for the transaction of business thereat, under sub-section (1) of section 10 and under sub-section (2) of section 11;

(c) the fees and allowances to be paid to the members of a committee of the State Board, not being members of the Board under sub-section *(3)* of section 11;

(d) the manner in which and the purpose for which persons may be associated with the State Board under sub-section (1) of section 12;

(e) the fees and allowances to be paid under sub-section *(3)* of section 12 to persons associated with the State Board under sub-section (1) of section 12;

(f) the terms and conditions of service of the member-secretary of a State Board constituted under this Act under sub-section (1) of section 14;

(g) the powers and duties to be exercised and discharged by the member-secretary of a State Board under sub-section (2) of section 14;

(h) the conditions subject to which a State Board may appoint such officers and other employees as it considers necessary for the efficient performance of its functions under sub-section *(3)* of section 14;

(i) the conditions subject to which a State Board may appoint a consultant under sub-section *(5)* of section 14;

(j) the functions to be performed by the State Board under clause (i) of sub-section (1) of section 17;

1. Subs, by Act 47 of 1987, s. 23, for clause (f)(w.e.f. 1-4-1988).
2. Ins. by s. 24, *ibid,* (w.e.f 1-4-1988).
3. Clause *(a)* renumbered as clause *(aa)* thereof by s. 24, *ibid,* (w.e.f. 1-4-1988).

(k) the manner in which any area or areas may be declared as air pollution control area or areas under sub-section (1) of section 19;

(*l*) the form of application for the consent of the State Board, the fees payable therefore the period within which such application shall be made and the particulars it may contain, under sub-section (2) of section 21;

(m) the procedure to be followed in respect of an inquiry under sub-section *(3)* of section 21;

(n) the authorities or agencies to whom information under sub-section (1) of section 23 shall be furnished;

(o) the manner in which samples of air or emission may be taken under sub-section (1) of section 26;

(p) the form of the notice referred to in sub-section *(3)* of section 26;

(q) the form of the report of the State Board analyst under sub-section (1) of section 27;

(r) the form of the report of the Government analyst under sub-section *(3)* of section 27;

(s) the functions of the State Air Laboratory, the procedure for the submission to the said Laboratory of samples of air or emission for analysis or tests, the form of Laboratory's report thereon, the fees payable in respect of such report and other matters as may be necessary or expedient to enable that Laboratory to carry out its functions, under sub-section (2) of section 28;

(t) the qualifications required for Government analysts under sub-section (1) of section 29;

(u) the qualification required for State Board analysts under sub-section (2) of section 29;

(v) the form and the manner in which appeals may be preferred, the fees payable in respect of such appeals and the procedure to be followed by the Appellate Authority in disposing of the appeals under sub-section *(3)* of section 31;

1[(w) the form in which and the time within which the budget of the State Board may be prepared and forwarded to the State Government under section 34;

(ww) the form in which the annual report of the State Board may be prepared under section 35;]

(x) the form in which the accounts of the State Board may be maintained under the sub-section (1) of section 36;

[2][(xx) the manner in which notice of intention to make a complaint shall be given under section 43;]

(y) the particulars which the register maintained under section 51 may contain;

(z) any other matter which has to be, or may be, prescribed.

(3) After the first constitution of the State Board, no rule with respect to any of the matters referred to in sub-section (2) [other than those referred to [3][[in clause *(aa)]]* thereof], shall be made, varied, amended or repealed without consulting that Board.

[The Schedule.].—Omitted by the Air (Prevention and Control of Pollution) Amendment Act, 1987 (47 of 1987), *s.* 25 *(w.e.f.* 1-4-1988).

1. Subs, by Act 47 of 1987, s. 24, for clause *(w)* (w.e.f. 1-4-1988).
2. Ins. by s. 24, *ibid,* (w.e.f. 1-4-1988).
3. Subs, by s. 24, *ibid.,* for "in clause (a)" (w.e.f. 1-4-1988).

3

ACTS

The Environment (Protection) Act, 1986

The Environment (Protection) Act, 1986

No. 29 OF 1986

[23rd May, 1986]

An Act to Provide for the Protection and Improvement of Environment and for Matters Connected therewith.

WHEREAS decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June. 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment;

AND WHEREAS it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property;

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY 1.

Short title extent and commem-cement

1. (1) This Act may be called the Environment (Protection) Act, 86.

(2) extends to the whole of India.

(3)It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different areas.

Definition

2. In this Act, unless the context otherwise requires: -

(a) "environment" includes water, air and land and the inter relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;
(b) "environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be injurious to environment;
(c) "environmental pollution" means the presence in the environment of any-enviromental pollutant;
(d) "handling", in relation to any substance, means the manufacture processing, treatment, package, storage, transporation, use, collection, destruction., conversion, offering for sale, transfer or the like of such substance;
(e) "hazardous substance" means any substance or preparation which, by reason of its chemical or physico-chemical-properties or handling is liable to cause harm to human beings, other living creatures, plants, micro-organism, property or the environment;

(f) "occupier", in relation to any *factory* or premises, means a person who has control over the affairs of the factory or the premises find includes, in relation to any substance, the person in possession of the substance;

(g) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

General Powers of thf Central

Power of Central Govern-ment to take measure to protect and improve environment

3. (1) Subject to the provisions of this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (i), such measures may include measures and with respect to all or any of the following matters, namely: —

(i) co-ordination of actions by the State Governments , officers and other authorities: —

(a) under this Act, or the rules made thereunder; or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever;

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations, or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and-safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) inspection of any premises, plant, equipment, machinery manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

(3) The Central Government may, if it considers it necessary as expedient so to do for the purposes of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise the powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

Appointment of Officers and their powers and function.

4. (1) Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section (I) shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under sub-section (3) of section 3 or of any other authority or officer.

Power to give direction.

5. Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Centra] Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or

any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation:—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct: —

(a) the closure, prohibition or regulation at any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

Rules regulate environmental pollution.

6. (1) The Central Government may, by notification in the Official Gazette, make rules in respect of all or any of the matters referred to in section 3.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the standards of quality of air, water or soil for various areas and purposes;

(b) the maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas;

(c) the procedures and safeguards for the handling of hazardous substances;

(d) the prohibition and restrictions on the handling of hazardous substances in different: areas;

(e) the prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas:

(f) the procedures and safeguards for the prevention of accidents which may cause environmental pollution and for providing for remedial measures for such accidents.

CHAPTER III

Prevention. Control and Abatement of Environmental Pollution

Persons carrying on industry operation, , etc.,not to allow emission or discharge of environmental pollutant in excess of the standard

7. No person carrying on any industry, operation or process shall discharge or emit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.

8. No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after with such safeguards as may be prescribed.

Persons handling hazardous-substances to comply with procedural safegaurds

9. (1) Where the discharge of any environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the place at which such discharge occurs or is apprehended to occur shall be bound to prevent or mitigate the environmental pollution caused as a result of such discharge and shall also forthwith : -

Furnishing of information to authority and agencies in certain cases.

(a) intimate the fact of such occurrence or apprehension of such occurrence; and

(b) be bound, if called upon, to render all assistance, to such authorities or agencies as may be prescribed,

(2) On receipt of information with respect to the fact or apprehension of any occurrence of the nature referred to in sub-section (1) whether through intimation uuder that sub-section or otherwise, the authorities or agencies referred to in sub-section (1) shall as early as practicable, cause such remedial measures to be taken as are necessary to prevent or mitigate the environmental pollution.

(3) The expenses, if any, incurred by any authority or agency with respect to the remedial measures referred to in sub-section (2), together with interest (at such reasonable rate as the Government may, by order, fix) from the date when a demand for the expenses is made until it is paid may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.

10. (I). Subject to the provisions of this .section, any person empowered by the Central Government in this behalf shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place: -

Power of entry and inspection.

(a) for the purpose of performing any of the functions of the Central Government entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

(c) for the purpose of examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence of the commission of art offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution.

(2) Every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Central Government under sub-section (1) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act.

(3) If any person wilfully delays or obstructs any person empowered by the Central Government under sub-section (1) in the performance of his functions, he shall be guilty of an offence under this Act.

2 of 1974

(4) The provisions of the Code of Criminal Procedure, 1973, or, in relation the the State of Jammu and Kashmir, or any area in which that Code is not in force, the provisions of any corresponding law in force in that State or area shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or as the case may be, under the corresponding provision of the said law.

Power to take sample and process to be followed in connection therewith

11. (1) The Central Government *oi* any officer empowered by it in this behalf, shall have power to take, for the purpose of analysis, samples of air, water, soil or other substance from any factory, premises or other place in such manner as may be prescribed.

(2) The result of any analysis of a sample taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of the sub-sections (3) and (4) are complied with.

(3) Subject to the provisions of sub-section (4), the person taking the sample under sub-section (I) shall: —

(a) serve, on the occupier or his agent or person in charge of the place, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(b) in the presence of the occupier or his agent or person, collect a sample for analysis.

(c) cause the sample to be placed in a container or containers which shall he marked and scaled and shall also be signed both by the person taking the sample and the occupier or his agent or person;

(d) send without delay, the container or the containers to the laboratory established or recognised by the Central Government under section 12.

(4) When a sample is taken for analysis under sub-section *(1)* and the person taking the sample serves on the occupier or his agent or person, a notice under clause (a) of sub-section (3), then:—

(a) in a case where the occupier, his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and

(b) in a case where the occupier or his agent or person present at the time of taking the sample refuses to sign the marked and scaled container or containers of the sample as required under clause (c) of sub-section *(3),* the marked and sealed container or containers shall be signed by the person taking the samples.

and the container or containers shall be sent without delay by the person talking the sample for analysis to the laboratory established or recognised under section 12 and such person shall inform the Government Analyst appointed or recognised under section 13 in writing, about the wilful absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers.

Environmental laboratories.

12. (1) The Central Government may, by notification in the Official Gazette: -

(a) establish one or more environmental laboratories:

(b) recognise one or more laboratories or institutes as environmental laboratories to carry out the functions entrusted to an environmental laboratory under this Act.

(2) The Central Government may by notification in the Official Gazette, make rules specifying:

(a) the functions of the. environmental laboratory;

(b) the procedure for the submission to the said laboratory of samples of air, water, soil or other substance for analysis or tests, the form of the laboratory report thereon and the fees payable for such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

Government analysis.

13. The Central Government may by notification in the Official Gazette, appoint or recognise such persons as it thinks fit and having the prescribed qualifications to be Government Analyst for the purpose of analysis of samples of air, water, soil or other substance sent for analysis to any environmental laboratory established or recognised under sub-section (I) *of* section 12.

Report of Government analysis.

14. Any document purporting to be a report signed by a Government analyst.may be used as evidence of the facts stated therein in any proceeding under this Act,

Penalty for contravention of the provision of the Act and the rules, order and directions.

15. (1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years or with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continued with additional time which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section (1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to Seven years.

Offences by companies.

16. (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed was directly in charge of add was responsible to the company for the conduct of the business, of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under, this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company; such director, manager, secretary or other officer shall also deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section:—

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm.

Offences by Government Departments.

17. (1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of Government .and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER IV

MISCELLANEOUS

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceeding shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or any member, officer or other employee of such authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

Cognizance of offence.

19. No court shall take cognizance of any offence under this Act except on a complaint made by: —

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority of officer authorised as aforesaid,

Information reports or returns.

20. The Central Government may, in relation to its functions under this Act, from rime to time, require any person, officer, State Government or other authority to furnish to it or any prescribed authority or officer any reports, returns, statistics, accounts and other information and such person, officer. State Government or other authority shall be bound to do so.

Members officers and employees of the authority constituted under section 3 to be plublic services.

21. All the members of the authority, constituted, if any, under section 3 and all officers and other employees of such authority when acting or purporting to act in pursuance of any provisions of this Act or the rules made or orders or directions issued thereunder shall be deemed to be public servants within the meaning of section 21of the Indian Penal Code.

Bar of jurisdiction

22. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken or order or direction issued by the Central Government or any other authority or officer in pursuance of any power conferred by or in relation to its or his functions under this Act.

Power to delegate

23. Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may, by notification in the Official Gazette, delegate, subject, to such conditions and limitations as may be specified in the notification, such of its powers and functions under this Act, [except the power to constitute an authority under subsection (3*)* of section 3 and to make rules under section 25] as it may deem necessary or expedient, to any officer, State Government or other authority.

Effect of other laws.

24. (1) Subject to the provisions of sub-section (2), the provisions of this Act and the rules or orders made there in shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Where any act or omission constitutes an offence punishable under this Act and also under any other Act then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

Power to make rules.

25. (1) The Central Government may, by notification in Official Gazette, make rules for carrying out the purposes of this Act-

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

(a) the standards in excess of which environmental pollutants shall not be discharged or omitted under section 7;

(b) the procedure in accordance with and the safeguards in compliance with which hazardous substances shall be handled or cause to be handled under section 8;

(c) the authorities or agencies to which intimation of the fact of occurrence or apprehension of occurrence of the discharge of any environmental pollutant in excess of the prescribed standards shall be given and to whom all assistance shall be bound to be rendered under sub-section (1) of section 9;

(d) the manner in which samples of air, water, soil or substance for the purpose of analysis shall be taken under sub-section (1) of section 11;

(e) the form in which notice of intention to have a sample analysed shall be served under clause (a) of sub-section (3) of section 11;

(f) the functions of the environmental laboratories, the pro cedure for the submission to such laboratories of samples of air, water, soil and other substances for analysis or test; the form of laboratory report; the fees payable for such report and other matters to enable such laboratories to carry out their functions under sub-section (2) of section 12;

(g) the qualifications of Government Analyst appointed or recognised for the purpose of analysis of samples of air, water, soil or other substances under section 13;

(h) the manner in which notice of the offence and of the intention to make a complaint to the Central Government shall be given under clause (b) of section 19;

(i) the authority or officer to whom any reports, returns, Statistics, accounts and other information shall be furnished under section 20;

(j) any other matter which is required to be, or may be, prescribed.

Rules made under this Act to be laid before Parliament

26. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

This Act of Parliament received the assent or the President of India on the 23rd May, 1986: -

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RULES

The Environment (Protection) Rules, 1986

THE ENVIRONMENT (PROTECTION) RULES, 1986

(The Principal rules were published in the Gazette of India vide number S.O. 844(E), dated 19.11.1986 and subsequently amended vide:

(i) S.O. 32(E), 16.2.87
(ii) S.O. 64(E), 18.1.88
(iii)G.S.R. 931(E), 27.10.89
(iv) S.O. 23(E), 16.1.91
(v)G.S.R. 95(E), 12.2.92
(vi) G.S.R. 329(E), 13.3.92
(vii) G.S.R. 562(E), 22.5.92
(viii) G.S.R. 636(E), 25.6.92
(ix) G.S.R. 386(E), 22.4.93
(x) G.S.R. 422(E), 19.5.93
(xi) G.S.R. 801 (E), 31.12.93
(xii) G.S.R. 7, 22.12.98)

Ministry of Environment and Forests

(Department of Environment, Forest and Wildlife)

Notification

New Delhi, the 19th November, 1986

S.O. 844(E) - In exercise of the powers conferred by sections 6 and 25 of the Environment (Protection) Act, 1906 (29 of 1986), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement

(i) These rules may be called the Environment (Protection) Rules, 1986.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

In these rules, unless the context otherwise requires,-

(a) "Act" means the Environment (Protection) Act, 1986 (29 of 1986);

(aa) "areas" means all areas where the hazardous substances are handled;[1]

(b) "Central Board" means the Central Pollution Control Board constituted under section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(c) "Form" means a form set forth in Appendix A to these rules;

(d) "Government Analyst" means a person appointed or recognized as such under section 13;

(e) "person" in relation to any factory or premises means a person or occupier or his agent who has control over the affairs of the factory or premises and includes in relation to any substance, the person in possession of the substance.

(ee) "prohibited substance" means the substance prohibited for handling;[1]

(f) "recipient system" means the part of the environment such as soil, water, air or other which receives the pollutants;

(ff) "restricted substance" means the substance restricted for handling;[1]

(g) "section" means a section of the Act;

(h) "Schedule" means a Schedule appended to these rules; (i) "Standards means standards prescribed under these rules;

(j) "State Board" means a State Pollution Control Board constituted under section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) or a State Pollution Control Board constituted under section 5 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

3. Standards for emissions or discharge of environmental pollutants

(1) For the purpose of protecting and improving the quality of the environment and preventing and abating environmental pollution, the standards for emission or discharge of environmental pollutants from the industries, operations or processes shall be as specified in [2][Schedule I to IV].

(2) Notwithstanding anything contained in sub-rule (1),the Central Board or a State Board may specify more stringent standards from those provided in [3][Schedule I to IV] in respect of any specific industry, operation or process depending upon the quality of the recipient system and after recording reasons therefore in writing.

[4](3) The standards for emission or discharge of environmental pollutants specified under sub-rule (1) or sub-rule (2) shall be complied with by an industry, operation or process within a period of one year of being so specified.

[5][(3A)

(i) Notwithstanding anything contained in sub-rules (1) and (2), on and from the 1st day of January, 1994, emission or discharge of environmental pollutants from the [6][industries, operations or processes other than those industries, operations or processes for which standards have been specified in Schedule-I] shall not exceed the relevant parameters and standards specified in schedule VI.

Provided that the State Boards may specify more stringent standards for the relevant parameters with respect to specific industry or locations after recording reasons therefore in writing;

(ii) The State Board shall while enforcing the standards specified in Schedule VI follow the guidelines specified in Annexure I and II in that Schedule.

[7][(3B)] The combined effect of emission or discharge of environmental pollutants in an area, from industries, operations, process, automobiles and domestic sources, shall not be permitted to exceed the relevant concentration in ambient air as specified against each pollutant in columns (3) to (5) of Schedule VII.]

(4) Notwithstanding anything contained in sub-rule (3)-

(a) the Central Board or a State Board, depending on the local conditions or nature of discharge of environmental pollutants, may, by order, specify a lesser period than a period specified under sub-rule (3) within which the compliance of standards shall be made by an industry, operation or process.

(b) the Central Government in respect of any specific industry, operation or process, by order, may specify any period other than a period specified under sub-rule (3) within which the compliance of standards shall be made by such industry, operation or process.

(5) Notwithstanding anything contained in sub-rule (3) the standards for emission or discharge of environmental pollutants specified under sub-rule (I) or sub-rule (2) in respect of an industry, operation or process before the commencement of the Environment (Protection)Amendment Rules, 1991, shall be complied by such industry, operation or process by the 31st day of December 1991.

[8][(6) Notwithstanding anything contained in sub-rule (3), an industry, operation or process which has commenced production on or before 16th May, 1981 and has shown adequate proof of at least commencement of physical work for establishment of facilities to meet the specified standards within a time-bound programme, to the satisfaction of the concerned State Pollution Control Board, shall comply with such standards latest by the 31 st day of December, 1993.

(7) Notwithstanding anything contained in sub-rule (3) or sub-rule (6) an industry, operation or process which has commenced production after the 16th day of May, 1981 but before the 31st day of December 1991 and has shown adequate proof of at least commencement of physical work for establishment of facilities to meet the specified standards within a time-bound programme, to the satisfaction of the concerned State Pollution Control Board, shall comply with such standards latest by the 31st day of December, 1992.]

4. Directions

(1) Any direction issued under section 5 shall be in writing.

(2) The direction shall specify the nature of action to be taken and the time within which it shall be complied with by the person, officer or the authority to whom such direction is given.

(3) (a) The person, officer or authority to whom any direction is sought to be issued shall be served with a copy of the proposed direction and shall be given an opportunity of not less than fifteen days from the date of service of a notice to file with an officer designated in this behalf the objections, if any, to the issue of the proposed direction.

(b) Where the proposed direction is for the stoppage or regulation of electricity or water or any other service affecting the carrying on any industry, operation or process and is sought to be issued to an officer or an authority, a copy of the proposed direction shall also be endorsed to the occupier of the industry, operation or process, as the case may be and objections, if any, filed by the occupier with an officer designated in this behalf shall be dealt with in accordance with the procedures under sub-rules (3a) and (4) of this rule:

Provided that no opportunity of being heard shall be given to the occupier if he had already been heard earlier and the proposed direction referred to in sub-rule.

(3b) above for the stoppage or regulation of electricity or water or any other service was the resultant decision of the Central Government after such earlier hearing.[9]

(4) The Central Government shall within a period of 45 days from the date of receipt of the objections, if any or from the date up to which an opportunity is given to the person, officer or authority to file objections whichever is earlier, after considering the objections, if any, received from the person, officer or authority sought to be directed and for reasons to be recorded in writing, confirm, modify or decide not to issue the proposed direction.

(5) In case where the Central Government is of the opinion that in view of the likelihood of a grave injury to the environment it is not expedient to provide an opportunity to file objections against the proposed direction, it may, for reasons to be recorded in writing, issue directions without providing such an opportunity.

(6) Every notice or direction required to be issued under this rule shall be deemed to be duly served.

(a) where the person to be served is a company, if the document is addressed in the name of the company at its registered office or at its principal office or place of business and is either-

(i) sent by registered post, or

(ii) delivered at its registered office or at the principal office or place of business;

(b) where the person to be served is an officer serving Government, if the document is addressed to the person and a copy thereof is endorsed to this Head of the Department and also to the Secretary to the Government, as the case may be, in-charge of the Department in which for the time being the business relating to the Department in which the officer is employed is transacted and is either-

(i) sent by registered post, or

(ii) given or tendered to him;

(c) in any other case, if the document is addressed to the person to be served and-

(i) is given or tendered to him, or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building, if any, to which it relates, or

(iii) is sent by registered post to that person; *Explanation.*-For the purpose of this sub-rule,-

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "a servant" is not a member of the family.

5. Prohibitions and restrictions on the location of industries and the carrying on processes and operations in different areas.

(1) The Central government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas-

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) [or an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

(iv) The topographic and climatic features of an area.

(v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed

area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference 1 association or other body.

(ix) Proximity to human settlements.

(x) Any other factor as may be considered by the Central Government to De relevant to the protection of the environment in an area.

(2) While prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure hereinafter laid down.

(3) (a) Whenever it appears to the Central Government that it is expedient to impose prohibition or restrictions on the locations of an industry or the carrying on of processes and operations in an area, it may by notification in the Official Gazette and in such other manner as the Central government may deem necessary from time to time, give notice of its intention to do so.

(b) Every notification under clause (a) shall give a brief description of the area, the industries, operations, processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the locations of the industries and carrying on of process or operations in that area.

(c) Any person interested in filing an objection against the imposition of prohibition or restrictions on carrying on of processes or operations as notified under clause (a) may do so in writing to the Central Government within sixty days from the date of publication of the notification in the Official Gazette.

(d) (d) The Central Government shall within a period of one hundred and twenty days from the date of publication of the notification in the Official Gazette consider all the objections received against such notification and may [10] [within one hundred and eighty days from such day of publication impose prohibition or restrictions on location of such industries and the carrying on of any process or operation in an area.

6. Procedure of taking samples

The Central Government or the officer empowered to take samples under section 11 shall collect the sample in sufficient quantity to be divided into two uniform parts and effectively seal and suitably mark the same and permit the person from whom the sample is taken to add his own seal or mark to all or any of the portions so sealed and marked. In case where the sample is made up in containers or small volumes and is likely to deteriorate or be otherwise damaged if exposed, the Central Government or the officer empowered shall take two of the said samples without opening the containers and suitably seal and mark the same. The Central Government or the officer empowered shall dispose of the samples so collected as follows:-

(i) One portion shall be handed over to the person from whom the sample is taken under acknowledgement; and

(ii) the other portion shall be sent forthwith to the environmental laboratory or analysis.[12]

7. Service of notice

The Central Government or the officer empowered shall serve on the occupier or his agent or person in charge of the place a notice then and there in Form I of his intention to have the sample analyzed.

8. Procedure for submission of samples for analysis, and the form of laboratory report thereon

(1) Sample taken for analysis shall be sent by the Central Government or the officer empowered to the environmental laboratory by registered post or through special messenger along with Form II.

(2) Another copy of Form II together with specimen impression of seals of the officer empowered to take samples along with the seals/marks, if any, of the person from whom the sample is taken shall be sent separately in a sealed cover by registered post or through a special messenger to the environmental laboratory.

(3) The findings shall be recorded in Form III in triplicate and signed by the Government Analyst and sent to the officer from whom the sample is received for analysis.

(4) On receipt of the report of the findings of the Government Analyst, the officer shall send one copy of the report to the person from whom the sample was taken for analysis, the second copy shall be retained by him for his record and the third copy shall be kept by him to be produced in the Court before which proceedings, if any, are instituted.

9. Functions of environmental laboratories

The following shall be the functions of environmental laboratories:-

(i) to evolve standardized methods for sampling and analysis of various types of environmental pollutants;

(ii) to analyze samples sent by the Central Government or the officers empowered under sub-section (1) of section 11.

(iii) to carry out such investigations as may be directed by the Central Government to lay down standards for the quality of environment and discharge of environmental pollutants, to monitor and to enforce the standards laid down;

(iv) to send periodical reports regarding its activities to the Central Government;

(v) to carry out such other functions as may be entrusted to it by the Central Government from time to time.

10. Qualification of Government Analyst

A person shall not be qualified for appointment or recognized as a Government Analyst unless he is a:-

(a) graduate in science from a recognized university with five years experience in laboratory engaged in environmental investigation, testing or analysis; or

(b) post-graduate in science or a graduate in engineering or a graduate in medicine or equivalent with two years experience in a laboratory engaged in environmental investigations testing or analysis; or

(c) post-graduate in environmental science from a recognized university with two years experience in a laboratory engaged in environmental investigations, testing or analysis.

11. Manner of giving notice

The manner of giving notice under clause (b) of section 19 shall be as follows, namely:-

(I) The notice shall be in writing in Form IV.

(2) The person giving notice may send notice to -

(a) if the alleged offence has taken place in a Union territory

(A) the Central Board and

(B) Ministry of Environment and Forests (represented by the Secretary to Government of India);

(b) if the alleged offence has taken place in a State:

(A) the State Board; and

(B) the Government of the State (represented by the Secretary to the State Government in-charge of environment); and

(C) the Ministry of Environment and Forests (represented by the Secretary to the Government of India);

(3) The notice shall be sent by registered post acknowledgement due; and

(4) The period Of sixty days mentioned in clause (b) of section 19 of the Environment (Protection) Act, 1986 shall be reckoned from the date it is first received by one of the authorities mentioned above.

1[3][12. Furnishing of information to authorities and agencies in certain cases

Where the discharge of environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person in charge of the place at which such discharge occurs or is apprehended to occur shall forth with intimate the fact of such occurrence or apprehension of such occurrence to all the following authorities or agencies, namely:-

(i) The officer-in-charge of emergency or disaster relief operation in a district or other region of a state or Union territory specified by whatever designation by the Government of the said State or Union territory, and in whose jurisdiction the industry, process or operation is located.

(ii) Central Board or a State Board as the case may be and its regional officer having local jurisdiction who have been delegated powers under section 20, 21, 23 of the Water (Prevention and Control of Pollution) Act 1974 (6 of l974)- and section 24 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981).

(iii) The statutory authorities or agencies specified in column 3 in relation to places mentioned in column 2 against thereof of the Schedule II.]

14[13. Prohibition and restriction on the handling of hazardous substances in different areas

(1) The Central Government may take into consideration the following factors while prohibiting or restricting the handling of hazardous substances in different area is-

(i) The hazardous nature of the substance (either in qualitative or quantitative terms as far as may be) in terms of its damage causing potential to the environment, human beings, other living creatures, plants and property;

(ii) the substances that may be or likely to be readily available as substitutes for the substances proposed to be prohibited or restricted;

(iii) the indigenous availability of the substitute, or the state of technology available in the country for developing a safe substitute;

(iv) the gestation period that may be necessary for gradual introduction of a new sub-

stitute with a view to bringing about a total prohibition of the hazardous substance in question; and

(v) any other factor as may be considered by the Central Government to be relevant to the protection of environment.

(2) While prohibiting or restricting the handling of hazardous substances in an area including their imports and exports the Central Government shall follow the procedure hereinafter laid down-

(i) Whenever it appears to the Central Government that it is expedient to impose prohibition or restriction on the handling of hazardous substances in an area, it may, by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time, give notice of its intention to do so.

(ii) Every notification under clause (i) shall give a brief description of the hazardous substances and the geographical region or the area to which such notification pertains, and also specify the reasons for the imposition of prohibition or restriction on the handling of such hazardous substances in that region or area.

(iii) Any person interested in filing an objection against the imposition of prohibition or restrictions on the handling of hazardous substances as notified under clause (i) may do so in writing to the Central Government within sixty days from the date of publication of the notification in the Official Gazette.

(iv) The Central Government shall within a period of ninety days from the date of publication of the notification in the Official Gazette consider all the objections received against such notification and may impose prohibition or restrictions on the handling of hazardous substances in a region or an area.]

15[14. Submission of environmental 16[Statement]

Every person carrying on an industry, operation or process requiring consent under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) or under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) or both or authorization under the Hazardous Wastes (Management and Handling) Rules, 1989 issued under the Environment (Protection) Act, 1986 (29 of 1986) shall submit an environmental audit report for the financial year ending the 31st March in Form V to the concerned State Pollution Control Board on or before the 17[thirtieth day of September] every year, beginning 1993.]

Notes:

1 Clauses (aa), (ee) and (ff) inserted by Notification NO. G.S.R. 931 (E) dated 27.10.89 published in the Gazette NO. 564 dated 27.10.89. These rules are- referred to as Principal Rules in all Notifications beginning with S.O. 82(E) published in the Gazette No. 66 dated 16.2.87.

2 Substituted by notification G.S.R 422(E) dated 19.5.93, published in the Gazette No. 174 dated 19.5.93.

3 Substituted ibid.

4 The sub-rule (3) of rule 3 inserted vide S.O. 23(E) dated 16.1.91.

5 The sub-rule (3A) of rule 3 inserted by rule 2(a)(iii) of the Environment Protection) Second Amendment Rules, 1993 notified vide G.S.R. 422(E) dated 19.5.93, published in the Gazette No.174 dated 19.5.93.

6 Substituted by rule 2(a) of the Environment (Protection) Third Amendment Rules, 1993 notified vide Notification G.S.R. 801 (E), dated 31.12.93, published in Gazette No.463 dated 31.12.93.

7 Substituted by Rule2(a) of the Environment (Protection) Second (Amendment) Rules, 1998 notified by notification G.S.R. 7, dated 22.12.98.

8 Sub-rule (6) and (7) of rule 3 were added by the Environment (Protection) Amendment Rule, 1992 vide G.S.R. 95(E) dated 12.02.1992.

9 Sub-rule (3) of rule 4 of the Principal Rules was re-numbered as sub-rule 3(a) and sub-rule 3(b) inserted vide Notification No. S.O. 64(E) published in the Gazette No. 42 dated 18.1.88.

10 Inserted by Rule 2 of the Environment (Protection) (Third Amendment) Rules, 1992 notified vide G.S.R. 562(E), dated 22.5.1992.

11 Substituted by Rule 2 of the Environment (Protection) Fourth Amendment) Rule, 1992 notified vide G.S.R. 636(E), dated 25.6.1992.

12 For rule 6 of the principal rules this rule was substitute vide S.O. 64(E) published in the Gazette No. 42 dated 18.1.88.

13 Rule 12 inserted vide Notification No. S.O. 32(E) dated 16.2.87 published in the Gazette No. 66 dated 16.2.87.

14 Rule 13 inserted vide Notification No G.S.R. 931 (E) dated 27.10.89 published in the Gazette No. 564 dated 27.10.89.

15 Inserted by Rule 2 of the Environment (Protection) Second Amendment & Rules, 1992 vide G.S.R. 329(E), dated 13.03.92.

16 Substituted by Rule 2(a)(i) of the Environment (Protection) Amendment Rules, 1993 vide notification G.S.R. 386(E), dated 22.4.93.

17 Substituted by Rule 2(a)(ii), ibid.

2

RULES

The Environment impact Assessment Notification 2006

(Published in the Gazette of India, Extraordinary, Part-II, and Section 3, Sub-section (ii) MINISTRY OF ENVIRONMENT AND FORESTS

New Delhi 14th September, 2006

Notification

S.O.1533 — Whereas, a draft notification **under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 for imposing** certain restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts as indicated in the Schedule to the notification, being undertaken in any part of India[1], unless prior environmental clearance has been accorded in accordance with the objectives of National Environment Policy **as approved by the Union Cabinet on 18th May, 2006** and the procedure specified in the notification, by the Central Government or the State or Union territory Level Environment Impact Assessment Authority (SEIAA), to be constituted by the Central Government in consultation with the State Government or the Union territory Administration concerned under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for the purpose of this notification, was published in the Gazette of India ,Extraordinary, Part II, section 3, sub-section (ii) vide number S.O. 1324 (E) dated the 15th September ,2005 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 15th September, 2005;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 60 (E) dated the 27th January, 1994, except in respect of things done or omitted to be done before such supersession, the Central Government hereby directs that on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to this notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified hereinafter in this notification.

[1]includes the territorial waters

2. Requirements of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

(i) All new projects or activities listed in the Schedule to this notification;

(ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization;

(iii) Any change in product - mix in an existing manufacturing unit included in Schedule beyond the specified range.

3. State Level Environment Impact Assessment Authority:- (1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member - Secretary to be nominated by the State Government or the Union territory Administration concerned.

(2) The Member-Secretary shall be a serving officer of the concerned State Government or Union territory administration familiar with environmental laws.

(3) The other two Members shall be either a professional or expert fulfilling the eligibility criteria given in Appendix VI to this notification.

(4) One of the specified Members in sub-paragraph (3) above who is an expert in the Environmental Impact Assessment process shall be the Chairman of the SEIAA.

(5) The State Government or Union territory Administration shall forward the names of the Members and the Chairman referred in sub- paragraph 3 to 4 above to the Central Government and the Central Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.

(6) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority).

(7) All decisions of the SEIAA shall be unanimous and taken in a meeting.

4. Categorization of projects and activities:-

(i) All projects and activities are broadly categorized in to two categories - Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources.

(ii) All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification;

(iii) All projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, *will* require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project;

5. Screening, Scoping and Appraisal Committees:-

The same Expert Appraisal Committees (EACs) at the Central Government and SEACs hereinafter referred to as the (EAC) and (SEAC) at the State or the Union territory level shall screen, scope and appraise projects or activities in Category 'A' and Category 'B' respectively. EAC and SEACs shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition;

(b) The Central Government may, with the prior concurrence of the concerned State Governments or the Union territory Administrations, constitutes one SEAC for more than one State or Union territory for reasons of administrative convenience and cost;

(c) The EAC and SEAC shall be reconstituted after every three years;

(d) The authorised members of the EAC and SEAC, concerned, may inspect any site(s) connected with the project or activity in respect of which the prior environmental clearance is sought, for the purposes of screening or scoping or appraisal, with prior notice of at least seven days to the applicant, who shall provide necessary facilities for the inspection;

(e) The EAC and SEACs shall function on the principle of collective responsibility. The Chairperson shall endeavour to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II, after the identification of prospective site(s) for the project and/or activities to which the application relates, before commencing any construction activity, or preparation of land, at the site by the applicant. The applicant shall furnish, along with the application,

a copy of the pre-feasibility project report except that, in case of construction projects or activities (item 8 of the Schedule) in addition to Form 1 and the Supplementary Form 1A, a copy of the conceptual plan shall be provided, instead of the pre-feasibility report.

7. Stages in the Prior Environmental Clearance (EC) Process for New Projects:-

7(i) The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are:-

- Stage (1) Screening (Only for Category 'B' projects and activities)
- Stage (2) Scoping
- Stage (3) Public Consultation
- Stage (4) Appraisal

I. Stage (1) - Screening:

In case of Category 'B' projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in Form 1 by the concerned State level Expert Appraisal Committee (SEAC) for determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending up on the nature and location specificity of the project . The projects requiring an Environmental Impact Assessment report shall be termed Category 'BI' and remaining projects shall be termed Category 'B2' and will not require an Environment Impact Assessment report. For categorization of projects into BI or B2 except item 8 (b), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

II. Stage (2)- Scoping:

(i) "Scoping": refers to the process by which the Expert Appraisal Committee in the case of Category 'A' projects or activities, and State level Expert Appraisal Committee in the case of Category 'BI' projects or activities, including applications for expansion and/or modernization and/or change in product mix of existing projects or activities, determine detailed and comprehensive Terms Of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. The Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the Terms of Reference on the basis of the information furnished in the prescribed application Form1/ Form 1A including Terms of Reference proposed by the applicant, a site visit by a sub- group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, Terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned. All projects and activities listed as Category 'B' in Item 8 of the Schedule (Construction/Township/Commercial Complexes /Housing) shall not require Scoping and will be appraised on the basis of Form 1/ Form 1A and the conceptual plan.

(ii) The Terms of Reference (TOR) shall be conveyed to the applicant by the Expert Appraisal Committee or State Level Expert Appraisal Committee as concerned within sixty days of the receipt of Form 1. In the case of Category A Hydroelectric projects Item 1(c) (i) of the Schedule the Terms of Reference shall be conveyed along with the clearance for pre-construction activities. If the Terms of Reference are not finalized and conveyed to the applicant within sixty days of the receipt of Form 1, the Terms of Reference suggested by the applicant shall be deemed as the final Terms of Reference approved for the EIA studies. The approved Terms of Reference shall be displayed on the website of the Ministry of Environment and Forests and the concerned State Level Environment Impact Assessment Authority.

(iii) Applications for prior environmental clearance may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned at this stage itself. In case of such rejection, the decision together with reasons for the same shall be communicated to the applicant in writing within sixty days of the receipt of the application.

III. Stage (3) - Public Consultation:

(i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate. All Category 'A' and Category B1 projects or activities shall undertake Public Consultation, except the following :-

(a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).

(b) all projects or activities located within industrial estates or parks (item 7(c) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals.

(c) expansion of Roads and Highways (item 7 (f) of the Schedule) which do not involve any further acquisition of land.

(d) all Building /Construction projects/Area Development projects and Townships (item 8).

(e) all Category 'B2' projects and activities.

(f) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government.

(ii) The Public Consultation shall ordinarily have two components comprising of:-

(a) a public hearing at the site or in its close proximity- district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;

(b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.

(iii) the public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within 45 (forty five) of a request to the effect from the applicant.

(iv) in case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty five days,.

(v) If the public agency or authority nominated under the sub paragraph (iii) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

(vi) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix IIIA by the applicant along with a copy of the application in the prescribed form , within seven days of the receipt of a written request for arranging the public hearing . Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.

(vii) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

IV. Stage (4) - Appraisal:

(i) Appraisal means the detailed scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorized representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on

stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.

(ii) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1A as applicable, any other relevant validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iii) The appraisal of an application be shall be completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form 1 A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days. The prescribed procedure for appraisal is given in Appendix V ;

7(ii). Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects:

All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernization of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product -mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of EIA and public consultations and the application shall be appraised accordingly for grant of environmental clearance.

8.Grant or Rejection of Prior Environmental Clearance (EC):

(i) The regulatory authority shall consider the recommendations of the EAC or SEAC concerned and convey its decision to the applicant within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(ii) The regulatory authority shall normally accept the recommendations of the Expert

Appraisal Committee or State Level Expert Appraisal Committee concerned. In cases where it disagrees with the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, the regulatory authority shall request reconsideration by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within forty five days of the receipt of the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the

applicant. The Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

(iii) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (i) or (ii) above, as applicable, the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(iv) On expiry of the period specified for decision by the regulatory authority under paragraph (i) and (ii) above, as applicable, the decision of the regulatory authority, and the final recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall be public documents.

(v) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to a requirement of law, or for necessary technical reasons.

(vi) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.

9. Validity of Environmental Clearance (EC):

The “Validity of Environmental Clearance” is meant the period from which a prior environmental clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub paragraph (iv) of paragraph 7 above, to the start of production operations by the project or activity, or completion of all construction operations in case of construction projects (item 8 of the Schedule), to which the application for prior environmental clearance refers. The prior environmental clearance granted for a project or activity shall be valid for a period of ten years in the case of River Valley projects (item 1(c) of the Schedule), project life as estimated by Expert Appraisal Committee or State Level Expert Appraisal Committee subject to a maximum of thirty years for mining projects and five years in the case of all other projects and activities. However, in the case of Area Development projects and Townships [item 8(b)], the validity period shall be limited only to such activities as may be the responsibility of the applicant as a developer. This period of validity may be extended by the regulatory authority concerned by a maximum period of five years provided an application is made to the regulatory authority by the applicant within the validity period, together with an updated Form 1, and Supplementary Form 1A, for Construction projects or activities (item 8 of the Schedule). In this regard the regulatory

authority may also consult the Expert Appraisal Committee or State Level Expert Appraisal Committee as the case may be.

10. Post Environmental Clearance Monitoring:

(i) It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in hard and soft copies to the regulatory authority concerned, on 1st June and 1st December of each calendar year.

(ii) All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance report shall also be displayed on the web site of the concerned regulatory authority.

11. Transferability of Environmental Clearance (EC):

A prior environmental clearance granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor, or by the transferee with a written "no objection" by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior environmental clearance was initially granted, and for the same validity period. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned is necessary in such cases.

12. Operation of EIA Notification, 1994, till disposal of pending cases:

From the date of final publication of this notification the Environment Impact Assessment (EIA) notification number S.O.60 (E) dated 27th January, 1994 is hereby superseded, except in suppression of the things done or omitted to be done before such suppression to the extent that in case of all or some types of applications made for prior environmental clearance and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification except the list of the projects or activities requiring prior environmental clearance in Schedule I , or continue operation of some or all provisions of the said notification, for a period not exceeding one year from the date of issue of this notification.

[No. J-11013/56/2004-IA-II (I)]

(R.CHANDRAMOHAN) ,
JOINT SECRETARY TO THE GOVERNMENT OF INDIA

SCHEDULE

(See paragraph 2 and 7)

LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE

Project or Activity		Category with threshold limit		Conditions if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
(1)	(2)	(3)	(4)	(5)
l(a)	Mining of minerals	≥ 50 ha. of mining lease area Asbestos mining irrespective of mining area	<50ha ≥ 5 ha .of mining lease area.	General Condition shall apply **Note** Mineral prospecting (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey
l(b)	Offshore and onshore oil and gas exploration,Rev development & production	All projects		**Note** Exploration Surveys (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey
l(c)	River Valley projects	(i) ≥ 50 MW hydroelectric power generation; (ii) ≥ 10,000 ha. of culturable command area	(i) < 50 MW ≥ 25 MW hydroelectric power generation; (ii) < 10,000 ha. of culturable command area	General Condition shall apply
l(d)	Thermal Power Plants	≥ 500 MW (coal/lignite/ naphta & gas based); ≥ 50 MW (Pet coke diesel and all other fuels -)	< 500 MW (coal/ lignite/naptha & gas based); <50MW ≥ 5MW (Pet coke diesel and all other fuels)	General Condition shall apply

(1)	(2)	(3)	(4)	(5)
I(e)	Nuclear power projects and processing of nuclear fuel	All projects		
2		**Primary Processing**		
2(a)	Coal washeries	≥ 1 million ton/annum throughput of coal	<1 million ton/annum throughput of coal	General Condition shall apply (If located within mining area the proposal shall be appraised together with the mining proposal)
2(b)	Mineral beneficiation	≥ 0.1 million ton/ annum mineral throughput	< 0.1 million ton/ annum mineral throughput	General Condition shall apply (Mining proposal with Mineral beneficiation shall be appraised together for grant of clearance)

3		**Materials Production**		
(1)	(2)	**(3)**	(4)	(5)
3(a)	Metallurgical	a)Primary		
	industries (ferrous & non ferrous)	metallurgical industry All projects b) Sponge iron manufacturing ≥ 200TPD c) Secondary metallurgical processing industry All toxic and heavy metal producing units ≥ 20,000 tonnes /annum	Sponge iron manufacturing < 200TPD Secondary metal-lurgical processing industry i.)All toxic and heavymetal pro-ducing units ≥ 20,000 tonnes / annum ii.)All other non-toxic secondary metallurgical pro-cessing industries > 5000 tonnes/an-num	General Condition shall apply for Sponge iron manufacturing
3(b)	Cement plants	≥ 1.0 million tonnes/ annum production capacity	< 1.0 million tonnes/ annum production capacity. All Stand alone grinding units	General Condition shall apply

4		**Materials Processing**		
(1)	(2)	**(3)**	(4)	(5)
4(a)	Petroleum refining industry	All projects		
4(b)	Coke oven plants	≥ 2,50,000 tonnes/ annum	<2,50,000 & ≥25,000 tonnes/annum	
4(c)	Asbestos mining and asbestos based products	All projects		
4(d)	Chlor-alkali industry	≥300 TPD production capacityor a unit located out side the notified industrial area/ estate	<300 TPD production capacity and located within a notified industrial area/ estate	Specific Condition shall apply No new Mercury Cell based plants will be permitted and existing units converting to membrane cell technology are exempted from this Notification
4(e)	Soda ash Industry	All projects	-	-
4(f)	Leather/skin/hide processing industry	New projects outside the industrial area or expansion of existing units out side the industrial area	All new or expansion of projects located within a notified industrial area/ estate	Specific condition shall apply
5		**Manufacturing/Fabrication**		
5(a)	Chemical fertilizers	All projects	-	-
5(b)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides		

(1)	(2)	(3)	(4)	(5)
5(c)	Petro-chemical complexes (industries based on processing of petroleum fractions & natural gas and/ or reforming to aromatics)	All projects		
5(d)	Manmade fibres manufacturing	Rayon	Others	General Condition shall apply
5(e)	Petrochemical based processing (processes other than cracking & reformation and not covered under the complexes)	Located out side the notified industrial area/ estate	Located in a notified industrial area/ estate	Specific Condition shall apply
5(f)	Synthetic organic chemicals industry (dyes & dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)	Located out side the notified industrial area/ estate	Located in a notified industrial area/ estate	Specific Condition shall apply
5(g)	Distilleries	(i)All Molasses based distilleries (ii) All Cane juice/ non-molasses based distilleries >30 KLD	All Cane juice/non-molasses based distilleries <30 KLD	General Condition shall apply
5(h)	Integrated paint industry	-	All projects	General Condition shall apply

(1)	(2)	(3)	(4)	(5)
5(i)	Pulp & paper industry excluding manufacturing of paper from waste paper and manufacture of paper from ready pulp with out bleaching	Pulp manufacturing and Pulp & Paper manufacturing industry -	Paper manufacturing industry without pulp manufacturing	General Condition shall apply
5(j)	Sugar Industry	-	≥ 5000 tcd cane crushing capacity	General Condition shall apply
5(k)	Induction/arc furnaces/cupola furnaces 5TPH or more	-	All projects	General Condition shall apply
6		**Service Sectors**		
6(a)	Oil & gas transportation pipe line (crude and refinery/ petrochemical products), passing through national parks / sanctuaries/coral reefs /ecologically sensitive areas including LNG Terminal	All projects		

(1)	(2)	**(3)**	(4)	(5)
6(b)	Isolated storage & handling of hazardous chemicals (As per threshold planning quantity indicated in column 3 of schedule 2 & 3 of MSIHC Rules 1989 amended 2000)		All projects	General Condition shall apply
7		**Physical Infrastructure including Environmental Services**		
7(a)	Air ports	All projects		
7(b)	All ship breaking yards including ship breaking units	All projects		
7(c)	Industrial estates/ parks/ complexes/ areas, export processing Zones (EPZs), Special Economic Zones (SEZs), Biotech Parks, Leather Complexes.	If at least one industry in the proposed industrial estate falls under the Category A, entire industrial area shal be treated as Category A, irrespective of the area. Industrial estates with area greater than 500 ha. and housing at least one Category B industry.	-Industrial estates housing at least one Category B industry and area <500 ha. Industrial estates of area> 500 ha. and not housing any industry belonging to Category A or B.	Special condition shall apply Note: Industrial Estate of area below 500 ha. and not housing any industry of category A or B does not require clearance.
7(d)	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration & land fill or incineration alone	All facilities having land fill only	General Condition shall apply

(1)	(2)	(3)	(4)	(5)
7(e)	Ports, Harbours	≥ 5 million TPA of cargo handling capacity (excluding fishing harbours)	< 5 million TPA of cargo handling capacity and/or ports/ harbours ≥10,000 TPA of fish handling capacity	General Condition shall apply
7(f)	Highways	i) New National High ways; and ii) Expansion of National High ways greater than 30 KM, involving additional right of way greater than 20m involving land acquisition and passing through more than one State.	i) New State High ways; and ii) Expansion of National / State Highways greater than 30 km involving additional right of way greater than 20m involving land acquisition.	General Condition shall apply
7(g)	Aerial ropeways		All projects	General Condition shall apply
7(h)	Common Effluent Treatment Plants (CETPs)		All projects	General Condition shall apply
7(i)	Common Municipal Solid Waste Management Facility (CMSWMF)		All projects	General Condition shall apply

(1)	(2)	(3)	(4)	(5)
8		**Building /Construction projects/Area Development projects and Townships**		
8(a)	Building and Construction projects		≥20000 sq.mtrs and <1,50,000 sq.mtrs. of built-up area#	#(built up area for covered construction; in the case of facilities open to the sky, it will be the activity area)
8(b)	Townships and Area Development projects.		Covering an area ≥ 50 ha and or built up area ≥l,50,000sq. mtrs++	++A11 projects under Item 8(b) shall be appraised as Category B1

Note:-

General Condition (GC):

Any project or activity specified in Category 'B' will be treated as Category A, if located in whole or in part within 10 km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries.

Specific Condition (SC):

If any Industrial Estate/Complex / Export processing Zones /Special Economic Zones/Biotech Parks / Leather Complex with homogeneous type of industries such as Items 4(d), 4(f), 5(e), 5(f), or those Industrial estates with pre -defined set of activities (not necessarily homogeneous, obtains prior environmental clearance, individual industries including proposed industrial housing within such estates /complexes will not be required to take prior environmental clearance, so long as the Terms and Conditions for the industrial estate/complex are complied with (Such estates/complexes must have a clearly identified management with the legal responsibility of ensuring adherence to the Terms and Conditions of prior environmental clearance, who may be held responsible for violation of the same throughout the life of the complex/estate).

3

RULES

Amendments to EAI Notifications, 2006 for grant of Environment clearance for Minor Minerals by DEIAA, 2016

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 15th January, 2016

S.O. 141(E).—Whereas in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), a draft notification for making certain amendments in the Environment Impact Assessment Notification, 2006, issued *vide* number S.O. 1533(E), dated the 14th September 2006, was published under sub-rule (3) of rule (5) of the Environment (Protection) Rules, 1986, vide number S.O. 2588(E), dated 22nd September, 2015, inviting objections and suggestions from all persons likely to be affected thereby, within a period of sixty days from the date of publication on which copies of Gazette containing the said notification were available to the public;

And whereas, copies of said notification were made available to the public on 22th September 2015;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

And whereas, in pursuance to the order of Hon'ble Supreme Court dated the 27th February, 2012 in I.A. No.12-13 of 2011 in Special Leave Petition (C) No. 19628-19629 of 2009, in the matter of Deepak Kumar etc. Vs. State of Haryana and Others etc., prior environmental clearance has now become mandatory for mining of minor minerals irrespective of the area of mining lease;

And whereas, as a result of the above said Order of Hon'ble Supreme Court, the number of cases which are now required to obtain prior environmental clearance has increased substantially;

And whereas, the Hon'ble National Green Tribunal, *vide* its order dated the 13th January, 2015 in the matter regarding sand mining has directed for making a policy on environmental clearance for mining leases in cluster for minor minerals;

And whereas, the State Governments have represented for streamlining the process of environmental clearance for mining of minor mineral;

And whereas, the Ministry of Environment, Forest and Climate Change in consultation with State Governments has prepared Guidelines on Sustainable Sand Mining detailing the provisions on environmental clearance for cluster, creation of District Environment Impact Assessment Authority and proper monitoring of sand mining using information technology and information technology enabled services to track the mined out material from source to destination;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 *read* with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely: -

In the said notification, -

(a) in paragraph 2, after the words "in the said Schedule", the following words shall be inserted, namely: -"and at District level, the District Environment Impact Assessment Authority (DEIAA) for matters falling under Category 'B2' for mining of minor minerals in the said Schedule";

(b) after paragraph 3, the following paragraph shall be inserted, namely:-

"3 A. District Level Environment Impact Assessment Authority:-

(1) A District Level Environment Impact Assessment Authority hereinafter referred to as the DEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.

(2) The District Magistrate or District Collector shall be the Chairperson of the DEIAA.

(3) The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.

(4) The other two members of the DEIAA shall be the senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in Appendix VII to this notification.

(5) The members of the DEIAA who are serving officers of the concerned State Government or the Union territory Administration shall be *ex-officio* members except the expert member.

(6) The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.

(7) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.

(8) The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist of the district shall be the Member-Secretary of the DEAC in that order.

(9) A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zila Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest, as the case may be, shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.

(10) The members of the DEAC who are serving officers of the concerned State Government or the Union territory Administration shall be *ex-officio* members except the expert members.

(11) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.

(12) The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said notification, as amended from time to time.

(13) The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail. ";

(c) in paragraph 4, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-

"(iv) The 'B2' Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, as constituted for this notification." ;

(d) for paragraph 5, the following paragraph shall be substituted, namely:-

"5. Screening, Scoping and Appraisal Committees:-

The same Expert Appraisal Committees (EACs) at the Central Government, SEACs at the State or Union territory level and DEAC at the district level shall screen, scope and appraise projects or activity in category 'A', 'Bl and B2' and 'B2' projects for mining of minor minerals of lease area less than and equal to five hectare respectively. EAC, SEACs and DEACs shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition. DEAC at the district level shall be constituted by the Central Government as per the composition given in paragraph 3 A.

(b) The Central Government may with the prior concurrence of the concerned State Governments or the Union territory Administration constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost.

(c) The EAC and SEAC shall be reconstituted after every three years.

(d) The authorised members of the EAC, SEACs and DEACs concerned, may inspect any site connected with the project or activity in respect of which the prior environmental clearance is sought for the purpose of screening or scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary facilities for the inspection.

(e) The EAC, SEACs and DEACs shall function on the principle of collective responsibility. The Chairperson shall endeavor to reach a consensus in each case and if consensus cannot be reached the view of the majority shall prevail."; (e) for paragraph 6, the following paragraph shall be substituted, namely:-

"6. Application for Prior Environmental Clearance (EC):-

An application seeking prior environmental clearance in all cases shall be made by the project proponent in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II after the identification of prospective site (s) for the project and/or activities to which the application relates; and in Form 1M for mining of minor minerals up to five hectare under Category 'B2' projects, as given in Appendix VIII, before commencing any construction activity, or preparation of land, or mining at the site by the project proponent. The project proponent shall furnish along with the application, a copy of the pre-feasibility project report, in addition to Form 1, Form 1A, and Form 1M; and in case of construction projects or activities (item 8 of the Schedule), a copy of the conceptual plan shall be provided instead of pre-feasibility report.";

(f) in paragraph 7,-

(i) in sub-paragraph (i), under the heading "I. Stage (1)- Screening:", the existing sub-paragraph shall be lettered as sub-paragraph "(A)" and after sub-paragraph as so lettered, the following sub-paragraph shall be inserted, namely:-"

"(B) The cases as specified in Appendix IX shall be exempted from prior environmental clearance." ;

(ii) after sub-paragraph 7 (ii), the following sub-paragraph shall be inserted, namely:-

"7 (iii) Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals:

(a) The prescribed procedure for preparation of District Survey Report for sand mining or river bed mining and mining of other minor minerals is given in Appendix X.

(b) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XL";

(g) in paragraph 8,-

(i) for the letters and word "EAC or SEAC", the words and letters "EAC or SEAC or DEAC" shall be substituted;

(ii) for the words "Expert Appraisal Committee or State Level Expert Appraisal Committee" wherever they occur, the words "Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee" shall be substituted;

(h) in paragraph 9, in sub-paragraph (i),-

for the words "Expert Appraisal Committee or State Level Expert Appraisal Committee", the words "Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee" shall be substituted;

(i) in paragraph 10, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-

"(iv) The prescribed procedure for sand mining or river bed mining and monitoring is given in Appendix XII.";

(j) in paragraph 11, -

for the words "Expert Appraisal Committee or State Level Expert Appraisal Committee", the

words “Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee” shall be substituted;

(k) in the Schedule,-(i) for item 1 (a) and the entries relating thereto, the following item and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
“l(a)	(i) Mining of minerals	≥50 ha of mining lease area in respect of non-coal mine lease <150 ha of mining lease area in respect of coal mine lease Asbestos mining irrespective of mining area	<50 ha of mining lease area in respect of non-coal mine lease ≥150 ha of mining lease area in respect of coal mine lease	General Conditions shall apply except: (i) for project or activity of mining of minor minerals of Category ‘B2’ (up to 25 ha of mining lease area); (ii) River bed mining projects on account of inter-state boundary Note: (1) Mineral prospecting is exempted. “; (2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XL”; (3) The mining leases which have obtained environmental clearance under Environment Impact Assessment Notification, 1994 and Environment Impact Assessment Notification, 2006 shall not require fresh environmental clearance during renewal provided the project has valid and subsisting environmental clearance.
	(ii) Slurry pipelines (coal lignite and other ores) passing through national parks or Sanctuaries or coral reefs, cologically sensitive areas.	All projects.		

(1) after Appendix VI, the following appendices shall be inserted, namely: -

"APPENDIX VII

(See paragraph 3 A) Qualifications and terms for the Experts in DEIAA and DEAC

1. **Qualification:** The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA or MSc Degree or (ii) in case of Engineering/ Technology/Architectural discipline, 4 years formal training course together with prescribed practical training in the field leading to a B. Tech/ B.E./ B. Arch. Degree, or (iii) Other professional degree (e.g. MBA etc.) involving a total of 5 years of formal University training and prescribed practical training, or (iv) Prescribed apprenticeship/ article ship and pass examinations conducted by the concerned professional associations (e.g. Chartered Accountancy) or (v) a University degree, followed by two years of formal training in a University or Service Academy (e.g. MBA/MPA etc.). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.

2. **Expert:** A professional fulfilling the above eligibility criteria with at least 10 years of relevant experience in the field or with an advanced degree (e.g. Ph. D) in a concerned field with at least 5 years of relevant experience.

3. **Age:** Below 70 years. However, in the event of non-availability of paucity of experts in a given field, the maximum age of a member may be allowed up to 75 years.

4. **Fields:** Experts in Mining, Geology, Hydrology, Remote Sensing, Environment Quality, Environment Impact Assessment Process, Risk Assessment, Life Sciences, Marine Sciences, Forestry and Wildlife, Environmental Economics, Bio-diversity, and River Ecology.

5. **Tenure:** The maximum tenure of expert members shall be for two terms of three years each.

6. The Expert Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

APPENDIX VIII

(See paragraph 6)

FORM 1 M

APPLICATION FOR MINING OF MINOR MINERALS UNDER CATEGORY 'B2' FOR LESS THAN AND EQUAL TO FIVE HECTARE

(II) Basic Information

(viii) Name of the Mining Lease site:

(ix) Location / site (GPS Co-ordinates):

(x) Size of the Mining Lease (Hectare):

(xi) Capacity of Mining Lease (TPA):

(xii) Period of Mining Lease:

(xiii) Expected cost of the Project:

(xiv) Contact Information:

Environmental Sensitivity

Sl. No.	Areas	Distance in kilo-meter / Details
1.	Distance of project site from nearest rail or road bridge over the concerned River, Rivulet, Nallah etc.	
2.	Distance from infrastructural facilities, Railway line, National Highway, State Highway, Major District Road, Any Other Road, Electric transmission line pole or tower, Canal or check dam or reservoirs or lake or ponds, In-take for drinking water pump house, Intake for Irrigation canal pumps	
3.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	
4.	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	
5.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	
6.	Inland, coastal, marine or underground waters	
7.	State, National boundaries	
8.	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	
9.	Defence installations	
10.	Densely populated or built-up area, distance from nearest human habitation	
11.	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	
12.	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	
13.	Areas already subjected to pollution or environmental damage, (those where existing legal environmental standards are exceeded)	
14.	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	

15.	Is proposed mining site located over or near fissure / fracture for ground water recharge	
16.	Whether the proposal involves approval or clearance under the following Regulations or Acts, namely:-(a) The Forest (Conservation) Act, 1980; (b) The Wildlife (Protection) Act, 1972; (c) The Coastal Regulation Zone Notification, 2011. If yes, details of the same and their status to be given.	
17.	Forest land involved (hectares)	
18.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders or directions of the Court, if any, and its relevance with the proposed project.	

(Signature of Project Proponent
Along with name and address)

APPENDIX - IX

[See paragraph 7(i) (B)]

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require prior environmental clearance, namely:-

(1) Extraction of ordinary clay or sand, manually, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.

(2) Extraction of ordinary clay or sand, manually, by earthen tile makers who prepare earthen tiles.

(3) Removal of sand deposits on agricultural field after flood by farmers.

(4) Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.

(5) Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatama Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts.

(6) Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management.

(7) Traditional occupational work of sand by Vanjara and Oads in Gujarat *vide* notification number GU/90(16)/ MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.

(8) Digging of well for irrigation or drinking water.

(9) Digging of foundation for buildings not requiring prior environmental clearance.

(10) Excavation of ordinary earth or clay for plugging of any breach caused in canal, nala, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate.

(11) Activities declared by State Government under legislations or rules as non-mining activity with concurrence of the Ministry of Environment, Forest and Climate Change, Government of India.

APPENDIX - X

[See paragraph 7 (iii) (a)]

PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT

The main objective of the preparation of District Survey Report (as per the Sustainable Sand Mining Guideline) is to ensure the following:

Identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area.

The report shall have the following structure:

1. Introduction
2. Overview of Mining Activity in the District
3. The List of Mining Leases in the District with location, area and period of validity
4. Details of Royalty or Revenue received in last three years
5. Detail of Production of Sand or Bajari or minor mineral in last three years
6. Process of Deposition of Sediments in the rivers of the District
7. General Profile of the District
8. Land Utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining etc.
9. Physiography of the District
10. Rainfall: month-wise
11. Geology and Mineral Wealth

In addition to the above, the report shall contain the following:

(a) District wise detail of river or stream and other sand source.

(b) District wise availability of sand or gravel or aggregate resources.

(c) District wise detail of existing mining leases of sand and aggregates.

A survey shall be carried out by the DEIAA with the assistance of Geology Department

or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department etc. in the district.

Drainage system with description of main rivers

S.No.	Name of the River	Area drained (Sq. Km)	% Area drained in the District

Salient Features of Important Rivers and Streams:

S.No.	Name of the River or Stream	Total Length in the District (in Km)	Place of origin	Altitude at Origin

Portion of the River or Stream Recommended for Mineral Concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)

Mineral Potential

Boulder (MT)	Bajari (MT)	Sand (MT)	Total Mineable Mineral Potential (MT)

Annual Deposition			

Sl. No.	River or Stream	Portion of the river or stream recommended for mineral concession	Length of area recommended for mineral concession (in kilometer)	Average width of area rec-ommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)
Total for the District						

A Sub-Divisional Committee comprising of Sub-Divisional Magistrate, Officers from Irrigation department, State Pollution Control Board or Committee, Forest department, Geology or mining officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof.

Methodology adopted for calculation of Mineral Potential:

The mineral potential is calculated based on field investigation and geology of the catchment area of the river or streams. As per the site conditions and location, depth of minable mineral is defined. The area for removal of the mineral in a river or stream can be decided depending on geo-morphology and other factors, it can be 50 % to 60 % of the area of a particular river or stream. For example in some hill States mineral constituents like boulders, river born Bajri, sand up to a depth of one meter are considered as resource mineral. Other constituents like clay and silt are excluded as waste while calculating the mineral potential of particular river or stream.

The District Survey Report shall be prepared for each minor mineral in the district separately and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on district's website for twenty one days. The comments received shall be considered and if found fit, shall be incorporated in the final Report to be finalised within six months by the DEIAA.

The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects. The Report shall be updated once every five years.

APPENDIX - XI

[See paragraph 7 (iii) (b)]

PROCEDURE FOR ENVIRONMENTAL CLEARANCE FOR MINING OF MINOR MINERALS INCLUDING CLUSTER

The following policy shall be followed for environmental clearance of mining of minor minerals including cluster situation:-

(1). The data provided by the States (Sustainable Sand Mining Guidelines) shows that most of the mining leases for minor minerals are of lease area less than 5 hectare. It is also reported that in hill States getting a stretch in river with area more than 5 hectare is very uncommon. So the size of lease for minor minerals including river sand mining will be determined by the States as per their circumstances.

(2). The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated

Agency or group of project proponents in the Cluster or the project proponent in the cluster.

(3). There shall be one public consultation for entire cluster after which the final Environment Impact Assessment or Environment Management Plan report for the cluster shall be prepared.

(4). Environmental clearance shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same Environment Impact Assessment or Environment Management Plan for application for environmental clearance. The cluster Environment Impact Assessment or Environment Management Plan shall be updated as per need keeping in view any significant change.

(5). The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and DEAC, SEAC, and EAC shall ensure that the mitigative measures emanating from the Environment Impact Assessment or Environment Management Plan study are fully reflected as environmental clearance conditions in the environmental clearance's of individual project proponents in that cluster.

(6). A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area.

(7). Form 1M, Pre-Feasibility Report and mine plan for Category 'B2' projects for mining of minor minerals shall be prepared by the Registered Qualified Person or Accredited Consultants of Quality Council of India, National Accreditation Board for Education and Training. The Environment Impact Assessment or Environment Management Plan for Category 'A' and Category 'B1' projects shall be prepared by the accredited consultants of Quality Council of India, National Accreditation Board for Education and Training.

(8). The SEIAAs shall have supervisory jurisdiction over the DEIAAs and decisions of DEIAA shall be reviewed by the SEIAA without prejudice to any provisions under any existing law.

Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation

Area of Lease (Hectare)	Cat-egory of Project	Require-ment of EIA/ EMP	Require-ment of Public Hearing	Require-ment of EC	Who can prepare EIA/ EMP	Who will apply for EC	Authority to appraise/ grant EC	Authority to monitor EC compliance
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease								
0-5ha	'B2'	Form-IM, PFR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency

≥ 5 ha and <25 ha	**'B2'**	Form -I, PFR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	nominated by MoEFCC
≥25ha and <50ha	**'BI'**	Yes	Yes	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
≥50ha	**'A'**	Yes	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	
EC Proposal of Sand Mining and other Minor Mineral Mining In cluster situation								
Cluster area of mine leases up to 5 ha	**'B2'**	Form—1M, PFR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
Cluster area of Mine leases ≥ 5 ha and <25 ha with no individual lease ≥ 5 ha	**'B2'**	Form -I, PFR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project	DEAC/ DEIAA/	
Cluster of mine leases of area ≥ 25 hectares with individual lease size < 50ha	**'B1'**	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	SEAC/ SEIAA	
Cluster of any size with any of the individual lease ≥ 50ha	**'A'**	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	EAC/ MoEFCC	

APPENDIX - XII

[See paragraph 10 (iv)]

PROCEDURE FOR MONITORING OF SAND MINING OR RIVER BED MINING

1. The security feature of Transport Permit shall be as under:

(a) Printed on Indian Banks' Association (IBA) approved Magnetic Ink Character Recognition (MICR) Code paper.

(b) Unique Barcode.

(c) Unique Quick Response (QR) code.

(d) Fugitive Ink Background.

(e) Invisible Ink Mark.

(f) Void Pantograph.

(g) Watermark.

2. Requirement at Mine Lease Site:

(a) Small Size Plot (Up to 5 hectare): Android Based Smart Phone.

(b) Large Size Plots (More than 5 hectare): CCTV camera, Personal Computer (PC), Internet Connection, Power Back up.

(c) Access control of mine lease site.

(d) Arrangement for weight or approximation of weight of mined out mineral on basis of volume of the trailer of vehicle used.

3. Scanning of Transport Permit or Receipt and Uploading on Server:

(a) Website: Scanning of receipt on mining site can be done through barcode scanner and computer using the software;

(b) Android Application: Scanning on mining site can be done using Android Application using smart phone. It will require internet availability on SIM card;

(c) SMS: Transport Permit or Receipt shall be uploaded on server even by sending SMS through mobile. Once Transport Permit or Receipt get uploaded, an unique invoice code gets generated with its validity period.

4. Proposed working of the system:

The State Mining Department should print the Transport Permit or Receipt with security features enumerated at Paragraph 1 above and issue them to the mine lease holder through the District Collector. Once these Transport Permits or Receipts are issued, they would be uploaded on the server against that mine lease area. Each receipt should be preferably with pre-fixed quantity, so the total quantity gets determined for the receipts issued.

When the Transport Permit or Receipt barcode gets scanned and invoice is generated, that particular barcode gets used and its validity time is recorded on the server. So all the details of transporting of mined out material can be captured on the server and the Transport Permit or Receipt cannot be reused.

5. Checking On Route:

The staff deployed for the purpose of checking of vehicles carrying mined mineral should be in a position to check the validity of Transport Permit or Receipt by scanning them using website, Android Application and SMS.

6. Breakdown of Vehicle:

In case the Vehicle breakdown, the validity of Transport Permit or Receipt shall be extended by sending SMS by driver in specific format to report breakdown of vehicle. The server will register this information and register the breakdown. The State can also establish a call centre, which can register breakdowns of such vehicles and extend the validity period. The subsequent restart of the vehicle also should be similarly reported to the server or call centre.

7. Tracking of Vehicles:

The route of vehicle from source to destination can be tracked through the system using check points, RFID Tags, and GPS tracking.

8. Alerts or Report Generation and Action Review:

The system will enable the authorities to develop periodic report on different parameters like daily lifting report, vehicle log or history, lifting against allocation, and total lifting. The system can be used to generate auto mails or SMS. This will enable the District Collector or District Magistrate to get all the relevant details and shall enable the authority to block the scanning facility of any site found to be indulged in irregularity. Whenever any authority intercepts any vehicle transporting illegal sand, it shall get registered on the server and shall be mandatory for the officer to fill in the report on action taken. Every intercepted vehicle shall be tracked.

The monitoring of mined out mineral, environmental clearance conditions and enforcement of Environment Management Plan will be ensured by the DEIAA, SEIAA and the State Pollution Control Board or Committee. The monitoring arrangements envisaged above shall be put in place not later than three months. The monitoring of enforcement of environmental clearance conditions shall be done by the Central Pollution Control Board, Ministry of Environment, Forest and Climate Change and the agency nominated by the Ministry for the purpose.".

[No. Z-11013/98/2014-IA-II(M)]
MANOJ KUMAR SINGH, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) *vide* number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended *vide* the following numbers :-

1. S.O. 1737 (E) dated the 11th October, 2007;
2. S.O. 3067 (E) dated the 1st December, 2009;
3. S.O. 695 (E) dated the 4th April, 2011;
4. S.O. 2896 (E) dated the 13th December, 2012;
5. S.O. 674 (E) dated the 13th March, 2013;
6. S.O. 2204 (E) dated the 19th July 2013;
7. S.O. 2555 (E) dated the 21st August, 2013;
8. S.O. 2559 (E) dated the 22nd August, 2013;
9. S.O. 2731 (E) dated the 9th September, 2013;
10. S.O. 562 (E) dated the 26th February, 2014;
11. S.O. 637 (E) dated the 28th February, 2014;
12. S.O. 1599 (E) dated the 25th June, 2014;
13. S.O. 2601 (E) dated the 7th October, 2014;
14. S.O. 2600 (E) dated the 9th October, 2014;
15. S.O. 3252 (E) dated the 22nd December, 2014;
16. S.O. 382 (E) dated the 3rd. February, 2015;
17. S.O. 811 (E) dated the 23rd March, 2015;
18. S.O. 996 (E) dated the 10th April, 2015;
19. S.O. 1142 (E) dated the 17th April, 2015;
20. S.O. 1141 (E) dated the 29th April, 2015;
21. S.O. 1834 (E) dated the 6th July, 2015.

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4

RULES

Constitution of DEIAA & DEAC

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 20th January, 2016

S.O.190(E).—In exercise of the powers conferred by sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) and in pursuance of the notification of the Government of India in the erstwhile Ministry of Environment and Forest number S.O. 1533 (E), dated the 14th September 2006 (hereinafter referred to as the said notification), the Central Government hereby constitutes the District Level Environment Impact Assessment Authority (DEIAA), for grant of environmental clearance for Category 'B2' Projects for mining of minor minerals, for all the districts in the country (hereinafter referred to as Authority for the districts) comprising of the following members, namely:—

1. District Magistrate or District Collector of the district — Chairperson
2. Senior most Divisional Forest Officer in the district — Member
3. An expert member to be nominated by the Divisional Commissioner or Chief Conservator of the Forest — Member
4. Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter — Member-Secretary

1. The Chairperson and official members of the Authority for the districts shall hold office during their tenure in the district on said posts and the expert member shall hold office for a period of three years from the date of nomination by the competent authority.

2. The Authority for the districts shall exercise such powers and follow the procedures as specified in the said notification.

3. The Authority for the districts shall base its decision on the recommendations of the District Level Expert Appraisal Committee constituted under paragraph 5 of this notification.

4. For the purposes of assisting the Authority for the districts, the Central Government hereby constitutes the District Level Expert Appraisal Committee for all the districts of the country (hereinafter referred to as DEAC for the district) comprising of the following members, namely:-

1.	Senior most Executive Engineer, Irrigation Department	— Chairperson
2.	Senior most Sub-Divisional Officer (Forest)	— Member
3.	A representative of Remote Sensing Department or Geology Department or State Ground Water Department to be nominated by the District Magistrate or District Collector	— Member
4.	Occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector	— Member
5.	Engineer from Zila Parishad	— Member
6.	A representative of State Pollution Control Board or Committee	— Member
7.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	— Member

8.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	—Member
9.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	—Member
10.	Senior most Assistant Engineer, Public Works Department	—Member
11.	Assistant Director or Deputy Director or District Mines Officer or Geologist in the district in that order	—Member Secretary

5. The Chairperson and the official members of the DEAC shall hold office during their tenure in the district and the non-official members shall hold office for three years from the date of their nomination by the competent authority.

6. The DEAC shall exercise the powers and follow the procedures as specified in the said notification.

7. The DEAC shall function on the principles of collective responsibility and the Chairperson shall endeavor to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

8. The District Magistrate or District Collector of the district shall notify an agency to act as Secretariat for the Authority for the districts and DEAC. The agency shall provide al logistic support including transportation,accommodation, and such other facilities in respect of all its statutory functions.

9. The non-official members of the Authority for districts and the DEAC shall be entitled to such sitting fees, travelling allowance and dearness allowance which shall be paid in accordance with the concerned rules of the respective State Governments.

[No. Z-11013/98/2014-IA-II (M)]
MANOJ KUMAR SINGH, Jt. Secy.

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5

RULES

Amendment to EIA Notification, 2006 for grant of EC for Building and Construction Activities, 2016

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 9th December, 2016

S.O. 3999(E).—Whereas, by notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O.1533 (E), dated the 14th September, 2006 issued under sub-section (1) read with clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 and clause (d) of the sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government directed that on and from the date of its publication, the required construction of new projects or activities or the expansion or modernisation of existing projects or activities listed in the Schedule to the said notification entailing the capacity addition with change in process or technology and or product mix shall be undertaken in any part of India only after prior environmental clearance from the Central Government or as the case may be, by the State Level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified therein;

And whereas, the said Ministry has received suggestions for ensuring Ease of Doing Responsible Business; and streamlining the permissions for buildings and construction sector which is important for providing houses and for this purpose the scheme of Housing for all by 2022 with an objective of making available affordable housing to weaker sections in urban area has ambitious target;

And whereas clause (a) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, provides that, whenever the Central Government considers that prohibition or restrictions of any industry or carrying on any processes or operation in any area should be imposed, it shall give notice of its intention to do so;

And whereas, a draft notification for making amendments in the Environment Impact Assessment Notification, 2006 issued in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 *read* with clause (d) of the sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 was published, *vide* number S.O.1595 (E) dated the 29th April 2016, inviting objections and suggestions from all the persons likely to be affected thereby, within a period of sixty days from the date of publication of said notification in the Gazette of India;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the Environment Impact Assessment Notification, 2006 namely: -

In the said Notification,-

(I) after paragraph 13, the following paragraph shall be inserted, namely:-

"14 . Integration of environmental condition in building bye-laws.-

(1) The integrated environmental conditions with the building permission being granted by the local authorities and the construction of buildings as per the

size shall adhere to the objectives and monitorable environmental conditions as given at Appendix-XIV.

(2) The States adopting the objectives and monitorable environmental conditions referred to in sub-paragraph (1), in the building bye-laws and relevant State laws and incorporating these conditions in the approvals given for building construction making it legally enforceable shall not require a separate environmental clearance from the Ministry of Environment, Forest and Climate Change for individual buildings.

(3) The States may forward the proposed changes in their bye-laws and rules to the Ministry of Environment, Forest and Climate Change, who in turn will examine the said draft bye-laws and rules and convey the concurrence to the State Governments.

(4) When the State Governments notifies the bye-laws and rules concurred by the Ministry of Environment, Forest and Climate Change, the Central Government may issue an order stating that no separate environmental clearance is required for buildings to be constructed in the States or local authority areas.

(5) The local authorities like Development Authorities, Municipal Corporations, may certify the compliance of the environmental conditions prior to issuance of Completion Certificate, as applicable as per the requirements stipulated for such buildings based on the recommendation of the Environmental Cell constituted in the local authority.

(6) The State Governments where bye-laws or rules are not framed may continue to follow the existing procedure of appraisal for individual projects and grant of Environmental Clearance for buildings and constructions as per the provisions laid down in this notification.

(7) For the purpose of certification regarding incorporation of environmental conditions in buildings, the Ministry of Environment, Forest and Climate Change may empanel through competent agencies, the Qualified Building Environment Auditors (QBEAs) to assess and certify the building projects, as per the requirements of this notification and the procedure for accreditation of Qualified Building Auditors and their role as given at Appendix-XV.

(8) In order to implement the integration of environmental condition in building bye-laws, the State Governments or Local Authorities may constitute the Environment Cell (herein after called as Cell), for compliance and monitoring and to ensure environmental planning within their jurisdiction.

(9) The Cell shall monitor the implementation of the bye-laws and rules framed for Integration of environmental conditions for construction of building and the Cell may also allow the third part auditing process for oversight, if any.

(10) The Cell shall function under the administrative control of the Local Authorities.

(11) The composition and functions of the Cell are given at Appendix-XVI.

(12) The Local Authorities while integrating the environmental concerns in the building bye-laws, as per their size of the project, shall follow the procedure, as given below:

BUILDINGS CATEGORY '1' (5,000 to < 20,000 Square meters)

A Self declaration Form to comply with the environmental conditions (Appendix XIV) along with Form 1A and certification by the Qualified Building Environment Auditor to be submitted online by the project proponent besides application for building permission to the local authority along with the specified fee in separate accounts. Thereafter, the local authority may issue the building permission incorporating the environmental conditions in it and allow the project to start based on the self declaration and certification along with the application. After completion of the construction of the building, the project proponent may update Form 1A online based on audit done by the Qualified Building Environment Auditor and shall furnish the revised compliance undertaking to the local authority. Any non-compliance issues in buildings less than 20,000 square meters shall be dealt at the level of local body and the State through existing mechanism.

OTHER BUILDINGS CATEGORIES (> 20,000 Square meters)

The project proponent may submit online application in Form 1A alongwith specified fee for environmental appraisal and additional fee for building permission. The fee for environmental appraisal will be deposited in a separate account. The Environment Cell will process the application and present it in the meeting of the Committee headed by the authority competent to give building permission in that local authority. The Committee will appraise the project and stipulate the environmental conditions to be integrated in the building permission. After recommendations of the Committee, the building permission and environmental clearance will be issued in an integrated format by the local authority.

The project proponent shall submit Performance Data and Certificate of Continued Compliance of the project for the environmental conditions parameters applicable after completion of construction from Qualified Building Environment Auditors every five years to the Environment Cell with special focus on the following parameters:-

(a) Energy Use (including all energy sources).

(b) Energy generated on site from onsite Renewable energy sources.

(c) Water use and waste water generated, treated and reused on site.

(d) Waste Segregated and Treated on site.

(e) Tree plantation and maintenance.

After completion of the project, the Cell shall randomly check the projects compliance status including the five years audit report. The State Governments may enact the suitable law for imposing penalties for non-compliances of the environmental conditions and parameters. The Cell shall recommend financial penalty, as applicable under relevant State laws for non-compliance of conditions or parameters to the local authority. On the basis of the recommendation of the Cell, the local authority may impose the penalty under relevant State laws. The cases of false declaration or certification shall be reported to the accreditation body and to the local body for blacklisting of Qualified Building Environment Auditors and financial penalty on the owner and Qualified Building Environment Auditors.

No Consent to Establish and Operate under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 will be required from the State Pollution Control Boards for residential buildings up to 1,50,000 square meters.";

(II) In the Schedule, for item 8 and the entries relating thereto, the following item and entries shall be substituted, namely:-

(1)	(2)	(3)	(4)	(5)
"8		Building / Construction projects / Area Development projects and Townships		
8 (a)	Building and Construction projects		> 20,000 sq. mtrs. and< 1,50,000 sq. mtrs. of built up area	The term "built up area" for the purpose of this notification is the built up or covered area on all floors put together including its basement and other service areas, which are proposed in the buildings and construction projects. Note 1. The projects or activities shall not include industrial shed, universities, college, hostel for educational institutions, but such buildings shall ensure sustainable environmental management, solid and liquid and implement environmental conditions given at Appendix-XIV. Note 2.-General Condition shall not apply. Note 3.-The exemptions granted at Note 1 will be available only for industrial shed after integration of environmental norms with building permissions at the level of local authority.
8(b)	Townships and Area Development projects	≥ 3,00,000 sq. mtrs of built up area or Covering an area ≥ 150 ha	≥1,50,000sq. mtrs and < 3,00,000 sq. mtrs built up area or covering an area ≥ 50 ha and < 150 ha	Note.- General Condition shall not apply".

[F. **No.** 19-2/2013-IA-III (Pt.)]

MANOJ KUMAR SINGH, Jt. Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(ii) vide number S.O. 1533(E), dated the 14th September, 2006 and subsequently amended vide numbers S.O.1737(E) dated the 11th October, 2007, S.O. 3067(E), dated the 1st December, 2009, S.O.695(E), dated the 4th April, 2011, S.O.2896(E), dated the 13th December, 2012 , S.O.674(E), dated the 13th March, 2013, S.O.2559(E), dated the 22nd August, 2013, S.O. 2731 (E), dated the 9th September, 2013, S.O. 562(E), dated the 26th February, 2014, S.O.637(E), dated the 28th February, 2014, S.O.1599(E), dated the 25th June, 2014, S.O. 2601 (E), dated 7th October, 2014, S.O. 2600(E) dated 9th October, 2014, S.O. 3252(E) dated 22nd December, 2014, S.O. 382 (E), dated 3rd February, 2015, and S.O. 811(E), dated 23rd March, 2015, S.O. 996 (E) dated 10th April, 2015, S.O. 1142 (E) dated 17th April, 2015, S.O. 1141 (E) dated 29th April, 2015, S.O. 1834(E) dated 6th July, 2015 and S.O. 2572(E) dated 14th September, 2015, S.O. 141 (E) dated 15th January, 2016, S.O. 190(E) dated 20th January, 2016, S.O. 648(E) dated 3rd March, 2016 and S.O. 2269(E)dated 1st July, 2016.

APPENDIX -XIV

ENVIRONMENTAL CONDITIONS FOR BUILDINGS AND CONSTRUCTIONS (CATEGORY '1': 5,000 to less than 20,000 Square meters)

MEDIUM	S.N.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bio-swales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water.
Water Conservation, Rain Water Harvesting, and Ground Water Recharge	2	Use of water efficient appliances shall be promoted. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provision is not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-Laws, 2016. A rain water harvesting plan needs to be designed where the recharge bores (minimum one recharge bore per 5,000 square meters of built up area) is recommended. Storage and reuse of the rain water harvested should be promoted. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer.
	2(a)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as pervious surface.
Waste Management	3	Solid waste: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. Sewage: In areas where there is no municipal sewage network, onsite treatment systems should be installed. Natural treatment systems which integrate with the landscape shall be promoted. As far as possible treated effluent should be reused. The excess treated effluent shall be discharged following the CPCB norms. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013. The provisions of the Solid Waste (Management) Rules 2016 and the e-waste (Management) Rules 2016, and the Plastics Waste (Management) Rules 2016 shall be followed.

Energy	4	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be Light Emitting Diode (LED). Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher. Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc. shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.
Air Quality and Noise	5	Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/ wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murram and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site. Sand, murram, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution. Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust. All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India shall be made.
	5 (a)	The location of the DG set and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	6	A minimum of 1 tree for every 80 square meters of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	6 (a)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e. planting of 3 trees for every 1 tree that is cut) shall be done and maintained.

(Category '2': 20,000 to less than 50,000 Square meters)

MEDIUM	S.N.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bio-swales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water. Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.
Water Conservation, Rain Water Harvesting, and Ground Water Recharge	2	A complete plan for rain water harvesting, water efficiency and conservation should be prepared. Use of water efficient appliances should be promoted with low flow fixtures or sensors. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provision is not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-laws, 2016. A rain water harvesting plan needs to be designed where the recharge bores of minimum one recharge bore per 5,000 square meters of built up area and storage capacity of minimum one day of total fresh water requirement shall be provided. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer
	2(a)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as pervious surface.
Waste Management	3	Solid waste: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. Sewage: Onsite sewage treatment of capacity of treating 100% waste water to be installed. Treated waste water shall be reused on site for landscape, flushing, cooling tower, and other end-uses. Excess treated water shall be discharged as per CPCB norms. Natural treatment systems shall be promoted. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013. The provisions of the Solid Waste (Management) Rules 2016 and the e-waste (Management) Rules 2016, and the Plastics Waste (Management) Rules 2016 shall be followed.
	3 (a)	All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
	3(b)	Organic waste compost/ Vermiculture pit with a minimum capacity of 0.3 kg / person/day must be installed.

Energy	4	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be LED. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc. shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.
	4 (a)	Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher.
	4(b)	Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.
	4(c)	Use of environment friendly materials in bricks, blocks and other construction materials, shall be required for at least 20% of the construction material quantity. These include flyash bricks, hollow bricks, AACs, Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials. Fly ash should be used as building material in the construction as per the provisions of the Fly Ash Notification of September, 1999 as amended from time to time.
Air Quality and Noise	5	Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/ wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murram and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site. Sand, murram, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution. Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust. All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India.

	5 (a)	The location of the DG set and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	6	A minimum of 1 tree for every 80 sq.mt. of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	6 (a)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e. planting of 3 trees for every 1 tree that is cut) shall be done and maintained.
Top Soil preservation and reuse	7	Topsoil should be stripped to a depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stockpiled appropriately in designated areas and reapplied during plantation of the proposed vegetation on site.
Transport	8	A comprehensive mobility plan, as per MoUD best practices guidelines (URDPFI), shall be prepared to include motorized, non-motorized, public, and private networks. Road should be designed with due consideration for environment, and safety of users. The road system can be designed with these basic criteria. 1. Hierarchy of roads with proper segregation of vehicular and pedestrian traffic. 2. Traffic calming measures. 3. Proper design of entry and exit points. 4. Parking norms as per local regulation.

(Category '3': 50000 to 150000 m²)

MEDIUM	S.N.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bio-swales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water. Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.
Water conservation Rain Water Harvesting, and Ground Water Recharge	2	A complete plan for rain water harvesting, water efficiency and conservation should be prepared. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provisions are not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-laws, 2016. A rain water harvesting plan needs to be designed where the recharge bores of minimum one recharge bore per 5,000 square meters of built up area and storage capacity of minimum one day of total fresh water requirement shall be provided. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer.
	2(a)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape etc. would be considered as pervious surface.

	2(b)	Use of water efficient appliances should be promoted. Low flow fixtures or sensors be used to promote water conservation.
	2(c)	Separation of grey and black water should be done by the use of dual plumbing system. In case of single stack system separate recirculation lines for flushing by giving dual plumbing system be done.
Solid Waste Management	3	Solid waste: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. The provisions of the Solid Waste (Management) Rules 2016 and the e-waste (Management) Rules 2016, and the Plastics Waste (Management) Rules 2016 shall be followed.
	3 (a)	All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
	3(b)	Organic waste composter/Vermiculture pit with a minimum capacity of 0.3 kg / person/day must be installed.
Sewage Treatment Plant	4	Onsite sewage treatment of capacity of treating 100% waste water to be installed. Treated waste water shall be reused on site for landscape, flushing, cooling tower, and other end-uses. Excess treated water shall be discharged as per CPCB norms. Natural treatment systems shall be promoted. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013.
Energy	5	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be LED. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass etc. shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.
	5 (a)	Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher.
	5(b)	Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.
	5(c)	Use of environment friendly materials in bricks, blocks and other construction materials, shall be required for at least 20% of the construction material quantity. These include flyash bricks, hollow bricks, AACs, Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials. Fly ash should be used as building material in the construction as per the provisions of the Fly Ash Notification of September, 1999 as amended from time to time.

Air Quality and Noise	6	Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/ wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murram and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site. Wheel washing for the vehicles used be done. Sand, murram, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution. Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust. All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India.
	6 (a)	The location of the DG set and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	7	A minimum of 1 tree for every 80 sq.mt. of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	7 (a)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (i.e. planting of 3 trees for every 1 tree that is cut) shall be done and maintained.
Top Soil Preservation and Reuse	8	Topsoil should be stripped to a depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stockpiled appropriately in designated areas and reapplied during plantation of the proposed vegetation on site.
Transport	9	A comprehensive mobility plan, as per MoUD best practices guidelines (URDPFI), shall be prepared to include motorized, non-motorized, public, and private networks. Road should be designed with due consideration for environment, and safety of users. The road system can be designed with these basic criteria. 1. Hierarchy of roads with proper segregation of vehicular and pedestrian traffic. 2. Traffic calming measures. 3. Proper design of entry and exit points. 4. Parking norms as per local regulation.
Environment Management Plan	10	An environmental management plan (EMP) shall be prepared and implemented to ensure compliance with the environmental conditions specified in item number 1 to 9 above. A dedicated Environment Monitoring Cell with defined functions and responsibility shall be put in place to implement the EMP. The environmental cell shall ensure that the environment infrastructure like Sewage Treatment Plant, Landscaping, Rain Water Harvesting, Energy efficiency and conservation, water efficiency and conservation, solid waste management, renewable energy etc. are kept operational and meet the required standards. The environmental cell shall also keep the record of environment monitoring and those related to the environment infrastructure.

APPENDIX-XV

Accreditation of Environmental Auditors (Qualified Building Auditors)

The Ministry of Environment, Forest and Climate Change (MoEFCC), through qualified agencies shall accredit the Qualified Building Environment Auditors (QBEAs). The Qualified Building Environment Auditors could be a firm / organization or an individual expert, who fulfils the requirements. The Ministry will implement this process of accreditation through Quality Council of India (QCI), National Productivity Council or any other organization identified by the Government. The organizations like Indian Green Building Council, Bureau of Energy Efficiency etc. can also be associated in the process of accreditation, training, and renewal. The environmental consultants accredited by the QCI for building sector will be qualified as QBEAs. The QBEAs will meet the following criteria. The accrediting agency can improvise on these criteria.

Qualifications of the Auditor:

a. Education: Architect (Degree or Diploma), Town Planners (Degree), Civil Engineer / Mechanical Engineer (Degree or Diploma), PG in Environmental Science or any other qualification as per the scheme of the accreditation.

Training:

b. Mandatory training to be given by the accreditation body or their approved training providers. This will be as per the scheme of the accreditation.

Experience:

c. Atleast3yearsofworkexperienceintherelatedfieldorbuildingsector Environment Impact Assessment consultants accredited by QCI or any other experience criteria as per the scheme of the accreditation.

Infrastructure and equipment:

d. As per the scheme of the accreditation Renewal:

e. The accreditation will be valid for 5 years and will be renewed as per the process developed under theaccreditation scheme.

Accountability/Complaint redressal mechanism: Any complaints regarding the quality of the work of QBEAs shall be made to the accreditation body. The accreditation body shall evaluate the complaint and take appropriate action including black listing or cancellation of the accreditation with wide public notice. This will be in addition to the action at the level of local authority for penalty and blacklisting. The Ministry can also take such action in case of specific complaint or feedback.

APPENDIX-XVI

Environmental Cell at the level of Local Authority:

An Environmental Cell shall be setup at the local authority level to support compliance and monitoring of environmental conditions in buildings. The Cell shall also provide assistance in environmental planning and capacity building within their jurisdiction. The responsibility of this cell would be monitoring the implementation of this notification and providing an oversight to the Third-Party Auditing process. The cell will operate under the local authority.

Constitution of the cell:

The cell will comprise of at least 3 dedicated experts in following fields:

a. Waste management (solid and liquid)

b. Water conservation and management

c. Resource efficiency including Building materials

d. Energy Efficiency and renewable energy

e. Environmental planning including air quality management.

f. Transport planning and management.

The Cell shall induct at least two outside experts as per the requirements and background of dedicated experts. Existing environmental cells at the level of local authority can be co-opted and trained for this Cell.

Financial Support:

An additional fee may be charged along with processing fee for building permission for integrating environmental conditions and it's monitoring. The local authority can fix and revise this additional fee from time to time. The amount of this fee shall be deposited in a separate bank account, and used for meeting the requirement of salary / emoluments of experts and running the system of online application, verifications and the Environmental Cell.

Functions of the Cell:

1. The cell shall be responsible for assessing and appraising the environmental concerns of the area under their jurisdiction where building activities are proposed. The Cell can evolve and propose additional environmental conditions as per requirements. These conditions may be area specific and shall be notified in advance from time to time. These additional conditions shall be approved following a due consultation process. These environmental conditions will be integrated in building permissions by the sanctioning authority.

2. Develop and maintain an online system for application and payment of fees. The Cell shall maintain an online database of all applications received, projects approved, the compliance audit report, random inspections made. The Cell shall maintain a portal for public disclosure of project details including self certification and compliance audit reports filed by the Qualified Building Environment Auditors for public scrutiny of compliance of environmental conditions by the project.

3. Monitoring the work of Environmental Audit process carried by the Qualified Building Auditors.

4. The Cell shall review the applications; finalize the additional environmental conditions if required within 30 days of the submission of the application to the local authority.

5. The Cell shall adopt risk based random selection of projects for verifying on site for certification of QBA, compliance of environmental conditions and five yearly audit report.

6. The Cell shall recommend to the local authority for financial penalty for non-compliance of environmental conditions by the project proponent.

7. The Cell shall recommend to the accrediting body and the local authority against any Qualified Building Environment Auditor, if any lapse is found in their work.

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6

RULES

Corporate Environment Responsibility

F.NO.22-65/2017-IA.III
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj
New Delhi - 110003
Dated: 1st May, 2018

Office Memorandum

Sub: Corporate Environment Responsibility (CER) - reg.

1. The Environment Impact Assessment (EIA) Notification, 2006, issued under the Environment (Protection) Act, 1986, as amended from time to time, prescribes the process for granting prior environment clearance (EC) in respect of certain development projects activities listed out in the Schedule to the Notification.

2. Sustainable development has many important facets/components like social, economic, environmental, etc. All these components are closely interrelated and mutually re-enforcing. Therefore, the general structure of EIA document, under Appendix-III to the notification, prescribes inter-alia public consultation, social impact assessment and R&R action plan besides environment management plan (EMP).

3. Section 135 of the Companies Act, 2013 deals with Corporate Social Responsibility (CSR) and Schedule-VII of the Act lists out the activities which may be included by companies in their CSR Policies. The concept of CSR as provided for in the Companies Act, 2013 and covered under the Companies (Corporate Social Responsibility Policy) Rules, 2014 comes into effect only in case of companies having operating projects and making net profit as also subject to other stipulations contained in the aforesaid Act and Rules. The environment clearance given to a project may involve a situation where the concerned company is yet to make any net profit and or is not covered under the purview of the aforesaid Act and Rules. In such cases, the provisions of aforesaid act and Rules will not apply.

4. In the past, it has been observed that different Expert Appraisal Committees / State Expert Appraisal Committees (EACs/SEACs) have been prescribing different formulation of the Corporate Environment Responsibility (CER) and no common principles are followed. Several suggestions have also been received in this regard which inter-alia states that Greenfield projects and Brownfield projects should be treated differently; no CER should be prescribed whereas there is no increase in air pollution load, R&R, etc., besides streamlining percentage of CER.

5. The Ministry has carried out a detailed stakeholder consultation which inter-a!ia included meeting with Ministry of Petroleum & Natural Gas, Ministry of Power, Chairmen EACs, FICCI, ASSOCHAM, Gujarat Chamber of Commerce and Industry amongst others.

6. In order to have transparency and uniformity while recommending CER by Expert Appraisal Committee (EAC) / State level Expert Appraisal Committee (SEAC) / District level

Expert Appraisal Committee (DEAC), the following guidelines are issued:

(I) The cost of CER is to be in addition to the cost envisaged for the implementation of the EIA/EMP which includes the measures for the pollution control, environmental protection and conservation, R&R, wildlife and forest conservation/protection measures including the NPV and Compensatory Aforestation, required, if any, and any other activities, to be derived as part of the EIA process.

(II) The fund allocation for the CER shall be deliberated in the EAC or SEAC or DEAC, as the case may be, with a due diligence subject to **maximum percentage** as prescribed below for different cases:

SL.No.	Capital Investment / Additional Capital Investment (in Rs)	Greenfield Project - % of Capital Investment	Brownfield Project - % of Additional Capital Investment
I	**II**	**III**	**IV**
l.	≤ 100 crores	2.0%	1.0%
2.	> 100 crores ≤ 500 crores	1.5%	0.75%
3.	> 500 crores ≤ 1000 crores	1.0%	0.50%
4.	> From 1000 ≤ 10000 crores	0.5%	0.25%
5.	> 10000 crores	0.25%	0.125%

(III) The activities proposed under CER shall be worked out based on the issues raised during the public hearing, social need assessment, R&R plan, EMP, etc.

(IV) The proposed activities shall be restricted to the affected area around the project.

(V) Some of the activities which can be carried out in CER, are infrastructure creation for drinking water supply, sanitation, health, education, skill development, roads, cross drains, electrification including solar power, solid waste management facilities, scientific support and awareness to local farmers to increase yield of crop and fodder, rain water harvesting, soil moisture conservation works, avenue plantation, plantation in community areas, etc.

(VI) The entire activities proposed under the CER shall be treated as project and shall be monitored. The monitoring report shall be submitted to the regional office as a part of half-yearly compliance report, and to the District Collector. It should be posted on the website of the project proponent.

(VII) The District Collector may add or delete the activities as per the requirement District.

(VIII) The EAC can vary the above percentage of CER subject to proper diligence, quantification and justification. The EAC based on appraisal, should clearly suggest the activities to be carried out under CER.

(IX) This CER is not applicable in name change, transfer and amendment involving no additional project investment. In case of amendment in EC involving additional expenditure, CER will be applicable only on the additional expenditure as per column-IV of the table given in para 6 (II) above.

7. This issues in supersession of all earlier OMs and guidelines issued in this regard.

8. This issues with the approval of competent authority.



(Sharath Kumar Pallerla)
Director (IA-III-Policy)

1. Chairman, CPCB
2. Chairmen of all the Expert Appraisal Committees
3. Chairperson/Member Secretaries of all the SEIAA/SEACs
4. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
5. All the officers of IA Division

Copy for information to:

1. PS to Minister for Environment, Forest and Climate Chance
2. PS to MoS (EF&CC)
3. PPS to Secretary (EF&CC)
4. PPS to AS (AKJ) / AS(AKM)
5. PPS to JS (GB) / JS(JT)
6. Website, MoEF&CC
7. Guard File.

7

RULES

OM dated 24.06.2013 on EC for Brick earth & Ordinary earth

No. L-1 1011/47/2011-IA.II(M)
Government of India
Ministry of Environment & Forests

Paryavaran Bhawan,
C.G.O. Complex, Lodhi Road,
New Delhi-110003.
Dated: 24th June, 2013

OFFICE MEMORANDUM

Subject: Guidelines for consideration of proposals for grant of environmental clearance under EIA Notification, 2006 for mining of 'brick earth' and 'ordinary earth' having lease area less than 5 ha - regarding categorization as Category 'B2'

The Hon'ble Supreme Court, vide its order dated 27.02.2012 in I.A. No. 12-13 of 2011 in SLP (C) No. 19628-19629 of 2009 titled Deepak Kumar etc. Vs. State of Haryana & Ors. has *inter alia* ordered that leases of minor mineral including their renewal for an area less than 5 ha be granted by the State / Union Territory only after getting environment clearance (EC) from the Ministry of Environment & Forests (MoEF). In order to ensure compliance of the aforesaid order of the Hon'ble Supreme Court, MoEF issued an OM No.L-11011/47/2011-IA.II(M) dated 18.05.2012 stating *inter alia* that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior EC and that the projects of minor minerals with lease area less than 5 ha would be treated as Category "B" as defined in EIA Notification, 2006 and will be considered by the respective State Environment Impact Assessment Authorities (SEIAAs) notified by MoEF and following the procedure prescribed under the EIA Notification, 2006.

2. MoEF has received a number of representations conveying problems being faced by the brick kiln manufacturers in obtaining EC for 'brick earth' mined by them for making bricks and by the developers of road projects in respect of mining of 'ordinary earth' used for road construction. The brick kiln manufacturers have requested that as the digging of 'brick earth' for making bricks is a small scale actiivity requiring digging only upto a certain depth, the activity may be kept outside the purview of EC. The project proponents developing roads have represented that the 'ordinary earth' required for road construction is generally taken from the farmers / individuals along the road alignment from their borrows. It would be impractical to ask the farmers / individuals to obtain EC for such digging. In a nutshell, the arguments being put forth are that while digging of 'brick earth' for brick making and 'ordinary earth' for road making do not have serious environmental implications, the provisioning for EC for such operations is impeding these development activities because of practical problems in obtaining EC.

3. MoEF vide OM No.F.No.J-11013/12/2013-IA-II(I) dated 30.01.13 has constituted an Expert Committee, under the Chairmanship of Director, NEERI, Nagpur, to categorize Category "B" projects/activities into Category "B1" and "B2" under EIA Notification, 2006 and review classification of projects/activities into "A" and "B" and General conditions as contained in the aforesaid Notification. The issues raised by brick kiln manufacturers regarding 'brick earth' and road developers in respect of 'ordinary earth' were referred by MoEF to this Expert Committee to give their recommendations. The Committee deliberated upon these issues and has since given its recommendations in the matter.

4. The recommendations of the Committee have been examined by MoEF and the following has been decided:

(a) The activities of borrowing / excavation of 'brick earth' and 'ordinary earth', upto an area less than 5 ha, may be categorized under 'B2' Category subject to the following guidelines in terms of the provisions under '7.I Stage(1)-Screening' of EIA Notification, 2006:

(i) The activity associated with borrowing/excavation of 'brick earth' and 'ordinary earth' for purpose of brick manufacturing, construction of roads, embankments etc. shall not involve blasting.

(ii) The borrowing/excavation activity shall be restricted to a maximum depth of 2 m below general ground level at the site.

(iii) The borrowing/excavation activity shall be restricted to 2 m above the ground water table at the site.

(iv) The borrowing/excavation activity shall not alter the natural drainage pattern of the area.

(v) The borrowed/excavated pit shall be restored by the project proponent for useful purpose(s).

(vi) Appropriate fencing all around the borrowed/excavated pit shall be made to prevent any mishap.

(vii) Measures shall be taken to prevent dust emission by covering of borrowed/ excavated earth during transportation.

(viii) Safeguards shall be adopted against health risks on account of breeding of vectors in the water bodies created due to borrowing/excavation of earth.

(ix) Workers / labourers shall be provided with facilities for drinking water and sanitation.

(x) A berm shall be left from the boundary of adjoining field having a width equal to at least half the depth of proposed excavation.

(xi) A minimum distance of 15 m from any civil structure shall be kept from the periphery of any excavation area.

(xii) The concerned SEIAA while considering granting environmental clearance for such activity for brick earth / ordinary earth will prescribe the guidelines as stated at (i) to (xi) above and specify that the clearance so granted shall be liable to be cancelled in case of any violation of above guidelines.

(b) Notwithstanding what has been stated at (a) above, the following will apply:-

(i) No borrowing of earth / excavation of 'brick earth' or 'ordinary earth' shall be permitted in case the area of borrowing/ excavation is within I km of boundary of national parks and wild life sanctuaries.

(ii) In case the area of borrowing / excavation is likely to result into a cluster situation

i.e. if the periphery of one borrow area is less than 500 m from the periphery of another borrow area and the total borrow area equals or exceeds 5 ha, the activity shall become Category 'BI' Project under the EIA Notification, 2006. In such a case, mining operations in any of the borrow areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

This issues with the approval of the Competent Authority.

(Dr. Saroj)
Director
Telefax : 24364067

To

1. All the Officers of IA Division
2. Chairpersons/Member Secretaries of all the SEIAAs/SEACs
3. Chairman, CPCB
4. Chairpersons / Member Secretaries of all the SPCBs/UTPCCs

Copy to:-

I. PStoMEF

2. PPS to Secretary(E&F)

3. PPS to ADG(F)

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6. PPS to IG(FC)

7. Website, MoEF

8. Guard File

8

RULES

OM dated 24.12.2013 on EC for Brick earth & Ordinary earth and Sand

No. J-13012/12/2013-IA-II (I)
Government of India

Ministry of Environment and Forests

Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi-110 003

Dated 24th December, 2013

OFFICE MEMORANDUM

Subject: Guidelines for consideration of proposals for grant of environmental clearance Environmental Impact Assessment (EIA) Notification, 2006 and its amendments -regarding categorization of Category 'B' projects/activities into Category 'B1' & 'B2'.

The EIA Notification, 2006 mandates prior Environmental Clearance (EC) for new projects or activities including expansion, or modernization of existing projects listed in its Schedule. The Category 'A' projects shall obtain EC from the Central Government and Category 'B' projects from the concerned State Level Environment Impact Assessment Authority (SEIAA)/ Union Territory Environment Impact Assessment Authority (UTEIAA). The EIA Notification, 2006 prescribes that Category 'B' projects, will be further categorized as category 'B1' and 'B2' (except for Township and Area Development Projects) for which the Ministry of Environment & Forests (MoEF) shall issue appropriate guidelines from time to time - provisions under '7.1 Stage(1)-Screening' of the Notification refer. The projects categorized as B1 will require EIA Report for appraisal and to undergo public consultation process (as applicable). Projects categorized as 'B2' will be appraised based on the application in Form-I accompanied with the Pre-feasibility Report and any other documents.

2. In compliance with such a requirement under the EIA Notification and to examine other issues, the MoEF had constituted vide O.M No. J-11013/12/2013-IA-II(I) dated 30.01.2013, an Expert Committee, under the Chairmanship of Director, NEERI, Nagpur. The Committee has since submitted its report. The recommendations of the Committee have been examined by MOEF and the following has been decided w.r.t. categorization of Category 'B' projects/ activities into Category 'B1' & 'B2' listed in the Schedule of EIA Notification, 2006 and its amendments:

I. Mining of Minerals

Mining of minor minerals

As of now, mining projects of minor minerals with less than 50 ha of mining lease area are categorized as Category 'B' as per Notification S.0.2731 (E) dated 9th September, 2013. Also vide OM No.L-11011/47/2011-IA.II(M) dated 24.06.2013, guidelines have been issued regarding categorization of mining projects of 'brick earth' and 'ordinary earth' having lease area less than 5 ha as category 'B2' subject to stipulations stated therein.

In the above backdrop, the projects of mining of minor minerals, categorized as Category ;B' are hereby categorized as 'B2' as per the following:

(i) 'Brick earth' / 'Ordinary earth' mining projects having lease area less than 5 ha will be considered for granting EC as per the aforesaid guidelines issued by MOEF on 24.6.2013.

(ii) 'Brick earth' / 'Ordinary earth' mining projects with mining lease area ≤ 5 ha but < 25 ha and all other minor mineral mining projects with mining lease area <25 ha, except for river sand mining projects will be appraised as Category 'B2' projects. These projects will be appraised based on following documents:

(a) Form -1 as per Appendix-I under EIA Notification, 2006

(b) Pre-feasibility report of the project

(c) Mining plan approved by the authorized agency of the concerned State Government

Provided, in case the mining lease area is likely to result into a cluster situation, i.e., if the periphery of one lease area is less than 500 m from the periphery of another lease area and the total lease area equals or exceeds 25 ha, the activity shall become Category 'B1' Project under the EIA Notification, 2006. In such a case, mining operations in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

(iii) No river sand mining project, with mine lease area less than 5 ha, may be considered for granting EC. The river sand mining projects with mining lease area ≥ 5 ha but < 25 ha will be categorized as 'B2'. In addition to the requirement of documents, as brought out above under sub-para (ii) above for appraisal, such projects will be considered subject to the following stipulations:

(a) The mining activity shall be done manually.

(b) The depth of mining shall be restricted to 3m/water level, whichever is less.

(a) For carrying out mining in proximity to any bridge and/or embankment, appropriate safety zone shall be worked out on case to case basis to the satisfaction of SEAC/SEIAA, taking into account the structural parameters, locational aspects, flow rate, etc., and no mining shall be carried out in the safety zone so worked out.

(c) No in stream mining shall be allowed

(b) The mining plan approved by the authorized agency of the State Government shall inter-alia include study to show that the annual replenishment of sand in the mining lease area is sufficient to sustain the mining operations at levels prescribed in the mining plan and that the transport infrastructure is adequate to transport the mines material. In case of transportation by road, the transport vehicles will be covered with taurpoline to minimize dust/sand particle emissions.

(d) EC will be valid for mine lease period subject to a ceiling of 5 years.

Provided, in case the mining lease area is likely to result into a cluster situation i.e. if the periphery of one lease area is less than 1 km from the periphery of another lease area and total lease area equals or exceeds 25 ha, the activity shall become Category 'B1' Project under the EIA Notification, 2006. In such a case, mining operations in any of the mine lease areas in the cluster will be allowed only if the environmental clearance has been obtained in respect of the cluster.

II. Other projects or activities

The guidelines for categorizing some of the other category of projects or activities into 'B1' or 'B2' out of the category 'B' projects listed in schedule to EIA Notification, 2006, as amended from time to time, are as follows. These projects will be appraised based on Form-1 as per Appendix-I under EIA Notification, 2006, as amended and pre-feasibility report of the project.

S. N. of Schedule	Activities	Category B2	Category B1
1(d)	Thermal Power Plants	Thermal power plants based on coal/lignite/naphtha and gas of capacity ≤5MW.	Thermal power plants based on coal/lignite/ naphtha and gas of capacity > 5 MW and < 500 MW.
2(b)	Mineral Beneficiation	The mineral beneficiation activity listed in the Schedule as Category 'B', with throughout < 20,000 TPA, involving only physical beneficiation.	All other mineral beneficiation activity falling in the Schedule as Category 'B'.
3 (a)	Metallurgical Industries (ferrous & non-ferrous)	All non toxic secondary metallurgical processing industries involving operation of furnaces only, such as induction and electric arc furnaces, submerged arc furnaces, and cupola with capacity > 30,000 TPA but < 60,000 TPA provided that such projects are located within the notified Industrial Estates.	All other non toxic secondary metallurgical processing industries falling in the Schedule as Category 'B'.
3 (b)	Cement Plants	All stand-alone grinding units listed in the Schedule as Category 'B' subject to the condition that transportation of raw material and finished products shall be primarily* through Railways.	All stand-alone grinding units listed in the Schedule as Category 'B' where the transportation of raw material and finished products is not primarily through Railways.
4(d)	Chlor Alkali Industry	All Chlor Alkali plants with production capacity <300 TPD (located within notified industrial area) listed in the Schedule as Category 'B'.	All Chlor Alkali plants with production capacity < 300 TPD (located outside notified industrial area) listed in the Schedule as Category 'B'.
4(f)	Leather/ Skin/Hide Processing Industry	All new or expansion projects of leather production without tanning, located within a notified industrial area/estate, listed in the Schedule as Category 'B',	All others projects listed in the Schedule as Category 'B'

5 (a)	Chemical Fertilizers	Single Super Phosphate (SSP) plants involving only the activity of granulation of SSP powder.	All other Single Super Phosphate (SSP) plants listed in the Schedule as Category'B'.
5(d)	Manmade Fibres Manufacturing	All manmade fibre manufacturing units producing fibres from granules or chips.	All other manmade fibre manufacturing units listed in the Schedule as Category 'B'
7(g)	Aerial Ropeways	All Aerial Ropeway projects, listed in the Schedule as Category 'B', should be categorized as Category B2.	

* *transportation by railways should not be less than 90% of the traffic (inward and outward put together)*

3. The guidelines for categorization of Category 'B' projects/activities into Category 'B1' & B2' are applicable only to those projects/activities mentioned above. All the other Category 'B' projects/activities listed under the Schedule of EIA Notification, 2006 and its amendments shall be considered as Category 'B1' projects and appraised as per the procedure prescribed in the EIA Notification.

4. The information filled in Form-1 by the project proponent inter-alia relates to land, water and energy requirement, use of hazardous substances, disposal of hazardous waste, emissions from combustion of fossil fuels, emissions from production process, handling and disposal of hazardous waste, etc. In case the concerned SEAC, based on the information provided by the project proponent in Form-1, comes to the conclusion that a project though falling in Category 'B2' as per these guidelines needs to be appraised as 'B1[1] Category project, it will accordingly be appraised as 'B1' category project notwithstanding the provisions under these guidelines.

This issues with the approval of the Competent Authority.

(Dr. P.B. Rastogi) Director
Telefax: 24342436

To,

1. All the Officers of I.A Division
2; Chairpersons/Member Secretaries of all the SEIAAs/SEACs
3. Chairman, CPCB
4. Chairpersons/Member Secretaries of all the SPCBs/UTPCCs

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9

RULES

Solid Waste Management Rule, 2016

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 8th April, 2016

S.O. 1357(E).—Whereas the draft of the Solid Waste Management Rules, 2015 were published under the notification of the Government of India in the Ministry of Environment, Forest and Climate Change number G.S.R. 451 (E), dated the 3rd June, 2015 in the Gazette of India, part II, Section 3, sub- section (i) of the same date inviting objections or suggestions from the persons likely to be affected thereby, before the expiry of the period of sixty days from the publication of the said notification on the Solid Waste Management Rules, 2015 in supersession of the Municipal Solid Waste (Management and Handling) Rules, 2000;

And whereas, copies of the said Gazette were made available to the public on the 3rd June, 2015;

And whereas, the objections or comments received within the stipulated period were duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sections 3, 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986) and in supersession of the Municipal Solid Waste (Management and Handling) Rules, 2000, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules for management of Solid Waste, namely:-

1. Short title and commencement.-

(1) These rules may be called the Solid Waste Management Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Application.-** These rules shall apply to every urban local body, outgrowths in urban agglomerations, census towns as declared by the Registrar General and Census Commissioner of India, notified areas, notified industrial townships, areas under the control of Indian Railways, airports, airbases, Ports and harbours, defence establishments, special economic zones, State and Central government organisations, places of pilgrims, religious and historical importance as may be notified by respective State government from time to time and to every domestic, institutional, commercial and any other non residential solid waste generator situated in the areas except industrial waste, hazardous waste, hazardous chemicals, bio medical wastes, e-waste, lead acid batteries and radio-active waste, that are covered under separate rules framed under the Environment (Protection) Act, 1986.

3. **Definitions** -(1) In these rules, unless the context otherwise requires,- (1) **"aerobic composting"** means a controlled process involving microbial decomposition of organic matter in the presence of oxygen;

2. **"anaerobic digestion"** means a controlled process involving microbial decomposition of organic matter in absence of oxygen;

3. **"authorisation"** means the permission given by the State Pollution Control Board or Pollution Control Committee, as the case may be, to the operator of a facility or urban local authority, or any other agency responsible for processing and disposal of solid waste;
4. **"biodegradable waste** " means any organic material that can be degraded by micro-organisms into simpler stable compounds;
5. **"bio-methanation"** means a process which entails enzymatic decomposition of the organic matter by microbial action to produce methane rich biogas;
6. **"brand owner"** means a person or company who sells any commodity under a registered brand label.
7. **"buffer zone"** means zone of no development to be maintained around solid waste processing and disposal facility, exceeding 5 TPD of installed capacity. This will be maintained within total and area allotted for the solid waste processing and disposal facility.
8. **"bulk waste generator"** means and includes buildings occupied by the Central government departments or undertakings, State government departments or undertakings, local bodies, public sector undertakings or private companies, hospitals, nursing homes, schools, colleges, universities, other educational institutions, hostels, hotels, commercial establishments, markets, places of worship, stadia and sports complexes having an average waste generation rate exceeding 100kg per day;
9. **"bye-laws"** means regulatory framework notified by local body, census town and notified area townships for facilitating the implementation of these rules effectively in their jurisdiction.
10. **"census town"** means an urban area as defined by the Registrar General and Census Commissioner of India;
11. **"combustible waste"** means non-biodegradable, non-recyclable, non-reusable, non hazardous solid waste having minimum calorific value exceeding 1500 kcal/kg and excluding chlorinated materials like plastic, wood pulp, etc;
12. **"composting"** means a controlled process involving microbial decomposition of organic matter;
13. **"contractor"** means a person or firm that undertakes a contract to provide materials or labour to perform a service or do a job for service providing authority;
14. **"co-processing"** means use of non-biodegradable and non recyclable solid waste having calorific value exceeding 1500k/cal as raw material or as a source of energy or both to replace or supplement the natural mineral resources and fossil fuels in industrial processes;
15. **"decentralised processing"** means establishment of dispersed facilities for maximizing the processing of bio-degradable waste and recovery of recyclables closest to the source of generation so as to minimize transportation of waste for processing or disposal;
16. **"disposal"** means the final and safe disposal of post processed residual solid waste and inert street sweepings and silt from surface drains on land as specified in Schedule I to prevent contamination of ground water, surface water, ambient air and attraction of animals or birds;

17. **"domestic hazardous waste"** means discarded paint drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles and syringes and contaminated gauge, etc., generated at the household level;

18. **"door to door collection"** means collection of solid waste from the door step of households, shops, commercial establishments, offices, institutional or any other non residential premises and includes collection of such waste from entry gate or a designated location on the ground floor in a housing society, multi storied building or apartments, large residential, commercial or institutional complex or premises;.

19 **"dry waste"** means waste other than bio-degradable waste and inert street sweepings and includes recyclable and non recyclable waste, combustible waste and sanitary napkin and diapers, etc;

20. **"dump sites"** means a land utilised by local body for disposal of solid waste without following the principles of sanitary land filling;

21. **"extended producer responsibility" (EPR)** means responsibility of any producer of packaging products such as plastic, tin, glass and corrugated boxes, etc., for environmentally sound management, till end-of-life of the packaging products;

22. **"facility"** means any establishment wherein the solid waste management processes namely segregation, recovery, storage, collection, recycling, processing, treatment or safe disposal are carried out;

23. **"fine"** means penalty imposed on waste generators or operators of waste processing and disposal facilities under the bye-laws for non-compliance of the directions contained in these rules and/or bye- laws

24. **"Form"** means a Form appended to these rules;

25. **"handling"** includes all activities relating to sorting, segregation, material recovery, collection, secondary storage, shredding, baling, crushing, loading, unloading, transportation, processing and disposal of solid wastes;

26. **"inerts"** means wastes which are not bio-degradable, recyclable or combustible street sweeping or dust and silt removed from the surface drains;

27. **"incineration"** means an engineered process involving burning or combustion of solid waste to thermally degrade waste materials at high temperatures;

28. **"informal waste collector"** includes individuals, associations or waste traders who are involved in sorting, sale and purchase of recyclable materials;

29. **"leachate"** means the liquid that seeps through solid waste or other medium and has extracts of dissolved or suspended material from it;

30. "**local body"** for the purpose of these rules means and includes the municipal corporation, nagar nigam, municipal council, nagarpalika, nagar Palikaparishad, municipal board, nagar panchayat and town panchayat, census towns, notified areas

and notified industrial townships with whatever name they are called in different States and union territories in India;

31. **"materials recovery facility" (MRF)** means a facility where non-compostable solid waste can be temporarily stored by the local body or any other entity mentioned in rule 2 or any person or agency authorised by any of them to facilitate segregation, sorting and recovery of recyclables from various components of waste by authorised informal sector of waste pickers, informal recyclers or any other work force engaged by the local body or entity mentioned in rule 2 for the purpose before the waste is delivered or taken up for its processing or disposal;

32. **"non-biodegradable waste"** means any waste that cannot be degraded by micro organisms into simpler stable compounds;

33. **"operator of a facility"** means a person or entity, who owns or operates a facility for handling solid waste which includes the local body and any other entity or agency appointed by the local body;

34. **primary collection"** means collecting, lifting and removal of segregated solid waste from source of its generation including households, shops, offices and any other non-residential premises or from any collection points or any other location specified by the local body;

35. **"processing"** means any scientific process by which segregated solid waste is handled for the purpose of reuse, recycling or transformation into new products;

36. **"recycling"** means the process of transforming segregated non-biodegradable solid waste into new material or product or as raw material for producing new products which may or may not be similar to the original products;

37. **"redevelopment"** means rebuilding of old residential or commercial buildings at the same site, where the existing buildings and other infrastructures have become dilapidated;

38. **"refused derived fuel"(RDF)** means fuel derived from combustible waste fraction of solid waste like plastic, wood, pulp or organic waste, other than chlorinated materials, in the form of pellets or fluff produced by drying, shredding, dehydrating and compacting of solid waste ;

39. **"residual solid waste"** means and includes the waste and rejects from the solid waste processing facilities which are not suitable for recycling or further processing;

40 **"sanitary land filling** " means the final and safe disposal of residual solid waste and inert wastes on land in a facility designed with protective measures against pollution of ground water, surface water and fugitive air dust, wind-blown litter, bad odour, fire hazard, animal menace, bird menace, pests or rodents, greenhouse gas emissions, persistent organic pollutants slope instability and erosion;

41. **"sanitary waste"** means wastes comprising of used diapers, sanitary towels or napkins, tampons, condoms, incontinence sheets and any other similar waste;

42. **"Schedule"** means the Schedule appended to these rules;

43. **"secondary storage"** means the temporary containment of solid waste after collection at secondary waste storage depots or MRFs or bins for onward transportation of the waste to the processing or disposal facility;

44. **"segregation"** means sorting and separate storage of various components of solid waste namely biodegradable wastes including agriculture and dairy waste, non-biodegradable wastes including recyclable waste, non-recyclable combustible waste, sanitary waste and non recyclable inert waste, domestic hazardous wastes, and construction and demolition wastes;

45. **"service provider"** means an authority providing public utility services like water, sewerage, electricity, telephone, roads, drainage, etc;

46. **"solid waste"** means and includes solid or semi-solid domestic waste, sanitary waste, commercial waste, institutional waste, catering and market waste and other non-residential wastes, street sweepings, silt removed or collected from the surface drains, horticulture waste, agriculture and dairy waste, treated bio-medical waste excluding industrial waste, bio-medical waste and e-waste, battery waste, radio-active waste generated in the area under the local authorities and other entities mentioned in rule 2;

47. **"sorting"** means separating various components and categories of recyclables such as paper, plastic, card boards, metal, glass, etc., from mixed waste as may be appropriate to facilitate recycling;

48. **"stabilising"** means the biological decomposition of biodegradable wastes to a stable state where it generates no leachate or offensive odours and is fit for application to farm land ,soil erosion control and soil remediation;

49. **"street vendor"** means any person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place or private area, from a temporary built up structure or by moving from place to place and includes hawker, peddler, squatter and all other synonymous terms which may be local or region specific; and the words "street vending" with their grammatical variations and cognate expressions, shall be construed accordingly;

50. **"tipping fee"** means a fee or support price determined by the local authorities or any state agency authorised by the State government to be paid to the concessionaire or operator of waste processing facility or for disposal of residual solid waste at the landfill;

51. **"transfer station"** means a facility created to receive solid waste from collection areas and transport in bulk in covered vehicles or containers to waste processing and, or, disposal facilities;

52. **"transportation"** means conveyance of solid waste, either treated, partly treated or untreated from a location to another location in an environmentally sound manner

through specially designed and covered transport system so as to prevent the foul odour, littering and unsightly conditions;

53. **"treatment"** means the method, technique or process designed to modify physical, chemical or biological characteristics or composition of any waste so as to reduce its volume and potential to cause harm;

54. **"user fee"** means a fee imposed by the local body and any entity mentioned in rule 2 on the waste generator to cover full or part cost of providing solid waste collection, transportation, processing and disposal services.

55. **"vermi composting"** means the process of conversion of bio-degradable waste into compost using earth worms;

56. **"waste generator"** means and includes every person or group of persons, every residential premises and non residential establishments including Indian Railways, defense establishments, which generate solid waste;

57. **"waste hierarchy"** means the priority order in which the solid waste is to should be managed by giving emphasis to prevention, reduction, reuse, recycling, recovery and disposal, with prevention being the most preferred option and the disposal at the landfill being the least;

58. **"waste picker"** means a person or groups of persons informally engaged in collection and recovery of reusable and recyclable solid waste from the source of waste generation the streets, bins, material recovery facilities, processing and waste disposal facilities for sale to recyclers directly or through intermediaries to earn their livelihood.

(2) Words and expressions used herein but not defined, but defined in the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, Water (Prevention and Control of Pollution) Cess Act, 1977 and the Air (prevention and Control of Pollution) Act, 1981 shall have the same meaning as assigned to them in the respective Acts.

4 Duties of waste generators.- (1) Every waste generator shall,-

(a) segregate and store the waste generated by them in three separate streams namely bio-degradable, non bio degradable and domestic hazardous wastes in suitable bins and handover segregated wastes to authorised waste pickers or waste collectors as per the direction or notification by the local authorities from time to time;

(b) wrap securely the used sanitary waste like diapers, sanitary pads etc., in the pouches provided by the manufacturers or brand owners of these products or in a suitable wrapping material as instructed by the local authorities and shall place the same in the bin meant for dry waste or non- bio-degradable waste;

(c) store separately construction and demolition waste, as and when generated, in his own premises and shall dispose off as per the Construction and Demolition Waste Management Rules, 2016; and

(d) store horticulture waste and garden waste generated from his premises separately in his own premises and dispose of as per the directions of the local body from time to time.

(2) No waste generator shall throw, burn or burry the solid waste generated by him, on streets, open public spaces outside his premises or in the drain or water bodies.

(3) All waste generators shall pay such user fee for solid waste management, as specified in the bye-laws of the local bodies.

(4) No person shall organise an event or gathering of more than one hundred persons at any unlicensed place without intimating the local body, at least three working days in advance and such person or the organiser of such event shall ensure segregation of waste at source and handing over of segregated waste to waste collector or agency as specified by the local body.

(5) Every street vendor shall keep suitable containers for storage of waste generated during the course of his activity such as food waste, disposable plates, cups, cans, wrappers, coconut shells, leftover food, vegetables, fruits, etc., and shall deposit such waste at waste storage depot or container or vehicle as notified by the local body.

(6) All resident welfare and market associations shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source by the generators as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

(7) All gated communities and institutions with more than 5,000 sqm area shall, within one year from the date of notification of these rules and in partnership with the local body, ensure segregation of waste at source by the generators as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorized recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

(8) All hotels and restaurants shall, within one year from the date of notification of these rules and in partnership with the local body ensure segregation of waste at source as prescribed in these rules, facilitate collection of segregated waste in separate streams, handover recyclable material to either the authorised waste pickers or the authorised recyclers. The bio-degradable waste shall be processed, treated and disposed off through composting or bio-methanation within the premises as far as possible. The residual waste shall be given to the waste collectors or agency as directed by the local body.

5. Duties of Ministry of Environment, Forest and Climate Change.- (1) The Ministry of Environment, Forest and Climate Change shall be responsible for over all monitoring the implementation of these rules in the country. It shall constitute a Central Monitoring

Committee under the Chairmanship of Secretary, Ministry of Environment, Forest and Climate Change comprising officer not below the rank of Joint Secretary or Advisor from the following namely,-

(1) Ministry of Urban Development

(2) Ministry of Rural Development

(3) Ministry of Chemicals and Fertilizers

(4) Ministry of Agriculture

(5) Central Pollution Control Board

(6) Three State Pollution Control Boards or Pollution Control Committees by rotation

(7) Urban Development Departments of three State Governments by rotation

(8) Rural Development Departments from two State Governments by rotation

(9) Three Urban Local bodies by rotation

(10) Two census towns by rotation

(11) FICCI CII

(12) Two subject experts

2. This Central Monitoring Committee shall meet at least once in a year to monitor and review the implementation of these rules. The Ministry of Environment, Forest and Climate Change may co-opt other experts, if needed. The Committee shall be renewed every three years.

6. Duties of Ministry of Urban Development.- (1) The Ministry of Urban Development shall coordinate with State Governments and Union territory Administrations to,-

(a) take periodic review of the measures taken by the states and local bodies for improving solid waste management practices and execution of solid waste management projects funded by the Ministry and external agencies at least once in a year and give advice on taking corrective measures;

(b) formulate national policy and strategy on solid waste management including policy on waste to energy in consultation with stakeholders within six months from the date of notification of these rules;

(c) facilitate States and Union Territories in formulation of state policy and strategy on solid management based on national solid waste management policy and national urban sanitation policy;

(d) promote research and development in solid waste management sector and disseminate information to States and local bodies;

(e) undertake training and capacity building of local bodies and other stakeholders; and

(f) provide technical guidelines and project finance to states, Union territories and local bodies on solid waste management to facilitate meeting timelines and standards.

7. Duties of Department of Fertilisers, Ministry of Chemicals and Fertilisers.- (1) The Department of Fertilisers through appropriate mechanisms shall,-

(a) provide market development assistance on city compost; and

(b) ensure promotion of co-marketing of compost with chemical fertilisers in the ratio of 3 to 4 bags: 6 to 7 bags by the fertiliser companies to the extent compost is made available for marketing to the companies.

8. Duties of Ministry of Agriculture, Government of India.- The Ministry of Agriculture through appropriate mechanisms shall,-

(a) provide flexibility in Fertiliser Control Order for manufacturing and sale of compost;

(b) propagate utlisation of compost on farm land;

(c) set up laboratories to test quality of compost produced by local authorities or their authorised agencies; and

(d) issue suitable guidelines for maintaining the quality of compost and ratio of use of compost *vis-a-vis* chemical fertilizers while applying compost to farmland.

9. Duties of the Ministry of Power.-The Ministry of Power through appropriate mechanisms shall,-

(a) decide tariff or charges for the power generated from the waste to energy plants based on solid wasted.

(b) compulsary purchase power generated from such waste to energy plants by distribution company.

10. Duties of Ministry of New and Renewable Energy Sources- The Ministry of New and Renewable Energy Sources through appropriate mechanisms shall,-

(a) facilitate infrastructure creation for waste to energy plants; and

(b) provide appropriate subsidy or incentives for such waste to energy plants.

11. Duties of the Secretary-in-charge, Urban Development in the States and Union territories.- (1) The Secretary, Urban Development Department in the State or Union territory through the Commissioner or Director of Municipal Administration or Director of local bodies shall, -

(a) prepare a state policy and solid waste management strategy for the state or the union territory in consultation with stakeholders including representative of waste pickers, self help group and similar groups working in the field of waste management consistent with these rules, national policy on solid waste management and national urban sanitation policy of the ministry of urban development, in a period not later than one year from the date of notification of these rules;

(b) while preparing State policy and strategy on solid waste management, lay emphasis on waste reduction, reuse, recycling, recovery and optimum utilisation of various

components of solid waste to ensure minimisation of waste going to the landfill and minimise impact of solid waste on human health and environment;

(c) state policies and strategies should acknowledge the primary role played by the informal sector of waste pickers, waste collectors and recycling industry in reducing waste and provide broad guidelines regarding integration of waste picker or informal waste collectors in the waste management system.

(d) ensure implementation of provisions of these rules by all local authorities;

(e) direct the town planning department of the State to ensure that master plan of every city in the State or Union territory provisions for setting up of solid waste processing and disposal facilities except for the cities who are members of common waste processing facility or regional sanitary landfill for a group of cities; and

(f) ensure identification and allocation of suitable land to the local bodies within one year for setting up of processing and disposal facilities for solid wastes and incorporate them in the master plans (land use plan) of the State or as the case may be, cities through metropolitan and district planning committees or town and country planning department;

(h) direct the town planning department of the State and local bodies to ensure that a separate space for segregation, storage, decentralised processing of solid waste is demarcated in the development plan for group housing or commercial, institutional or any other non-residential complex exceeding 200 dwelling or having a plot area exceeding 5,000 square meters;

(i) direct the developers of Special Economic Zone, Industrial Estate, Industrial Park to earmark at least five percent of the total area of the plot or minimum five plots or sheds for recovery and recycling facility.

(j) facilitate establishment of common regional sanitary land fill for a group of cities and towns falling within a distance of 50 km (or more) from the regional facility on a cost sharing basis and ensure professional management of such sanitary landfills;

(k) arrange for capacity building of local bodies in managing solid waste, segregation and transportation or processing of such waste at source;

(l) notify buffer zone for the solid waste processing and disposal facilities of more than five tons per day in consultation with the State Pollution Control Board; and

(m) start a scheme on registration of waste pickers and waste dealers.

12. Duties of District Magistrate or District Collector or Deputy Commissioner.- The District Magistrate or District Collector or as the case may be, the Deputy Commissioner shall, -

(a) facilitate identification and allocation of suitable land as per clause (f) of rules 11 for setting up solid waste processing and disposal facilities to local authorities in his district in close coordination with the Secretary-in-charge of State Urban Development Department within one year from the date of notification of these rules;

(b) review the performance of local bodies, at least once in a quarter on waste segregation, processing, treatment and disposal and take corrective measures in consultation with the Commissioner or Director of Municipal Administration or Director of local bodies and secretary-in-charge of the State Urban Development.

13. Duties of the Secretary-in-charge of Village Panchayats or Rural Development Department in the State and Union territory.- (1) The Secretary-in-charge of Village Panchayats or Rural Development Department in the State and Union territory shall have the same duties as the Secretary-in-charge, Urban Development in the States and Union territories, for the areas which are covered under these rules and are under their jurisdictions.

14. Duties of Central Pollution Control Board.-The Central Pollution Control Board shall, -

(a) co-ordinate with the State Pollution Control Boards and the Pollution Control Committees for implementation of these rules and adherence to the prescribed standards by local authorities;

(b) formulate the standards for ground water, ambient air, noise pollution, leachate in respect of all solid waste processing and disposal facilities;

(c) review environmental standards and norms prescribed for solid waste processing facilities or treatment technologies and update them as and when required;

(d) review through State Pollution Control Boards or Pollution Control Committees, at least once in a year, the implementation of prescribed environmental standards for solid waste processing facilities or treatment technologies and compile the data monitored by them;

(e) review the proposals of State Pollution Control Boards or Pollution Control Committees on use of any new technologies for processing, recycling and treatment of solid waste and prescribe performance standards, emission norms for the same within 6 months;

(f) monitor through State Pollution Control Boards or Pollution Control Committees the implementation of these rules by local bodies;

(g) prepare an annual report on implementation of these rules on the basis of reports received from State Pollution Control Boards and Committees and submit to the Ministry of Environment, Forest and Climate Change and the report shall also be put in public domain;

(h) publish guidelines for maintaining buffer zone restricting any residential, commercial or any other construction activity from the outer boundary of the waste processing and disposal facilities for different sizes of facilities handling more than five tons per day of solid waste;

(i) publish guidelines, from time to time, on environmental aspects of processing and disposal of solid waste to enable local bodies to comply with the provisions of these rules; and

(j) provide guidance to States or Union territories on inter-state movement of waste.

15. Duties and responsibilities of local authorities and village Panchayats of census towns and urban agglomerations.- The local authorities and Panchayats shall,-

(a) prepare a solid waste management plan as per state policy and strategy on solid waste management within six months from the date of notification of state policy and strategy and submit a copy to respective departments of State Government or Union territory Administration or agency authorised by the State Government or Union territory Administration;

(b) arrange for door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non residential premises. From multi-storage buildings, large commercial complexes, malls, housing complexes, etc., this may be collected from the entry gate or any other designated location;

(c) establish a system to recognize organisations of waste pickers or informal waste collectors and promote and establish a system for integration of these authorised waste-pickers and waste collectors to facilitate their participation in solid waste management including door to door collection of waste;

(d) facilitate formation of Self Help Groups, provide identity cards and thereafter encourage integration in solid waste management including door to door collection of waste;

(e) frame bye-laws incorporating the provisions of these rules within one year from the date of notification of these rules and ensure timely implementation;

(f) prescribe from time to time user fee as deemed appropriate and collect the fee from the waste generators on its own or through authorised agency;

(g) direct waste generators not to litter *i.e* throw or dispose of any waste such as paper, water bottles, liquor bottles, soft drink canes, tetra packs, fruit peel, wrappers, etc., or burn or burry waste on streets, open public spaces, drains, waste bodies and to segregate the waste at source as prescribed under these rules and hand over the segregated waste to authorised the waste pickers or waste collectors authorised by the local body;

(h) setup material recovery facilities or secondary storage facilities with sufficient space for sorting of recyclable materials to enable informal or authorised waste pickers and waste collectors to separate recyclables from the waste and provide easy access to waste pickers and recyclers for collection of segregated recyclable waste such as paper, plastic, metal, glass, textile from the source of generation or from material recovery facilities; Bins for storage of bio-degradable wastes shall be painted green, those for storage of recyclable wastes shall be printed white and those for storage of other wastes shall be printed black;

(i) establish waste deposition centres for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility shall be established in a city or town in a manner that one centre is set up for the area of twenty square kilometers or part thereof and notify the timings of receiving domestic hazardous waste at such centres;

(j) ensure safe storage and transportation of the domestic hazardous waste to the hazardous waste disposal facility or as may be directed by the State Pollution Control Board or the Pollution Control Committee;

(k) direct street sweepers not to burn tree leaves collected from street sweeping and store them separately and handover to the waste collectors or agency authorised by local body;

(l) provide training on solid waste management to waste-pickers and waste collectors;

(m) collect waste from vegetable, fruit, flower, meat, poultry and fish market on day to day basis and promote setting up of decentralised compost plant or bio-methanation plant at suitable locations in the markets or in the vicinity of markets ensuring hygienic conditions;

(n) collect separately waste from sweeping of streets, lanes and by-lanes daily, or on alternate days or twice a week depending on the density of population, commercial activity and local situation;

(o) set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient. Waste so collected shall be collected and disposed of at regular intervals as decided by the local body;

(p) collect horticulture, parks and garden waste separately and process in the parks and gardens, as far as possible;

(q) transport segregated bio-degradable waste to the processing facilities like compost plant, bio-methanation plant or any such facility. Preference shall be given for on site processing of such waste;

(r) transport non-bio-degradable waste to the respective processing facility or material recovery facilities or secondary storage facility;

(s) transport construction and demolition waste as per the provisions of the Construction and Demolition Waste management Rules, 2016;

(t) involve communities in waste management and promotion of home composting, bio-gas generation, decentralised processing of waste at community level subject to control of odour and maintenance of hygienic conditions around the facility;

(u) phase out the use of chemical fertilizer in two years and use compost in all parks, gardens maintained by the local body and wherever possible in other places under its jurisdiction. Incentives may be provided to recycling initiatives by informal waste recycling sector.

(v) facilitate construction, operation and maintenance of solid waste processing facilities and associated infrastructure on their own or with private sector participation or through any agency for optimum utilisation of various components of solid waste adopting suitable technology including the following technologies and adhering to the guidelines issued by the Ministry of Urban Development from time to time and standards prescribed by the Central Pollution Control Board. Preference shall be given to decentralised processing to minimize transportation cost and environmental

impacts such as-

a) bio-methanation, microbial composting, vermi-composting, anaerobic digestion or any other appropriate processing for bio-stabilisation of biodegradable wastes;

b) waste to energy processes including refused derived fuel for combustible fraction of waste or supply as feedstock to solid waste based power plants or cement kilns;

(w) undertake on their own or through any other agency construction, operation and maintenance of sanitary landfill and associated infrastructure as per Schedule 1 for disposal of residual wastes in a manner prescribed under these rules;

(x) make adequate provision of funds for capital investments as well as operation and maintenance of solid waste management services in the annual budget ensuring that funds for discretionary functions of the local body have been allocated only after meeting the requirement of necessary funds for solid waste management and other obligatory functions of the local body as per these rules;

(y) make an application in Form-I for grant of authorisation for setting up waste processing, treatment or disposal facility, if the volume of waste is exceeding five metric tones per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee, as the case may be;

(z) submit application for renewal of authorisation at least sixty days before the expiry of the validity of authorisation;

(za) prepare and submit annual report in Form IV on or before the 30th April of the succeeding year to the Commissioner or Director, Municipal Administration or designated Officer;

(zb) the annual report shall then be sent to the Secretary -in-Charge of the State Urban Development Department or village panchayat or rural development department and to the respective State Pollution Control Board or Pollution Control Committee by the 31st May of every year;

(zc) educate workers including contract workers and supervisors for door to door collection of segregated waste and transporting the unmixed waste during primary and secondary transportation to processing or disposal facility;

(zd) ensure that the operator of a facility provides personal protection equipment including uniform, fluorescent jacket, hand gloves, raincoats, appropriate foot wear and masks to all workers handling solid waste and the same are used by the workforce;

(ze) ensure that provisions for setting up of centers for collection, segregation and storage of segregated wastes, are incorporated in building plan while granting approval of building plan of a group housing society or market complex; and

(zf) frame bye-laws and prescribe criteria for levying of spot fine for persons who litters or fails to comply with the provisions of these rules and delegate powers to officers or local bodies to levy spot fines as per the bye laws framed; and

(zg) create public awareness through information, education and communication

campaign and educate the waste generators on the following; namely: -

(i) not to litter;

(ii) minimise generation of waste;

(iii) reuse the waste to the extent possible;

(iv) practice segregation of waste into bio-degradable, non-biodegradable (recyclable and combustible), sanitary waste and domestic hazardous wastes at source;

(v) practice home composting, vermi-composting, bio-gas generation or community level composting;

(vi) wrap securely used sanitary waste as and when generated in the pouches provided by the brand owners or a suitable wrapping as prescribed by the local body and place the same in the bin meant for non-biodegradable waste;

(vii) storage of segregated waste at source in different bins;

(viii) handover segregated waste to waste pickers, waste collectors, recyclers or waste collection agencies; and

(ix) pay monthly user fee or charges to waste collectors or local bodies or any other person authorised by the local body for sustainability of solid waste management.

(zh) stop land filling or dumping of mixed waste soon after the timeline as specified in rule 23 for setting up and operationalisation of sanitary landfill is over;

(zi) allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and non-reactive inert waste and pre-processing rejects and residues from waste processing facilities to go to sanitary landfill and the sanitary landfill sites shall meet the specifications as given in Schedule-I, however, every effort shall be made to recycle or reuse the rejects to achieve the desired objective of zero waste going to landfill;

(zj) investigate and analyse all old open dumpsites and existing operational dumpsites for their potential of bio-mining and bio-remediation and wheresoever feasible, take necessary actions to bio-mine or bio-remediate the sites;

(zk) in absence of the potential of bio-mining and bio-remediation of dumpsite, it shall be scientifically capped as per landfill capping norms to prevent further damage to the environment.

16. Duties of State Pollution Control Board or Pollution Control Committee.- (1) The State Pollution Control Board or Pollution Control Committee shall,-

(a) enforce these rules in their State through local bodies in their respective jurisdiction and review implementation of these rules at least twice a year in close coordination with concerned Directorate of Municipal Administration or Secretary-in-charge of State Urban Development Department;

(b) monitor environmental standards and adherence to conditions as specified under the

Schedule I and Schedule II for waste processing and disposal sites;

(c) examine the proposal for authorisation and make such inquiries as deemed fit, after the receipt of the application for the same in Form I from the local body or any other agency authorised by the local body;

(d) while examining the proposal for authorisation, the requirement of consents under respective enactments and views of other agencies like the State Urban Development Department, the Town and Country Planning Department, District Planning Committee or Metropolitan Area Planning Committee, as may be applicable, Airport or Airbase Authority, the Ground Water Board, Railways, power distribution companies, highway department and other relevant agencies shall be taken into consideration and they shall be given four weeks time to give their views, if any;

(e) issue authorisation within a period of sixty days in Form II to the local body or an operator of a facility or any other agency authorised by local body stipulating compliance criteria and environmental standards as specified in Schedules I and II including other conditions, as may be necessary;

(f) synchronise the validity of said authorisation with the validity of the consents;

(g) suspend or cancel the authorization issued under clause (a) any time, if the local body or operator of the facility fails to operate the facility as per the conditions stipulated: provided that no such authorization shall be suspended or cancelled without giving notice to the local body or operator, as the case may be; and

(h) on receipt of application for renewal, renew the authorisation for next five years, after examining every application on merit and subject to the condition that the operator of the facility has fulfilled all the provisions of the rules, standards or conditions specified in the authorisation, consents or environment clearance.

(2) The State Pollution Control Board or Pollution Control Committee shall, after giving reasonable opportunity of being heard to the applicant and for reasons thereof to be recorded in writing, refuse to grant or renew an authorisation.

(3) In case of new technologies, where no standards have been prescribed by the Central Pollution Control Board, State Pollution Control Board or Pollution Control Committee, as the case may be, shall approach Central Pollution Control Board for getting standards specified.

(4) The State Pollution Control Board or the Pollution Control Committee, as the case may be, shall monitor the compliance of the standards as prescribed or laid down and treatment technology as approved and the conditions stipulated in the authorisation and the standards specified in Schedules I and II under these rules as and when deemed appropriate but not less than once in a year.

(5) The State Pollution Control Board or the Pollution Control Committee may give directions to local bodies for safe handling and disposal of domestic hazardous waste deposited by the waste generators at hazardous waste deposition facilities.

(6) The State Pollution Control Board or the Pollution Control Committee shall regulate Inter-State movement of waste.

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.

18. **Duties of the industrial units located within one hundred km from the refused derived fuel and waste to energy plants based on solid waste-** All industrial units using fuel and located within one hundred km from a solid waste based refused derived fuel plant shall make arrangements within six months from the date of notification of these rules to replace at least five percent of their fuel requirement by refused derived fuel so produced.

19. **Criteria for Duties regarding setting-up solid waste processing and treatment facility.-** (1) The department in- charge of the allocation of land assignment shall be responsible for providing suitable land for setting up of the solid waste processing and treatment facilities and notify such sites by the State Government or Union territory Administration.

(2) The operator of the facility shall design and set up the facility as per the technical guidelines issued by the Central Pollution Control Board in this regard from time to time and the manual on solid waste management prepared by the Ministry of Urban Development.

(3) The operator of the facility shall obtain necessary approvals from the State Pollution Control Board or Pollution Control Committee.

(4) The State Pollution Control Board or Pollution Control Committee shall monitor the environment standards of the operation of the solid waste processing and treatment facilities.

(5) The operator of the facility shall be responsible for the safe and environmentally sound operations of the solid waste processing and or treatment facilities as per the guidelines issued by the Central Pollution Control Board from time to time and the Manual on Municipal Solid Waste Management published by the Ministry of Urban Development and updated from time to timer.

(6) The operator of the solid waste processing and treatment facility shall submit annual report in Form III each year by 30 April to the State Pollution Control Board or Pollution Committee and concerned local body.

20. Criteria and actions to be taken for solid waste management in hilly areas.- In the hilly areas, the duties and responsibilities of the local authorities shall be the same as mentioned in rule 15 with additional clauses as under:

(a) Construction of landfill on the hill shall be avoided. A transfer station at a suitable enclosed location shall be setup to collect residual waste from the processing facility and inert waste. A suitable land shall be identified in the plain areas down the hill within 25 kilometers for setting up sanitary landfill. The residual waste from the transfer station shall be disposed of at this sanitary landfill.

(b) In case of non-availability of such land, efforts shall be made to set up regional sanitary landfill for the inert and residual waste.

(c) Local body shall frame Bye-laws and prohibit citizen from littering wastes on the streets and give strict direction to the tourists not to dispose any waste such as paper, water bottles, liquor bottles, soft drink canes, tetra packs, any other plastic or paper waste on the streets or down the hills and instead direct to deposit such waste in the litter bins that shall be placed by the local body at all tourist destinations.

(d) Local body shall arrange to convey the provisions of solid waste management under the bye-laws to all tourists visiting the hilly areas at the entry point in the town as well as through the hotels, guest houses or like where they stay and by putting suitable hoardings at tourist destinations.

(e) Local body may levy solid waste management charge from the tourist at the entry point to make the solid waste management services sustainable.

(f) The department in- charge of the allocation of land assignment shall identify and allot suitable space on the hills for setting up decentralised waste processing facilities. Local body shall set up such facilities. Step garden system may be adopted for optimum utilisation of hill space.

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 utilised 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.

(3) The local body or an operator of facility or an agency designated by them proposing to set up waste to energy plant of more than five tones per day processing capacity shall submit an application in Form-I to the State Pollution Control Board or Pollution Control Committee, as the case may be, for authorisation.

(4) The State Pollution Control Board or Pollution Control Committee, on receiving such application for setting up waste to energy facility, shall examine the same and grant permission within sixty days.

22. Time frame for implementation.- Necessary infrastructure for implementation of these rules shall be created by the local bodies and other concerned authorities, as the case may be, on their own, by directly or engaging agencies within the time frame specified below:

Sl. No.	Activity	Time limit from the date of notification of rules
(1)	(2)	(3)
1.	identification of suitable sites for setting up solid waste processing facilities	1 year
2.	dentification of suitable sites for setting up common regional sanitary landfill facilities ‘or suitable clusters of local authorities under 0.5 million population and for setting up common regional sanitary landfill facilities or stand alone sanitary landfill facilities by all local authorities having a population of 0.5 million or more .	1 year
3.	procurement of suitable sites for setting up solid waste processing facility and sanitary landfill facilities	2 years
4.	enforcing waste generators to practice segregation of bio-degradable, recyclable, combustible, sanitary waste domestic hazardous and inert solid wastes at source ,	2 years
5.	Ensure door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities.	2 years
6.	ensure separate storage, collection and transportation of construction and demolition wastes	2 years
7.	setting up solid waste processing facilities by all local bodies having 100000 or more population	2 years
8.	Setting up solid waste processing facilities by local bodies and census towns below 100000 population.	3 years
9	setting up common or stand alone sanitary landfills by or for all local bodies having 0.5 million or more population for the disposal of only such residual wastes from the processing facilities as well as unbeatable inert wastes as permitted under the Rules	3 years
10.	setting up common or regional sanitary landfills by all local bodies and census towns under 0.5 million population for the disposal of permitted waste under the rules	3years
11.	bio-remediation or capping of old and abandoned dump sites	5years

23. State Level Advisory Body. - (1) Every Department in-charge of local bodies of the concerned State Government or Union territory administration shall constitute a State Level Advisory Body within six months from the date of notification of these rules comprising the following members, namely:-

Sl. No	Designation	Member
(1)	(2)	(3)
1.	Secretary, Department of Urban Development or Local self government department of the State	Chairperson, ex-officio
2.	One representative of Panchayats or Rural development Department not below the rank of Joint Secretary to State Government	Member, ex-officio
3.	one representative of Revenue Department of State Government	Member, ex-officio
4.	One representative from Ministry of Environment, Forest and Climate Change Government of India	Member, ex-officio
5.	One representative from Ministry of Urban Development, Government of India	Member, ex-officio
6.	One representative from Ministry of Rural Development, Government of India	Member, ex-officio
7.	One representative from the Central Pollution Control Board	Member, ex-officio
8.	One representative from the State Pollution Control Board or Pollution Control Committee	Member, ex-officio
9.	One representative from Indian Institute of Technology or National Institute of Technology	Member, Ex-officio
10.	Chief town planner of the state	Member
11.	Three representatives from the local bodies by rotation	Member
12.	Two representatives from census towns or urban agglomerations by rotation.	Member
13.	One representative from reputed Non-Governmental Organisation or Civil Society working for the waste pickers or informal recycler or solid waste management	Member
14.	One representative from a body representing Industries at the State or Central level	Member
15.	one representative from waste recycling industry	Member
16.	Two subject experts	Member
17.	Co-opt one representative each from agriculture department, and labour department of State Government.	Member

(2) The State Level Advisory Body shall meet at least once in every six months to review the matters related to implementation of these rules, state policy and strategy on solid waste management and give advice to state government for taking measures that are necessary for expeditious and appropriate implementation of these rules.

(3) The copies of the review report shall be forwarded to the State Pollution Control Board or Pollution Control Committee for necessary action.

(4) **24. Annual report.-** (1) The operator of facility shall submit the annual report to the local body in Form-III on or before the 30th day of April every year.

(2) The local body shall submit its annual report in Form-IV to State P Control Board or P Committee and the Secretary-in-Charge of the Department of Urban Development of the concerned State or Union Territory in case of metropolitan city and to the Director of Municipal Administration or Commissioner of Municipal Administration or Officer in-Charge of Urban local bodies in the state in case of all other local bodies of state on or before the 30th day of June every year

(3) Each State Pollution Control Board or Pollution Control Committee as the case may be, shall prepare and submit the consolidated annual report to the Central Pollution Control Board and Ministry of Urban Development on the implementation of these rules and action taken against non complying local body by the 31st day of July of each year in Form-V.

(4) The Central Pollution Control Board shall prepare a consolidated annual review report on the status of implementation of these rules by local bodies in the country and forward the same to the Ministry of Urban Development and Ministry of Environment, Forest and Climate Change, along with its recommendations before the 31st day of August each year.

(5) The annual report shall be reviewed by the Ministry of Environment, Forest and Climate Change during the meeting of Central Monitoring Committee.

25. Accident reporting- In case of an accident at any solid waste processing or treatment or disposal facility or landfill site, the Officer- in- charge of the facility shall report to the local body in Form-VI and the local body shall review and issue instructions if any, to the in- charge of the facility.

SCHEDULE I

[see rule 15 (w),(zi), 16 (1) (b) (e), 16 (4)]

Specifications for Sanitary Landfills

(A) Criteria for site selection.-

(i) The department in the business allocation of land assignment shall provide suitable site for setting up of the solid waste processing and treatment facilities and notify such sites.

(ii) The sanitary landfill site shall be planned, designed and developed with proper documentation of construction plan as well as a closure plan in a phased manner. In case a new landfill facility is being established adjoining an existing landfill site, the closure plan of existing landfill should form a part of the proposal of such new landfill.

(iii) The landfill sites shall be selected to make use of nearby wastes processing facilities. Otherwise, wastes processing facility shall be planned as an integral part of the landfill site.

(iv) Landfill sites shall be set up as per the guidelines of the Ministry of Urban Development, Government of India and Central Pollution Control Board.

(v) The existing landfill sites which are in use for more than five years shall be improved in accordance with the specifications given in this Schedule.

(vi) The landfill site shall be large enough to last for at least 20-25 years and shall develop 'landfill cells' in a phased manner to avoid water logging and misuse.

(vii) The landfill site shall be 100 meter away from river, 200 meter from a pond, 200 meter from Highways, Habitations, Public Parks and water supply wells and 20 km away from Airports or Airbase. However in a special case, landfill site may be set up within a distance of 10 and 20 km away from the Airport/Airbase after obtaining no objection certificate from the civil aviation authority/ Air force as the case may be. The Landfill site shall not be permitted within the flood plains as recorded for the last 100 years, zone of coastal regulation, wetland, Critical habitat areas, sensitive eco-fragile areas.

(viii) The sites for landfill and processing and disposal of solid waste shall be incorporated in the Town Planning Department's land-use plans.

(ix) A buffer zone of no development shall be maintained around solid waste processing and disposal facility, exceeding five Tonnes per day of installed capacity. This will be maintained within the total area of the solid waste processing and disposal facility. The buffer zone shall be prescribed on case to case basis by the local body in consultation with concerned State Pollution Control Board.

(x) The biomedical waste shall be disposed of in accordance with the Bio-medical Waste Management Rules, 2016, as amended from time to time . The hazardous waste shall be managed in accordance with the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, as amended from time to time. The E-waste shall be managed in accordance with the e-Waste (Management) Rules, 2016 as amended from time to time.

(xi) Temporary storage facility for solid waste shall be established in each landfill site to accommodate the waste in case of non-operation of waste processing and during emergency or natural calamities.

(B) Criteria for development of facilities at the sanitary landfills.-

(i) Landfill site shall be fenced or hedged and provided with proper gate to monitor incoming vehicles, to prevent entry of unauthorised persons and stray animals

(ii) The approach and / internal roads shall be concreted or paved so as to avoid generation of dust particles due to vehicular movement and shall be so designed to ensure free movement of vehicles and other machinery.

(iii) The landfill site shall have waste inspection facility to monitor waste brought in for landfilling h, office facility for record keeping and shelter for keeping equipment and machinery including pollution monitoring equipment. The operator of the facility shall maintain record of waste received, processed and disposed.

(iv) Provisions like weigh bridge to measure quantity of waste brought at landfill site, fire protection equipment and other facilities as may be required shall be provided.

(v) Utilities such as drinking water and sanitary facilities (preferably washing/bathing facilities for workers) and lighting arrangements for easy landfill operations during night hours shall be provided.

(vi) Safety provisions including health inspections of workers at landfill sites shall be carried out made.

(vii) Provisions for parking, cleaning, washing of transport vehicles carrying solid waste

shall be provided. The wastewater so generated shall be treated to meet the prescribed standards.

(C) Criteria for specifications for land filling operations and closure on completion of land filling.-

(i) Waste for land filling shall be compacted in thin layers using heavy compactors to achieve high density of the waste. In high rainfall areas where heavy compactors cannot be used, alternative measures shall be adopted.

(ii) Till the time waste processing facilities for composting or recycling or energy recovery are set up, the waste shall be sent to the sanitary landfill. The landfill cell shall be covered at the end of each working day with minimum 10 cm of soil, inert debris or construction material.

(iii) Prior to the commencement of monsoon season, an intermediate cover of 40-65 cm thickness of soil shall be placed on the landfill with proper compaction and grading to prevent infiltration during monsoon. Proper drainage shall be constructed to divert run-off away from the active cell of the landfill.

(iv) After completion of landfill, a final cover shall be designed to minimise infiltration and erosion. The final cover shall meet the following specifications, namely :—

a) The final cover shall have a barrier soil layer comprising of 60 cm of clay or amended soil with permeability coefficient less than 1 x 10^{-7} cm/sec.

b) On top of the barrier soil layer, there shall be a drainage layer of 15 cm.

c) On top of the drainage layer, there shall be a vegetative layer of 45 cm to support natural plant growth and to minimise erosion.

(D) Criteria for pollution prevention.- In order to prevent pollution from landfill operations, the following provisions shall be made, namely:-

(i) The storm water drain shall be designed and constructed in such a way that the surface runoff water is diverted from the landfilling site and leachates from solid waste locations do not get mixed with the surface runoff water. Provisions for diversion of storm water discharge drains shall be made to minimise leachate generation and prevent pollution of surface water and also for avoiding flooding and creation of marshy conditions.

(ii) Non-permeable lining system at the base and walls of waste disposal area. For landfill receiving residues of waste processing facilities or mixed waste or waste having contamination of hazardous materials (such as aerosols, bleaches, polishes, batteries, waste oils, paint products and pesticides) shall have liner of composite barrier of 1.5 mm. thick high density polyethylene (HDPE) geo-membrane or geo-synthetic liners, or equivalent, overlying 90 cm of soil (clay or amended soil) having permeability coefficient not greater than 1 x 10^{-7} cm/sec. The highest level of water table shall be at least two meter below the base of clay or amended soil barrier layer provided at the bottom of landfills.

(iii) Provisions for management of leachates including its collection and treatment shall be made. The treated leachate shall be recycled or utilized as permitted, otherwise

shall be released into the sewerage line, after meeting the standards specified in Schedule-I. In no case, leachate shall be released into open environment.

(iv) Arrangement shall be made to prevent leachate runoff from landfill area entering any drain, stream, river, lake or pond. In case of mixing of runoff water with leachate or solid waste, the entire mixed water shall be treated by the concern authority.

(E) Criteria for water quality monitoring.-

(i) Before establishing any landfill site, baseline data of ground water quality in the area shall be collected and kept in record for future reference. The ground water quality within 50 meter of the periphery of landfill site shall be periodically monitored covering different seasons in a year that is, summer, monsoon and post-monsoon period to ensure that the ground water is not contaminated.

(ii) Usage of groundwater in and around landfill sites for any purpose (including drinking and irrigation) shall be considered only after ensuring its quality. The following specifications for drinking water quality shall apply for monitoring purpose, namely :-

S. No.	Parameters	IS 10500:2012, Edition 2.2(2003-09) Desirable limit (mg/l except for pH)
(1)	(2)	(3)
	Arsenic	0.01
	Cadmium	0.01
	Chromium(as Cr^{6+})	0.05
	Copper	0.05
	Cyanide	0.05
	Lead	0.05
	Mercury	0.001
	Nickel	-
	Nitrate as NO_3	45.0
	pH	6.5-8.5
	Iron	0.3
	Total hardness (as $CaCO_3$)	300.0
	Chlorides	250
	Dissolved solids	500
	Phenolic compounds (as C_6H_5OH)	0.001
	Zinc	5.0
	Sulphate (as SO_4)	200

(F) Criteria for ambient air quality monitoring.-

(i) Landfill gas control system including gas collection system shall be installed at landfill site to minimize odour, prevent off-site migration of gases, to protect vegetation planted on the rehabilitated landfill surface. For enhancing landfill gas recovery, use of geomembranes in cover systems along with gas collection wells should be considered.

(ii) The concentration of methane gas generated at landfill site shall not exceed 25 per cent of the lower explosive limit (LEL).

(iii) The landfill gas from the collection facility at a landfill site shall be utilized for either direct thermal applications or power generation, as per viability. Otherwise, landfill gas shall be burnt (flared) and shall not be allowed to escape directly to the atmosphere or for illegal tapping. Passive venting shall be allowed in case if its utilisation or flaring is not possible.

(iv) Ambient air quality at the landfill site and at the vicinity shall be regularly monitored. Ambient air quality shall meet the standards prescribed by the Central Pollution Control Board for Industrial area.

G. Criteria for plantation at landfill Site.- A vegetative cover shall be provided over the completed site in accordance with the following specifications, namely: -

(a) Locally adopted non-edible perennial plants that are resistant to drought and extreme temperatures shall be planted;

(b) The selection of plants should be of such variety that their roots do not penetrate more than 30 cms. This condition shall apply till the landfill is stabilized;

(c) Selected plants shall have ability to thrive on low-nutrient soil with minimum nutrient addition;

(d) Plantation to be made in sufficient density to minimise soil erosion.

(e) Green belts shall be developed all around the boundary of the landfill in consultation with State Pollution Control Boards or Pollution Control Committees .

H. Criteria for post-care of landfill site.- (1) The post-closure care of landfill site shall be conducted for at least fifteen years and long term monitoring or care plan shall consist of the following, namely :-'

(a) Maintaining the integrity and effectiveness of final cover, making repairs and preventing run-on and run-off from eroding or otherwise damaging the final cover;

(b) Monitoring leachate collection system in accordance with the requirement;

(c) Monitoring of ground water in and around landfill;

(d) Maintaining and operating the landfill gas collection system to meet the standards.

(2) Use of closed landfill sites after fifteen years of post-closure monitoring can be considered for human settlement or otherwise only after ensuring that gaseous emission and leachate quality analysis complies with the specified standards and the soil stability is ensured.

I. Criteria for special provisions for hilly areas.-Cities and towns located on hills shall have location-specific methods evolved for final disposal of solid waste by the local body with the approval of the concerned State Pollution Control Board or the Pollution Control Committee. The local body shall set up processing facilities for utilisation of biodegradable organic waste. The non-biodegradable recyclable materials shall be stored and sent for recycling periodically. The inert and non-biodegradable waste shall be used for building roads or filling-up of appropriate areas on hills. In case of constraints in finding adequate land in hilly areas, waste not suitable for road-laying or filling up shall be disposed of in regional landfills in plain areas.

J. Closure and Rehabilitation of Old Dumps- Solid waste dumps which have reached their full capacity or those which will not receive additional waste after setting up of new and properly designed landfills should be closed and rehabilitated by examining the following options:

(i) Reduction of waste by bio mining and waste processing followed by placement of residues in new landfills or capping as in (ii) below.

(i). Capping with solid waste cover or solid waste cover enhanced with geomembrane to enable collection and flaring / utilisation of greenhouse gases.

(iii) Capping as in (ii) above with additional measures (in alluvial and other coarse grained soils) such as cut-off walls and extraction wells for pumping and treating contaminated ground water.

(iv) Any other method suitable for reducing environmental impact to acceptable level.

SCHEDULE II

[see rule 16 (1), (b), (e), 16 (4)]

Standards of processing and treatment of solid waste

A. Standards for composting.- The waste processing facilities shall include composting as one of the technologies for processing of bio degradable waste. In order to prevent pollution from compost plant, the following shall be complied with namely :-

(a) The incoming organic waste at site shall be stored properly prior to further processing. To the extent possible, the waste storage area should be covered. If, such storage is done in an open area, it shall be provided with impermeable base

with facility for collection of leachate and surface water run-off into lined drains leading to a leachate treatment and disposal facility;

(b) Necessary precaution shall be taken to minimise nuisance of odour, flies, rodents, bird menace and fire hazard;

(c) In case of breakdown or maintenance of plant, waste intake shall be stopped and arrangements be worked out for diversion of waste to the temporary processing site or temporary landfill sites which will be again reprocessed when plant is in order;

(d) Pre-process and post-process rejects shall be removed from the processing facility on regular basis and shall not be allowed to pile at the site. Recyclables shall be routed through appropriate vendors. The non-recyclable high calorific fractions to be segregated and sent to waste to energy or for RDF production, co-processing in cement plants or to thermal power plants. Only rejects from all processes shall be sent for sanitary landfill site(s).

(e) The windrow area shall be provided with impermeable base. Such a base shall be made of concrete or compacted clay of 50 cm thick having permeability coefficient less than 10^{-7} cm/sec. The base shall be provided with 1 to 2 per cent slope and circled by lined drains for collection of leachate or surface run-off;

(f) Ambient air quality monitoring shall be regularly carried out. Odurnuisance at down-wind direction on the boundary of processing plant shall also be checked regularly.

(g) Leachate shall be re-circulated in compost plant for moisture maintenance.

(h) The end product compost shall meet the standards prescribed under Fertilizer Control Order notified from time to time.

(i) In order to ensure safe application of compost, the following specifications for compost quality shall be met, namely:-

Parameters	**Organic Compost (FCO 2009)**	**Phosphate Rich Organic Manure (FCO 2013)**
(1)	**(2)**	**(3)**
Arsenic (mg/Kg)	10.00	10.00
Cadmium (mg/Kg)	5.00	5.00
Chromium (mg/Kg)	50.00	50.00
Copper (mg/Kg)	300.00	300.00

Lead (mg/Kg)	100.00	100.00
Mercury (mg/Kg)	0.15	0.15
Nickel (mg/Kg)	50.00	50.00
Zinc (mg/Kg)	1000.00	1000.00
C/N ratio	<20	Less than 20:1
pH	6.5-7.5	(1:5 solution) maximum 6.7
Moisture, percent by weight, maximum	15.0-25.0	25.0
Bulk density (g/cm^3)	<1.0	Less than 1.6
Total Organic Carbon, per cent by weight, minimum	12.0	7.9

10

RULES

Plastic Waste Management Rule, 2016

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 18th March, 2016

G.S.R. 320(E).—Whereas the Plastic Waste (Management and Handling) Rules, 2011 published *vide* notification number S.O. 249(E), dated 4th February, 2011 by the Government of India in the erstwhile Ministry of Environment and Forests, as amended from time to time, provided a regulatory frame work for management of plastic waste generated in the country;

And whereas, to implement these rules more effectively and to give thrust on plastic waste minimization, source segregation, recycling, involving waste pickers, recyclers and waste processors in collection of plastic waste fraction either from households or any other source of its generation or intermediate material recovery facility and adopt polluter's pay principle for the sustainability of the waste management system, the Central Government reviewed the existing rules;

And whereas, in exercise of the powers conferred by sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the draft rules, namely, the Plastic Waste Management, Rules, 2015 were published by the Government of India in the Ministry of Environment, Forest and Climate Change *vide* number G.S.R. 423(E), dated the 25th May, 2015 in the Gazette of India, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of a period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

And Whereas copies of the said Gazette were made available to the public on the 25th May, 2015;

And Whereas the objections and suggestions received within the said period from the public in respect of the said draft rules have been duly considered by the Central Government;

NOW, Therefore, in exercise of the powers conferred by sections 3, 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), and in supersession of the Plastic Waste (Management and Handling) Rules, 2011, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.- (1) These rules shall be called the Plastic Waste Management Rules, 2016.

(1) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. Application.-(1) These rules shall apply to every waste generator, local body, Gram Panchayat, manufacturer, Importers and producer.

(2) The rule 4 shall not apply to the export oriented units or units in special economic zones, notified by the Central Government, manufacturing their products against an order for export:

Provide this exemption shall not apply to units engaged in packaging of gutkha, tobacco and pan masala and also to any surplus or rejects, left over products and the like.

3. Definitions.- In these rules, unless the context otherwise requires.-

(a) **"Act"** means the Environment (Protection) Act, 1986 (29 of 1986);

(b) **"brand owner"** means a person or company who sells any commodity under a registered brand label.

(c) **"carry** bags" mean bags made from plastic material or compostable plastic material, used for the purpose of carrying or dispensing commodities which have a self carrying feature but do not include bags that constitute or form an integral part of the packaging in which goods are sealed prior to use.

(d) **"commodity"** means tangible item that may be bought or sold and includes all marketable goods or wares;

(e) **"compostable plastics"** mean plastic that undergoes degradation by biological processes during composting to yield CO_2, water, inorganic compounds and biomass at a rate consistent with other known compostable materials, excluding conventional petro-based plastics, and does not leave visible, distinguishable or toxic residue;

(f) **"consent"** means the consent to establish and operate from the concerned State Pollution Control Board or Pollution Control Committee granted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(g) **"disintegration"** means the physical breakdown of a material into very small fragments;

(h) **"extended producer's responsibility"** means the responsibility of a producer for the environmentally sound management of the product until the end of its life;

(i) "food-stuffs" mean ready to eat food products, fast food, processed or cooked food in liquid, powder, solid or semi-solid form;

(j) **"facility"** means the premises used for collection, Storage, recycling, processing and disposal of plastic waste;

(k) **"importer"** means a person who imports or intends to import and holds an Importer -Exporter Code number, unless otherwise specifically exempted.

(l) **"institutional waste generator"** means and includes occupier of the institutional buildings such as building occupied by Central Government Departments, State Government Departments, public or private sector companies, hospitals, schools, colleges, universities or other places of education, organisation, academy, hotels, restaurants, malls and shopping complexes;

(m) **"manufacturer"** means and include a person or unit or agency engaged in production of plastic raw material to be used as raw material by the producer.

(n) **"multilayered packaging"** means any material used or to be used for packaging and having at least one layer of plastic as the main ingredients in combination with one or more layers of materials such as paper, paper board, polymeric materials, metalised layers or aluminium foil, either in the form of a laminate or co-extruded structure;

(o) **"plastic"** means material which contains as an essential ingredient a high polymer such as polyethylene terephthalate, high density polyethylene, Vinyl, low density polyethylene, polypropylene, polystyrene resins, multi-materials like acrylonitrile butadiene styrene, polyphenylene oxide, polycarbonate, Polybutylene terephthalate;

(p) **"plastic sheet"** means Plastic sheet is the sheet made of plastic;

(q) **"plastic** waste"means any plastic discarded after use or after their intended use is over;

(r) **"prescribed authority"** means the authorities specified in rule 12;

(s) **"producer"** means persons engaged in manufacture or import of carry bags or multilayered packaging or plastic sheets or like, and includes industries or individuals using plastic sheets or like or covers made of plastic sheets or multilayered packaging for packaging or wrapping the commodity;

(t) **"recycling"** means the process of transforming segregated plastic waste into a new product or raw material for producing new products;

(u) **"registration"** means registration with the State Pollution Control Board or Pollution Control Committee concerned, as the case may be;

(v) **"street vendor"** shall have the same meaning as assigned to it in clause (1) of sub-section (1) of Section 2 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (7 of 2014);

(w) **"local body"** means urban local body with different nomenclature such as municipal corporation, municipality, nagarpalika, nagarnigam, nagarpanchayat, municipal council including notified area committee (NAC) and not limited to or any other local body constituted under the relevant statutes such as gram panchayat, where the management of plastic waste is entrusted to such agency;

(x) **"virgin plastic"** means plastic material which has not been subjected to use earlier and has also not been blended with scrap or waste;

(y) **"waste generator"** means and includes every person or group of persons or institution, residential and commercial establishments including Indian Railways, Airport, Port and Harbour and Defense establishments which generate plastic waste;

(z) **"waste management"** means the collection, storage, transportation reduction, re-use, recovery, recycling, composting or disposal of plastic waste in an environmentally safe manner;

(aa) **"waste pickers"** mean individuals or agencies, groups of individuals voluntarily engaged or authorised for picking of recyclable plastic waste.

4. Conditions.- (1) The manufacture, importer stocking, distribution, sale and use of carry bags, plastic sheets or like, or cover made of plastic sheet and multilayered packaging, shall be subject to the following conditions, namely:-

a) carry bags and plastic packaging shall either be in natural shade which is without any added pigments or made using only those pigments and colourants which are in conformity with Indian Standard : IS 9833:1981 titled as "List of pigments and colourants for use in plastics in contact with foodstuffs, Pharmaceuticals and drinking water", as amended from time to time;

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;

c) carry bag made of virgin or recycled plastic, shall not be less than fifty microns in thickness;

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;

e) the manufacturer shall not sell or provide or arrange plastic to be used as raw material to a producer, not having valid registration from the concerned State Pollution Control Boards or Pollution Control Committee;

f) sachets using plastic material shall not be used for storing, packing or selling gutkha, tobacco and pan masala;

g) recycling of plastic waste shall conform to the Indian Standard: IS 14534:1998 titled as Guidelines for Recycling of Plastics, as amended from time to time;

h) The provision of thickness shall not be applicable to carry bags made up of compostable plastic. Carry bags made from compostable plastics shall conform to the Indian Standard: IS 17088:2008 titled as Specifications for Compostable Plastics, as amended from time to time. The manufacturers or seller of compostable plastic carry bags shall obtain a certificate from the Central Pollution Control Board before marketing or selling; and

i) plastic material, in any form including Vinyl Acetate - Maleic Acid - Vinyl Chloride Copolymer, shall not be used in any package for packaging gutkha, pan masala and tobacco in all forms.

5. Plastic waste management.- (1) The plastic waste management by the urban local bodies in their respective jurisdiction shall be as under:-

(a) plastic waste, which can be recycled, shall be channelized to registered plastic waste recycler and recycling of plastic shall conform to the Indian Standard: IS 14534:1998 titled as Guidelines for Recycling of Plastics, as amended from time to time.

(b) local bodies shall encourage the use of plastic waste (preferably the plastic waste which cannot be further recycled) for road construction as per Indian Road Congress guidelines or energy recovery or waste to oil etc. The standards and pollution control norms specified by the prescribed authority for these technologies shall be complied with.

(c) Thermo set plastic waste shall be processed and disposed off as per the guidelines issued from time to time by the Central Pollution Control Board.

(d) The inert from recycling or processing facilities of plastic waste shall be disposed of in compliance with the Solid Waste Management Rules, 2000 or as amended from time to time.

6. Responsibility of local body.- (1) 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.

(2) The local body shall be responsible for setting up, operationalisation and co-ordination of the waste management system and for performing the associated functions, namely:-

(a) Ensuring segregation, collection, storage, transportation, processing and disposal of plastic waste;

(b) ensuring that no damage is caused to the environment during this process;

(c) ensuring channelization of recyclable plastic waste fraction to recyclers;

(d) ensuring processing and disposal on non-recyclable fraction of plastic waste in accordance with the guidelines issued by the Central Pollution Control Board;

(e) creating awareness among all stakeholders about their responsibilities;

(f) engaging civil societies or groups working with waste pickers; and

(g) ensuring that open burning of plastic waste does not take place.

(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.

(4) The local body to frame bye-laws incorporating the provisions of these rules.

7. Responsibility of Gram Panchayat- (1) Every gram panchayat either on its own or by engaging an agency shall set up, operationalise and co-ordinate for waste management in the rural area under their control and for performing the associated functions, namely,-

(a) ensuring segregation, collection, storage, transportation, plastic waste and channelization of recyclable plastic waste fraction to recyclers having valid registration; ensuring that no damage is caused to the environment during this process;

(b) creating awareness among all stakeholders about their responsibilities; and

(c) ensuring that open burning of plastic waste does not take place

8. Responsibility of waste generator.- (1) The waste generator shall,-

(a) take steps to minimize generation of plastic waste and segregate plastic waste at source in accordance with the Solid Waste Management Rules, 2000 or as amended from time to time.

(b) not litter the plastic waste and ensure segregated storage of waste at source and handover segregated waste to urban local body or gram panchayat or agencies appointed by them or registered waste pickers', registered recyclers or waste collection agencies;

(2) All institutional generators of plastic waste, shall segregate and store the waste generated by them in accordance with the Municipal Solid Waste (Management and Handling) Rules, 2000 notified *vide* S.O. 908(E) dated the 25th September, 2000 under the Act or amendment from time to time and handover segregated wastes to authorized waste processing or disposal facilities or deposition centers either on its own or through the authorized waste collection agency.

(3) All waste generators shall pay such user fee or charge as may be specified in the bye-laws of the local bodies for plastic waste management such as waste collection or operation of the facility thereof, etc.;

(4) Every person responsible for organising an event in open space, which involves service of food stuff in plastic or multilayered packaging shall segregate and manage the waste generated during such events in accordance with the Municipal Solid Waste (Management and Handling) Rules, 2000 notified *vide* S.O. 908(E) dated the 25th September, 2000 under the Act or amendment from time to time.

9. 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.

(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.

(3) Manufacture and use of non- recyclable multilayered plastic if any should be phased out in Two years time.

(4) The producer, within a period of three months from the date of final publication of these rules in the Official Gazette shall apply to the Pollution Control Board or the Pollution Control Committee, as the case may be, of the States or the Union Territories administration concerned, for grant of registration.

(5) No producer shall on and after the expiry of a period of Six Months from the date of final publication of these rules in the Official Gazette manufacture or use any plastic or multilayered packaging for packaging of commodities without registration from the concerned State Pollution Control Board or the Pollution Control Committees.

(6) Every producer shall maintain a record of details of the person engaged in supply of plastic used as raw material to manufacture carry bags or plastic sheet or like or cover made of plastic sheet or multilayered packaging.

10. Protocols for compostable plastic materials.-Determination of the degree of degradability and degree of disintegration of plastic material shall be as per the protocols of the Indian Standards listed in Schedule-I to these rules.

11. Marking or labelling.-(1) Each plastic carry bag and multilayered packaging shall have the following information printed in English namely,-

a. name, registration number of the manufacturer and thickness in case of carry bag;

b. name and registration number of the manufacturer in case of multilayered packaging; and

c. name and certificate number [Rule 4(h)] in case of carry bags made from compostable plastic

(2) Each recycled carry bag shall bear a label or a mark “recycled” as shown below and shall conform to the Indian Standard: IS 14534: 1998 titled as “Guidelines for Recycling of Plastics”, as amended from time to time;



NOTE: PET-Polyethylene terephthalate, HDPE-High density polyethylene, V-Vinyl (PVC), LDPE- Low density polyethylene, PP-Polypropylene, PS-Polystyrene and Other means all other resins and multi-materials like ABS (Acrylonitrile butadiene styrene), PPO (Polyphenylene oxide), PC (Polycarbonate), PBT (Polybutylene terephalate) etc.

Each carry bag made from compostable plastics shall bear a label “compostable” and shall conform to the Indian Standard : IS or ISO 17088:2008 titled as Specifications for “Compostable Plastics”.

12. Prescribed authority.- (1) The State Pollution Control Board and Pollution Control Committee in respect of a Union territory shall be the authority for enforcement of the provisions of these rules relating to registration, manufacture of plastic products and multilayered packaging, processing and disposal of plastic wastes.

(2) The concerned Secretary-in-charge of Urban Development of the State or a Union Territory shall be the authority for enforcement of the provisions of these rules relating to waste management by waste generator, use of plastic carry bags, plastic sheets or like, covers made of plastic sheets and multilayered packaging.

(3) The concerned Gram Panchayat shall be the authority for enforcement of the provisions of these rules relating to waste management by the waste generator, use of plastic carry bags, plastic sheets or like, covers made of plastic sheets and multilayered packaging in the rural area of the State or a Union Territory.

(4) The authorities referred to in sub-rules (1) to (3) shall take the assistance of the District Magistrate or the Deputy Commissioner within the territorial limits of the jurisdiction of the concerned district in the enforcement of the provisions of these rules.

13. Registration of producer, recyclers and manufacturer,- (1) No person shall manufacture carry bags or recycle plastic bags or multilayered packaging unless the person has obtained a registration from the State Pollution Control Board or the Pollution Control Committee of the Union Territory concerned, as the case may be, prior to the commencement of production;

(2) 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

(3) Every person recycling or processing waste or proposing to recycle or process plastic waste shall make an application to the State Pollution Control Board or the Pollution Control Committee, for grant of registration or renewal of registration for the recycling unit, in Form II.

(4) Every manufacturer engaged in manufacturer of plastic to be used as raw material by the producer shall make an application to the State Pollution Control Board or the Pollution Control Committee of the Union territory concerned, for the grant of registration or for the renewal of registration, in Form III.

(5) The State Pollution Control Board or the Pollution Control Committee shall not issue or renew registration to plastic waste recycling or processing units unless the unit possesses a valid consent under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) along with a certificate of registration issued by the District Industries Centre or any other Government agency authorised in this regard.

(6) The State Pollution Control Board or the Pollution Control Committee shall not renew registration of producer unless the producer possesses and action plan endorsed by the Secretary in charge of Urban Development of the concerned State or Union Territory for setting of plastic waste management system.

(7) On receipt of the application complete in all respects for the registration for recycling or processing of plastic waste under sub-rule (3), the State Pollution Control Board may, after such inquiry as it considers necessary and on being satisfied that the applicant possesses appropriate facilities, technical capabilities and equipment to handle plastic waste safely, may grant registration to the applicant on fulfilment of the conditions as may be laid down in terms of registration.

(8) Every State Pollution Control Board or Pollution Control Committee shall take a decision on the grant of registration within ninety days of receipt of an application which is complete in all respects.

(9) The registration granted under this rule shall initially be valid for a period of one year, unless revoked, suspended or cancelled and shall subsequently be granted for three years.

(10) State Pollution Control Board or the Pollution Control Committees shall not revoke, suspend or cancel registration without providing the opportunity of a hearing to the producer or person engaged in recycling or processing of plastic wastes.

(11) Every application for renewal of registration shall be made at least one hundred twenty days before the expiry of the validity of the registration certificate.

14. Responsibility of retailers and street vendors- (1) Retailers or street vendors shall not sell or provide commodities to consumer in carry bags or plastic sheet or multilayered packaging, which are not manufactured and labelled or marked, as per prescribed under these rules.

(2) Every retailers or street vendors selling or providing commodities in, plastic carry bags or multilayered packaging or plastic sheets or like or covers made of plastic sheets which are not manufactured or labelled or marked in accordance with these rules shall be liable to pay such fines as specified under the bye-laws of the local bodies.

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 by laws 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.

(2) Only the registered shopkeepers or street vendors shall be eligible to provide plastic carry bags for dispensing the commodities.

(3) The local body shall utilize the amount paid by the customers for the carry bags exclusively for the sustainability of the waste management system within their jurisdictions.

16. State Level Monitoring Committee.- (1) The State government or the union Territory shall, for the purpose of effective monitoring of implementation of these rules, constitute a

State Level Advisory Committee consisting of the following persons, namely;-

(a)	the Secretary, Department of Urban Development	- Chairman
(b)	Director from State Department of Environment	- Member
(c)	Member Secretary from State Pollution Control Board or Pollution Control Committee	- Member
(d)	Municipal Commissioner	- Member
(e)	one expert from Local Body	- Member
(f)	one expert from Non-Governmental involved in Waste Management	- Member
(g)	Commissioner, Value Added Tax or his nominee,	- Member
(h)	Sales Tax Commissioner or Officer	- Member
(i)	representative of Plastic Association, Drug Manufacturers Association, Chemical Manufacturers Association	- Member
(j)	one expert from the field of Industry	- Member
(k)	one expert from the field of academic institution	- Member
(l)	Director , Municipal Administration	- Convener

The State Level Advisory Body shall meet at least once in Six Month and may invite experts, if it considers necessary.

17. Annual reports.- (1) Every person engaged in recycling or processing of plastic waste shall prepare and submit an annual report in Form-IV to the local body concerned under intimation to the concerned State Pollution Control Board or Pollution Control Committee by the 30th April, of every year.

(2) Every local body shall prepare and submit an annual report in Form-V to the concerned Secretary-in-charge of the Urban Development Department under intimation to the concerned State Pollution Control Board or Pollution Control Committee by the 30th June, every year.

(3) Each State Pollution Control Board or Pollution Control Committee shall prepare and submit an annual report in Form VI to the CPCB on the implementation of these rules by the 31st July, of every year.

(4) The CPCB shall prepare a consolidated annual report on the use and management of plastic waste and forward it to the Central Government along with its recommendations before the 31st August of every year.

SCHEDULE-I

[See rule 10]

1. IS / ISO 14851: 1999 Determination of the ultimate aerobic biodegradability of plastic materials in an aqueous medium-Method by measuring the oxygen demand in a closed Respirometer

2 IS / ISO 14852: 1999 Determination of the ultimate aerobic biodegradability of plastic materials in an aqueous medium-Method by analysis of evolved carbon dioxide

3. IS / ISO 14853: 2005 Plastics- Determination of the ultimate anaerobic biodegradation of plastic materials in an aqueous system-Method by measurement of biogas production

4. IS /ISO 14855-1: 2005 Determination of the ultimate aerobic biodegradability of plastic materials under controlled composting conditions-Method by analysis of evolved carbon dioxide (Part-1 General method)

5. IS / ISO 14855-2: 2007 Determination of the ultimate aerobic biodegradability of plastic materials under controlled composting conditions-Method by analysis of evolved carbon dioxide (Part-2: Gravimetric measurement of carbon dioxide evolved in a laboratory-scale test)

6. IS / ISO 15985: 2004 Plastics- Determination of the ultimate anaerobic biodegradation and disintegration under high-solids anaerobic digestion conditions- Methods by analysis of released biogas

7. IS /ISO 16929: 2002 Plastics- Determination of degree of disintegration of plastic materials under defined composting conditions in a pilot - scale test

8. IS / ISO 17556: 2003 Plastics- Determination of ultimate aerobic biodegradability in soil by measuring the oxygen demand in a Respirometer or the amount of carbon dioxide evolved

9. IS / ISO 20200:2004 Plastics- Determination of degree of disintegration of plastic materials under simulated composting conditions in a laboratory - scale test

FORM-I

[See rules 13 (2)]

APPLICATION FOR REGISTRATION FOR PRODUCERS or Brand Owners

From: .....

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RULES

Plastic Waste Management (Amendment) Rule, 2018

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

Now Delhi, the 27th March, 2018

G.S.R. 285(E).—In exercise of powers confirmed by sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), *read* with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following rules to amend the Plastic Waste Management Rules, 2016, published in the Gazette of India. Extraordinary, *vide* number G.S.R. 320(E), dated the 18th March, 2016, after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of rule 5 of the aforesaid rules in public interest, namely -

1. (1) These rules may be called Plastic Waste Management (Amendment) Rules, 2018.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Plastic Waste Management Rules, 2016 (hereinafter referred to as the said rules), in rule 3,-

i. alter clause (a), the following clause shall be inserted, namely:-

"(ab)" alternate use' means use of a material for a purpose other than for which it was conceived, which is beneficial because it promotes resource efficiency;":

ii. after clause (g). the following clause shall be inserted, namely:-

"(ga) "energy recovery' means energy recovery from waste that is conversion of waste material into usable heat, electricity or fuel through a variety of processes including combustion, gasification, pyrolisation, anaerobic digestion and land fill gas recovery:".

3. In the said rules, in rule 9, in sub-rule (3), for the words "non-recyclable multilayered plastic if any", the words "multi-layered plastic which is non-recyclable or non-energy recoverable or with no alternate use" shall be substituted.

4. In the said rules, in rule 13, for the sub-rule (2) the following sub-rule shall be substituted, namely: -

"(2) Every producer or brand-owner shall, for the purpose of registration or renewal of registration, make an application, in Form 1 to:-

(i) the concerned State Pollution Control Board or Pollution Control Committee of the Union territory, if operating in *one* or two states or Union territories: or

(ii) the Central Pollution Control Board, if operating in more than two States or Union Territories.".

5. In the said rules, the rule 15 shall be omitted.

[F, No. 17-2/2001-HSMD]

RITES H KUMAR SINGH, Jt. Secy.

Note :

The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number GSR 320(li), dated the 18th March, 2016,

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RULES

E-Waste (Management) Rule, 2016

[PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY PART- II, SECTION-3, SUB-SECTION (i)]

GOVERNMENT OF INDIA

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 23rd March, 2016

G.S.R 338(E) - Whereas the draft rules, namely the e-waste (Management) Rules, 2015, were published by the Government of India in the Ministry of Environment, Forest and Climate Change *vide* number G.S.R. 472(E), dated the 10th June, 2015 in the Gazette of India, Extraordinary Part II, section 3, sub-section (ii) inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

AND WHEREAS the copies of the Gazette containing the said notification were made available to the public on the 10th day of June, 2015;

AND WHEREAS the objections and suggestions received within the specified period from the public in respect of the said draft rules have been duly considered by the Central Government;

NOW, THEREFORE, in exercise of the powers conferred by sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), and in supersession of the e-waste (Management and Handling) Rules, 2011, published in the Gazette of India, section 3, sub-section (ii), *vide* number S.O. 1035(E), dated the 12th May, 2011, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely: -

CHAPTER I

PRELIMINARY

1. Short title and commencement. - (1) These rules may be called the E-Waste (Management) Rules, 2016.

(2) They shall come into force from the 1st day of October, 2016.

2. Application. - These rules shall apply to every manufacturer, producer, consumer, bulk consumer, collection centres, dealers, e-retailer, refurbisher, dismantler and recycler involved in manufacture, sale, transfer, purchase, collection, storage and processing of e-waste or electrical and electronic equipment listed in Schedule I, including their components, consumables, parts and spares which make the product operational but shall not apply to -

(a) used lead acid batteries as covered under the Batteries (Management and Handling) Rules, 2001 made under the Act;

(b) micro enterprises as defined in the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006); and

(c) radio-active wastes as covered under the provisions of the Atomic Energy Act, 1962 (33 of 1962) and rules made there under.

3. Definitions. - (1) In these rules, unless the context otherwise requires, -

(a) 'Act' means the Environment (Protection) Act, 1986 (29 of 1986);

(b) 'authorisation' means permission for generation, handling, collection, reception, storage, transportation, refurbishing, dismantling, recycling, treatment and disposal of e-waste, granted to manufacturer, dismantler refurbisher and recycler;

(c) 'bulk consumer' means bulk users of electrical and electronic equipment such as Central Government or State Government Departments, public sector undertakings, banks, educational institutions, multinational organisations, international agencies, partnership and public or private companies that are registered under the Factories Act, 1948 (63 of 1948) and the Companies Act, 2013 (18 of 2013) and health care facilities which have turnover of more than one crore or have more than twenty employees;

(d) 'Central Pollution Control Board' means the Central Pollution Control Board constituted under sub-section (1) of section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(e) 'collection centre' means a centre or a collection point or both established by producer individually or as association jointly to collect e-waste for channelising the e-waste to recycler and play such role as indicated in the authorisation for Extended Producer Responsibility granted to the producer and having facilities as per the guidelines of Central Pollution Control Board, including the collection centre established by the dismantler or refurbisher or recycler which should be a part of their authorisation issued by the State Pollution Control Board where the facility exists;

(f) 'component' means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved and includes an accessory or attachment to another component;

(g) 'consumables' means an item, which participates in or is required for a manufacturing process or for functioning of the electrical and electronic equipment and may or may not form part of end-product. Items, which are substantially or totally consumed during a manufacturing process, shall be deemed to be consumables;

(h) (h) 'consumer' means any person using electrical and electronic equipment excluding the bulk consumers;

(i) 'channelisation' means to direct the path for movement of e-wastes from collection onwards to authorised dismantler or recycler. In case of fluorescent and other mercury containing lamps, where recyclers are not available, this means path for movement from collection centre to Treatment, Storage and Disposal Facility;

(j) 'dealer' means any individual or firm that buys or receives electrical and electronic equipment as listed in Schedule I of these rules and their components or consumables or parts or spares from producers for sale;

(k) 'deposit refund scheme' means a scheme whereby the producer charges an additional amount as a deposit at the time of sale of the electrical and electronic equipment and returns it to the consumer along with interest when the end-of-life electrical and electronic equipment is returned;

(l) 'dismantler' means any person or organisation engaged in dismantling of used electrical and electronic equipment into their components and having facilities as per the guidelines of Central Pollution Control Board and having authorisation from concerned State Pollution Control Board;

(m) 'disposal' means any operation which does not lead to recycling, recovery or reuse and includes physico-chemical or biological treatment, incineration and deposition in secured landfill;

(n) 'end-of-life' of the product means the time when the product is intended to be discarded by the user;

(o) 'environmentally sound management of e-waste' means taking all steps required to ensure that e-waste is managed in a manner which shall protect health and environment against any adverse effects, which may result from such e-waste;

(p) 'electrical and electronic equipment' means equipment which are dependent on electric current or electro-magnetic field in order to become functional;

(q) 'e-retailer' means an individual or company or business entity that uses an electronic network such as internet, telephone, to sell its goods;

(r) 'e-waste' means electrical and electronic equipment, whole or in part discarded as waste by the consumer or bulk consumer as well as rejects from manufacturing, refurbishment and repair processes;

(s) 'e-waste exchange' means an independent market instrument offering assistance or independent electronic systems offering services for sale and purchase of e-waste generated from end-of-life electrical and electronic equipment between agencies or organisations authorised under these rules;

(t) 'Extended Producer Responsibility' means responsibility of any producer of electrical or electronic equipment, for channelisation of e-waste to ensure

environmentally sound management of such waste. Extended Producer Responsibility may comprise of implementing take back system or setting up of collection centres or both and having agreed arrangements with authorised dismantler or recycler either individually or collectively through a Producer Responsibility Organisation recognised by producer or producers in their Extended Producer Responsibility - Authorisation;

(u) 'Extended Producer Responsibility - Authorisation' means a permission given by Central Pollution Control Board to a producer, for managing Extended Producer Responsibility with implementation plans and targets outlined in such authorisation including detail of Producer Responsibility Organisation and e-waste exchange, if applicable;

(v) 'Extended Producer Responsibility Plan' means a plan submitted by a producer to Central Pollution Control Board, at the time of applying for Extended Producer Responsibility - Authorisation in which a producer shall provide details of e-waste channelisation system for targeted collection including detail of Producer Responsibility Organisation and e-waste exchange, if applicable;

(w) 'facility' means any location wherein the process incidental to the collection, reception, storage, segregation, refurbishing, dismantling, recycling, treatment and disposal of e-waste are carried out;

(x) 'Form' means a form appended to these rules;

(y) 'historical e-waste' means e-waste generated from electrical and electronic equipment as specified in Schedule I, which was available on the date from which these rules come into force;

(z) 'manufacturer' means a person or an entity or a company as defined in the Companies Act, 2013 (18 of 2013) or a factory as defined in the Factories Act, 1948 (63 of 1948) or Small and Medium Enterprises as defined in Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), which has facilities for manufacture of electrical and electronic equipment;

(aa) 'orphaned products' means non-branded or assembled electrical and electronic equipment as specified in Schedule I or those produced by a company, which has closed its operations;

(bb) 'part' means an element of a sub-assembly or assembly not normally useful by itself, and not amenable to further disassembly for maintenance purposes. A part may be a component, spare or an accessory;

(cc) 'producer' means any person who, irrespective of the selling technique used such as dealer, retailer, e-retailer, etc.;

(i) manufactures and offers to sell electrical and electronic equipment and their components or consumables or parts or spares under its own brand; or

(ii) offers to sell under its own brand, assembled electrical and electronic equipment and their components or consumables or parts or spares produced by other manufacturers or suppliers; or

(iii) offers to sell imported electrical and electronic equipment and their components or consumables or parts or spares;

(dd) 'Producer Responsibility Organisation' means a professional organisation authorised or financed collectively or individually by producers, which can take the responsibility for collection and channelisation of e-waste generated from the 'end-of-life' of their products to ensure environmentally sound management of such e-waste;

(ee) 'recycler' - means any person who is engaged in recycling and reprocessing of waste electrical and electronic equipment or assemblies or their components and having facilities as elaborated in the guidelines of Central Pollution Control Board;

(ff) 'refurbishment' means repairing of used electrical and electronic equipment as listed in Schedule I for extending its working life for its originally intended use and selling the same in the market or returning to owner;

(gg) 'refurbisher' for the purpose of these rules, means any company or undertaking registered under the Factories Act, 1948 or the Companies Act, 1956 or both or district industries centre engaged in refurbishment of used electrical and electronic equipment;

(hh) 'Schedule' means the Schedule appended to these rules;

(ii) "spares" means a part or a sub-assembly or assembly for substitution which is ready to replace an identical or similar part or sub-assembly or assembly including a component or an accessory;

(jj) 'State Government in relation to an Union territory means, the Administrator thereof appointed under article 239 of the Constitution;

(kk) 'State Pollution Control Board' means the concerned State Pollution Control Board or the Pollution Control Committee of the Union Territories constituted under sub-section (1) of section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(ll) 'target' means the quantity of e-waste to be collected by the producer in fulfilment of Extended Producer Responsibility;

(mm) 'transporter' means a person or company or entity engaged in the off-site transportation of e-waste by air, rail, road or water carrying a manifest system issued by the person or company or entity who has handed over the e-waste to the transporter, giving the origin, destination and quantity of the e-waste being transported;

(2) Words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER II

RESPONSIBILITIES

4. Responsibilities of the manufacturer. - (1) collect e-waste generated during the manufacture of any electrical and electronic equipment and channelise it for recycling or disposal;

(2) apply for an authorisation in Form 1 (a) in accordance with the procedure prescribed under sub-rule (2) of rule 13 from the concerned State Pollution Control Board, which shall give the authorisation in accordance with Form 1 (bb);

(3) ensure that no damage is caused to the environment during storage and transportation of e-waste;

(4) maintain records of the e-waste generated, handled and disposed in Form-2 and make such records available for scrutiny by the concerned State Pollution Control Board;

(5) file annual returns in Form-3, to the concerned State Pollution Control Board on or before the 30th day of June following the financial year to which that return relates.

5. Responsibilities of the producer. - The producer of electrical and electronic equipment listed in Schedule I shall be responsible for -

(1) implementing the Extended Producers Responsibility with the following frameworks, namely: -

(a) collection and channelisation 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 - Authorisation;

(b) the mechanism used for channelisation of e-waste from 'end-of-life' products including those from their service centres to authorised dismantler or recycler shall be in accordance with the Extended Producer Responsibility - Authorisation. In cases of fluorescent and other mercury containing lamps, where recyclers are not available, channelisation may be from collection centre to Treatment, Storage and Disposal Facility;

(c) for disposal in Treatment, Storage and Disposal Facility, a pre-treatment is necessary to immobilise the mercury and reduce the volume of waste to be disposed off;

(d) Extended Producer Responsibility - Authorisation should comprise of general scheme for collection of waste Electrical and Electronic Equipment from the Electrical and Electronic Equipment placed on the market earlier, such as through dealer, collection centres, Producer Responsibility Organisation, through buy-back

arrangement, exchange scheme, Deposit Refund System, etc. whether directly or through any authorised agency and channelising the items so collected to authorised recyclers;

(e) providing contact details such as address, e-mail address, toll-free telephone numbers or helpline numbers to consumer(s) or bulk consumer(s) through their website and product user documentation so as to facilitate return of end-of-life electrical and electronic equipment;

(f) creating awareness through media, publications, advertisements, posters, or by any other means of communication and product user documentation accompanying the equipment, with regard to -

(i) information on address, e-mail address, toll-free telephone numbers or helpline numbers and web site;

(ii) information on hazardous constituents as specified in sub-rule 1 of rule 16 in electrical and electronic equipment;

(iii) information on hazards of improper handling, disposal, accidental breakage, damage or improper recycling of e-waste;

(iv) instructions for handling and disposal of the equipment after its use, along with the Do's and Don'ts;

(v) affixing a visible, legible and indelible symbol given below on the products or product user documentation to prevent e-waste from being dropped in garbage bins containing waste destined for disposal;



(vi) means and mechanism available for their consumers to return e-waste for recycling including the details of Deposit Refund Scheme, if applicable;

(g) the producer shall opt to implement Extended Producer Responsibility individually or collectively. In individual producer responsibility, producer may set up his own collection centre or implement take back system or both to meet Extended Producer Responsibility. In collective system, producers may tie-up as a member with a Producer Responsibility Organisation or with e-waste exchange or both. It shall be mandatory upon on the individual producer in every case to seek Extended Producer Responsibility - Authorisation from Central Pollution Control Board in accordance with the Form-1 and the procedure laid down in sub-rule (1) of rule 13;

(2) to provide information on the implementation of Deposit Refund Scheme to ensure collection of end-of-life products and their channelisation to authorised dismantlers

or recyclers, if such scheme is included in the Extended Producer Responsibility Plan.

Provided that the producer shall refund the deposit amount that has been taken from the consumer or bulk consumer at the time of sale, along with interest at the prevalent rate for the period of the deposit at the time of take back of the end-of-life product;

(3) the import of electrical and electronic equipment shall be allowed only to producers having Extended Producer Responsibility authorisation;

(4) maintaining records in Form-2 of the e-waste handled and make such records available for scrutiny by the Central Pollution Control Board or the concerned State Pollution Control Board;

(5) filing annual returns in Form-3, to the Central Pollution Control Board on or before the 30th day of June following the financial year to which that return relates. In case of the Producer with multiple offices in a State, one annual return combining information from all the offices shall be filed;

(6) the Producer shall apply to the Central Pollution Control Board for authorisation in Form 1, which shall thereafter grant the Extended Producer Responsibility - Authorisation in Form 1(aa).

(7) Operation without Extended Producer Responsibility-Authorisation by any producer, as defined in this rule, shall be considered as causing damage to the environment.

6. Responsibilities of collection centres. - (1) collect e-waste on behalf of producer or dismantler or recycler or refurbisher including those arising from orphaned products;

Provided the collection centres established by producer can also collect e-waste on behalf of dismantler, refurbisher and recycler including those arising from orphaned products

(2) ensure that the facilities are in accordance with the standards or guidelines issued by Central Pollution Control Board from time to time;

(3) ensure that the e-waste collected by them is stored in a secured manner till it is sent to authorised dismantler or recycler as the case may be;

(4) ensure that no damage is caused to the environment during storage and transportation of e-waste;

(5) maintain records in Form-2 of the e-waste handled as per the guidelines of Central Pollution Control Board and make such records available for scrutiny by the Central Pollution Control Board or the concerned State Pollution Control Board as and when asked for.

7. Responsibilities of dealers. - (1) in the case the dealer has been given the responsibility of collection on behalf of the producer, the dealer shall collect the e- waste by providing the consumer a box, bin or a demarcated area to deposit e- waste, or through take back system

and send the e-waste so collected to collection centre or dismantler or recycler as designated by producer;

(2) the dealer or retailer or e-retailer shall refund the amount as per take back system or Deposit Refund Scheme of the producer to the depositor of e-waste;

(3) every dealer shall ensure that the e-waste thus generated is safely transported to authorised dismantlers or recyclers;

(4) ensure that no damage is caused to the environment during storage and transportation of e-waste.

8. Responsibilities of the refurbisher. - (1) collect e-waste generated during the process of refurbishing and channelise the waste to authorised dismantler or recycler through its collection centre;

(2) make an application in Form 1(a) in accordance with the procedure laid down in sub-rule (4) of rule 13 to the concerned State Pollution Control Board for grant of one time authorisation;

(a) the concerned State Pollution Control Board shall authorise the Refurbisher on one time basis as per Form 1 (bb) and authorisation would be deemed as considered if not objected to within a period of thirty days;

(b) the authorised Refurbisher shall be required to submit details of e-waste generated to the concerned State Pollution Control Board on yearly basis;

(3) ensure that no damage is caused to the environment during storage and transportation of e-waste;

(4) ensure that the refurbishing process do not have any adverse effect on the health and the environment;

(5) ensure that the e-waste thus generated is safely transported to authorised collection centres or dismantles or recyclers;

(6) file annual returns in Form-3 to the concerned State Pollution Control Board, on or before the 30th day of June following the financial year to which that return relates;

(7) maintain records of the e-waste handled in Form-2 and such records should be available for scrutiny by the appropriate authority.

9. Responsibilities of consumer or bulk consumer. - (1) consumers or bulk consumers of electrical and electronic equipment listed in Schedule I shall ensure that e-waste generated by them is channelised through collection centre or dealer of authorised producer or dismantler or recycler or through the designated take back service provider of the producer to authorised dismantler or recycler;

(2) bulk consumers of electrical and electronic equipment listed in Schedule I shall maintain records of e-waste generated by them in Form-2 and make such records available for scrutiny by the concerned State Pollution Control Board;

(3) consumers or bulk consumers of electrical and electronic equipment listed in Schedule I shall ensure that such end-of-life electrical and electronic equipment are not admixed with e-waste containing radioactive material as covered under the provisions of the Atomic Energy Act, 1962 (33 of 1962) and rules made there under;

(4) bulk consumers of electrical and electronic equipment listed in Schedule I shall file annual returns in Form-3, to the concerned State Pollution Control Board on or before the 30th day of June following the financial year to which that return relates. In case of the bulk consumer with multiple offices in a State, one annual return combining information from all the offices shall be filed to the concerned State Pollution Control Board on or before the 30th day of June following the financial year to which that return relates

10. Responsibilities of the dismantler. - (1) ensure that the facility and dismantling processes are in accordance with the standards or guidelines prescribed by Central Pollution Control Board from time to time;

(2) obtain authorisation from the concerned State Pollution Control Board in accordance with the procedure under sub-rule (3) of rule 13;

(3) ensure that no damage is caused to the environment during storage and transportation of e-waste;

(4) ensure that the dismantling processes do not have any adverse effect on the health and the environment;

(5) ensure that dismantled e-waste are segregated and sent to the authorised recycling facilities for recovery of materials;

(6) ensure that non-recyclable or non-recoverable components are sent to authorised treatment storage and disposal facilities;

(7) maintain record of e-waste collected, dismantled and sent to authorised recycler in Form-2 and make such record available for scrutiny by the Central Pollution Control Board or the concerned State Pollution Control Board;

(8) file a return in Form-3, to the concerned State Pollution Control Board as the case may be, on or before 30th day of June following the financial year to which that return relates;

(9) not process any e-waste for recovery or refining of materials, unless he is authorised with concerned State Pollution Control Board as a recycler for refining and recovery of materials

(10) operation without Authorisation by any dismantler, as defined in this rule, shall be considered as causing damage to the environment.

11. Responsibilities of the recycler. - (1) shall ensure that the facility and recycling processes are in accordance with the standards or guidelines prescribed by the Central Pollution Control Board from time to time;

(2) obtain authorisation from concerned State Pollution Control Board in accordance with the procedure under the sub-rule (3) of rule 13;

(3) ensure that no damage is caused to the environment during storage and transportation of e-waste;

(4) ensure that the recycling processes do not have any adverse effect on the health and the environment;

(5) make available all records to the Central Pollution Control Board or the concerned State Pollution Control Board for inspection;

(6) ensure that the fractions or material not recycled in its facility is sent to the respective authorised recyclers;

(7) ensure that residue generated during recycling process is disposed of in an authorised treatment storage disposal facility;

(8) maintain record of e-waste collected, dismantled, recycled and sent to authorised recycler in Form-2 and make such record available for scrutiny by the Central Pollution Control Board or the concerned State Pollution Control Board;

(9) file annual returns in Form-3, to the concerned State Pollution Control Board as the case may be, on or before 30th day of June following the financial year to which that return relates;

(10) may accept waste electrical and electronic equipment or components not listed in Schedule I for recycling provided that they do not contain any radioactive material and same shall be indicated while taking the authorisation from concerned State Pollution Control Board;

(11) operation without Authorisation by any recycler, as defined in this rule, shall be considered as causing damage to the environment.

12. Responsibilities of State Government for environmentally sound management of E-waste. - (1) Department of Industry in State or any other government agency authorised in this regard by the State Government, to ensure earmarking or allocation of industrial space or shed for e-waste dismantling and recycling in the existing and upcoming industrial park, estate and industrial clusters;

(2) Department of Labour in the State or any other government agency authorised in this regard by the State Government shall:

a. ensure recognition and registration of workers involved in dismantling and recycling;

b. assist formation of groups of such workers to facilitate setting up dismantling facilities;

c. undertake industrial skill development activities for the workers involved in dismantling and recycling;

d. undertake annual monitoring and to ensure safety & health of workers involved in dismantling and recycling;

(3) State Government to prepare integrated plan for effective implementation of these provisions, and to submit annual report to Ministry of Environment, Forest and Climate Change.

CHAPTER III

PROCEDURE FOR SEEKING AND GRANT OF AUTHORISATION FOR MANAGEMENT OF E-WASTE

13. Procedure for Seeking and Grant of Authorisation. -

(1) Extended Producer Responsibility - Authorisation of Producers. - (i) every producer of electrical and electronic equipment listed in Schedule I, shall make an application for Extended Producer Responsibility - Authorisation within a period of ninety days starting from the date of these rules coming into force in Form-1 to Central Pollution Control Board;

(ii) on receipt of the application complete in all respects, the Central Pollution Control Board will carry out evaluation of the Extended Producer Responsibility Plan and on being satisfied that the producer has detailed out an effective system to manage Extended Producer Responsibility in the country, shall grant Extended Producer Responsibility - Authorisation, in Form 1(aa) within a period of one hundred and twenty days. The Extended Producer Responsibility - Authorisation shall be valid for a period of five years;

This authorisation shall include among others the targeted quantity of e-waste, product code wise, to be collected during the year. The actual target for collection of e-waste for dismantling or recycling will be fixed on the basis of quantity of electrical and electronic equipment, product code wise, placed in the market in the previous years and taking into consideration the average life of the equipment. The estimated quantity of e-waste generated during the current year will be indicated by the producer and the quantity expected to be collected with the collection scheme proposed to be implemented by the producer will be indicated in the Extended Producer Responsibility plan. The Central Pollution Control Board shall fix the targets in accordance with Schedule III.

(iii) the Central Pollution Control Board, after giving reasonable opportunity of being heard to the applicant shall refuse to grant Extended Producer Responsibility-Authorisation;

(iv) in the event of refusal of Extended Producer Responsibility - Authorisation by the Central Pollution Control Board, the producer will forfeit his right to put any Electrical and Electronic Equipment in the market till such time the Extended Producer Responsibility - Authorisation is granted;

(v) the Central Pollution Control Board after grant of Extended Producer Responsibility - Authorisation shall forward the Extended Producer Responsibility Plan to respective State Pollution Control Board for monitoring;

(vi) an application for the renewal of Extended Producer Responsibility-Authorisation shall be made in Form-1 before one hundred and twenty days of its expiry to Central Pollution Control Board. The Central Pollution Control Board may renew the authorisation for a period of five years after receipt of compliance report from the concerned State Pollution Control Board which shall submit the compliance report to Central Pollution

Control Board within sixty days from the date of the receipt of the application. In case of non receipt of the compliance report from the State Pollution Control Board within stipulated time period of sixty days, Central Pollution Control Board may renew the Extended Producer Responsibility-Authorisation after examining such case on merit basis, subject to no report of violation of the provisions of the Act or the rules made there under or the conditions specified in the Extended Producer Responsibility - Authorisation;

(vii) every producer of Electrical and Electronic Equipment listed in Schedule I, shall take all steps, wherever required, to comply with the conditions specified in the Extended Producer Responsibility - Authorisation;

(viii) the concerned State Pollution Control Board shall monitor the compliance of Extended Producer Responsibility - Authorisation, take cognizance of any non-compliance and inform Central Pollution Control Board for taking action, as necessary;

(ix) Central Pollution Control Board shall conduct random check and if in its opinion, the holders of the Extended Producer Responsibility - Authorisation has failed to comply with any of the conditions of the authorisation or with any provisions of the Act or these rules and after giving a reasonable opportunity of being heard and after recording reasons thereof in writing cancel or suspend the Extended Producer Responsibility - Authorisation issued under these rules for such period as it considers necessary in the public interest and inform the concerned State Pollution Control Board within ten days of cancellation.

(x) the Central Pollution Control Board shall maintain an online register of Extended Producer Responsibility - Authorisation granted with conditions imposed under these rules for environmentally sound management of e-waste, and which shall be accessible to any citizen of the country.

(xi) The producer authorised under the provision of this rule shall maintain records in Form-2 and shall file annual returns of its activities of previous year in Form-3 to the Central Pollution Control Board on or before 30th day of June of every year;

(2) **Authorisation of Manufacturer.** - (i) the manufacturer generating e-waste shall obtain an authorisation from the concerned State Pollution Control Board;

(ii) the manufacturer shall make an application for authorisation, within a period of ninety days from the date of these rules coming into force in Form 1(a) to the concerned State Pollution Control Board for grant of authorisation;

(iii) on receipt of the application complete in all respects for the authorisation, the concerned State Pollution Control Board may, after such enquiry as it considers necessary and on being satisfied that the applicant possesses appropriate facilities, technical capabilities and equipment to handle e-waste safely, grant within a period of one hundred and twenty days an authorisation in Form 1(bb) to the applicant to carry out safe operations in the authorised place only, which shall be valid for a period of five years;

(iv) the concerned State Pollution Control Board after giving reasonable opportunity of being heard to the applicant may refuse to grant any authorisation;

(v) every person authorised under these rules shall maintain the record of e-waste handled by them in Form-2 and prepare and submit to the concerned State Pollution Control Board, an annual return containing the details specified in Form-3 on or before the 30th day of June following the financial year to which that return relates;

(vi) an application for the renewal of an authorisation shall be made in Form-1(a) before one hundred and twenty days of its expiry and the concerned State Pollution Control Board may renew the authorisation for a period of five years after examining each case on merit and subject to the condition that there is no report of violation of the provisions of the Act or the rules made thereunder or the conditions specified in the authorisation;

(vii) manufacturer shall take all steps to comply with the conditions specified in the authorisation;

(viii) the concerned State Pollution Control Board shall maintain an online register of authorisations granted with conditions imposed under these rules for environmentally sound management of e-waste, and which shall be accessible to any citizen of the country.

(3) **Procedure for grant of authorisation to dismantler or recycler.** - (i) every Dismantler or Recycler of e-waste shall make an application, within a period of one hundred and twenty days starting from the date of coming into force of these rules, in Form-4 in triplicate to the concerned State Pollution Control Board accompanied with a copy of the following documents for the grant or renewal of authorisation, namely:-

(a) consent to establish granted by the concerned State Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974, (25 of 1974) and the Air (Prevention and Control of Pollution) Act, 1981 (21 of 1981);

(b) certificate of registration issued by the District Industries Centre or any other government agency authorised in this regard;

(c) proof of installed capacity of plant and machinery issued by the District Industries Centre or any other government agency authorised in this behalf;

(d) in case of renewal, a certificate of compliance of effluent and emission standards, treatment and disposal of hazardous wastes as applicable from the concerned State Pollution Control Board or any other agency designated for this purpose:

Provided that any person authorised or registered under the provisions of the Hazardous Wastes (Management, Handling and Transboundary Movements) Rules, 2008, and the E-waste (Management & Handling) Rules, 2011 prior to the date of coming into force of these rules shall not be required to make an application for authorisation till the period of expiry of such authorisation or registration:

(ii) the concerned State Pollution Control Board, on being satisfied that the application is complete in all respects and that the applicant is utilising environmentally sound technologies and possess adequate technical capabilities, requisite facilities and equipment to dismantle or recycle and process e-waste in compliance to the guidelines specified by Central Pollution Control Board from time to time and through site inspection, may grant authorisation to such applicants stipulating therein necessary conditions as deemed necessary for carrying out safe operations in the authorised place only;

(iii) the concerned State Pollution Control Board shall dispose of the application for authorisation within a period of one hundred and twenty days from the date of the receipt of such application complete in all respects;

(iv) the authorisation granted under these rules shall be valid for a period of five years from the date of its issue and shall be accompanied with a copy of the field inspection report signed by that Board indicating the adequacy of facilities for dismantling or recycling of e-waste and compliance to the guidelines specified by Central Pollution Control Board from time to time;

(v) the concerned State Pollution Control Board may refuse, cancel or suspend an authorisation granted under these rules, if it has reasons to believe that the authorised dismantler or recycler has failed to comply with any of the conditions of authorisation, or with any provisions of the Act or rules made thereunder, after giving an opportunity to the dismantler or recycler to be heard and after recording the reasons thereof;

(vi) an application for the renewal of authorisation shall be made in Form - 4 before one hundred and twenty days of its expiry and the concerned State Pollution Control Board may renew the authorisation for a period of five years after examining each case on merit and subject to the condition that there is no report of violation of the provisions of the Act or the rules made there under or the conditions specified in the authorisation;

(vii) the Dismantler and Recycler shall maintain records of the e-waste purchased, processed in Form-2 and shall file annual returns of its activities of previous year in Form-3 to the concerned State Pollution Control Board on or before 30th day of June of every year;

(viii) the Central Government and the Central Pollution Control Board may issue guidelines for standards of performance for dismantling and recycling processes from time to time.

(4) **Procedure for grant of authorisation to refurbisher.** - (i) every refurbisher of e-waste shall make an application, with in a period of one hundred and twenty days starting from the date of coming into force of these rules, in Form 1 (a) in triplicate to the concerned State Pollution Control Board accompanied with a copy of the following documents for the grant or renewal of authorisation, namely:-

(a) consent to establish granted by the concerned State Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974, (25 of

1974) and the Air (Prevention and Control of Pollution) Act, 1981 (21 of 1981);

(b) certificate of registration issued by the District Industries Centre or any other government agency authorised in this regard;

(c) proof of installed capacity of plant and machinery issued by the District Industries Centre or any other government agency authorised in this behalf.

(ii) the concerned State Pollution Control Board, on being satisfied that the application is complete in all respects and complies with the guidelines prescribed by Central Pollution Control Board from time to time, may grant one time authorisation in Form 1 (bb) to such applicants stipulating therein necessary conditions as deemed necessary for carrying out refurbishing activities in the authorised place only;

(iii) the concerned State Pollution Control Board shall dispose of the application for authorisation within a period of one hundred and twenty days from the date of the receipt of such application complete in all respects;

(iv) the concerned State Pollution Control Board may refuse, cancel or suspend a authorisation granted under these rules, if it has reasons to believe that the authorised refurbisher has failed to comply with any of the conditions of authorisation, or with any provisions of the Act or rules made thereunder, after giving an opportunity to the refurbisher to be heard and after recording the reasons thereof;

(v) the Refurbisher shall maintain records of the e-waste purchased and refurbished in Form-2 and shall file annual returns of its activities of previous year in Form-3 to the concerned State Pollution Control Board on or before 30th day of June of every year.

14. Power to suspend or cancel an authorisation- (1) The State Pollution Control Board may, if in its opinion, the holder of Manufacturer or Dismantler or Recycler or Refurbisher Authorisation has failed to comply with any of the conditions of the authorisation or with any provisions of the Act or these rules and after giving a reasonable opportunity of being heard and after recording reasons thereof in writing cancel or suspend the authorisation issued under these rules for such period as it considers necessary in the public interest and inform Central Pollution Control Board within ten days of cancellation;

(2) The Central Pollution Control Board, if in its opinion, the holders of the Extended Producer Responsibility- Authorisation has failed to comply with any of the conditions of the authorisation or with any provisions of the Act or these rules and after giving a reasonable opportunity of being heard and after recording reasons thereof in writing cancel or suspend the Extended Producer Responsibility- Authorisation issued under these rules for such period as it considers necessary in the public interest and inform State Pollution Control Boards or Pollution Control Committees within ten days of cancellation;

(3) Upon suspension or cancellation of the authorisation, the Central Pollution Control Board or State Pollution Control Board may give directions to the persons whose authorisation has been suspended or cancelled for the safe storage and management of the e-waste and such persons shall comply with such directions.

CHAPTER IV

15. Procedure for storage of e-waste. - Every manufacturer, producer, bulk consumer, collection centre, dealer, refurbisher, dismantler and recycler may store the e-waste for a period not exceeding one hundred and eighty days and shall maintain a record of collection, sale, transfer and storage of wastes and make these records available for inspection:

Provided that the concerned State Pollution Control Board may extend the said period up to three hundred and sixty five days in case the waste needs to be specifically stored for development of a process for its recycling or reuse.

CHAPTER V

REDUCTION IN THE USE OF HAZARDOUS SUBSTANCES IN THE MANUFACTURE OF ELECTRICAL AND ELECTRONIC EQUIPMENT AND THEIR COMPONENTS OR CONSUMABLES OR PARTS OR SPARES

16. Reduction in the use of hazardous substances in the manufacture of electrical and electronic equipment and their components or consumables or parts or spares. - (1) Every producer of electrical and electronic equipment and their components or consumables or parts or spares listed in Schedule I shall ensure that, new Electrical and Electronic Equipment and their components or consumables or parts or spares do not contain Lead, Mercury, Cadmium, Hexavalent Chromium, polybrominated biphenyls and polybrominated diphenyl ethers beyond a maximum concentration value of 0.1% by weight in homogenous materials for lead, mercury, hexavalent chromium, polybrominated biphenyls and polybrominated diphenyl ethers and of 0.01 % by weight in homogenous materials for cadmium.

(2) Components or consumables or parts or spares required for the electrical and electronic equipment placed in the market prior to 1st May, 2014 may be exempted from the provisions of sub-rule (1) of rule 16 provided Reduction of Hazardous Substances compliant parts and spares are not available.

(3) The applications listed in Schedule II shall be exempted from provisions of sub-rule (1) of rule 16.

(4) Every producer of applications listed in Schedule II shall ensure that the limits of hazardous substances as given in Schedule II are to be complied.

(5) Every producer shall provide the detailed information on the constituents of the equipment and their components or consumables or parts or spares alongwith a declaration of conformance to the Reduction of Hazardous Substances provisions in the product user documentation.

(6) Imports or placement in the market for new electrical and electronic equipment shall be permitted only for those which are compliant to provisions of sub-rule (1) and sub rule (4) of rule 16.

(7) Manufacture and supply of electrical and electronic equipment used for defence

and other similar strategic applications shall be excluded from provisions of sub-rule (1) of rule 16.

(8) Every producer while seeking Extended Producer Responsibility - Authorisation will provide information on the compliance of the provisions of sub-rule (1) of rule 16. This information shall be in terms of self-declaration.

(9) Central Pollution Control Board shall conduct random sampling of electrical and electronic equipment placed on the market to monitor and verify the compliance of Reduction of Hazardous Substances provisions and the cost for sample and testing shall be borne by the Producer. The random sampling shall be as per the guidelines of Central Pollution Control Board.

(10) If the product does not comply with Reduction of Hazardous Substances provisions, the Producers shall take corrective measures to bring the product into compliance and withdraw or recall the product from the market, within a reasonable period as per the guidelines of the Central Pollution Control Board.

(11) Central Pollution Control Board shall publish the methods for sampling and analysis of Hazardous Substances as listed in sub-rule(1) of rule 16 with respect to the items listed in Schedule I and II and also enlist the labs for this purpose.

CHAPTER VI

MISCELLANEOUS

17. Duties of authorities. - Subject to other provisions of these rules, the authorities shall perform duties as specified in Schedule IV.

18. Annual Report. - (1) The concerned State Pollution Control Board shall prepare and submit to the Central Pollution Control Board an annual report with regard to the implementation of these rules by the 30th day of September every year in Form-5.

(2) The Central Pollution Control Board shall prepare the consolidated annual review report on management of e-waste and forward it to the Central Government along with its recommendations before the 30th day of December every year.

19. Transportation of e-waste. -The transportation of e-waste shall be carried out as per the manifest system whereby the transporter shall be required to carry a document (three copies) prepared by the sender, giving the details as per Form-6:

Provided that the transportation of waste generated from manufacturing or recycling destined for final disposal to a treatment, storage and disposal facility shall follow the provisions under Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008.

20. Accident reporting.- Where an accident occurs at the facility processing e-waste or during transportation of e-waste, the producer, refurbisher, transporter, dismantler, or recycler,

as the case may be, shall report immediately to the concerned State Pollution Control Board about the accident through telephone and e-mail.

21. Liability of manufacturer, producer, importer, transporter, refurbisher, dismantler and recycler.- (1) The manufacturer, producer, importer, transporter, refurbisher, dismantler and recycler shall be liable for all damages caused to the environment or third party due to improper handling and management of the e-waste;

(2) The manufacturer, producer, importer, transporter, refurbisher, dismantler and recycler shall be liable to pay financial penalties as levied for any violation of the provisions under these rules by the State Pollution Control Board with the prior approval of the Central Pollution Control Board.

22. Appeal.- (1) Any person aggrieved by an order of suspension or cancellation or refusal of authorisation or its renewal passed by the Central Pollution Control Board or State Pollution Control Board may, within a period of thirty days from the date on which the order is communicated to him, prefer a appeal in Form 7 to the Appellate Authority comprising of the Environment Secretary of the State.

(2) The Appellate Authority may entertain the appeal after expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Every appeal filed under this rule shall be disposed of within a period of sixty days from the date of its filing.

23. The collection, storage, transportation, segregation, refurbishment, dismantling, recycling and disposal of e-waste shall be in accordance with the procedures prescribed in the guidelines published by the Central Pollution Control Board from time to time. Implementation of e-waste (Management and Handling) Amendment Rules, 2011 shall be in accordance with the guidelines prescribed by the Central Pollution Control Board from time to time.

24. Urban Local Bodies (Municipal Committee or Council or Corporation) shall ensure that e-waste pertaining to orphan products is collected and channelised to authorised dismantler or recycler.

SCHEDULE I

[See *rules 2, 3(j), 3(y), 3(aa) and 3(ff); 5; 9; 11(10); 13 (1) (i), 13 (1) (vii) and 16(1) 16(11)]*

Categories of electrical and electronic equipment including their components, consumables, parts and spares covered under the rules

Sr. No.	Categories of electrical and electronic equipment	Electrical and electronic equipment code
i.	**Information technology and telecommunication equipment:**	
	Centralised data processing: Mainframes, Minicomputers	ITEW1
	Personal Computing: Personal Computers (Central Processing Unit with input and output devices)	ITEW2
	Personal Computing: Laptop Computers (Central Processing Unit with input and output devices)	ITEW3
	Personal Computing: Notebook Computers	ITEW4
	Personal Computing: Notepad Computers	ITEW5
	Printers including cartridges	ITEW6
	Copying equipment	ITEW7
	Electrical and electronic typewriters	ITEW8
	User terminals and systems	ITEW9
	Facsimile	ITEW10
	Telex	ITEW11
	Telephones	ITEW12
	Pay telephones	ITEW13
	Cordless telephones	ITEW14
	Cellular telephones	ITEW15
	Answering systems	ITEW16
ii.	**Consumer electrical and electronics:**	
	Television sets (including sets based on (Liquid Crystal Display and Light Emitting Diode technology)	CEEW1
	Refrigerator	CEEW2
	Washing Machine	CEEW3
	Air-conditioners excluding centralised air conditioning plants	CEEW4
	Fluorescent and other Mercury containing lamps	CEEW5

SCHEDULE II

[See *rubs 16 (3), 16 (4) and 16 (11)]*

Applications, which are exempted from the requirements of sub-rule (1) of rule 16	
	Substance
1	Mercury in single capped (compact) fluorescent lamps not exceeding (per burner):
1(a)	For general lighting purposes <30 W: 2.5 mg
1(b)	For general lighting purposes ≥ 30 W and <50 W: 3.5mg
1(c)	For general lighting purposes ≥ 50 W and <150 W: 5mg
1(d)	For general lighting purposes ≥150 W: 15 mg
1(e)	For general lighting purposes with circular or square structural shape and tube diameter ≤17 mm : 7mg
1(f)	For special purposes:5 mg
2(a)	Mercury in double-capped linear fluorescent lamps for general lighting purposes not exceeding (per lamp):
2(a)(1)	Tri-band phosphor with normal life time and a tube diameter < 9mm (e.g. T2): 4mg
2(a)(2)	Tri-band phosphor with normal life time and a tube diameter ≥ 9 mm and ≤ 17 mm (e.g. T5): 3 mg
2(a)(3)	Tri-band phosphor with normal life time and a tube diameter >17 mm and ≤ 28 mm (e.g. T8): 3.5 mg
2(a)(4)	Tri-band phosphor with normal life time and a tube diameter >28 mm (e.g. T 12):3.5mg
2(a)(5)	Tri-band phosphor with long life time (≥25000 h):5mg
2(b)	Mercury in other fluorescent lamps not exceeding(per lamp):
2(b)(1)	Linear halophosphate lamps with tube >28 mm (e.g. T 10 and T12):10 mg
2(b)(2)	Non-linear halophosphate lamps(all diameters): 15mg
2(b)(3)	Non-linear tri-band phosphor lamps with tube diameter >17 mm(e.g.T9): 15 mg
2(b)(4)	Lamps for other general lighting and special purposes (e.g. induction lamps): 15mg
3	Mercury in cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for special purposes not exceeding (per lamp):
3(a)	Short length(≤ 500 mm):3.5mg
3(b)	Medium length (>500 mm and ≤ 1500 mm): 5mg
3(c)	Long length (> 1500 mm): 13mg
4(a)	Mercury in other low pressure discharge lamps (per lamp): 15mg
4(b)	Mercury in High Pressure Sodium (vapour) lamps for general lighting purposes not exceeding (per burner)in lamps with improved colour rendering index Ra>60:

4(b)-I	P≤155 W:30mg
4(b)-II	155W<P≤405 W:40mg
4(b)-III	P >405 W: 40 mg
4(c)	Mercury in other High Pressure Sodium(vapour)lamps for general lighting purposes not exceeding (per burner):
4(c)-I	P≤155W:25mg
4(c)-II	155W<P≤405W:30mg
4(c)-III	P >405 W:40 mg
4(d)	Mercury in High Pressure Mercury (vapour) lamps (HPMV)
4(e)	Mercury in metal halide lamps (MH)
4(f)	Mercury in other discharge lamps for special purposes not specifically mentioned in this Schedule
5(a)	Lead in glass of cathode ray tubes
5(b)	Lead in glass of fluorescent tubes not exceeding 0.2% by weight
6(a)	Lead as an alloying element in steel for machining purposes and in galvanized steel containing up to 0.35% lead by weight
6(b)	Lead as an alloying element in aluminium containing up to 0.4% lead by weight
6(c)	Copper alloy containing up to 4% lead by weight
7(a)	Lead in high melting temperature type solders (i.e. lead-based alloys containing 85% by weight or more lead)
7(b)	Lead in solders for servers, storage and storage array systems, network infrastructure equipment for switching, signalling, transmission, and network management for telecommunications
7(c)-I	Electrical and electronic components containing lead in a glass or ceramic other than dielectric ceramic in capacitors, e.g. piezoelectronic devices, or in a glass or ceramic matrix compound.
7(c)-II	Lead in dielectric ceramic in capacitors for a rated voltage of 125 V AC or 250 V DC or higher
7(c)-III	Lead in dielectric ceramic in capacitors for a rated voltage of less than 125 V AC or 250 V DC
8(a)	Cadmium and its compounds in one shot pellet type thermal cut-offs
8(b)	Cadmium and its compounds in electrical contracts
9	Hexavalent chromium as an anticorrosion agent of the carbon steel cooling system in absorption refrigerators up to 0.75% by weight in the cooling solution
9(b)	Lead in bearing shells and bushes for refrigerant-containing compressors for heating, ventilation, air conditioning and refrigeration (HVACR) application.

11 (a)	Lead used in C-press compliant pin connector systems
11(b)	Lead used in other than C-press compliant pin connector systems
12	Lead as a coating material for the thermal conduction module C-ring
13 (a)	Lead in white glasses used for optical applications
13 (b)	Cadmium and lead in filter glasses and glasses used for reflectance standards.
14	Lead in solders consisting of more than two elements for the connection between the pins and the package of microprocessors with a lead content of more than 80% and less than 85% by weight
15	Lead in solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit flip chip packages.
16	Lead in linear incandescent lamps with silicate coated tubes
17	Lead halide as radiant agent in high intensity discharge (HID) lamps used for professional reprography applications.
18(a)	Lead as activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps when used as specialty lamps for diazoprinting reprography, lithography, insect traps, photo-chemical and curing processes containing phosphors such as SMS ($(Sr, Ba)_2Mg\ Si_2C_7$:Pb)
18(b)	Lead as activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP ($BaSi_2O_5$:Pb)
19	Lead with PbBiSn-Hg and PbInSn-Hg in specific compositions as main amalgam and with PbSn-Hg as auxiliary amalgam in very compact energy saving lamps (ESL)
20	Lead oxide in glass used for bonding front and rear substrates of flat fluorescent lamps used for Liquid Crystal Displays (LCDs)
21	Lead and cadmium in printing inks for the application of enamels on glasses, such as borosilicate and soda lime glasses
23	Lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm and less
24	Lead in solders for the soldering to machined through hole discoidal and planar array ceramic multilayer capacitors
25	Lead oxide in surface conduction electron emitter displays (SED) used in structural elements, notably in the seal frit and frit ring.
26	Lead oxide in the glass envelope of black light blue lamps
27	Lead alloys as solder for transducers used in high-powered (designated to operate for several hours at acoustic power levels of 125 dB SPL and above) loudspeakers
29	Lead bound in crystal glass

30	Cadmium alloys as electrical/mechanical solder joints to electrical conductors located directly on the voice coil in transducers used in high-powered loudspeakers with sound pressure levels of 100 dB(A) and more
31	Lead in soldering materials in mercury free flat fluorescent lamps (which e.g. are used for liquid crystal displays, design or industrial lighting)
32	Lead oxide in seal frit used for making window assemblies for Argon and Krypton laser tubes
33	Lead in solders for the soldering of thin copper wires of 100 urn diameter and less in power transformers
34	Lead in cermet-based trimmer potentiometer elements
36	Mercury used as a cathode sputtering inhibitor in DC plasma displays with a content up to 30 mg per display
37	Lead in the plating layer of high voltage diodes on the basis of a zinc borate glass body
38	Cadmium and cadmium oxide in thick film pastes used on aluminium bonded beryllium oxide
39	Cadmium in colour converting II-VI LEDs (<10 ug Cd per mm^2 of light-emitting area) for use in solid state illumination or display systems.

SCHEDULE

[See *rules 5 (1) (a) and 13 (1) (ii)]*

Targets for Extended Producer Responsibility - Authorisation

No.	Year	E-Waste Collection Target (Number/Weight)
(i)	During first two year of implementation of rules	30% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(ii)	During third and fourth years of implementation of rules	40% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(iii)	During Fifth and Sixth years of implementation of rules	50% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(iv)	Seventh year onward of implementation of rules	70% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.

SCHEDULE IV

[See rule (17)]

LIST OF AUTHORITIES AND CORREPONDING DUTIES

Sl. No	AUTHORITY	CORRESPONDING DUTIES
1.	Central Pollution Control Board, Delhi	(i) Grant and Renewal of Extended Producer Responsibility - Authorisation and monitoring of its compliance. (ii) Maintain information on Extended Producer Responsibility - Authorisation on its web site. (iii) Set and revise targets for collection of e-waste from time to time. (iv) Coordination with State Pollution Control Boards (v) Preparation of Guidelines for Environmentally Sound Management of e-waste. (vi) Conduct random check for ascertaining compliance of the e-waste rules and identification of such importers or producers who have not applied for Extended Producer Responsibility authorisation or are not complying with RoHS provision. Wherever necessary, Central Pollution Control Board will seek the help of customs department or any other agency of the Government of India. (vii) Conduct random inspection of dismantler or recycler or refurbisher. (viii) Documentation, compilation of data on e-waste and uploading on websites of Central Pollution Control Board (ix) Actions against violation of these rules. (x) Conducting training programmes. (xi) Submit Annual Report to the Ministry. (xii) Enforcement of provisions regarding reduction in use of hazardous substances in manufacture of electrical and electronic equipment. (xiii) Interaction with IT industry for reducing hazardous substances. (xiv) Set and revise targets for compliance to the reduction in use of hazardous substance in manufacture of electrical and electronic equipment from time to time. (xv) Any other function delegated by the Ministry under these rules from time to time.
2.	State Pollution Control Boards or Committees of Union territories	(i) Inventorisation of e-waste. (ii) Grant and renewal of authorisation to manufacturers, dismantlers, recyclers and refurbishers. (iii) Monitoring and compliance of Extended Producer Responsibility - Authorisation as directed by Central Pollution Control Board and that of dismantlers, recyclers and refurbishers authorisation. (iv) Conduct random inspection of dismantler or recycler or refurbisher. (v) Maintain online information regarding authorisation granted to manufacturers, dismantlers, recyclers and refurbishers.

Sr. No	AUTHORITY	CORRESPONDING DUTIES
		(vi) Implementation of programmes to encourage environmentally sound recycling. (vii) Action against violations of these rules. (viii) Any other function delegated by the Ministry under these rules.
3.	Urban Local Bodies (Municipal Committee or Council or Corporation)	(i) To ensure that e-waste if found to be mixed with Municipal Solid Waste is properly segregated, collected and is channelised to authorised dismantler or recycler. (ii) To ensure that e-waste pertaining to orphan products is collected and channelised to authorised dismantler or recycler.
4.	Port authority under Indian Ports Act, 1908 (15 of 1908) and Customs Authority under the Customs Act, 1962 (52 of 1962)	(i) Verify the Extended Producer Responsibility Authorisation. (ii) Inform Central Pollution Control Board of any illegal traffic for necessary action. (iii) Take action against importer for violations under the Indian Ports Act, 1908/Customs Act, 1962.

13

RULES

E-Waste (Management) Amendment Rule, 2017

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE DRAFT NOTIFICATION

New Delhi.the 30th October, 2017

G.S.R. 1349(E).—In exercise of powers confirmed by sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby proposes to amend the E-Waste (Management) Rules, 2016 and the notice is hereby given that the said draft notification shall be taken in to consideration on or after the expiry of a period of sixty days from the date on which copies of this notification as published in the gazette of India are made available to public;

Objections or suggestions on the proposals contained in the draft amendments of rules, if any may be addressed in writing, within the period so specified, to the Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor bagh Road, New Delhi- 110 003 or electronically at e-mail addressed: m.gangeya@gov.in and sonu.singh@nic.in;

The objections and suggestion which may be received from any person with respect to the said draft amendment rules before the expiry of the period so specified shall be considered by the Central Government. The proposed amends to the E-Waste (Management) Rules, 2016 are namely: -

1. (I)These rules may be called E-Waste (Management) Amendment Rules, 2017.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the said rules, rule 13. sub-paragraph (I) (i) shall be substituted by the following sub-rule, namely:-

> "Every producer of electrical and electronic equipment listed in Schedule I. shall make an application for Extended Producer Responsibility - Authorisation in Form-1 to Central Pollution Control Board. Targets as set by CPCB will be applicable from 1st October 2017;"

3. In the said rules, under rule 13, after sub-rule I(xi), the following sub-rules shall be inserted as follows, namely:—

> "(xii) Every producer placing their product in market shall be liable to obtain EPR authorization from CPCB. In case the producer has started operations recently *i.e.* number of years of operation is less than average life of their products, the EPR target as per Schedule- III (B) shall be applicable. These targets shall be applicable from financial year 2018-19. When the products average life is achieved, c-waste already collected by producers in earlier years will be accounted for and suitable set offs shall be provided for the corresponding years at the time of fixing targets as per Schedule-III."
>
> "(xiii) In case of transfer/sale of assets by the producers the liability under EPR shall also be transferred to the buyer."

4. In the said rules, under rule 13. sub-rule (4) (i) shall be substituted by the following sub-rule, namely:-

> "(i) every refurbisher of e-waste shall make an application, with in a period of one hundred and twenty days starting from the date of coming into force of these rules, in Form I (a) in triplicate to the concerned State Pollution Control Board accompanied with a copy of the following documents for the grant of authorisation, namely:-"

5. In the said rules, under rule 16, the sub-rule (9) shall be substituted by the following sub-rule, namely:-

> "{9) Central Pollution Control Board may conduct random sampling of electrical and electronic equipment placed on the market to monitor and verify the compliance of Reduction of Hazardous Substances provisions and the cost for sample and testing shall be borne by the government for conducting the RoHS test. The procedure of random sampling and tolerance level value of RoHS test shall be as per the guidelines of Central Pollution Control Board."

6. In the said rules, under rule 16. the sub-rule (10) shall be substituted by. **namely:** -

> "If the product does not comply with Reduction of Hazardous Substances provisions, then the cost of the RoHS test will be borne by the Producers. In addition, the Producers shall take corrective measures to bring the product into compliance and withdraw or recall the product from the market, within a reasonable period as per the guidelines of the Central Pollution Control Board."

7. In the said rules, under rule 21. the sub-paragraph (2) shall be substituted by the following: -

> "The manufacturer, producer, importer, transporter, refurbisher, dismantler and recycler shall be liable to pay financial penalties for any violation as per the provisions of Environment (Protection) Act. 1986 and Rules made there under. The default of the liable entities shall be determined in accordance with the procedures prescribed in the guidelines published by the Central Pollution Control Board from time to time."

8. In the said rules, under rule 22. the sub-paragraph (1) shall be substituted by the following:

> "Any person aggrieved by an order of suspension or cancellation or refusal of auihorisation or its renewal passed by the Central Pollution Control Board or State Pollution Control Board may, within a period of thirty days from the date on which the order is communicated to him. prefer an appeal in Form 7 to the Appellate Authority i.e. the Secretary/ representative of Secretary, Ministry of Environment, Forest and Climate Change, Government of India. New Delhi or Environment Secretary of the State Government, respectively."

9. In the said rules, the rule 23 shall be substituted by the following rule:

> "The collection, storage, transportation, segregation, refurbishment, dismantling, recycling and disposal of e-waste as well as overall implementation of these rules shall be in accordance with the procedures prescribed in the guidelines published by

the Central Pollution Control Board from time to time."

10. In the said rules, the existing table under Schedule **III** is substituted by the following table:-

Sl. No.	Year	E-Waste Collection Target (Number/Weight)
(i)	2017-2018	10% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(ii)	2018-2019	20% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(iii)	2019-2020	30% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(IV)	2020-2021	40% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(v)	2021-2022	50% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(vi)	2022-2023	60% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(vii)	2023 onwards	*70%* of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.

11. In the said rules, after Schedule III, the following Schedule III (B) shall be inserted as follows, namely: -

Schedule III (B)

See rules- 13(l)(xii)

EPR Targets for new producers and existing producers those have started operations recently *i.e.* number of years of operation is less than average life of their products mentioned in the guidelines issued by CPCB from lime to time.

Sl. No.	Year	E-Waste **Collection Target (Weight)**
(i)	2018-2019	5% of the sales figure of financial year 2016-17.
(ii)	2019-2020	*5%* of the sales figure of financial year 2017-18.
(iii)	2020-2021	*10%* of the sales figure of financial year 2018-19.
(iv)	2021-2022	*10%* of the sales figure of financial year 2019-20.
(v)	2022-2023	1*5%* of the sales figure of financial year 2020-21.
(vi)	2023-2024	15% of the sales figure of financial year 2021-22.
(vii)	2024-2025	20% of the sales figure of financial year 2022-23.
(viii)	2025 onwards	20% of the sales figure of the year preceding the previous year.

12. In the said rules, in Form-I, item 4, in column 2, the existing text is substituted by the following: -

"Details of electrical and electronic equipment 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.''

13. In the said rules, in Form-1, item 9(b) shall be substituted by the following namely: -

"(b) 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;"

14. In the said rules, under Form-3 the heading of the existing table shall be substituted by the following, namely:—

"Quantity in Metric Tones (MT)"

[F. No. 12-I6/20I7-HSMD]
RITESH KUMAR SINGH. Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary. Part II, Section 3, Sub-section (i). *vide* number GSR 338 (E), dated the 23rd March. 2016.

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RULES

E-Waste (Management) Amendment Rule, 2018

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 22nd March, 2018

G.S.R. 261(E).—Whereas the draft rules, namely the E-waste (Management) Amendment Rules, 2017, were published by the Government of India in the Ministry of Environment, Forest and Climate Change vide number G.S.R. 1349(E), dated 30 October, 2017 in the Gazette of India, Extraordinary Part II, Section 3, Sub-section (i) inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of sixty days from the date on which the copies of the Gazette containing the said notification were made available to the public;

AND WHEREAS the copies of the Gazette containing the said notification were made available to the public on the 30th day of October, 2017;

AND WHEREAS the objections and suggestions received within the specified period from the public in respect of the said draft rules have been duly considered by the Central Government;

NOW THEREFORE, in exercise of powers confirmed by sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules to amend the E-waste (Management) Rules, 2016, namely: -

1. (1) These rules may be called E- Waste (Management) Amendment Rules, 2018.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the E-waste (Management) Rules, 2016, -

(a) in rule 5, in sub-rule (1) after clause (g), the following clause shall be inserted, namely:-

"(h) The provisions of rule 5 shall apply to producers who have placed any goods in the market in the current financial year and the targets for the extended producer responsibility plan shall be as per clause (ii) of sub-rule (1) of rule 13 and Schedule III.";

(b) in rule 13; -

(I) in sub-rule (1), after clause (xi), the following clauses shall be inserted, namely: -

"(xii) In case the producer has started sale recently i.e. number of years of sales operations is less than average life of their product, the Extended Producer Responsibility target shall be applicable as per Schedule- III (A) and these targets applicable from financial year 2018-2019 and once the product achieves its average life as fixed by the Central Pollution Control Board, the collection target shall be revised as per Schedule III.

(xiii) The e-waste already collected by producers as per Schedule III(A) in earlier years will be accounted for and the eligible set offs shall be provided for the corresponding years at the time of fixation of targets as per Schedule-III.

(xiv) The revised Extended Producer Responsibility targets shall be applicable from the 1st October 2017 as per Schedule III.

(xv) The quantity of e-waste collected by producers under Extended Producer Responsibility from the 1st October 2016 to 30th September 2017 shall be accounted for in the revised Extended Producer Responsibility targets as per Schedule III until March 2018 only.

(xvi) In case of transfer or sale of assets by the producers the liability under Extended Producer Responsibility shall also be transferred to the buyer.

(xvii) A Producer Responsibility Organisation shall apply to the Central Pollution Control Board for registration to undertake the activities prescribed for Producer Responsibility Organisations under these Rules."

(II) in sub-rule (4), in clause (i), for the words "grant or renewal of authorisation", the words, "grant of authorisation" shall be substituted;

(c) in rule 16, for sub-rules (9) and (10), the following sub-rules shall be substituted, namely:-

"(9) The Central Pollution Control Board may conduct random sampling of electrical and electronic equipment placed in the market to monitor and verify the compliance of Reduction of Hazardous Substances provisions and the cost for sampling and testing shall be borne by the Government for conducting the Reduction of Hazardous Substances test and the procedure of random sampling and permissible error value of Reduction of Hazardous Substances test shall be as per the guidelines of the Central Pollution Control Board.

(10) If the product does not comply with the Reduction of Hazardous Substances provisions, then the cost of the Reduction of Hazardous Substances test will be borne by the Producer and in addition, the Producer shall take corrective measures to bring the product into compliance and withdraw or recall the product from the market within a reasonable period as per the guidelines of the Central Pollution Control Board.";

(d) in rule 21, for sub-rule (2), the following sub-rule (2) shall be substituted namely: -

"(2) The manufacturer, producer, importer, transporter, refurbisher, dismantler and recycler shall be liable to pay financial penalties as levied under the Provisions of the Environment (Protection) Act, 1986 and rules made thereunder for any violation of the provisions under these rules by the State Pollution Control Boards with the prior approval of the Central Pollution Control Board in accordance with the guidelines published by the Central Pollution Control Board." ;

(e) in rule 22, for sub-rule (1), the following sub-rule shall be substituted, namely: -

"(1) (a) Any person aggrieved by an order of suspension or cancellation or refusal of authorisation or its renewal passed by the Central Pollution Control Board may, within a period of thirty days from the date on which the order is communicated to him, prefer an appeal in Form 7 to the Appellate Authority i.e. the Secretary or nominee

of Secretary, Ministry of Environment, Forest and Climate Change, Government of India, New Delhi against the order of the Central Pollution Control Board.

"(b) Any person aggrieved by an order of suspension or cancellation or refusal of authorisation or its renewal passed by the State Pollution Control Boards or Committees may, within a period of thirty days from the date on which the order is communicated to him, prefer an appeal in Form 7 to the Appellate Authority i.e. the Secretary (Environment) of the State Government /Union Territory administration against the order of State Pollution Control Boards or Committees."

(f) for rule 23, the following rule shall be substituted, namely: -

"23. The collection, storage, transportation, segregation, refurbishment, dismantling, recycling and disposal of e-waste shall be in accordance with the guidelines published by the Central Pollution Control Board."

(g) for Schedule III, the following Schedules shall be substituted namely: -

" **SCHEDULE III**

[See rules 5(1) (a) and 13(1) (ii), (xii), (xiii), (xiv), (xv]

Sl. No	Year	E-Waste Collection Target (Weight)
(i)	2017-2018	10% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(ii)	2018-2019	20% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(iii)	2019-2020	30% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(iv)	2020-2021	40% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(v)	2021-2022	50% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(vi)	2022-2023	60% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.
(vii)	2023 onwards	70% of the quantity of waste generation as indicated in Extended Producer Responsibility Plan.

Schedule III (A)

[See rules 13(l)(xii), (xiii), (xv)]

Extended Producer Responsibility targets for producers, who have started sales operations recently, i.e. number of years of sales operations is less than average life of their products mentioned in the guidelines issued by Central Pollution Control Board from time to time.

Sl. No	Year	E-Waste Collection Target (Weight)
(i)	2018-2019	5% of the sales figure of financial year 2016-17.
(ii)	2019-2020	5% of the sales figure of financial year 2017-18.
(iii)	2020-2021	10% of the sales figure of financial year 2018-19.
(iv)	2021-2022	10% of the sales figure of financial year 2019-20.
(v)	2022-2023	15% of the sales figure of financial year 2020-21.
(vi)	2023-2024	15% of the sales figure of financial year 2021-22.
(vii)	2024-2025	20% of the sales figure of financial year 2022-23.
(viii)	2025 onwards	20% of the sales figure of the year preceding the previous year.”;

(h) in Form I,

(I) for item 4, the following item shall be substituted, namely: -

“Details of electrical and electronic equipment placed in market year-wise for the period equivalent to its average end-of-life as mentioned in the guidelines issued by the Central Pollution Control Board from time to time (as per the form of Table 1 given below).”

(II) in item 9, for entry (b), the following entry shall be substituted, namely: -

“(b) Provide the declaration with regard to technical documents maintained by them in support of Reduction of Hazardous Substances compliance as specified in the guidelines issued by the Central Pollution Control Board from time to time.”

(i) in Form-3, for the heading the following heading shall be substituted, namely: -

“Quantity in Metric Tonnes (MT)”.

[F. No. 12-16/2017-HSMD]

RITESH KUMAR SINGH, Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), *vide* number GSR 338 (E), dated the 23rd March, 2016.

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सत्यमेव जयते

Government of Meghalaya
Forests and Environment Department

COMPENDIUM OF ENVIRONMENTAL LEGISLATIONS

VOLUME - IV

Published By :

The Principal Chief Conservator of Forests & HOFF
Meghalaya

PREFACE

The Forests and Environment Department since its inception, has undertaken the onerous task of managing and protecting the flora and fauna of the State and the Country. For this purpose, several Acts & Rules have been passed both by the Central and the State Legislatures to empower the Department in fulfilling its mandate. These Acts & Rules have enabled the Department to manage and control the natural resources.

With the publication of the 5 (five) volumes of the State and the Central Forests Acts & Rules being implemented in the State of Meghalaya, the long felt need to provide a compilation of these Acts, Rules, Regulations and Executive instructions relating to Forests, Wildlife, Bio-Diversity and Environment etc has been realised. The painstaking work undertaken by a team of Officers viz Shri B. K. Lyngwa, IFS, Principal Chief Conservator of Forests (Admn), Shri J. M. Pohsngap, IFS, Conservator of Forests (CC, R & T) and Dr Manjunatha C, IFS, Planning Officer O/O Principal Chief Conservator of Forests & Head of Forests Force spread over a period of 10 (ten) Months has finally borne fruit. I commend the good work done by this team of dedicated Officers and assisting Staff.

I take great pleasure to dedicate this compilation of 5 (five) volumes in a set to the Officers and Staff of the Forests & Environment Department with a hope that it will help in effective functioning of the Department in general and the Executive frontline staff in particular who are, day in and day out, executing works to preserve and protect the rich natural resources of the State. This compilation will act as a useful guide to the forest staff to effectively carry out their duties to preserve our precious natural heritage for now and for the future generations.

Dated: Shillong
The 31st March, 2019

(C P Marak, IFS)
Principal Chief Conservator of Forests & HoFF
Shillong, Meghalaya.

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ACTS

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