



भारतीय कृषि एवं खाद्य परिषद्
INDIAN COUNCIL OF FOOD AND AGRICULTURE

Feb 27, 2018

Dr. Harsh Vardhan
Hon'ble Union Minister for Environment, Forests & Climate Change
Government of India
New Delhi

Subject: Plastic Waste Management Rules, 2016

Dear Sir,

At the outset, members of Indian Council of Food and Agriculture(ICFA) express our sincere gratitude for giving us an opportunity to apprise you of the concerns in respect of the Plastic Waste Management Rules, 2016 (Rules) which *inter alia* mandates phasing out of non-recyclable multi-layered packaging(MLP) within two (2) years; imposes primary responsibility on Producers & Brand Owners (who introduce the products in the market) using plastic sheet and MLP to work out modalities for collecting, segregating and managing plastic waste generated due to their products based on the Extended Producer's Responsibility (EPR) and imposes conditions on MLP's quality, thickness, recycling etc.

In recognition of the existing industry concerns, the Ministry of Environment Forests & Climate Change (MoEF) issued Office Memorandum(OM) dated January 17, 2018 informing the SPCBs & PCBs about constitution of a Committee to deliberate on the issues raised by stakeholders and directing them to not take coercive actions against the producers under the Rules until further orders. ICFA members thank the MoEF for the same. However, it is sincerely hoped that the MoEF also notifies the proposed amendments prior to March 15, 2018.

It is in the above context, we wanted to highlight the following issues that the MoEF may like to consider in respect of the Rules. Your intervention will certainly alleviate some of the hardships that the industry across sectors have been subjected to because of existing ambiguities in the Rules.

Asks/suggestions for Consideration:

- i. **Format for EPR Plans:** Neither the Rules nor the Forms provided therein provide clarity in respect of the Extended Producers Responsibility(EPR) plans to be followed by the producers/importers/brand owners. There is a need for clearer and broader national framework on implementation of EPR that may be developed within a defined timeline under which the individual State Governments are made responsible to setup EPR systems suitable to their local needs and circumstances. This would especially be applicable as a better solution to companies having a national footprint or having manufacturing/selling units in two or more states. The entire industry would be keen to participate in the development of such national and state frameworks.
- ii. **Multi-Layered Packaging(MLP):** The Rules imposes complete ban on the use of non-recyclable MLP without taking into consideration the **Energy Recoverable MLPs**. It is submitted that the solution to the environmental threat posed by post-consumer MLP consumer waste is not a complete ban on their use. It is, in fact, better waste management. A possible solution to counter this issue and enhance the waste management efforts is to mandate phasing out of materials which are BOTH non-recyclable AND non-energy recoverable in a phased-out manner. **Further**, some worldwide accepted technologies for recycling/processing of plastic waste like PYROLYSIS must be permitted.
- iii. **Brand & Geographic Neutrality & Likely Impact on SMSEs:** In the absence of necessary infrastructure for a producer/brand owner/importer to collect every piece of waste generated across the country is operationally not feasible. The industry has urged the MoEF to consider permitting brand and geographic neutrality in collection of plastic waste. Permitting brand and geographic neutrality would on one hand meet the objective of the Rules, i.e., minimize generation of plastic waste and establish a sustainable waste management system, and on the other hand would facilitate implementation of the Rules.

Going ahead with the implementation of the Rules in the present form will adversely impact the MSMEs and the employment that the sector generates. It is to be noted that the Rules apply across sectors where some may not have any internal expertise or knowledge or capacity to undertake intricate waste management initiatives. This is particularly true for micro, small and medium scale enterprises (SMSEs) who will be totally dependent on various government bodies and other institutions /NGOs to help them comply with the Rules. Permitting brand and geographic neutrality in collection of plastic waste will particularly be beneficial for SMSEs as well.



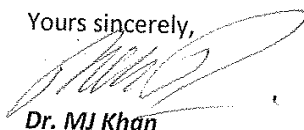
- iv. **Clarity on the Registration process:** The Rules are also silent on place of registration, i.e., whether to register with the State Pollution Control Board (SPCB) of all States and Pollution Control Committees (PCCs) of all Union Territories where their products are available or only with the SPCB/PCC where the manufacturing sites are situated. We urge that the Government may consider making registration process centralized and electronically.
- v. **Effective Implementation of the Rules:** We sincerely believe that the Rules are well-intended and the industry is committed to partnering with the Government towards finding solution for an effective plastic waste management. However, to achieve desired results and effective implementation of the Rules, it is important that the provisions are clear and non-ambiguous; they do not impede Ease of Doing Business in India; and the responsibilities/liabilities of all stakeholders are clearly delineated. It is also critical that necessary infrastructure in the country is developed prior to implementing the Rules. While we are aligned to the polluter's pay principle and making every Waste Generator (Manufacturer, Importer, Producer and Brand Owner and the ultimate consumers) and also Local Body, Gram Panchayat, liable/responsible under the Rules, it is our sincere request that the Government considers deferring effective implementation of the Rules till such time clarity is brought in and infrastructure is brought in place or at least by one year.

In addition to the above, a table identifying the specific provisions in respect of the abovementioned key concerns as they exist in Rules currently and the suggested text for amendment has been enclosed as **Annexure A**.

We sincerely urge for kind intervention in the matter.

With best regards,

Yours sincerely,



Dr. MJ Khan

chairman@icfa.org.in

Enclosed: Annexure A

ANNEXURE A

S.No	Existing Rule/Provision	Suggested Text	Remarks
1	Rule 9 Responsibility of producers, Importers and Brand Owners - (1) The producers, within a period of <u>six months</u> 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.	Rule 9 Responsibility of producers, Importers and Brand Owners - (1) The producers, brand owners <u>shall</u> work out modalities for waste collection system based on <u>Extended Producers Responsibility</u> and involving State Urban Development Departments, either individually or collectively, through their own distribution channel or through the local body concerned. <u>(2) A broader National Framework for implementation of Extended Producer Responsibility to be set up within a period of 12 months for multi-state operations.</u> <u>(3) The timeline for Extended Producer Responsibility implementation will be 12 months from the date of formulation of the National framework on implementation of Extended Producer Responsibility and its notification by the concerned authority.</u>	As there is no clarity amongst the producers/importers/ brand owners as well as the state regulators in respect of appropriate structure to be followed by the former as a part of EPR, it creates immense hurdle in implementation of Rules. Therefore, having a national framework for such implementation will provide clarity and enable implementation. Under the said National framework, State Governments must be made responsible to setup EPR systems suitable to their local needs and circumstances. Such a framework would be a better solution to companies having a national footprint or having manufacturing/selling units in two or more states.
2..	Rule 9 (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	Rule 9 (4) 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. <u>They need to establish a system for collecting back the same plastic waste that is equal to the plastic waste generated due</u>	It is not operationally feasible for every producer/brand owner/importer to collect every piece of waste generated across the country particularly for SMSEs. Permitting brand and geographic neutrality in plastic waste collection would achieve the objective

	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	<u>to their products across States within India. While applying for Consent to Establish or Operate or Renewal, this plan of collection is to be submitted to the relevant State Pollution Control Boards or the Pollution Control Committee, as the case may be, where the manufacturing unit of the Producers, Importers and Brand Owners are situated.</u> <u>The Producers, Importers and Brand Owners shall submit such plan within one year from the date of notification of National framework on implementation of EPR and implement the same within 1 year thereafter</u>	of the Rules, i.e., its sustainable waste management system and would also enable the producer/ brand owner/importer to implement the Rules.
3.	Rule 3 Definitions (i): "recycling" means the process of transforming segregated plastic waste into a new product or raw material for producing new products. Rule 9(3) manufacture and use of non- recyclable multi-layered plastic if any should be phased out in Two years' time.	Rule 3 Definitions (i): "recycling" means the process of transforming segregated plastic waste into a new product or raw material <u>or energy</u> for producing new products. <u>Rule 9 (5) "manufacture and use of ONLY recyclable multi-layered plastic shall be allowed after two years from the date of amendment of these Rules."</u> <u>Rule 9 (6) The permitted technologies for recycling/processing of plastic waste will be as specified by the Central Government from time to time.</u>	The current provision in the Rules does not take Energy Recoverable MLPs into consideration about the Solution to the environmental threat posed by post-consumer MLP consumer waste is not a complete ban on their use, it is, in fact, better waste management. A possible solution to counter this issue and enhance the waste management efforts is to permit manufacture & use of BOTH recyclable AND energy recoverable MLP. Some worldwide accepted technologies for recycling/processing of plastic waste like PYROLYSIS must be taken into consideration.
4.	Rule 3 Definitions (t): "Registration" means registration with the State Pollution Control	Rule 3 Definitions (t): "Registration" means registration with the State Pollution Control Board or the Pollution Control	Currently, there is no clarity on the place of registration, i.e., whether to register with all State Pollution Control Board(SPCB) and/or

<p>Board or the Pollution Control Committee concerned, as the case may be;</p> <p>Rule 13 Registration of producer, recyclers and manufacturer-</p> <p>(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;</p> <p>(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.</p> <p>(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</p>	<p>Committee concerned <u>or the Central Pollution Control Board</u>, as the case may be;</p> <p>Rule 13 Registration of producer, recyclers and manufacturer-</p> <p>(1) No person shall manufacture carry bags or recycle plastic bags or multilayered packaging unless the person has obtained a registration from <u>the concerned State Pollution Control Board or the Pollution Control Committee of the Union Territory concerned where the manufacturing unit is located</u> prior to the commencement of production;</p> <p>(2) Every producer shall, for the purpose of registration or for renewal of registration, make an application to <u>the concerned State Pollution Control Board or the Pollution Control Committee of the Union Territory concerned where the manufacturing unit is located</u> in Form I.</p> <p><u>Provided if the manufacturing units of a producer/brand owner/importer are situated in two or more states, the producers/brand owners/importers shall make an application for registration and obtain the same from the Central Pollution Control Board.</u></p> <p>(3) Every person recycling or processing waste or proposing to recycle or process plastic waste shall</p>	<p>Pollution Control Committees(PCCs) where the products are available. Further, requiring the companies to register themselves in all States/UTs is not viable. Requiring producers to register themselves with only that SPCP/PCC where the manufacturing sites are situated may enable streamlined compliance.</p> <p>Further, where the manufacturing units are situated in two or more states, the producers/brand owners/importers must be permitted to register themselves with the CPCB.</p> <p><u>Further, the process of registration must be done through an e-portal.</u></p>
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<p>Pollution Control Committee, for grant of registration or renewal of registration for the recycling unit, in Form II.</p> <p>(4) Every manufacturer engaged in manufacture 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.</p>	<p>make an application to <u>the concerned State Pollution Control Board or the Pollution Control Committee of the Union Territory concerned</u> where the <u>manufacturing unit is located</u> for grant of registration or renewal of registration for the recycling unit, in Form II.</p> <p>(4) Every manufacturer engaged in manufacture of plastic to be used as raw material by the producer shall make an application to <u>the concerned State Pollution Control Board or the Pollution Control Committee of the Union Territory concerned</u> where the <u>manufacturing unit is located</u> for the grant of registration or for the renewal of registration, in Form III.</p> <p><i>All registrations will be done electronically on an e-portal established by the Ministry of Environment Forests & Climate Change.</i></p>	
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