

**SAMSUNG****SAMSUNG INDIA ELECTRONICS PVT. LTD.**

C.I.N.:U31900DL1995PTC071387

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*Examined -  
by  
AR(MWB)*

27 September, 2018

The Secretary  
Ministry of Environment, Forest & Climate Change (MOEF)  
Indira Paryavaran Bhawan,  
New Delhi- 110003

**Subject: Representation on the Plastic Waste Management Rules, 2016**

(Issued vide Notification dated 18 March 2016)

Dear Sir,

We, herein below highlight certain specific concerns in the current Plastic Waste Management Rules, 2016 (Rules) which are creating challenges in implementation and compliance for various stakeholders. We are also sharing our suggestions to mitigate the same.

Sr. No. [I]	Issues [II]	Implications [III]	Suggestions [IV]
1.	<p><b>Inconsistencies between Rules / Notifications issued by MOEF and those issued by the States should be resolved.</b></p> <p>A. MOEF has issued the Rules under the Environmental Protection Act, 1986 (EPA). The Rules issued by MOEF prohibit use of carry bags, plastic sheets or multilayered packing of a thickness less than 50 microns.</p> <p>B. Many State Governments have issued Notifications relating to plastic waste management under the powers delegated under EPA. The Notifications issued by these States prohibit the use of plastic carry bags of thickness different from what is prescribed under Rules i.e. 50 microns. For example, the</p>	<p>Given these issues and contradictions, it is not clear to manufacturers, producers, importers, brand owners, waste generators etc. as to who has the jurisdiction on the Plastic Waste – Centre or the State and which notification to follow in case of contradiction – Central or State?</p>	<p>MOEF should initiate a dialogue with the State Governments i) to remove these inconsistencies and contradictions, and ii) to decide on the respective jurisdiction of the Central and State Governments.</p> <p>Until, these issues are sorted out, implementation of the law/Rules should be kept in abeyance.</p>

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	<p>Notification issued by Andhra Pradesh prohibits use of carry bags with a thickness of less than 40 microns. <b>Issue here is that how can a State under the delegated powers notify something different from the Central Act/Rule under which such powers are delegated?</b></p> <p>C. Some States such as Punjab and Uttar Pradesh have issued Notifications under their respective State Environment Protection Laws. For example, Punjab has issued a Notification under the State Environment Act prohibiting use of carry bags of a thickness of less than 30 microns. <b>The issue here is that who has the power to legislate laws on environment, Centre or the State? If both, how to handle the contradiction in these laws?</b></p> <p>D. Some other States such as Maharashtra and Himachal Pradesh have issued Notifications under the State laws relating to garbage collection and disposal. These States have notified a complete ban on use of plastic carry bags and other plastic items, irrespective of the thickness. <b>The Issue here is that States may be entitled to legislate laws on garbage collection and disposal but in the garb of garbage management, can they legislate and regulate laws on environment like Plastic Waste which may not be the prerogative of the State in the first place?</b></p>		
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2.	<p><b>Rules 8 and 9 - Responsibility of Waste Generators, Producers, Importers and Brand Owners operating in more than 2 States – Accountability should be centralized at Central Pollution Control Board (CPCB).</b></p> <p>A. As per the current scheme of Rules 8 &amp; 9, though the registration of a Plastic Waste Generator, Producer, Importer and Brand Owner operating in more than 2 States is required with CPCB, however, the management of the waste has to be done in coordination with the local bodies. <b>The issue here is that there are more than 3000 local bodies in India and it is practically impossible to coordinate with such a large number of local bodies. Most of them would be at different levels of preparedness and may not be able to help with Plastic Waste collection and management.</b></p> <p>B. Targets for collection of plastic waste not fixed under the Rules</p> <p>The Rules do not specify</p> <ol style="list-style-type: none"> <li>Any target for collection of plastic waste.</li> <li>Mechanism/ methodology for computation of the targets.</li> <li>The units of measurement for meeting the targets i.e. in terms of quantity or weight.</li> </ol>	<p>A. Dealing with such a large number of local bodies would be very costly and highly time consuming for a large corporate with all India operations. The quality of compliance is likely to suffer and will defeat the objective of the Rules.</p> <p>B. In the absence of Targets, calculation methodology and the units of measurements, the producers will not be able to submit EPR application, engage with recycler to meet the compliance requirements.</p>	<p>A. For Corporates registered with CPCB, a program similar to E-waste collection and disposal should be put in place whereby the collection and disposal of plastic waste can be managed through registered Producer Responsibility Organizations (PRO's) and Recyclers. The accountability of these Corporates should only be to CPCB. In case, compliance is being done and relevant returns &amp; filings are being made to CPCB, it should be out of the jurisdiction of local bodies and 'user's fee' provisions should not apply.</p> <p>B. Rules should be amended to clearly mention the targets of collection of plastic waste, the basis for fixation of these targets and the units of measurement according to which the compliance of the producers will be monitored.</p> <p>C. Until a comprehensive implementation program is put in place and the relevant eco-system in terms of PRO's and Recyclers is developed, the implementation of these Rules should be kept in abeyance.</p>
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3.	<p><b>Other Issues</b></p> <p>A. Exemption to EOU and SEZ units Under the Rules, an exemption has been granted to exporting units located in EOUs and SEZs from any compliance. However, Units located outside EOU and SEZs which are also exporting products are not granted any exemption from compliance. <b>There is no basis for this differential treatment as the products by other units would also be exported out of India and the consequential plastic waste would be generated outside India.</b></p> <p>B. Rule 2 (h) – Definition of the terms ‘Product’ and ‘End of Life’</p> <p>The definition of the term ‘Extended Producers Responsibility’ given in Rule 2 (h) uses the word ‘product’, but the said word is not defined anywhere.</p> <p>Further, the same definition also uses the term ‘End of Life’ (EOL). However, the same is also not defined.</p>	<p>A. Such units are put at a disadvantage vis-a-vis the units in EOU and SEZ, notwithstanding the fact that they too are exporting products outside India and not contributing to plastic waste in India.</p> <p>B. In the absence of definition of the terms ‘product’ and ‘EOL’ it will not be possible for the producer to submit an EPR application and will not be able to comply with the Rules.</p>	<p>A. EOU and SEZs, units outside these areas but otherwise exporting should also be exempted from the applicability of these Rules.</p> <p>B. Rule 2 should be amended so as to define the terms ‘product’ and ‘EOL’ appropriately.</p>
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We are of the view that in the current shape, the Rules cannot be complied with. In order to put an effective compliance mechanism in place, to collect and recycle Plastic Waste, substantial changes are required in the Rules on the lines suggested above. Till the time those changes are made, the implementation and the consequent compliance of these Rules may be deferred.

Thanking you,

Yours Sincerely,

Manu Kapoor

Sr Vice President – Strategy &amp; Corporate Advisory

cc: Mr Ritesh Kumar Singh, Joint Secretary, Ministry of Environment Forest &amp; Climate Change