

Speed Post

NGT Matter

F. No. B-29016-NGT/C-08/2019/WM-II/Div./ 776-846

April 24, 2019

To

The Chief Secretary/Adviser to the Administrator
State Government/ UT
(As per attached list)

Sub: Non-compliance of the Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016- reg.

Ref: Orders of Hon'ble National Green Tribunal (NGT), Principal Bench, Delhi dated 12/04/2019, in the matter of O.A. No. 804/2017, Rajiv Narayan & Anr. Vs. Union of India & Ors.

Sir,

I am directed to refer the above mentioned orders dated 12/04/2019 of the Hon'ble NGT with regards to non-compliance of the Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016. The Hon'ble Tribunal has directed the Chief Secretaries to fully implement and monitor various actions at state level as mentioned in the said orders. Copy of the said orders is enclosed for taking necessary actions.

Yours faithfully,



(Bharat K Sharma)

Nodal Officer & Head

Waste Management-II Division

Encl.: as above

Copy to:

1. The Chairman : For kind information and taking necessary actions to
SPCB/PCC ensure compliance of above referred orders of the
(As per list attached) Hon'ble Tribunal, please.
2. The Joint secretary : For kind information and necessary actions, please.
HSM Division
MoEFCC, Delhi



(Bharat K Sharma)

etc

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत
दिनांक 25/04/19

List of all the State Pollution Control Boards (SPCBs) & Pollution Control Committees (PCCs)

1.	The Chairman Telangana Pollution Control Board Paryavaran Bhawan, A-III Institutional Estate, Sanathnagar Hyderabad – 500018.	10.	The Chairman Himachal Pradesh Pollution Control Board Paryavaran Bhawan, Phase-III, Below BCS, New Shimla – 171 009.
2.	The Chairman Andhra Pradesh Pollution Control Board D.No. 33-26-14 D/2, Near Sunrise Hospital, Pushpa Hotel Centre, Chalamvari Street, Kasturibaipet, Vijayawada – 520 010	11.	The Chairman J&K State Pollution Control Board, Parivesh Bhawan, Forest Complex, Gladni, Narwal, transport Nagar, Jammu (J&K)
3.	The Chairman Arunachal Pradesh Pollution Control Board Department of Environment & Forests, Paryavaran Bhawan, Yupia Road, Papu Nalah, Naharlagun- 791110	12.	The Chairman Jharkhand State Pollution Control Board T.A. Building, HEC, P.O. Dhurwa, Ranchi-834 004
4.	The Member Secretary Assam Pollution Control Board Bamunimaidei, Guwahati – 781021	13.	The Chairman Karnataka State Pollution Control Board, Parisara Bhavana, 1 st to 5 th Floor 49, Church Street, Bengaluru – 560 001
5.	The Chairman Bihar Pollution Control Board Parivesh Bhawan, Plot No. NS-B/2 Patliputra Industrial Area, Patliputra, Patna (Bihar)-800023	14.	The Chairman Kerala Pollution Control Board Pattom Palace, P.O. Thiruvananthapuram – 695 004
6.	The Chairman Chhattisgarh Environment Conservation Board Paryavas Bhawan, North Block Sector-19, Naya Raipur (C.G.)- 490099	15.	The Chairman Maharashtra Pollution Control Board Kalptaru Point, 2 nd - 4 th floor, Opp. Cine Planet, Sion Circle, Sion (E), Mumbai – 400 022
7.	The Chairman Goa Pollution Control Board Dempo Tower, 1st Floor, EDC Patto Plaza, Panaji, Goa - 403 001.	16.	The Chairman Madhya Pradesh Pollution Control Board Paryavaran Parisar, Sector E-5, Arera Colony, Bhopal – 462 016
8.	The Chairman Gujarat Pollution Control Board Paryavaran Bhawan, Sector 10-A, Gandhi Nagar - 382010	17.	The Chairman Manipur Pollution Control Board Near Imphal West D.C. Office Complex, Lamphelpat, Imphal – 795 004.
9.	The Chairman Haryana Pollution Control Board C-11, Sector-6 Panchkula Haryana-134 109 Chandigarh	18.	The Chairman Meghalaya Pollution Control Board Arden, Lumpyngngad, Shillong – 793 014
		19.	The Chairman Mizoram Pollution Control Board New Secretariat Complex, Khatla, Thlanmual Peng, Aizawl, Mizoram - 796001

20.	The Chairman Nagaland Pollution Control Board Signal Point, Dimapur, Nagaland - 797112
21.	The Chairman State Pollution Control Board, Odisha Paribesh Bhawan, A-118, Nilakantha Nagar, Unit-VIII, Bhubaneswar – 751 012.
22.	The Chairman Punjab Pollution Control Board Vatavaran Bhawan, Nabha Road Patiala – 147 001
23.	The Chairman Rajasthan Pollution Control Board 4, Institutional Area, Jhalana Doongri Jaipur – 302 004, Rajasthan.
24.	The Chairman Sikkim Pollution Control Board Forest, Environment Wildlife Management Department, Government of Sikkim, Forest Secretariat Annex I, Ground Floor, Deorali, Gangtok -737102 East Sikkim
25.	The Chairman Tamil Nadu Pollution Control Board No. 76, Mount Salai Guindy, Chennai – 600 032
26.	The Chairman Tripura Pollution Control Board, Parivesh Bhawan, Pandit Nehru Complex, Gorkhabasti P.O. Kunjaban, Agartala Tripura – 799 006,
27.	The Chairman Uttar Pradesh Pollution Control Board Building No TC-12V Vibhuti Khand, Gomti Nagar Lucknow – 226 010
28.	The Chairman Uttarakhand Environment Protection & Pollution Control Board 46B, IT Park, Sahastradhara Road, Dehradun-248001 Uttarakhand.
29.	The Chairman West Bengal Pollution Control Board Paribesh Bhawan, 10A, Block- LA, Sector III, Salt Lake City, Calcutta- 700106
30.	The Chairman Chandigarh Pollution Control Committee Paryavaran Bhawan, Ground Floor Madhya Marg, Sector C19-B, Chandigarh – 160 019
31.	The Chairman Delhi Pollution Control Committee 4th Floor, ISBT Building, Kashmere Gate, Delhi - 110006.
32.	The Chairman Daman, Diu & Dadra & Nagar Haveli Pollution Control Committee Fort Area, Court Compound, Moti Daman- 396220

33.	The Chairman Lakshadweep Pollution Control Committee Lakshadweep Administration, Dept. Of Sc. and Technology & Environment Kavaratti Island-682 555
34.	The Chairman Andaman & Nicobar Pollution Control Committee Dept. Of Sc. and Technology Dollygunj Van Sadan, Haddo P.O. Port Blair – 744 102
35.	The Chairman Puducherry Pollution Control Committee Department of Science, Technology and Environment III rd floor, PHB Building, 5, Anna Nagar, Puducherry – 605005

List of Chief Secretary

S.No	Address	E-mail id	Sir/Madam
1	The Chief Secretary Government of Andhra Pradesh Building #1, 1st Floor, A.P. Secretariat, Velagapudi, Guntur, Andhra Pradesh-522002	cs@ap.gov.in	Sir
2	The Chief Secretary Government of Arunachal Pradesh Civil Secretariat Itanagar – 791111	cs-arunachal@nic.in	Sir
3	The Chief Secretary Government of Assam Block- C, 3rd Floor, Assam Sachivalaya Dispur - 781006, Guwahati	cs-assam@nic.in	Sir
4	The Chief Secretary Government of Bihar Main Secretariat, Patna – 800015 Bihar	cs-bihar@nic.in	Sir
5	The Chief Secretary Government of Chhattisgarh Mahanadi Bhawan, Mantralaya Chhattisgarh– 492002	csoffice.cg@gov.in	Sir
6	The Chief Secretary Government of Goa Secretariat, Porvrim, Bardez, Goa – 403521	cs-go@nic.in	Sir
7	The Chief Secretary Government of Gujarat 1st Block, 5th Floor Sachivalaya, Gandhinagar – 382010	chiefsecretary@gujarat.gov.in	Sir
8	The Chief Secretary Government of Haryana 4th Floor, Haryana Civil Secretariat Sector-1, Chandigarh – 160019	cs@hry.nic.in	Sir
9	The Chief Secretary Government of Himachal Pradesh H P Secretariat, Shimla – 171002	cs-hp@nic.in	Sir
10	The Chief Secretary Government of Jammu & Kashmir R. No. 2/7, 2nd, Floor Main Building, Civil Secretariat, Jammu - 180001	cs-jandk@nic.in	Sir

11	The Chief Secretary Government of Jharkhand 1st Floor, Project Building, Dhurwa, Ranchi 834004	cs-jharkhand@nic.in	Sir
12	The Chief Secretary Govt. of Karnataka, Room No.321, VidhanaSoudha, Bengaluru-560001 Karnataka	cs@karnataka.gov.in	Sir
13	The Chief Secretary Government of Kerala Secretariat, Thiruvananthapuram – 695001	chiefsecy@kerala.gov.in	Sir
14	The Chief Secretary Government of Madhya Pradesh MP Mantralaya, VallabhBhavan Bhopal – 462004	cs@mp.nic.in	Sir
15	The Chief Secretary Government of Maharashtra CS Office Main Building, Mantralaya 6th Floor, Madame Cama Road, Mumbai – 40003	cs@maharashtra.gov.in	sir
16	The Chief Secretary Government of Manipur South Block, Old Secretariat Imphal-795001	cs-manipur@nic.in	sir
17	The Chief Secretary Government of Meghalaya Main Secretariat Building Rilang Building, Room No. 321 Meghalaya Secretariat, Shillong - 793001	cso-meg@nic.in	sir
18	The Chief Secretary Government of Mizoram New Secretariat Complex, Aizwal - 796001	cs_miz@rediffmail.com, cs_mizoram@nic.in	sir
19	The Chief Secretary Government of Nagaland Civil Secretariat, Kohima- 797004	csngl@nic.in	Sir
20	The Chief Secretary Government of Odisha General Administration Department Odisha Secretariat Bhubaneswar - 751001	csori@ori.nic.in, csori@nic.in	Sir
21	The Chief Secretary Government of Punjab Chandigarh - 160001	cs@punjab.gov.in	sir
22	The Chief Secretary	csraj@rajasthan.gov.in	sir

	Government of Rajasthan Secretariat, Jaipur – 302005		
23	The Chief Secretary Government of Sikkim New Secretariat, Gangtok - 737101	cs-skm@hub.nic.in	Sir
24	The Chief Secretary Government of Tamil Nadu Secretariat, Chennai – 600009	cs@tn.gov.in, tnstateec@gmail.com	Madam
25	The Chief Secretary Government of Telangana Block C, 3rd Floor, Telangana Secretariat Khairatabad, Hyderabad, Telangana-500004	cs@telangana.gov.in	sir
26	The Chief Secretary Government of Tripura New Secretariat Complex Secretariat-799010, Agartala West Tripura	cs-tripura@nic.in, cstripura@gmail.com	sir
27	The Chief Secretary Government of Uttar Pradesh 1st Floor, Room No. 110 LalbahadurSastriBhawan Uttar Pradesh Secretariat, Lucknow - 226 001	csup@nic.in	sir
28	The Chief Secretary Government of Uttarakhand 4 Subhash Road, Uttarakhand Secretariat Dehradun - 248001	chiefsecyuk@gmail.com	sir
29	The Chief Secretary Government of West Bengal Nabanna, 13th Floor, 325, SaratChatterjee Road, Mandirtala Shibpur, Howrah - 711102	cs-westbengal@nic.in	sir
30	The Chief Secretary Andaman and Nicobar Administration Secretariat, Port Blair - 744101	cs-andaman@nic.in	sir
31	The Chief Secretary Secretariat, Moti, Silvasa, Daman - 396220	pers-dd@nic.in	sir
32	The Chief Secretary Lakshadweep, Kavaratti - 682555	lk-admin@nic.in	sir
33	The Chief Secretary Delhi Secretariat, IP Estate, New Delhi - 110002	csdelhi@nic.in	sir

34	The Chief Secretary Chief Secretariat, Goubert Avenue, Puducherry - 605001	cs.pon@nic.in,	sir
35	Adviser to the Administrator UT Secretariat, Sector 9, Chandigarh	aa-chd@nic.in	sir

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 804/2017
(Earlier O.A. No. 36/2012)

WITH

M.A. No. 1302/2018

IN

Interlocutory Application No. 63

IN

W. P. (C) No. 657/1995

Rajiv Narayan & Anr

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

With

The Research Foundation for Science, Technology
And Natural Resource Policy

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 12.04.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Raj Panjwani, Senior Advocate
Ms. Meera Gopal, Advocate
Mr. Rahul Choudhary, Advocate

For Respondent (s): K. Enatoli Sema and Mr. Amit Kumar Singh Advocates
for State of Nagaland
Mr. Manish Kumar, Advocate
Mr. Sriansh Prakash and Mr. Raj Kumar Maurya,
Advocates for EDMC
Mr. Daleep Dhyani, Advocate for UPPCB
Mr. Amit Tiwari, Advocate for SOUP
Mr. Raj Kumar, Advocate for CPCB

ORDER

1. The issue for consideration is non-compliance of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The status reports filed by the States were considered with reference to the following:

- "1. As to what is the total generation of hazardous waste in their respective States.*
 - 2. Which agencies have been authorized in terms of rules to collect, transport, disposed of and the process of the hazardous wastes.*
 - 3. What is the capacity of the plants which have been given due authorization for that purpose.*
 - 4. What happens and how the remnant hazardous waste is being dealt with.*
 - 5. The members who have been allotted any of the authorized plants and are not sending hazardous waste to those plants. What action the concerned authorities i.e. the State Government and the respective States and State Pollution Control Boards have taken so far, against such members.*
- These details should be filed within one week from today."*

2. Vide order dated 30.07.2018, the Tribunal found that Central Pollution Control Board (CPCB) was required to prepare a consolidated review report every year under Rule 20, based on reports of the State Pollution Control Boards (SPCBs). The Tribunal directed as follows:

- "(i) All the States, where the hazardous waste is being generated must set up Treatment, Storage and Disposal Facility (TSDF) facility of adequate capacity at appropriate locations within three months from today and forthwith imitate action against erring units.*
- (ii) Central Government and Central Pollution Control Board must forthwith monitor the compliance of the rules by reviewing the need for action in all the states.*
- (iii) The Central Pollution Control Board may forthwith constitute a monitoring Committee for the purpose it may appoint a Nodal Officer exclusively to oversee the compliance of the rules. The Member Secretary CPCB may act as a Nodal Officer till a substitute is found. The action taken must be placed on the website of the Central Pollution Control Board within 3 months from today. Compliance report be filed before this Tribunal on or before 30th November, 2018, which will be treated as a separate application."*

3. Setting up of Treatment, Disposal and Storage Facility (TSDF) being an urgent and important requirement which was required to be monitored as above. In compliance of the directions of the Tribunal, an affidavit has been filed on 08.02.2019 by the CPCB stating that on 09.08.2018 a Monitoring Committee was constituted headed by Dr. Ajay A. Deshpande, former Expert Member, NGT. CPCB also issued directions under Section 5 of the Environment (Protection) Act, 1986 on 30.01.2019 for all the SPCBs/Pollution Control Committees (PCCs) as follows:

- a) *Ensure that all the solvent recovery industries in the state have mandatory Authorisation for the same in compliance with the SOP and Checklist issued by CPCB for solvent recovery units, within one month. The said SOP and checklist have been circulated to all SPCBs/PCCs vide letter no. B29016/(SC)/1(55-IV)/17-18/WM-II/18152-86 dated 08/3/2018 and is also available at CPCB website http://cpcb.nic.in/uploads/hwmd/utilizaionspent_solvent.pdf.*
- b) *Ensure that these solvent recovery industries shall immediately follow the SOP, for safe and scientific spent solvent handling, processing and storage.*
- c) *Ensure that such solvent recovery units shall comply with the provisions of HOWM Rules, 2016, in terms of interstate transport of Hazardous waste and manifest document prescribed under Rule 18 and 19 of the HOWM Rules, 2016, with immediate effect. Stringent action be taken against the erring industries who are giving the spent solvent to such recycling industries without following the manifest systems.*
- d) *Conduct industry interaction programs within a month to create awareness and sensitization on HOWM Rules, 2016 with all the stakeholder industries of Spent Solvent generation/utilization.*
- e) *Prepare an inventory of such solvent recovery units and publish the same on their website for information of all, stakeholders within one month with copy to CPCB within one month."*

4. The Monitoring Committee furnished its interim report in compliance of orders of this Tribunal after reviewing the various aspects of enforcement of the Rules proposing actions as follows:

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Sl.	Observations	Proposed Actions (Responsible
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No.		Agency and timeline of action)
1	<p>Hazardous waste identification: - Uniformity in assessment, Byproducts and solvents (Details in Chapter 4 – Section 4.1.1)</p> <p>a. The Rules define by-products very categorically linking it to its intended use. Presently, there is no verification or appraisal of such continuous intended use before classifying certain waste as a byproduct. There is a need for SOP/guidelines for identification of by-products based on the manufacturing process as well as intended use.</p> <p>b. Applicability of various clauses of the HW Rules to the 'other waste' also needs to be defined clearly in the Rules itself.</p> <p>c. Presently, there is hardly any scientific examination or scrutiny for identification and quantification of HW prior to grant of authorisation.</p> <p>d. The HW Rules basically focuses on a close loop approach for the HW Management which is reflected in the adoption of manifest system in order to ensure that the HW movement is continuously tracked till its final disposal (Cradle to Grave approach).</p> <p>e. However, in case of spent solvent sent for solvent recovery, such manifest system seems to be ending at the door step of the spent solvent recycler. It would be advisable to continue this manifest system right upto the actual user of such recovered solvent from solvent recovery plant to ensure appropriate regulation of spent solvent plant performance and appropriate accounting and use of recovered solvent.</p> <p>The similar approach is also required to be adopted in all cases of recycling/recovery/ utilisation such as used oil, waste oil, lead scrap, spent acid, spent catalyst, etc.</p>	<p>1. There is a need to urgently prepare a guidelines or protocol on how to decide the by-product on specific criteria. This can be done based on chemical process involved in order to bring consistency in approach. (MoEF&CC and CPCB: 06 months)</p> <p>2. Other waste is presently missing from all the regulatory actions, including inventory. It is necessary to bring such waste in regulatory domain, as envisaged in the rules. (SPCBs/PCCs: inventory of 2018-19 onwards).</p> <p>3. SPCBs/PCCs need to take steps to ensure closing of the manifests received and reconcile the HW handling data. This work is humungous and need support in terms of software and online submissions. (SPCBs/PCCs).</p> <p>4. Pan India IT based solution is suggested for tracking HW. Such integrated data handling and management solution is under implementation by CPCB which the committee would like to review in next phase.</p> <p>5. The pre-processing and recycling/utilisation facilities need to be treated as critical environmental infrastructure facilities for sound environmental management of hazardous waste so as to ensure enhanced level and frequency of enforcement and environmental monitoring. Elaborate protocols are needed to be developed. (SPCBs/PCCs: continuous activity).</p> <p>6. According to Rules, the identification and quantification of the hazardous waste generation is to be done at the authorisation stage itself and therefore, it is necessary that SPCBs shall adopt the scientific principles as enumerated for such identification and quantification of HW. (SPCB/PCCs: Immediate)</p>

2.	<p>Grant of Authorisation by SPCBs/PCCs (Details in Chapter 4 – Section 4.1.2)</p> <p>a. The Rules stipulates requirement of enclosing field inspection report while granting authorisation</p> <p>b. The committee observed that only in few cases the SPCBs are enclosing the said field inspection report alongwith authorisation granted.</p> <p>c. Further, such filed inspection report lacks details w.r.t to adequacy of the facilities on storage, transportation, treatment, recycling/utilisation, disposal, etc.</p>	<p>1. Uniform format for visits and inspections of HW handling facilities is necessary to ensure comprehensive inspections as per the provisions of the Rules. A format is proposed by the Committee which is given at Annexure XVI.</p> <p>2. The authorisation document should clearly stipulate respective mode of management (such as common or captive incineration/secured landfilling or pre-processing or recycling or utilization or export or captive storage, as applicable) for each category of HW being generated. (SPCB/PCCs: immediate)</p>
3.	<p>Inventory (Details in Chapter 4 – Section 4.2)</p> <p>a. Inventories are based on reporting by the generators/occupiers through annual report as well as authorisation.</p> <p>b. The inventory data do not cover all the industries who have been granted authorisation. It also does not cover the hazardous waste from domestic sources, interstate movement, import/export of hazardous waste, and other waste.</p> <p>c. The inventories are not verified and validated based on the scientific principles by the State Pollution Control Boards/Pollution Control Committees (SPCBs/PCCs).</p> <p>d. There is a substantial variation in the quantity declared in the authorisation and actual quantity of hazardous waste generation declared in the annual report.</p> <p>e. Quantities reported in the captive utilisation of hazardous waste appear to be on higher side and are not verified.</p> <p>f. There are no standard protocol/guidelines for preparation of HW inventory based on sound scientific principles and approach which is a basic necessity to ensure uniform and consistent preparation of HW inventory by different</p>	<p>1. Standard guidelines and protocol based on scientific fundamentals for preparation of inventory should be prepared by CPCB and strictly followed by the SPCBs/PCCs to ensure reliable and credible inventory. (SPCBs/PCCs and CPCB/: inventory of 2018-19 onwards)</p> <p>2. SPCBs/PCCs shall verify and scientifically validate the HW data and facilities before grant or renewal of authorisation. (SPCBs/PCCs: inventory of 2018-19 onwards)</p> <p>3. There is an emergent need to develop sectoral process based reasonable HW generation range to have uniformity in assessing the HW generation from industries and benchmarking the same with its peers, rather than solely depending on industry data. (SPCBs/PCCs: continuous activity)</p> <p>4. All occupiers who have authorisations shall submit the Annual report and in case of non-compliance, action needs to be taken by SPCB/PCC. (SPCBs/PCCs: inventory of 2018-19 onwards)</p> <p>5. The timelines for inventory preparation as envisaged in Rules be strictly complied with by SPCBs/PCCs. Preparation of country's inventory by CPCB is dependent on such timely submission by SPCBs/PCCS. (SPCBs/PCCs and CPCB)</p>

	SPCBs/PCCs.	
4.	<p>Enforcement actions. (Details in Chapter 5)</p> <p>a. Though there have been several incidents on record of noncompliance of HW Regulations resulting in discharge of HW in environment, the powers vested with the CPCB/SPCBs/PCCs for recovering environmental damages under Rules 23(1) has not been invoked.</p> <p>b. Only three States namely Maharashtra, Telangana and Madhya Pradesh have reported prosecution actions under Section 15 of EP Act, 1986.</p> <p>c. There are hardly few cases where the SPCBs/PCCs have invoked provisions related to revocation and/or refusal of authorisation in view of the observed noncompliances.</p> <p>d. Inspection report, mostly is not attached along with the authorisation granted. Wherever inspection reports have been attached such reports lack in required information for appraisal.</p>	<p>1. SPCBs/PCCs shall invoke the powers conferred under clause 23 (1) and (2) of the Rules, related to all damages caused to the environment or third party due to improper handling and management of the hazardous and other wastes, and non-compliance respectively. CPCB has already issued guidelines for Liability assessment, for invoking clause 23(1) and (2) of HW Rules. CPCB shall also take consequential actions under clause 23 (1) as per the said guidelines wherever directions under section 5 of the E(P) Act have been issued by CPCB, noticing environmental damages. (SPCBs/PCCs and CPCB: Immediate).</p> <p>2. The habitual and serious defaulters shall be prosecuted under provisions of the Environment (Protection) Act, 1986. Other alternative regulatory actions including refusal and revocation of Authorisation can also be explored following the due process. (SPCBs/PCCs: Immediate)</p> <p>3. Non-compliance to be documented while processing authorisation for renewal or inspections in order to invoke powers of refusal or revocation of Authorisation as per Rules. (SPCBs/PCCs: Immediate)</p> <p>4. Urgent updation of concerned websites of SPCBs/PCCs/CPCB with respect to all enforcement actions along with details of industries and action taken. (SPCBs/PCCs/ CPCB: Immediate)</p> <p>5. There is need to have an enforcement framework for effective enforcement of Rules based on principle of proportionality and also, precautionary principle. Such framework will remove ambiguity in regulatory actions and bring transparency, predictability and consistency in enforcement for actions. (SPCBs/PCCs/CPCB: within 06 months)</p>
5.	<p>Hazardous waste utilisation and recycle. Issues and need of improvements (Details in Chapter 4 – Section 4.3)</p> <p>a. The inventory data shows skewed variation in utilisation of HW pattern among different</p>	<p>1. The inventory data needs to be verified and validated before accepting the same. The states shall adopt the proposed guidelines immediately while preparation of HW inventory. (SPCBs/PCCs: Immediate)</p>

<p>States. For example in Gujarat about 36 % of the HW generated is either recycled or utilised, whereas in Maharashtra 0.98 % HW generated is recycled and utilised.</p> <p>b. Maharashtra is not authorising and promoting the co-processing which is one of the major option of utilisation of HW, although the HW Rules provided hierarchy of waste management promoting recycle and utilisation of the HW. There is a need to have a consistent and scientific approach to promote the HW recycle and reuse in consonance of the objective of the HW Rules expressed in terms of hierarchy, throughout the country.</p> <p>c. There are certain environmental risks associated with the recycle and utilisation of the HW in case of non-compliance. It is therefore necessary that such recycle and utilisation of HW is strictly regulated in terms of the performance of such recycle and utilisation.</p> <p>d. There is need to immediately prepare guidelines for high volume low impact waste like slags from pyrometallurgical operations, fly ash, red mud, Jarosite, mine tailings and ore beneficiation rejects.</p> <p>e. More clarity is required on the application of Rule 9 particularly in case of captive utilisation. Presently, it is very difficult for SPCB/PCC field staff to investigate and analyse such claims of industry. Therefore, presently, the data given by industry is relied upon in totality.</p> <p>f. The pre-processing facilities collect the HW from different industries and carry out the homogenization/blending activities to achieve the required calorific value and other desired specification for co-processing. As this industry sector indulge in handling the wide range of</p>	<p>2. There is emergent need of consistent approach in recycle and utilisation of HW in terms waste management hierarchy mandated in the rules across all the States in order to ensure the level playing field for the industry. This can be achieved by advocacy programme such as concept of waste exchange banks, know your waste programme, circular economy, documentation of the success stories along with regulatory interventions wherever required. (SPCBs/PCCs)</p> <p>3. It is also necessary to develop certain benchmarks/guidelines for the possibilities of HW recycle/utilization on case to case basis. For example, for co-processing at Cement plants the Thermal Substitution Ratio (TSR) can be an objective criterion to decide the potential to use HW for utilisation purpose. The range of TSR at different cement plants can be collated to develop a database for sound coprocessing practices. (SPCBs/PCCs)</p> <p>4. The concept of environmental benchmarking among the similar industries generating HW can be useful to ensure consistency and uniformity. The emerging trend of circular economy would be a key intervention for rationalising the HW generation and reuse/utilisation (SPCBs/PCCs: continuous activity)</p>
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	wastes from different industries, it would be prudent to have improved enforcement regime in terms of number of inspections, detailing of inspection, environmental monitoring and reporting of waste receive/disposed etc. on the lines of common facilities.	
6.	<p>Common Treatment, Storage and Disposal facilities: reporting. (Details in Chapter 4 – Section 4.5)</p> <p>a. The Committee has observed that in some cases the TSDF rejects the consignment received from the waste generator for non-compliance of acceptance criteria. This consignment is returned back to the waste generator.</p> <p>b. The site selection criteria, design and layout are the critical parameters for establishment of the TSDF. In addition, waste storage, stabilization, landfilling, incineration and leachate management are critical operations. The committee has observed non-compliance of these guidelines For example TSDF at Balotra, Roorkee, Kanpur, etc.</p> <p>c. Of 18 SPCBs/PCCs having common secured landfills, 06 SPCBs have still not opened Escrow Account provision for postclosure monitoring of common SLF.</p> <p>d. Compliance of the Hon'ble NGT orders dated 30/07/2018 with regard to setting of TSDFs and taking imitating actions against erring units- Only Goa and Odisha have submitted action plan with timeframe for setting of Common SLF + Incinerator and Common Incinerator respectively. Only Odisha has taken action against erring units</p>	<p>1. The practice of returning the HW consignment needs to be immediately stopped and the consignment needs to be stored within the TSDF with information to the waste generator and also the concerned SPCB. The TSDF shall take appropriate measures to dispose this waste at the risk and cost of the waste generator under due information to the SPCB immediately on priority. Though the present guidelines prescribed that the waste shall be sent back to the waste generators, this practice needs to be immediately discontinued in view of non-accounting of the waste once it is out of manifest protocol and the associated environmental risks. <u>(SPCBs/PCCs/TSDFs: immediate)</u></p> <p>2. SPCBs/PCCs shall conduct environmental audit including the site selection criteria, design and layout for the TSDFs in next one year. They can engage expert institutes for the purpose and seek CPCB's technical advice on the ToR of the study, if required. <u>(SPCBs/PCCs: 01 year)</u></p> <p>3. All the Common SLF shall disclose the mandatory amount deposited in Escrow Account annually to SPCB/PCC, CPCB and display on their website. SPCB/PCC to take action in case of non-compliance. <u>(SPCBs/PCCs: immediate)</u></p> <p>4. It is necessary that the Hon'ble NGT orders dated 30/07/2018 with regard to setting up of TSDF and taking imitate actions against erring units be strictly complied with by the concerned State/UT Government and SPCBs/PCCs. <u>(State/UT Governments and SPCBs/PCCs: immediate)</u></p>
7.	Contaminated sites: Status, identification, need of urgent action, investment, capacity building,	<p>1. It is necessary that such contaminated site database is developed after due verification by SPCBs/PCCs and validation by</p>

<p>guidelines. (Details in Chapter 4 – Section 4.7)</p> <p>The Committee has initiated work on monitoring of direction of the Hon'ble Supreme Court with regard to contaminated site WP 657/1995 and has discussed the matter with SPCBs/PCCs/CPCB and the petitioner Shri Sanjay Parikh, Adv. The Committee recognised the monitoring of this aspect has a large scope and the committee intends to focus on this specific issue in coming days. In the meantime committee has made following preliminary observations and record the need of immediate interventions.</p> <p>a. MoEF&CC/CPCB have identified total 329 potentially hazardous waste contaminated sites and subjected them for screening based on verification by the SPCBs. After the verification by SPCBs, the total 144 sites have been identified as contaminated sites and 57 sites are still under evaluation. The Committee is of the opinion that the identification of the contaminated sites is an elaborate process involving objective criteria and standard protocols. It is expected that SPCBs and CPCB shall follow such objective criteria and standard protocol to identify the contaminated sites and also to assess their scope and extent of contamination.</p> <p>b. Out of 144 identified contaminated sites, CPCB has prioritised 8 sites for which DPR for assessment and remediation has been prepared. However, there is an urgent need to execute this remediation plan on top priority. The Committee has been informed that the required financial resources for such remediation have not been mobilised so far.</p> <p>c. There is a change in number of such identified sites over the period which</p>	<p>CPCB or some expert third party, so as to ensure the reliability of such data base. The entire process of screening, verification and validation needs to be as per standard protocol and the data needs to be owned by both SPCB/PCC and CPCB, not leaving the things at state level alone. (SPCBs/PCCs/CPCB: continuous activity)</p> <p>2. CPCB should update national priority list of such confirmed contaminated sites. (CPCB: continuous activity)</p> <p>3. Concerned SPCBs/PCCs shall identify the responsible person/industry, for each of these contaminated sites for suitable application for polluter pays principle for the remediation programme in line with the CPCB guidelines 'Implementing Liabilities for Environmental Damages & Disposal of Hazardous Waste and Penalty'. (SPCBs/PCCs: Immediate and continuous activity)</p> <p>4. Both SPCBs and CPCB shall continue the process of identification of probable contaminated sites and subject them to identification criteria and decide their status as well as scope and extent of such contamination. This process is a dynamic and need to be a regular feature of enforcement. (SPCBs/PCCs and CPCB: continuous activity)</p> <p>5. In case of the contaminated sites where the polluter is not identified, the State/UT Government would be required to finance remediation of such sites to safeguard the people living in contaminated areas from adverse health effects, in terms of their constitutional responsibility to protect and improve the environment. (States/UTs Government and SPCBs/PCCs)</p> <p>6. SPCBs/PCCs need to initiate immediate intervention measures for containing immediate threats from existing contaminated sites (in both active and inactive sites) and also further ingress of HW. (SPCBs/PCCs: immediate)</p>
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	could be due to listing/delisting of probable contaminated sites as a result of increased enforcement and monitoring activities, and variations in criteria.	
8.	<p>Impact of other regulations (Details in Chapter 4 – Section 4.2)</p> <p>The committee notes that HW resulting from enforcement of other regulations like E-waste, SW rules etc are presently not accounted in the HW management plans under HW rules. Committee finds a need to consider impact of other regulations while planning HW management including preparation of inventory and assessing the impacts.</p> <p>a. As per E-waste regulation, in case of fluorescent and other mercury containing lamp where recyclers are not available, such waste is channelized to common TSDF for disposal after pretreatment/immobilization of mercury. Such waste should also be accounted into HW inventorisation.</p> <p>b. In case of solid waste rules, there is a separate category of domestic HW which is expected to be disposed in the Common Hazardous facility, however, there is no data or information available on the quantity and quality of such domestic HW available so far.</p>	<p>SPCBs/PCCs and CPCB need to take cognizance of these aspects while enforcing the relevant rules and also, preparation of HW inventory and other interventions. (SPCBs/PCCs and CPCB)</p>
9.	<p>Import and export. (Details in Chapter 4 – Section 4.6)</p> <p>a. Harmonization of Basel codes with ITC (HS codes): The Ministry (MOEF) provides permission on the basis of Basel codes while DGFT uses HS codes. There is a need to synchronize the two codes to avoid confusion.</p> <p>b. Risk management assessment: The customs authorities use the risk management system (RMS) to enable low risk consignments to be cleared based on the acceptance of the importer's self-assessment and without examination. Roughly 30 percent of containers covered under risk management out of</p>	<p>Committee would deliberate on this issue further for making detailed recommendations. Still however, following recommendations on co-ordination and data management are made;</p> <p>1. There is need to synchronise Basel code and HS codes to cover all scheduled items as per HW rules in customs verification and control more effectively. (MoEF&CC, Custom and Port Authorities)</p> <p>2. CAG has come out with details of illegal HW import and its storage in ports and ICDs. This needs to be verified on priority and action be taken for disposal of the same in terms of earlier orders of Hon'ble Supreme Court. (Custom and Port Authorities)</p> <p>3. Improve traceability of importers:</p>

	<p>which 10 percent are physically verified. There are different types of waste streams which have not been integrated in the RMS. There is a need to review the import/export data of various waste streams and include them in RMS. Further, waste streams in Schedule III – Parts A, B and D and Schedule VI that are often mis-declared by importers need to be identified and added to the RMS.</p> <p>c. Collaboration between regulating authorities: Regular interaction between the Ministry of Environment, Forest and Climate Change, CPCB, SPCBs/PCCs, customs and ports authorities should take place with frequent consultative meetings and trainings in order to avoid working in silos.</p>	<p>The Customs authorities could make the registration process of importers more stringent as there have been cases where importers have never been able to be traced when their illegal imports were intercepted (<u>MoEF&CC, DGFT, Custom and Port authorities</u>)</p>
10	<p>Capacity building in CPCB and SPCBs/PCCs and other agencies (trained adequate manpower, laboratory, budget) (Details in Chapter 4 – Section 4.7 and 4.8)</p>	<p>1. Each of the SPCBs/PCCs/Custom/TSDF, as listed in report, need to have at least one laboratory where all HW parameters as required under the Rules can be analysed. (<u>SPCBs/PCCs/Custom/TSDF: 06 months</u>)</p> <p>2. Capacity building in SPCBs/PCCs for rapid preliminary assessment of contaminated sites, which may include practical training on use of tools for soil and groundwater screening such as hand-held XRF instruments, Colorimeter, PID for VOCs/ SVOCs, hand operated augers, groundwater pumps, level meters, etc. (<u>CPCB: 06 months</u>)</p> <p>3. SPCBs/PCCs and CPCB needs capacity building in terms of qualified and experienced manpower and also, tools and techniques for effective governance. Committee is informed about steps being taken by SPCBs and would review the same in detail. (<u>MoEF&CC, State/UT Government, CPCB and SPCBs / PCCs: Immediate</u>)</p>
11.	<p>Duties performed by State/UT Govt. as stipulated under the HOWM Rules, 2016 (Details in Chapter 5) The State Govts. have been</p>	<p>1. There is need to sensitize State/UT Govts. about duties required to be performed by the concerned department/agency as stipulated under Rule 5(1), 5(2),</p>

entrusted with duties of authorising Dept. of Industry/other Govt. agency and Dept. of Labour/other Govt. agency with regard to allocation/earmarking of industrial space, recognition/registration/ health & safety/etc. of workers involved in recycling/ preprocessing/ other utilization activities of HW and submission of integrated plan under Rule 5(1), (2) and (3) respectively: The State Govt. has also been entrusted with duties of identification and notification of sites for common TSDF and publishing periodically inventory of disposal sites as stipulated under Schedule VII of the HOWM Rules, 2016. It has been observed that actions have not been taken on the above (except identification and notification for common TSDFs in few States) by the State/UT Govt. and there is lack of awareness among them in this regard.	5(3) and Schedule VII of the HOWM Rules, 2016. Hon'ble NGT may issue appropriate directions in this regard. <u>(All State/UT Govts.: Immediate)</u>
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5. Having regard to the sensitiveness of the issue and impact of non-compliance on environment and public health, the above recommendations need to be fully implemented and monitored by the Chief Secretaries at State Level and by the MoEF&CC and CPCB at national level.
6. The affidavit of CPCB further states that the Committee has not covered all the aspects and certain other aspects which remain to be considered include contaminated site, capacity building of regulators, issues related to import and export of hazardous waste etc. for which further time of six months is required.
7. We are of the view that the Committee must complete its task expeditiously within three months from today. In view of the fact that

two months have already gone by after the affidavit was filed, its final report may now be submitted on or before 31.07.019.

8. It is made clear that if the progress in implementation of the Rules is not found to be adequate, the States may be required to furnish performance guarantees to comply with the Rules in a time bound manner.
9. CPCB may determine the scale of compensation to be recovered for violation of the Rules within one month from today and furnish a report to this Tribunal by-email at ngt.filing@gmail.com. CPCB may furnish final action taken report in the matter on or before 15.08.019 by e-mail at ngt.filing@gmail.com.
10. The Chief Secretaries may look into the issue of capacity building of the SPCBs/PCCs to deal with the issue of compliance of the Rules.

List for further consideration on 26.08.2019.

Adarsh Kumar Goel, CP

Dr. Nagin Nanda, EM

April 12, 2019
Original Application No. 804/2017
(Earlier O.A. No. 36/2012)
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