

Hazardous Waste

Supreme Court Directives

Writ Petition (Civil) No. 657 of 1995: Research Foundation for Science, Technology and Natural Resource Policy Vs Union of India and others:

The Hon'ble Supreme Court of India vide its order dated 14 October 2003 in the matter of Writ Petition (Civil) No. 657 of 1995 filed by the Research Foundation for Science, Technology and Natural Resource Policy Vs Union of India and Others, inter-alia, directed the Central Government to constitute a Monitoring Committee to oversee timely compliance of its directions given in the said Writ Petition. Comprehensive Directives of the Hon'ble Supreme Court dated 14.10.2003 are as follows:

Directives of Hon'ble Supreme Court in the matter of Writ Petition (Civil) No.657 of 1995 dated 14 October 2003

Direction Number	Supreme Court Directions	Time Frame	Agency
1.	Proposed changes in the HW Rules, 1989 as amended in 2003.	4 months for compliance	MoEF
2.	Review of List 'A' Schedule VIII items BASEL Convention other than 29 banned items already included in HW Rules, 2003.	4 months for compliance	MoEF
3.	Review of waste materials like used edible oil, cow dung, plastic scrap, used PVC in any form, PET bottles, etc., which are required to be banned.	4 months for compliance	MoEF
4.	Directions regarding compliance of Recycled Plastics, Manufacture and Usage Rules, 1999 and the Batteries (Management and Handling) Rules, 2001.	4 weeks	MoEF
5.	Directions to be issued regarding collection and transportation of used oil from different sources to be sold and recycled by registered refiners with requisite undertaking from refiners.	4 weeks	MoEF/ CPCB
6.	Closure direction to the units operating without any authorization or in violation of conditions of operations issued under HW Rules, 1989 as amended.	3 weeks	SPCBs/PCCs
7.	Directions to SPCBs/PCCs bringing to their notice the latest cleaner technology and requiring the said boards/Committees to ensure compliance thereof by concerned units within the fixed time frame.	3 months	CPCB
8.	Preparation and issuance of Check-List and ensuring its compliance by SPCBs/PCCs.	3 months.	CPCB
9.	Transportation of HWs (preparation of Guidelines)	3 weeks.	CPCB
10.	Amendment in the Rules incorporation of the principles of Article 9 of the BASEL Convention-Affidavit to be filed.	4 months	MoEF
11.	Upgradation of Laboratories at Port/Docks/ICDs (Gateways)	12 months with quarterly reports	MoEF/Nodal Ministries
12.	Uniform Testing Procedure to be followed by the Labs.	6 weeks.	CPCB
13.	Direction regarding display of relevant information on	4 weeks	SPCBs/PCCs

	Hazardous Waste by concerned Units.		
14.	Awareness programmes in Media regarding HWs.	8 weeks.	MoEF/CPCB
15	Preparation of State/UT Inventories regarding HW generation by SPCBs/PCCS.	3 months	SPCBs/PCCs
16	Random check-up of the inventories by Central Pollution Control Board.	4 months	CPCB
17	Submission of the States/UT Inventories regarding HW generation before this Hon'ble Court for preparation of National Inventory	5 months	CPCB/SPCBs/PCCs
18	Preparation of States/UTs Inventories regarding waste Dump Sites and Rehabilitation Plan.	3 months	SPCBs/PCCs
19	Cross check by the Central Pollution Control Board and evaluation of the Rehabilitation Plan.	4 months	CPCB
20	Submission of the said Inventory and Rehabilitation Plan before this Hon'ble Court .	5 months	CPCB/SPCBs/PCCs
21	Preparation & Publication of National Inventory of HW generation and HW Dump Sites.	7 months	MOEF/ CPCB
22	Fixing time frame for implementation of Rehabilitation Plan by SPCBs/PCCs	3 months	SPCBs/PCCs
23.	National Policy for Landfill Sites.	4 months	MOEF/ CPCB
24.	Guidelines for proper functioning and upkeep of disposal sites.	3 months	CPCB
25.	Guidelines of HW Incinerators	8 weeks	MoEF/CPCB
26.	Institutional Reforms Ministry of Environment & Forests/ Central Pollution Control Board/SPCBs/ PCCs.	3 months	MoEF/Nodal Ministries
27.	National Policy Documents on HW	9 months	MoEF/ CPCB
28.	Central Pollution Control Board to do research and take up the matter with the Ministry of Environment & Forests for requisite regulatory measures in regard to import of dirty technologies in Industries – steps to be taken.	3 months.	CPCB
29.	Various directions with regard to ship breaking.	1 month	MoEF/State Maritime Boards/ SPCBs

Note : Information prepared based on the information available with CPCB, MoEF and based on the SCMS consolidated report.

Constitution of the Supreme Court Monitoring Committee:

As per directives of the Hon'ble Supreme Court, the Union Ministry of Environment and Forests constituted the Supreme Court Monitoring Committee (SCMC) on 20 November 2003, with Dr. G. Thyagarajan, former Director, Central Leather Research Institute (CLRI) as Chairman of the Committee and other members having wide experience in research oriented activities from the Council of Scientific and Industrial Research (CSIR) Organizations such as National Environmental Engineering Research Institute (NEERI), Nagpur; Indian Institute of Chemical Technology (IICT), Hyderabad; National Metallurgical Laboratory (NML), Jamshedpur; National Chemical Laboratory (NCL), Pune; and Indian Institute of Petroleum (IIP), Dehradun and officials having experience in the field of pollution control and abatement from the Ministry of Environment & Forests (MoEF), Central Pollution Control Board, Gujarat Pollution Control Board (GPCB), and a representative of an NGO (Goa Foundation) for assessing the compliance of the Apex Court's directions by the concerned agencies and for submission of the Action Taken Reports (ATRs) to the Hon'ble Supreme Court. Notification was issued by the Ministry of Environment & Forests (MoEF) constituting the Committee with the following Terms of Reference of the Committee, as follows:

- a. Characterization of hazardous wastes: Identification of hazardous wastes and characterization of the constituents that would render such wastes hazardous.
- b. Prohibition/restriction of Hazardous Wastes: Identification and listing of hazardous wastes for prohibition/restriction for exports/imports and handling of these wastes.
- c. Environmentally Sound Technologies: Identification and listing of Environmentally Sound Technologies for Reprocessing and recycling of wastes, treatment and disposal; and
- d. To oversee that the directions of the Supreme Court in the matter of WP 657/95 are implemented strictly and faithfully and to file quarterly reports to the Hon'ble Supreme Court in this regard.
- e. Any other matter assigned by MoEF from time to time.

Compliance of Hon'ble Supreme Court Directives dated October 14, 2003 in the matter of W. P (C) No. 657 of 1995:

Preparation and Finalization of the Guidelines as per Hon'ble Supreme Court Directives:

As per Directives of Hon'ble Supreme Court of India, dated 14 October 2003 in the matter of Writ Petition (Civil) No. 657 of 1995, Central Pollution Control Board (CPCB) has complied with the directions in respect of directions of following:

- i) Manual on 'Sampling, Analysis and Characterization of Hazardous Waste' .
- ii) Guidelines for Common Hazardous Waste Incinerators.
- iii) Guidelines for Transportation of Hazardous Waste.
- iv) Pre-requisites for Issuing Authorization by the SPCBs/PCCs.
- v) Guidelines for Proper Functioning and Upkeep of Disposal Sites.

Apart from finalization of afore said guidelines, CPCB also coordinated for revision of Schedule 3 (list of wastes applicable for Import & Export for reprocessing i.e., to use as raw material only for recycling or reprocessing only), Schedule 4 (list of wastes, the reprocessing of which need registration from Central Pollution Control Board) and Schedule 8 (list of wastes prohibited for import and export of hazardous wastes) of the Hazardous Waste (Management & Handling) Rules, 1989 as amended in 2003. Also, CPCB prepared draft for 'National Policy Document on Management of Hazardous Waste'. The proposed draft amendments to Schedule 3, Schedule 4 and Schedule 8 of the Hazardous Waste (Management & Handling) Rules and draft national policy document on management of hazardous waste have already been forwarded to MoEF for consideration.

(Soft version of the Guidelines are already placed in CPCB web site)

Status on Common Hazardous Waste Treatment, Storage and Disposal Facilities for Disposal of Hazardous Wastes :

Hazardous Waste (Management & Handling) Rules, 1989 notified by the Ministry of Environment & Forests (MoEF) under Environment (Protection) Act, 1986 and further amendments made in the year 2000 and 2003 require every occupier generating hazardous wastes as listed under Schedule 1 and 2 of the said Rules or Operator of a Common Hazardous Waste Treatment, Storage and Disposal Facilities (TSDF) require authorization for collection, reception, treatment, storage, transportation and disposal of hazardous wastes (HW) in an environmentally sound manner, as per Rule 5 of the HW (M & H) Rules from the concerned State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC).

As per Rule 8 of the HW (M & H) Rules, there is also requirement of identification and notification of sites for development of TSDF and disposal of hazardous wastes in an environmentally sound manner. As per these rules, the Occupier or Operator of a Facility or Association of the Occupiers is responsible for identifying the sites and undertaking EIA of the selected sites for establishment of TSDFs. The State Government, Operator of a facility or any association of Occupiers are jointly responsible for identifying sites for Common TSDF. The SPCB or PCC is required to conduct public hearing and forward the EIA, details of the Public hearing along with the recommendations to the State Government. Thereafter, the State Government is required to notify the suitable sites for development of TSDF and also required to compile and publish periodically an inventory of such

hazardous waste disposal sites and facilities. Also, as per Rule 8 A of the HW (M & H) Rules require respective SPCB in State and PCC in UT to approve the designs of the disposal facilities and shall monitor the setting up and operation of the TSDF in their jurisdiction.

Common TSDF are an essential component of proper hazardous waste management activity for ultimate disposal of the hazardous wastes in an environmentally sound manner. Only three States have developed common TSDF and same are operational only in the States namely Gujarat, Andhra Pradesh and Maharashtra and progress made with regard to the development of TSDF in the other States is not satisfactory.

In order to speed up the process of development of TSDF in the States, MoEF in the past have also provided financial assistance and now also initiated a comprehensive scheme to provide financial assistance for setting up of TSDF for the State Governments and the industry associations. Under the scheme, MoEF provides financial assistance maximum of Rs. 2 Cr for setting up of TSDF on Public-Private Partnership basis based on Build, Operate and Own (BOO) principles, in accordance with the provisions of HWM Rules. Under this scheme, so far the States of Maharashtra, Andhra Pradesh, Gujarat and West Bengal have availed financial assistance for setting up of common TSDF in the respective States. Some more States Boards have applied to MoEF for the financial assistance. Some are yet to take the opportunity for availing such MoEF financial assistance programme.

Also, there is a tendency for not accepting the hazardous wastes from one State to the other where the facilities are already operational. In order to arrive at mutually agreeable consensus among the States especially with regard to the acceptance of hazardous wastes for ultimate disposal of landfillable wastes or for treatment of incinerable wastes by incineration in the states where such facilities are operational, issues with regard to the 'Strategy for Inter-state movement of hazardous wastes and disposal of hazardous wastes in common TSDF were discussed in 52 nd Conference of Chairpersons and Member Secretaries of SPCBs and PCCs held in January 05, 2006 and subsequently have discussed in the 13 th meeting of the Supreme Court Monitoring Committee (SCMC) held on 06.01.2006 at Mumbai. Upon detailed discussions, following decisions have been taken for taking further necessary action by the SPCBs & PCCs on priority.

- All States /UTs should ensure setting up Common Facilities for land filling of Hazardous Waste, latest by June 2006.
- States/UTs which propose to utilize Common landfill facilities set up/ being set up in neighboring States, should finalize formal agreements by above date.
- States/UTs generating incinerable wastes exceeding 5000 TPA should ensure setting up of Common Facility for incineration by December 2006.
- States/UTs proposing to utilize Common Incineration facilities available in neighboring States should finalize formal agreements by December 2006.
- To request Chairman, SCMC to write to all the State Governments / UTs Administration enclosing details of subsidy and assistance already provided by some of the State Governments with the suggestion to provide assistance/ incentives for setting up of common facilities
- Hon'ble Supreme Court may be appraised by SCMC accordingly.

Subsequently, above decisions have been communicated to the Chief Secretaries of all the State Governments and the Union Territory Administration by The Chairman, Supreme Court Monitoring Committee (SCMC) as well as by the MoEF. Central Board also requested all the SPCBs and PCCs with a request to take further necessary action in the light of the decisions of the Supreme Court Monitoring Committee. Based on the information received from the SPCBs and PCCs, State-wise status on setting up of Common TSDF as well as Common Hazardous Waste Incinerators seeking appropriate directions in respect of those States which have made little progress or yet to initiate the action for development of TSDF have been filed by the SCMC to the Hon'ble Supreme Court in the month of November 2006. State-wise status on development of Common TSDF as reported are given in Table

(Table 3).

Table 3: State-wise Status on Sites Identified, notified, TSDFs under Construction and TSDFs in Operation

S. No.	Name of the	Number of sites	Number of	Number of	Number of
1.	Andhra Pradesh	02	02	01	01
2.	Arunachal Pradesh	Nil	Nil	Nil	Nil
3.	Assam	Nil	Nil	Nil	Nil
4.	Bihar	01	01	Nil	Nil
5.	Chhattisgarh	02	-	-	-

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6.	Delhi	03	-	-	-
7.	Goa	02	-	-	-
8.	Gujarat	-	-	-	07
9.	Haryana	01	01	-	-
10.	Himachal Pradesh	01	-	-	-
11.	Jammu & Kashmir	Nil	Nil	Nil	Nil
12.	Jharkhand	Nil	Nil	Nil	Nil
13.	Karnataka	02	01	01	Nil
14.	Kerala	01	01	01	-
15.	Madhya Pradesh	09	03	01	-
16.	Maharashtra	06	04	02	02
17.	Manipur	Nil	Nil	Nil	Nil
18.	Meghalaya	01	-	-	-
19.	Mizoram	Nil	Nil	Nil	Nil
20.	Nagaland	Nil	Nil	Nil	Nil
21.	Orissa	01	01	-	-
22.	Punjab	01	01	01	-
23.	Rajasthan	08	01	01	-
24.	Sikkim	Nil	Nil	Nil	Nil
25.	Tamil Nadu	08	03	-	-
26.	Tripura	Nil	Nil	Nil	Nil
27.	Utt ar Pradesh	07	02	03	-
28.	Uttaranchal	02	Nil	Nil	Nil
29.	West Bengal	01	01	01	-
30.	Andaman & Nicobar Islands	Nil	Nil	Nil	Nil
31.	Chandigarh	Nil	Nil	Nil	Nil
32.	Daman & Diu, Dadra & Nagar Haveli	01	Nil	Nil	Nil
33.	Lakshadweep	Nil	Nil	Nil	Nil
34.	Pondicherry	01	-	-	-
Total		61	22	12	10

Note : Information prepared based on the information available with CPCB, MoEF and based on the SCMS consolidated report.

As per the above information, about 61 Sites so far have been identified by the SPCBs/PCCs and about 22 sites have been notified by the respective State Governments. Above status indicates that 12 States/UTs (i.e. States 09 and 03 UTs) have not even identified sites so far. Out of these 04 States 02 UTs have reported no generation of hazardous wastes in the respective States or UTs. 13 States /UTs which have notified sites are yet to develop the notified sites as disposal facilities.

Though the Hazardous Waste (Management & Handling) Rules were notified in the year 1989 under Environment (Protection) Act, 1986 and Ministry of Environment & Forests have provided financial support to some of the State Pollution Control Boards in the past as well as at present, progress made with regard to the development of Common TSDF in several States is not satisfactory to the Supreme Court Monitoring Committee. As per the information received from the SPCBs/PCCs, at present, there are only ten Common Hazardous Waste Treatment, Storage and Disposal Facilities (TSDF) in operation in the States of Andhra Pradesh (01), Gujarat (07) and

Maharashtra (02). The State Pollution Control Boards of West Bengal, Rajasthan and Madhya Pradesh have made considerable progress and TSDFs in these States are expected to be operational in a short period.

In the absence of common facilities for disposal of hazardous wastes, continued accumulation of such wastes in the premises of waste generating industries could pose serious threats to the environment due to improper disposal of huge quantum of wastes in view of the space constrains for the individual industries. Hence, there is an urgent need for development of Common TSDF so as to cater to the disposal of hazardous wastes in the respective States, on priority. This issues are proposed to be discussed in the ensuing Chairman and Member Secretaries Conference scheduled to be held in February 2007 at New Delhi .
