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e-WASTE (MANAGEMENT) RULES 2015 (DRAFT)

Background: In the recent years, there has been increasing use and dependence on Electrical and Electronic Equipment (EEE) like Mobile Phones, Personal Computers, Laptops, Servers, Data Storage Devices, Photo Copying Machines, Televisions, Washing Machines, Refrigerators and Air Conditioners, etc. resulting into generation of large quantities of *e-Waste*. The high rates of obsolescence of the above mentioned items coupled with steady rise in the demand have also resulted in substantial growth in *e-Waste* generation. The EEE have valuable materials and hazardous/toxics substances in their components. The EEE after their useful life may not cause any harm if it is stored safely in households/stores, however, if the *e-Waste* is opened-up and attempts are made for retrieval of useful components or material in an un-scientific manner or if the material is disposed in open, then it may cause health risks and damage to environment. Therefore there is a need to encourage recycling of all useful and valuable material from *e-Waste* so as to conserve the ever depleting natural resources.

The erstwhile Ministry of Environment and Forests (MOEF), Government of India (GOI), in view of the above, had published the *e-Waste (Management and Handling) Rules 2011*¹ (said *Rules*) through *Notification*# S.O. 1035(E) dated 12th May 2011 that came into force on 1st May 2012. The objective of these *Rules* was to enable the recovery and/or reuse of useful material from Waste Electrical and Electronic Equipment (WEEE), thereby reducing the hazardous wastes destined for disposal and to ensure environmentally sound management of all types of WEEE.

Now, the Ministry of Environment, Forests and Climate Change (MOEF&CC), GOI, in exercise of the powers conferred by *Sections 6, 8 and 25* of the *Environment (Protection) Act 1986 (29 of 1986)* and in supersession of the said *Rules*, except as respects things done or omitted to be done before such supersession and as required under *Sub-rule (3) of Rule 5* of the *Environment (Protection) Rules 1986*, hereby publishes the *e-Waste (Management) Rules 2015*, **through Press Release dated 7th April 2015** as uploaded on the website of MOEF&CC², for the information of the public likely to be affected thereby.

Notice is hereby given that the said *Notification* will be taken into consideration by the Central Government on or after the expiry of 60 days from the date on which copies of this *Notification* as published in the *Gazette* of India are made available to the public. Any person interested in making any objection or suggestion on the proposals contained in the Draft *Notification* may do so in writing within the period so specified through post to the Secretary, MOEF, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110 003 or electronically at email address: binsinha92@gov.in, shruti.rai@nic.in.

¹ Please refer to "EnviroTrends® Update#55 of 2011-MOEF Notifies *e-Waste (Management and Handling) Rules 2011*".

² Please refer to the link for more information: <http://envfor.nic.in/media/press-releases>.

Please follow the link for more information on the Draft *Rules*:

<http://www.moef.nic.in/sites/default/files/vetted%20ewaste%20rule%202015.pdf>

Significant features of the Draft *Rules* and the deviations in association with the said *Rules* are mentioned below:

I. APPLICABILITY AND DEFINITIONS

These Draft *Rules*, after coming into force shall also be applicable to the Micro and Small Enterprises as defined in the *Micro, Small and Medium Enterprises Development Act 2006*, that are presently not covered in the said *Rules*.

The Draft defines additional terms which were not defined earlier in the said *Rules*, such as, 'Channelization of *e-Waste*', 'Dealer', '*e-Waste* exchange', 'Extended Producer Responsibility (EPR) -Authorization', 'EPR-Management', 'Manufacturer', 'Producer Responsibility Organization (PRO)', 'Refurbishment', 'Refurbisher', 'State Specific EPR Plan', 'Transporter' and 'White-goods'. Also, the Draft brings clarity to the terms by redefining them such as 'Bulk consumer', 'Collection Centre', 'Dismantler', 'Recycler'.

Some of the redefined and newly defined terms (as per Rule 3) are as follows:

'**Bulk consumer**' means Bulk users of EEE such as Central Government or State Government Departments, Public Sector Undertakings, Banks, Educational Institutions, Multinational Organizations, International Agencies and Private Companies that are registered under the *Factories Act 1948 (63 of 1948)* and *Companies Act 2013 (18 of 2013)* and Health Care Facilities which has turnover of more than one (1) crore or has more than 20 employees.

'**Collection centre**' means a centre established by Producer individually or as association to collect *e-Waste*, or the dealers which play such role and which is indicated in the authorization for EPR granted to the Producer and having facilities as per the *Guidelines* made by Central Pollution Control Board (CPCB).

'**Dealer**' means any individual or firm that buys or receive EEE as listed in *Schedule-I* of these *Rules* and their peripherals from a producer or producers for sale or wholesale and/or retail selling to individual or bulk consumer.

'***e-Waste Exchange***' is an independent market instrument offering assistance or independent electronic systems offering services for sale and purchase of *e-Waste* generated from end of life EEE and which is regulated by government as prescribed.

'**EPR-Authorization**' means a permission given by CPCB/PCC to a producer, for managing EPR with State specific implementation plans and targets outlined in such authorization including detail of PRO, if applicable.

'**EPR management**' means setting up an effective *e-Waste* channelization system comprising of setting up collection centers, implementing take back system, agreements with registered dismantler or recycler either individually or collectively or through a PRO authorized by producer or producers.

'**Manufacturer**' means a person or an entity or a company as in the *Companies Act 2013 (18 of 2013)* or a factory as in the *Factories Act 1948 (63 of 1948)* which has facilities for manufacture of EEE.

'Producer Responsibility Organization' means a professional organization authorized or financed collectively by Producers or independently or on public private partnership platform which can take the responsibility of group of producers for collection and channelization of *e-Waste* generated from the 'end of life' of their products or 'end of life' products to ensure environmentally sound management of such waste thus acting as an *e-Waste* exchange system.

'Recycler' means any person who is engaged in recycling or reprocessing of used EEE or assemblies or their component and having facilities as elaborated in the guidelines made by CPCB.

'Refurbishment' means repairing of used EEE as listed in *Schedule - I* for extending its working life for its originally intended use and selling the same in the market or returning to owner;

'State Specific EPR Plan' means a State specific plan submitted by a producer to CPCB/PCC, as the case may be, at the time of applying for EPR-Authorization in which a producer will provide State wise details of *e-Waste* channelization systems including detail of PRO, if applicable

'Transporter' means a person engaged in the off-site transportation of *e-Waste* by air, rail, road or water.

'White-goods' means consumer EEE such as Television sets (including sets based on Liquid Crystal Display (LCD) and Light Emitting Diode (LED) technology), Refrigerators, Washing machine, Air-conditioners excluding centralized Air Conditioning Plants.

II. RESPONSIBILITIES

The Draft *Rules* differentiate the Responsibilities of the Producers and Manufacturers of EEE. They provide a framework for Producers for implementing the EPR and for Manufacturers in regard to authorization and ensuring environmentally sound management of *e-Waste*.

Newly defined Responsibilities of Producer (Rule 4):

- The Producers now require putting colour code on the EEE placed in market in order to ensure collection and channelization of *e-Waste* in line with principle of EPR.
- The Producer shall opt to implement EPR individually or collectively. In individual Producer Responsibility, Producer may set up his own Collection Centers. In collective system, Producers may tie-up as a member with a PRO. In any case, individual producer shall seek EPR-Authorization from CPCB or State Pollution Control Board (SPCB), as the case may be, in accordance with the *Form 1* and the procedure laid down in *Rule-12(1)*.
- The mechanism for channelization of *e-Waste* from 'end of life' products to registered Dismantler or Recyclers can also be routed through *e-Waste* exchange (please refer to the Definitions).
- CPCB or SPCB shall be issuing the EPR-Authorization in accordance with *Form 1(aa)*.
- The details of financial incentives given and expenditure made in implementing take back system or channelization of WEEE shall be submitted in Annual Returns as per *Form 3*.
- Implementing the Deposit Refund Scheme wherein a portion of sale price shall be retained by producer and shall be refundable to the consumer once the end of life products is channelized in the prescribed method.

Newly defined Responsibilities of Manufacturer (Rule 5):

- Collection of *e-Waste* generated during the manufacture of any EEE and channelizing it for recycling or disposal.
- Obtain an authorization as per *Form 1 (a)* in accordance with the procedure under *Sub-rule (2)* of *Rule 12* from the SPCB/PCC concerned as the case may be, who will be giving the authorization in accordance with *Form 1 (bb)*.
- Ensure that no damage is caused to the environment during storage and transportation of *e-Waste*.
- Maintain records of the *e-Waste* generated, handled and disposed in *Form 2* and make such records available for scrutiny by the SPCB/PCC concerned.
- File *Annual Returns* in *Form 3*, to the SPCB/PCC concerned on or before the 30th June following the financial year to which that returns relates.

Newly defined Responsibilities of Collection Centre (Rule 6):

- Apart from the existing Responsibilities defined in the said *Rules* for Collection Centres, the Collection Centres also need to ensure that the facilities are in accordance with the standards or guidelines prescribed by the CPCB from time to time and now do not require to file the *Annual Returns* in *Form 3* as was mentioned in the said *Rules*.

Newly defined Responsibilities of Dealer (Rule 7):

- Every Dealer shall collect the *e-Waste* by providing the consumer a box, bin or a demarcated area to deposit *e-Waste*, or through take back system on behalf of Producer.
- Every Dealer shall make an application in *Form 4* to the concerned SPCB/PCC for grant of one (1) time registration.
 - (a) The SPCB/PCC shall register the Dealer on one (1) time basis and registration would be deemed as considered if not objected to within a period of 30 days.
 - (b) the registered Dealer shall submit details of *e-Waste* collected to the concerned SPCBs/PCCs on yearly basis and registration would be liable for cancellation on failure to furnish these details to the SPCB/PCC; provided that the registration granted to the Dealer shall not be cancelled unless he has been given a reasonable opportunity of hearing.
- Every Dealer shall ensure that the *e-Waste* thus collected is safely transported back to the Producer or to registered Collection Centre as the case may be.
- Every Dealer shall file *Annual Returns* in *Form 3* to the concerned SPCB/PCC, on or before the 30th day of June following to the financial year to which that return relates and shall maintain records of the *e-Waste* handled in *Form 2*.

Newly defined Responsibilities of Refurbisher (Rule 8):

- Every Refurbisher shall collect *e-Waste* generated during the process of refurbishing and channelize the waste to registered collection center or dismantler or recycler;
- Every Refurbisher shall make an application in *Form 4* to the concerned SPCB/PCC for grant of one (1) time registration;
 - (a) The SPSB/PCC shall register the Refurbisher on one (1) time basis and registration would be deemed as considered if not objected to within a period of 30 days.
 - (b) The registered Refurbisher shall be required to submit details of *e-Waste* generated to the concerned SPCB/PCC on yearly basis and registration would be liable for cancellation on failure to furnish these details to the SPCB/PCC; provided that the registration granted to the Refurbisher shall not be cancelled unless he has been given a reasonable opportunity of hearing.

- Every Refurbisher shall ensure that the *e-Waste* thus collected is safely transported back to authorized collection centre or registered recyclers as the case may be.
- Every Refurbisher shall file Annual Returns in *Form 3* to the concerned SPCB/PCC, on or before the 30th day of June following to the financial year to which that return relates and shall maintain records of the *e-Waste* handled in *Form 2*.

Newly defined Responsibilities of Consumer and Bulk Consumer (Rule 9):

The Draft *Rules* enhance the responsibilities of Consumers or Bulk Consumers by ensuring that end of life EEE do not contain radioactive material as covered under the provisions of the *Atomic Energy Act 1962 (33 of 1962)* and *Rules* made there under. Bulk Consumers now have to submit Annual Returns in *Form 3*, to the concerned SPCB/PCC on or before the 30th June following the financial year to which that Return relates.

The Responsibilities of Dismantler (Rule 10) and Recycler (Rule 11) remain unchanged in the Draft Rules.

III. PROCEDURE FOR SEEKING AUTHORIZATION AND REGISTRATION FOR HANDLING *e-WASTES*

The Draft *Rules* introduce the procedure for grant of Authorization for Producers (both for pan India Authorization and for selling product in particular states) and Manufacturer through *Rules 12(1) and (2)*, as follows:

Newly defined Procedure for Grant of Authorization: EPR Authorization of Producer [Rule 12(1)]:

- Every Producer of EEE listed in *Schedule-I*, shall make an application for EPR-Authorization within a period of three (3) months in *Form 1* to SPCB in case of selling their product in one (1) state or CPCB, in case selling their product in more than one (1) state, for grant of authorization.
- In case of pan India authorization, on receipt of the application, a committee constituted by CPCB with the representative members of SPCB/PCC, after evaluating the State specific EPR Plan, after such enquiry as it considers necessary and on being satisfied that the Producer has detailed out an effective system to manage EPR in the country, shall recommend granting EPR-Authorization by CPCB, in *Form-1(aa)* within a period of 120 days. The EPR-Authorization shall be valid initially for a period of five (5) years.
- The CPCB or SPCB, as the case may be, after giving reasonable opportunity of being heard to the applicant shall refuse to grant EPR-Authorization.
- The CPCB after grant of EPR-Authorization shall forward the State specific EPR Plan to respective SPCB/PCC for their implementation.
- An application for the renewal of EPR-Authorization shall be made in *Form-1* before 60 days of its expiry and the SPCB/PCC, as the case may be, may renew the authorization after examining each case on merit and on issuance of compliance report by the concerned SPCB/PCC and subject to the condition that there is no report of violation of the provisions of the *Act* or the *Rules* made there under or the conditions specified in the EPR-Authorization.
- The SPCB/PCC shall maintain a register containing particulars of the conditions imposed under EPR-Authorization for environmentally sound management of *e-Waste*, and it shall monitor the compliance of EPR-Authorization and take cognizance of any non-compliance and also inform CPCB about the action taken.

Newly defined procedure for Authorization of Manufacturer [Rule 12 (2)]:

- The Manufacturer generating *e-Waste* shall obtain an authorization from the SPCB or PCC of Union Territories (UTs) concerned as the case may be.
- The Manufacturer shall make an application, within a period of three (3) months starting from the date of commencement of these *Rules* in *Form 1(a)* to the SPCB/PCC for grant of authorization.
- On receipt of the application complete in all respects for the authorization, the SPCB/PCC may, after such enquiry as it considers necessary and on being satisfied that the applicant possesses appropriate facilities, technical capabilities and equipment to handle *e-Waste* safely, grant within a period of 90 days an authorization in *Form-1(bb)* to the applicant to carry out safe operations in the authorized place only, which shall be valid for a period of five (5) years.
- The SPCB/PCC after giving reasonable opportunity of being heard to the applicant may refuse to grant any authorization.
- Every person authorized under these *Rules* shall maintain the record of *e-Waste* handled by them in *Form 2* and prepare and submit to the SPCB/PCC, an Annual Return containing the details specified in *Form 3* on or before 30th day of June following the financial year to which that Return relates.
- An application for the renewal of an authorization shall be made in *Form-1* before 60 days of its expiry and the SPCB/PCC may renew the authorization after examining each case on merit and subject to the condition that there is no report of violation of the provisions of the *Act* or the *Rules* made thereunder or the conditions specified in the authorization.
- Manufacturer shall take all steps, wherever required, to comply with the conditions specified in the authorization.
- The SPCB in case of a respective State/PCC shall maintain a register containing particulars of the conditions imposed under these *Rules* for environmentally sound management of *e-Waste*, and it shall be open for inspection during office hours to any person interested or affected or a person authorized by him on his behalf.

Provisions regarding Power to suspend or cancel an Authorization (Rule 13 of the Draft), Procedure for Registration with SPCB for Dismantlers and Recyclers and the Procedure for SPCB to grant registration (Rule 14 of the Draft) remain unchanged in the Draft Rules.

Chapter IV of the Draft Rules, i.e., Procedure for storage of *e-Waste* also remains unchanged in these Rules.

IV. REDUCTION IN THE USE OF HAZARDOUS SUBSTANCES IN THE MANUFACTURE OF EEE AND THEIR COMPONENTS

The Draft *Rules*, through *Rule 16*, have amended the provision of reduction of use of hazardous substances in the manufacture of EEE and also for their components. As per the newly added provisions, every producer while seeking EPR-Authorization needs to provide information on the compliance of the provisions of *Sub-rule (1)* of *Rule 16* in terms of *Self-Declaration*. CPCB shall conduct random sampling of EEE placed on the market to monitor and verify the compliance of Restriction of Hazardous Substances and shall publish methods for Restriction of Hazardous Substances sampling and testing and also enlist the labs for random Restriction of Hazardous Substances testing. Also, every Producer shall provide a declaration of conformance to the Restriction of Hazardous Substances provisions in the *Product User Documentation*.

Chapter VI (Miscellaneous) of the Rules regarding the Duties of Authorities (Rule 17), Annual Report (Rule 18), Transportation of *e-Waste* (Rule 19) and Accident Reporting and Follow-up (Rule 20) remain unchanged in the Draft Rules.

V. SCHEDULES

The Draft Rules have brought changes to the following stated Schedules of the said Rules:

- **Schedule I:** Categories of EEE covered under the Rules (Addition of the EEE codes for different EEE).
- **Schedule III:** List of Authorities and Corresponding Duties (Increasing the number of duties of CPCB and SPCBs/PCCs).
- **Form 3:** Form for filing Annual Returns (Now also applicable to Manufacturers, Dealers, Refurbishers and Micro and Small Enterprises).
- **Form 4:** Form for application for registration of facilities possessing environmentally sound management practice for dismantling/recycling e-Waste (Now also require e-Waste details, details of facilities for dismantling, details of facilities for recycling, etc.).

The newly added Forms in the Draft include:

- **Form I:** Applicable to producers seeking EPR- Authorization for managing their EPR.
- **Form 1(a):** Application for obtaining authorization for generation/ treatment/ disposal of e-Waste.
- **Form 1(aa):** Letter of EPR Authorization (for Producer of EEE listed in Schedule 1 of the Rules).
- **Form 1(bb):** Form for granting authorization for generation/collection/storage of e-Waste.

The Schedules and Forms which have not undergone any changes through this Draft include:

- **Schedule II:** Applications, which are exempted from the requirements of Sub-rule (1) of Rule 16 (applicable to categories of EEE as listed in Schedule I).
- **Form 2:** Form for maintaining records of e-Waste handled/generated.
- **Form 5:** Form for Annual Report to be submitted by the SPCB/PCC to the CPCB.

If you have any queries or need any clarifications or more information on the above,
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