

मध्य प्रदेश प्रदूषण नियंत्रण बोर्ड,
पर्यावरण परिसर, ई-5 अरेरा कालोनी, भोपाल

कमांक/ 1492 /स्था/प्रनिबो/2016
प्रति,


भोपाल, दिनांक 13-4-2016

क्षेत्रीय अधिकारी
मध्य प्रदेश प्रदूषण नियंत्रण बोर्ड
इन्दौर/धार/उज्जैन/गुना/ग्वालियर/सागर/रीवा/छिन्दवाडा
सतना/सिंगरौली/जबलपुर/शहडोल/भोपाल/कटनी/एसईजेड पीथमपुर

- विषय:- केन्द्रीय प्रदूषण नियंत्रण बोर्ड नई दिल्ली द्वारा Implementation of Guidelines on "Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty" अपने अभिमत से अवगत कराने बावत् ।
- सन्दर्भ:- केन्द्रीय प्रदूषण नियंत्रण बोर्ड, नई दिल्ली का पत्र कमांक बी-29016(SC) HWMD/9010 दिनांक 8 मार्च 2016

विषयान्तर्गत कृपया केन्द्रीय प्रदूषण नियंत्रण बोर्ड, नई दिल्ली से प्राप्त पत्र कमांक बी-29016(SC) HWMD/9010 दिनांक 8 मार्च 2016 की प्रति संलग्न है ।

संलग्न :- उपरोक्तानुसार ।


(सुधीर श्रीवास्तव)
विधि अधिकारी,
२



कन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
(पर्यावरण एवं वन मंत्रालय, भारत सरकार)
(MINISTRY OF ENVIRONMENT & FORESTS, GOVT. OF INDIA)

F.No.B-29016(SC)/1/HWMD/

SPEED POST

March 08, 2016

To

The Member Secretary
M. P. Pollution Control Board
Paryavaran Parisar, Sector E-5,
Arera Colony, Bhopal – 462 016

Sub.: Implementation of Guidelines on “Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty”

Sir,

Incidences of fire, spillage, illegal disposal, etc. of hazardous waste have been noticed in the past and are still being reported and it ultimately requires to impose liability systematically on occupier, importer, transporter and operator of the facility. The damages caused to the environment or third party as well as levy financial penalty for violation of the provisions of the Rules so as to enforce the provisions of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008, needs to be imposed.

The Rule 25 of the said Rules provides liability of occupier, transporter, operator of a facility and importer. The Rule 25(1) stipulates that the occupier, importer, transporter and operator of the facility shall be liable for all damages caused to the environment or third party due to improper handling of the hazardous wastes or disposal of the hazardous wastes. Further, the Rule 25(2) stipulates that the occupier and the operator of the 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.

However, assessing various types of liabilities and translating the same in terms of monetary value are challenges before the State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs). Similar difficulties have also been faced in evaluating a methodical approach for deriving financial penalties to be levied for various kind of violations stipulated on the occupier, importer, transporter and operator of the facility.

With an objective to address the above, CPCB has prepared guidelines on “Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty” which includes description of liabilities, approach for valuation of the same, methodology for levying financial penalty, role of SPCB/PCC and other stakeholders etc.

‘परिवेश भवन’ पूर्वी अर्जुन नगर, दिल्ली-110032

‘Parivesh Bhawan’, East Arjun Nagar, Delhi-110032

दूरभाष / Tel.: 43102030, फ़ैक्स / Fax: 22305793, 22307075, 22307076, 22309910, 22004948

वेबसाइट / Website: www.cpcb.gov.in, www.mepco.gov.in

A copy of these guidelines is enclosed for ready reference and soft copy of the same is also available at http://www.cpcb.nic.in/Guidelines_Environmental_Damages_Costs_200116.pdf.

The Ministry of Environment, Forest & Climate Change, Govt. of India, has accorded the approval to these guidelines. Further, the said guidelines have been prepared in compliance with the order dated 18/2/2014 of the Hon'ble National Green Tribunal, (Western Zone) Bench, Pune, in the matter of Application No. 87/2013(WZ), Ramubhai Kariyabhai Patel & others versus Union of India & others. A training programme on the aforesaid guidelines was also organized on 24th February 2016 at CPCB, Delhi for the officials of SPCBs/PCCs/Zonal Offices of CPCB.

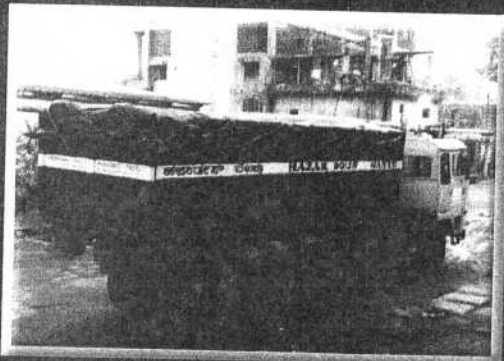
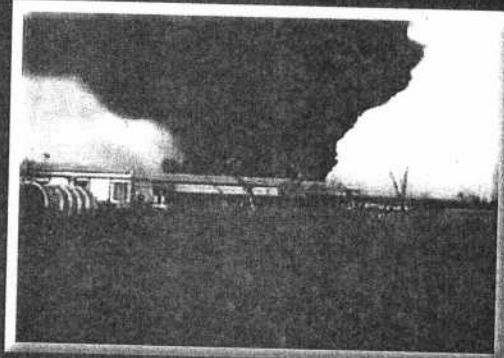
It is requested to kindly ensure implementation of provisions of the aforesaid guidelines. These guidelines are also to be brought into the notice of local authorities. Further, we request that to meet out crisis arising out of any mishap/accidents, State should have proper contingency plan.

Yours faithfully,


(A. B. Akolkar)

Encl.: as above

Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty



CPCB

January 2016

Central Pollution Control Board
(Ministry of Environment, Forest & Climate Change, Government of India)
Parivesh Bhawan, East Arjun Nagar,
Shahdara, Delhi - 110032

Guidelines on Implementing Liabilities for Environmental Damages due to Handling & Disposal of Hazardous Waste and Penalty



CPCB

January 2016

**Central Pollution Control Board
(Ministry of Environment, Forest & Climate Change, Government of India)
Parivesh Bhawan, East Arjun Nagar,
Shahdara, Delhi - 110032**

अरुण कुमार मेहता, भा.प्र.से.
संयुक्त सचिव
(पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय)
ARUN KUMAR MEHTA, I.A.S.
Joint Secretary
(Ministry of Environment, Forest & Climate Change)
&
अध्यक्ष
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Chairman
CENTRAL POLLUTION CONTROL BOARD



भारत सरकार
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
नई दिल्ली - 110003
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST &
CLIMATE CHANGE
NEW DELHI-110003

FOREWORD

Hazardous waste is required to be stored, packaged, transported or recycled/utilized/disposed in an environmentally sound manner in compliance with the provisions stipulated under the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008, notified under the Environment (Protection) Act, 1986. Improper handling or disposal of hazardous waste may lead to environmental damages and violations of provisions laid down under the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008. Rule 25 of the said Rules lays down provisions for liability of occupier, transporter, operator of a facility and importer. The Rule 25(1) stipulates that the occupier, importer, transporter and operator of the facility shall be liable for all damages caused to the environment or third party due to improper handling of the hazardous wastes or disposal of the hazardous wastes. Further, Rule 25(2) stipulates that the occupier and the operator of the 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.

Incidences of fire, spillage, illegal disposal, etc. of hazardous waste are being noticed regularly which necessitates systematic imposition of liability on occupier, importer, transporter and operator of the facility, as the case may be, for damages caused to the environment or third party as well as levy financial penalty for violation of the provisions of the Rules so as to enforce Rule 25. However, assessing various types of liabilities and translating the same in terms of monetary value are challenges before the implementing agencies such as State Pollution Control Boards (SPCBs)/ Pollution Control Committees (PCCs). Similar difficulties have also been faced in arriving at financial penalties to be levied for various kind of violations on the occupier, importer, transporter and operator of a facility.

With an objective to address the above, these guidelines have been prepared along with description of liabilities, approach for valuation, methodology for levying financial penalties, role of SPCB/PCC and other stakeholders etc. Consultations were held with industries, experts, academic institutes, SPCBs/PCCs etc. The Ministry of Environment, Forest & Climate Change, Govt. of India, has accorded its approval to these guidelines. I am sure these guidelines shall be very helpful to SPCBs/PCCs and other stake holders in implementing provisions of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008.

I shall like to put on record my appreciation for work done by my colleagues Shri Bharat K Sharma, Scientist, 'E', Shri B. Vinod Babu, Scientist E & I/c HWMD, and Smt. Deepti Kapil, Scientist 'C'.


(A.K. Mehta)
Chairman



'परिवेश भवन', सी.बी.डी. काम-ऑफिस कॉम्प्लेक्स, पूर्वी अर्जुन नगर, दिल्ली-110032
'PARIVESH BHAWAN', C.B.D.-CUM-OFFICE COMPLEX, EAST ARJUN NAGAR, DELHI-110 032
PHONE : 22307233, TEL. FAX : 22304948, E-mail : ccb.cpcb@nic.in, akmehta@nic.in

INDEX

Section	Description of Item	Page Number
1.0	Background	1
2.0	Legal Framework	2
3.0	Description of Impacts	7
	3.1 Impacts on Soil	8
	3.2 Impacts on Groundwater	9
	3.3 Impacts on Surface water	9
	3.4 Impacts on Human Health	10
	3.5 Impacts on Flora/Fauna	10
	3.6 Impacts on Crops	10
	3.7 Impacts on Property	10
4.0	Environmental Liabilities	11
	4.1 Liability for taking up immediate Emergency Response Plan Measures	12
	4.2 Liability for assessment of contamination.	14
	4.3 Liability for Remediation of Contaminated sites	19
	4.4 Compensation Liability	20
5.0	Approach for valuation of Direct Liability	22
	5.1 Indicative Cost of liabilities for Site Assessment and Remediation	23
6.0	Enforcement of Penalty	26
7.0	Role of State Pollution Control Board/Pollution Control Committee	27
List of Tables		
Table 1	Parameter for assessing Compensation Liability	24
Table 2	Indicative cost for Site Assessment and Remediation	24
List of Annexure		
Annexure I	Schedule II of Rule, 12 of the Environment (Protection) Rules, 1986	32
Annexure II	Schedule II of the section 15 & 17 on the National Green Tribunal Act, 2010	34
Annexure III	Format for Accident Reporting (Form 14)	35
Annexure IV	Format for Environment Pollution Incident Report	36
Annexure V	Factors to be accounted for estimating liability for Remediation of Soil, Groundwater, Surface water and Sediment Contaminate Sites	39

1

BACKGROUND

For safe handling and management of hazardous waste in an environmentally sound manner, Government of India (GOI) has notified the Hazardous Waste (Management & Handling) Rules, 1989, under the Environment (Protection) Act, 1986. However, these Rules were suppressed with re-notification of the Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008.

Under the said Rules, hazardous waste has been defined as those wastes which by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics causes danger or is likely to cause danger to health or environment, whether alone or when in contact with other wastes or substances, and shall include wastes as specified in Schedules of the Rules.

The Hazardous Wastes (Management, Handling and Transboundary Movement) Rules, 2008, lays down provisions for requirement of authorization from the concerned State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC) for generation, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of the hazardous waste, packaging, labeling, transportation, treatment, recycling, disposal, etc. of hazardous waste. The Rules also stipulate provision of liability of occupier, transporter, operator of a facility and importer for all damages caused to the environment or third party due to improper handling or disposal of the hazardous wastes as well provision to pay financial penalties as levied for any violation of provisions under the Rules.

In order to enforce the aforesaid provision of the Rules, assessment of damages caused to the environment or third party due to improper handling or disposal of the hazardous wastes (such as but not limited to, illegal disposal/ spillage of hazardous waste or fire from improper handling/disposal of hazardous waste) is the foremost requirement besides taking immediate measures for control/containment of impacts upon such incidences. Liability to occupier or importer or transporter or operator of the facility, as the case may be, can be assigned for immediate response, site assessment and remediation and also for compensating the damages caused to third parties. Upon immediate reporting of such incidences, every State Pollution Control Board (SPCB)/ Pollution Control Committee (PCC) is expected to have a well-defined system in place to deal with such emergency along with protocol to be followed. A well-defined system will help in adopting a systematic approach towards reporting/inspection of such incidences of spillages/ disposal/ fire because of improper handling/disposal of hazardous wastes and also in implementing environmental damage liability and financial penalty for violation, if any.

This document outlines various liabilities to be imposed on a responsible party for causing environmental damages arising from improper handling/disposal of hazardous waste. These liabilities are applicable to the occupier, transporter, operator of a facility and importer as the case may be, hereinafter referred to as responsible party. The guidelines also identify the compensation liabilities on a responsible party for causing impacts such as injury, loss of life, effects on flora and fauna, loss of livelihood, reduced yield from crops, property loss, etc. However, evaluation and implementation of the same are not covered in the scope of this document, which may be dealt with by the concerned agency of respective State/UT Government. Role of the responsible party and the concerned SPCB/PCC have been outlined in the event of occurrence of incidences. Further, an attempt has also been made to provide an indicative cost for assessment and

remediation, which may, however, vary case to case. The document also provides guidelines for evaluating and implementing financial penalty for violation of provisions stipulated under the Hazardous Waste (Management, Handling & Transboundary Movement) Rules, 2008.

This document is in compliance with the order dated 18/2/2014 of the Hon'ble National Green Tribunal, (Western Zone) Bench, Pune, in the matter of Application No. 87/2013(WZ), Ramubhai Kariyabhai Patel & others versus Union of India & others, wherein it has been ordered that "Gujarat Pollution Control Board and Central Pollution Control Board shall immediately undertake efforts for capacity building within their organizations and also, other SPCBs for scientific handling of such accidents, through training and preparation of guidelines and manuals, particularly enforcement of Rule 25 (1) and (2) of HW Rules, 2008. This is utmost essential to develop such capacity in SPCBs and CPCB as they are the scientific and technical organizations having responsibility to handle such environmental hazards and therefore, it is necessary to ensure adoption of suitable scientific tools and techniques to develop suitable response to such accidents".

