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April 11, 2017

To

536 577
The Chairman
(All SPCBs/PCCs As Per List Enclosed)

DIRECTIONS ISSUED UNDER SECTION 5 OF THE ENVIRONMENT (PROTECTION) ACT, 1986, IN CASE OF VIOLATIONS OF PROVISIONS OF HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANSBOUNDARY MOVEMENT) RULES, 2016

WHEREAS, the Central Government has notified the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 (herein after referred to as HOWM Rules), under the Environment (Protection) Act, 1986, in supersession of the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008, for safe and environmentally sound management hazardous and other wastes;

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

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

WHEREAS, Rule 3(23) of the HOWM Rules stipulates that "other wastes" means wastes specified in Part B and Part D of Schedule III for import or export and includes all such waste generated indigenously within the country;

WHEREAS, as per Rule 6 of the HOWM Rules, the occupier engaged in handling, generation, collection, storage, packaging, transportation, use, treatment, processing, recycling, recovery, pre-processing, co-processing, utilisation, offering for sale, transfer or disposal of hazardous and other waste shall obtain authorisation from State Pollution Control Board/Pollution Control Committee (herein after referred to as SPCB/PCC) in Form 2;

WHEREAS, Rule 9(1) of the HOWM Rules stipulates that utilisation of hazardous and other wastes as a resource or after pre-processing either for co-processing or for any other use, including within the premises of the generator (if it is not part of process), shall be carried out only after obtaining authorisation from the State Pollution Control Board in respect of waste on the basis of standard operating procedures or guidelines provided by the Central Pollution Control Board.

WHEREAS, Rule 20(3) of the HOWM Rules stipulates that the State Pollution Control Board based on the annual returns received from the occupiers and the operators of the facilities for disposal of hazardous and other wastes shall prepare an annual inventory of the waste generated; waste recycled, recovered, utilised including co-processed; waste re-exported and waste disposed and submit to the Central Pollution Control Board by the 30th day of September every year. The State Pollution Control Board shall also prepare the inventory of hazardous waste generators, actual users, and common and captive disposal facilities and shall submit the information to Central Pollution Control Board every two years.

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WHEREAS, Rule 20(4) of the HOWM Rules stipulates that the Central Pollution Control Board shall prepare the consolidated review report on management of hazardous and other wastes and forward it to the Ministry of Environment, Forest and Climate Change, along with its recommendations before the 30th day of December once in every year.

WHEREAS, Rule 23(1) of the HOWM Rules stipulates that the occupier, importer or exporter and operator of the disposal facility shall be liable for all damages caused to the environment or third party due to improper handling and management of the hazardous and other waste.

WHEREAS, Rule 23(2) of the HOWM Rules stipulates that the occupier and the operator of the disposal facility 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.

WHEREAS, Central Pollution Control Board has prepared and published "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty" in January 2016 and the same has also been forwarded to all SPCBs/PCCs in March 08, 2016, to ensure implementation of provisions of the aforesaid guidelines;

WHEREAS, it has come to the notice of CPCB:

- (i) Except a few, most of the SPCBs/PCCs have not sent annual inventory of the waste generated; waste recycled, recovered, utilised including co-processed; waste re-exported and waste disposed based on annual returns received from the occupiers and the operators of the facilities for disposal of hazardous and other wastes. Whereas the same was required to be sent to CPCB by 30th September 2016 and thereafter by 30th day of September every year. As a result, CPCB is unable to prepare the consolidated review report on management of hazardous and other wastes and forward it to the Ministry of Environment, Forest, and Climate Change, along with its recommendations which was supposed to be forwarded by 30th December 2016 and thereafter by 30th December of every year;
- (ii) (a) liability on occupier and the operator of the disposal facility for all damages caused to the environment or third party due to improper handling and management of the hazardous and other waste, and; (b) financial penalties on the occupier and the operator of the disposal facility for violation of the provisions under the HOWM Rules; are hardly being enforced by SPCB/PCC in accordance with CPCB's "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty" which has been forwarded to all SPCBs/PCCs in March 08, 2016.
- (iii) authorisation for utilization of hazardous or other wastes is granted by SPCB/PCC without following provisions under Rule 9 of the HOWM Rules or not in accordance with Standard Operating Procedures or guidelines issued by CPCB under the said Rules in some of the SPCBs/PCCs;
- (iv) not entire categories of hazardous and other wastes generated in industry are stipulated in authorisation issued by SPCB/PCC to the said industry in some of the States/UTs;

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

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NOW, THEREFORE, in exercise of the powers vested under Section 5 of the Environment (Protection) Act, 1986, all SPCBs/PCCs are directed:

- (i) to make necessary arrangement so as to ensure that the requisite annual inventory of the waste generated; waste recycled, recovered, utilised including co-processed; waste re-exported and waste disposed based on annual returns received from the occupiers and the operators of the facilities for disposal of hazardous and other wastes, be submitted to CPCB by 30th day of September every year. Further, such annual inventory (except for Maharashtra, Nagaland, Punjab, Tamilnadu, Telengana and Uttar Pradesh who have sent the same to CPCB) for April 2015 – March 2016 shall be sent to CPCB by 30th April 2017 as per the format circulated by CPCB to all SPCBs/PCCs vide its letter no B-29016/HWI/HWMD/2016/6259-6292 dated 29/7/2016.
- (ii) to enforce the aforesaid provisions of liability and financial penalties on the occupier and the operator of the disposal facility in incidences of environmental damages or third party/violation of HOWM Rules as stipulated under Rule 23(1) and 23(2) of the HOWM Rules and in accordance with CPCB's "Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty" which has been forwarded to all SPCBs/PCCs in March 08, 2016.
- (iii) to ensure that authorisation for utilization of hazardous or other wastes is granted by SPCB/PCC in compliance with provisions under Rule 9 of the HOWM Rules and in accordance with Standard Operating Procedures or guidelines issued by CPCB under the said Rules;
- (iv) to bring entire categories of hazardous and other wastes (as defined under Rule 3(17) and 3(23) of the HOWM Rules) generated in industry under the ambit of authorisation issued by SPCB/PCC to the said industry; and
- (v) to make necessary arrangement to ensure that the inventory of hazardous waste generators, actual users, and common and captive disposal facilities are carried out and the same be submitted to CPCB every two years in compliance with provisions stipulated under the Rule 20(3) of the HOWM Rules.

It is further directed to acknowledge the receipt of this direction and to submit action taken report for compliance of the aforesaid direction by May 01, 2017.


(S. P. Singh Parihar)
Chairman

Copy to:

1. The Joint Secretary, HSM Division, Ministry of Environment, Forests & Climate Change, Indira Paryavaran, Jor Bagh Road, New Delhi-1140003 : For kind information, please.
2. All the Regional Directors, CPCB : For necessary follow up with SPCBs/PCCs under their respective jurisdiction, please.
- ✓ 3. I/c IT Division, CPCB, Delhi.


(A.B. Akolkar)
Member Secretary

