



F. No. CP-20/139/2021-UPC-II-HO-CPCB-HO-Part(2)

14 January, 2025

To,

The Member Secretary
Jammu & Kashmir Pollution Control Committee
Winter office: November-April
Parivesh Bhawan, Gladni,
Transport Nagar, Narwal - 180006

Directions under Section 5 of the EPA, 1986 regarding compliance of various provisions under Schedule-II of Plastic Waste Management Rules, 2016, i.e., Guidelines on Extended Producer Responsibility (EPR)

WHEREAS, the Ministry of Environment, Forest & Climate Change (MoEF&CC) has notified Plastic Waste Management Rules, 2016, in exercise of the powers conferred under sections 3, 6 & 25 of the Environment (Protection) Act, 1986 vide Notification No. G.S.R 320 (E) dated March 18, 2016; and

WHEREAS, Guidelines for Extended Producers Responsibility for Plastic packaging were notified by MoEF&CC on February 16, 2022 as Schedule-II of the Plastic Waste Management Rules, 2016; and

WHEREAS, as per Section 6.1(a) of the EPR Guidelines, "The following entities shall register on the centralized portal developed by Central Pollution Control Board namely:- (1) Producer (P); (ii) Importer (1); (iii) Brand owner (BO), (iv) Plastic Waste Processor engaged in (a) recycling, (b) co-processing (c) waste to energy, (d) waste to oil, and (e) industrial composting; and

WHEREAS, as per Section 12.4 of EPR Guidelines, Central Pollution Control Board by itself or through a designated agency shall verify compliance of Producers, Importers & Brand-Owners through inspection and periodic audit, as deemed appropriate. Central Pollution Control Board, as required, can also verify compliance of Plastic Waste Processors through inspection and periodic audit. In case of plastic waste processors and Producers, Importers & Brand-Owners operating in a State or Union Territory, Central Pollution Control Board may, if required, direct State Pollution Control Board or Pollution Control Committee to take action; and

WHEREAS, as per Section 13.1 of EPR Guidelines, the concerned State Pollution Control Board or Pollution Control Committee shall register Producers, Importers & Brand-Owners (operating in one or two states) and plastic waste processors, through the online portal developed by Central Pollution Control Board. Provision for registration shall be made on the Extended Producer Responsibility portal. State Pollution Control Board or Pollution Control Committee by itself or through a

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designated agency shall verify compliance of Producers, Importers & Brand-Owners through inspection and periodic audit, as deemed appropriate, of Producers, Importers & Brand-Owners as well as plastic waste processors in their jurisdiction as per the Plastic Waste Management Rule, 2016; and

WHEREAS, as per Section 11.6 of the EPR Guidelines, the pro forma for the certificate shall be developed by Central Pollution Control Board. In no case, the amount of plastic packaging waste recycled by the enterprise shall be more than installed capacity of the enterprise. The certificates will be for plastic packaging category-wise and shall include GST data of the enterprise; and

WHEREAS, as per section 9.1 of the EPR Guidelines, “Environmental Compensation shall be levied based upon polluter pays principle, with respect to non-fulfilment of Extended Producer Responsibility targets by Producers, Importers & Brand Owners, for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environment pollution”; and

WHEREAS, as per section 9.2 of the EPR Guidelines, “Central Pollution Control Board shall lay down guidelines for imposition and collection of environment compensation on Producers, Importers & Brand-Owners, recyclers and end of life processors, in case of non-fulfilment of obligations set out in these guidelines, and the same shall be notified. The Guidelines for Environmental Compensation shall be updated, as required”; and

WHEREAS, CPCB has prepared the Environmental Compensation (EC) guidelines as per the provision of EPR guidelines and PWM Rules, 2016, as amended; and

WHEREAS, as per revised guidelines for assessment of Environmental Compensation prepared by CPCB, EC is to be levied considering the category wise shortfall in EPR target, as Cat I: Rs.2900/T ; Cat II: Rs.5000/T ; Cat III & IV: Rs.7900/T; and

WHEREAS following Directions dated 20.11.2023 were issued to the SPCBs/PCCs:

1. *To take immediate necessary actions to improve upon the system of grant of registration within SPCB/PCC, monitoring and enforcement ensuring enforcement of the PWM Rules, EPR guidelines and directions/guidelines issued by CPCB, including the following:*
 - i. *To re-check processing facilities of Registered PWPs in your state and to confirm that the Processing capacity as per the Registration granted to them is in conformity with the actual facilities available in the unit. All other details provided in the online application form are also to be revalidated by SPCB/PCC.*
 - ii. *To regularly monitor EPR Certificate generation process of the Registered PWPs ensuring that EPR Certificates generated by PWPs are in accordance with requirements prescribed in CPCB guidance manual such as uploading of GST E-invoice corresponding to the sales of finished on the EPR Portal.*
 - iii. *If violations are observed as per (a) & (b) above, to conduct detailed enquiry into the issue of CTE and CTO and also as to how physical verification of the Unit was approved by SPCB/PCC, in view of the gross violations observed also*

as to why the process of generation of EPR Certificates was not monitored by SPCB/PCC.

- iv. *To fix the liability on erring official/s and take disciplinary action against erring officials, if any, as per the findings of the enquiry set up, as at (c) above.*
2. *To take the following actions against the defaulting PWPs, if any, identified as per (1) above:*
 - i. *To suspend the consent/authorization/registration issued to the defaulting PWPs, with immediate effect and issue show cause notice to debar such PWPs from operating under the Extended Producer Responsibility framework for a period of one year as per Clause 11.4 of the EPR Guidelines or/ and for revocation of the consent/authorization/registration issued to the Unit;*
 - ii. *To levy Environmental Compensation (EC), corresponding to the quantum of EPR certificates generated not in conformity with requirement prescribed in CPCB Guidance manual for operating Centralized EPR Portal. The EC is to be levied as per "Guidelines for Assessment of Environmental Compensation to be levied for violation of PWP Rules" (https://cpcb.nic.in/uploads/plasticwaste/EC_Regime_PWM.pdf) and Unit be directed to deposit the same in the designated Escrow Account, created by the SPCB/PCC for the purpose.*
 - iii. *To take necessary action as per applicable law against violating PWPs which have submitted false documents for obtaining registration as well as for generating EPR certificates. It may further be ensured that action taken by SPCB/PCC regarding these units should act as a deterrent for other Units in committing such violations.*
3. *To take all necessary steps to ensure that PWPs henceforth complies with all conditions including generating GST E-invoice for all sales of only finished products and uploads the same on the EPR Portal, failing which necessary action be immediately taken including levying of EC against each non-complying Unit.*

WHEREAS, CPCB has developed the Audit app and web module for the purpose of conducting audit of registered PWPs with the provision for online submission of reports by auditors; and

WHEREAS, CPCB has also developed the 'Standard Operating Procedure (SOP) for conducting audit of registered PWPs' for assistance and guidance to auditors; and

WHEREAS, several news articles have been published in the national as well as the local newspapers on authenticity of the EPR certificates being generated by the registered PWPs; and

WHEREAS, the matter related to generation of fake EPR Certificates is also consideration of Hon'ble NGT vide its Original Application No. 926/2024 News Item titled "6 lakh fake pollution-trading certificates unearthed in three States" appearing in The Hindu dated 14.07.2024; and

WHEREAS, in EPR Certificates of the order of 104.5 Lac Tones have been generated till date, of which EPR Certificates of 7,651.54 Tones have been generated by 21 registered PWPs in your state/UT; and

WHEREAS, in view of aforementioned points, it has been decided to conduct audit of all PWPs which have generated EPR Certificates. It has further been decided to Audit 474 PWPs which have generated > 200 T of EPR Certificates in the first Phase I, out of which 134 PWPs are to be audited by concerned SPCBs/PCCs; and

WHEREAS, CPCB, vide letter dated 02.08.2024, had assigned 4 no. of PWPs to your SPCB/PCC for Audit; and

WHEREAS, following Directions dated 12.11.2024 were issued to the SPCBs/PCCs:

1. *To immediately complete audit of the PWPs as assigned vide above mentioned letter dated 02.08.2024 in line with the SOP for conducting audit of registered PWPs.*
2. *To submit the report duly approved by Member Secretary of the SPCB on the audit web module within 10 days of issuance of this direction.*
3. *To submit Action taken report w.r.t. above mentioned directions dated 20.11.2023 issued by CPCB."*

WHEREAS, Action Taken Report (ATR) from your SPCB/PCC, for the directions issued dated 20.11.2023 and 12.11.24, has not been received till date CPCB; and

WHEREAS, several communications have been issued and meetings have been convened by CPCB including meeting chaired by Chairman, CPCB on the subject; and

WHEREAS, CPCB has conducted Audit of 1 PWP in your state and following are the major observations as reported during the Audit:

- i. **Citizen Plastics, Jammu, J&K.**
 - a. Deficit in production capacity as per trial run conducted during audit is 358 TPA which is 12% of the registered processing capacity
 - b. No deficit in Power consumption as per audit observations was found.
 - c. On-site plant and machinery is in confirmation with the details submitted in the application for registration under PWM Rules.
 - d. No GST invoices for sales transactions were found to be uploaded as per CPCB direction dated 21-12-2022.

Copy of the CPCB Audit Report/Reports are enclosed for ready reference

WHEREAS, CPCB issued Directions dated 21.12.2022 to all PWPs to upload GST E-Invoice of all transactions related to plastic packaging; and

WHEREAS, it is observed that all PWPs operating in your jurisdiction are not uploading GST E-Invoice of the transactions related to plastic packaging which is in non-compliance of aforementioned CPCB's Directions; and

WHEREAS in view of the aforementioned points, it is essential to correlate the quantum of EPR Certificates generated not in conformity with the provisions of EPR

guidelines and take necessary action against the defaulting units to ensure that authentic EPR certificates are generated in accordance with the actual plastic waste being processed by the units;

WHEREAS, CPCB has made provisions on the EPR portal for strengthening of process of generation of EPR certificates by PWP's which shall allow upload of GST e-Invoices only after successful verification of uploaded details from GSTN portal; and

WHEREAS, Instruction sheet for uploading of GST e-Invoices for sale of product by PWP's is available on the EPR Portal; and

NOW THEREFORE, in view of above and in exercise of the powers vested to Chairman, Central Pollution Control Board (CPCB) vide Notification No. S.O.730 (E) dated July 10, 2002 notified as per provisions of Section 5 of the Environment (Protection) Act, 1986, the following directions are being issued for compliance:

1. To submit reasons for non-submission of Action Taken report of Directions dated 20/11/23 and 12/11/24 issued by CPCB
2. To take necessary action against the defaulting PWP's as per findings of the CPCB Audit Reports (enclosed) as well as Audit Reports of SPCB/PCC in accordance with Directions dated 20/11/23 and 12/11/24 issued by CPCB on the matter.
3. Proportionate EC must be levied in case any of the following non-compliance is observed in the audit report:
 - i. Plant & Machinery not found on-site as per the details submitted in the Registration application
 - ii. GST E-invoice is not uploaded as proof of sale of finished product on the EPR Plastic Portal or uploaded GST E-invoice is not found to be in order as proof of sale of finished product on the EPR Plastic Portal
 - iii. Actual processing capacity (as assessed in the audit by actually operating the plant) is less than the Registered capacity (as per the Registration application)
 - iv. Power consumption bill is less than expected power consumption as assessed in the audit by actually operating the plant.
4. EC waiver may be given in respect of deficit of upto 20% in (iii) and (iv) above considering errors/benefit of doubt in assessing the capacity/electricity consumption during the audit assessment.
5. Further, the EC waiver may also be considered for non-uploading of GST E-invoice (but have uploaded manually generated GST) subject to the condition that such PWP's must register on the GST Portal for the purpose of generation of GST E-Invoice within 15 days of issue of the proposed Directions and also that:
 - a. Plant and Machinery is in conformity with the details submitted in the Registration application;

- b. Details of sales of such uploaded manual GST invoice as proof of sale of finished product on the EPR Plastic Portal is found to be in order;
 - c. Deficit in processing capacity (as assessed in the audit by actually operating the plant) which is within 20% of the Registered capacity (as per the Registration application) and expected power consumption of the products for which EPR certificate has been generated
 - d. Deficit in power consumption bill corresponding to total productions claimed is within 20% of the consumption bill as assessed during audit by actually operating the plant
6. To ensure that all PWPs upload GST E-invoice for transactions related to plastic packaging as per CPCB's Directions dated 21.12.22 and further issue /renew consent of the PWPs only if they register on the GST Portal for generation of GST E-Invoice

You are hereby directed to take necessary action for compliance of aforesaid directions and submit the action taken report (*including Unit-wise details of EPR Certificates generated not in conformity with the requirement prescribed in CPCB Guidance manual & EC levied, status of suspension/revocation of consent/ registration and issuance of closure direction with respective period of debarring from EPR Framework*) to this office within 15 days of receipt of this direction.

13th Dec 2023
(Tanmay Kumar) 
Chairman