DRAFT AMENDMENT

MoEFCC proposes plastic waste amendments on raw material makers, compostable and biodegradable plastics

G.S.R. 744(E), a draft of October 16, 2023, proposes registration and EPR for plastic raw material makers and limits on compostable and biodegradable plastics.

G.S.R. 744(E), A NOTIFICATION OF the Ministry of Environment, Forest and Climate Change dated October 16, 2023, publishes a draft which the Central Government proposes to issue 'for making certain amendments in the Plastic Waste Management Rules, 2016'. The draft rules are called the Plastic Waste Management (Second Amendment) Rules, 2023. The opening paragraph cites sections 3, 6 and 25 of the Environment (Protection) Act, 1986; the draft notification cites sections 6, 8 and 25 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986.

THE CHANGE

Proposed amendments to the Plastic Waste Management Rules, 2016: registration and reports for manufacturers, importers and sellers of plastic raw material, and EPR for its manufacturers and importers; compostable and biodegradable plastics limited to listed uses, with labels and EPR; five categories of plastic packaging; duties and annual reports for local bodies and district panchayats; and electronic platforms for trading EPR certificates.

KEY FACTS

TYPE

Draft amendment

G.S.R. NUMBER

G.S.R. 744(E)

DATED

October 16, 2023

APPLIES FROM

Proposed: on the date of their publication in the Official Gazette (rule 1(2) of the draft)

REFERENCES

G.S.R. 744(E)

CG-DL-E-18102023-249510

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G.S.R. 744(E) · October 16, 2023

G.S.R. 744(E), a notification of the Ministry of Environment, Forest and Climate Change dated October 16, 2023, publishes a draft which the Central Government proposes to issue 'for making certain amendments in the Plastic Waste Management Rules, 2016'. The draft rules are called the Plastic Waste Management (Second Amendment) Rules, 2023. The opening paragraph cites sections 3, 6 and 25 of the Environment (Protection) Act, 1986; the draft notification cites sections 6, 8 and 25 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986.

The draft is to be taken into consideration on or after the expiry of sixty days from the date on which copies of the notification as published in the Gazette of India are made available to the public, and objections and suggestions may be sent in writing within that period. Worked out, not printed: counting sixty days from the issue date, October 16, 2023, the period closes on December 15, 2023; counting from the e-Gazette's publish date, October 18, 2023, on December 17, 2023. The final rules, G.S.R. 201(E), record that copies were made available to the public on October 16, 2023, which gives December 15, 2023.

The draft would bring manufacturers and importers of plastic raw material under the rules: one-time registration in Form III on the centralized online portal, sale only to registered producers and sellers with the producer's registration number on the invoice, no sale to makers of banned single use plastic items, a printed warning on raw material bags, quarterly reports in Form VII, and an EPR target equal to the raw material they sell to micro and small producers, whose obligation they would fulfill. Sellers of plastic raw material or intermediate material would also register and report.

Plastic packaging would fall into five categories: rigid (I), flexible (II), multilayered (III), compostable (IV) and biodegradable (V). Compostable and biodegradable plastics would be permitted only for carry bags, sachets used for storing, packing or selling gutkha, tobacco and pan masala, and commodities banned under rule 4(2)(b), with labels such as 'compostable only under industrial composting', and their manufacturers would carry EPR; makers of biodegradable plastics would meet it with certificates generated by local authorities.

Local bodies and Panchayati Raj Institutions at the district level would assess plastic waste, including legacy plastic waste, and report by June 30 each year in Forms V(A) and V(B). Annual reports would be due by April 30 from plastic waste processors, by June 30 from raw material makers, sellers and local bodies, by July 31 from State boards and before August 31 from the Central Pollution Control Board. The Board would authorize electronic platforms for trading EPR certificates, fix their highest and lowest price every six months or as required, and become the registration authority for an application pending with a State board for more than 30 days.

The notification (F. No-17/6/2023-HSMD) appears in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), No. 591, dated October 16, 2023. Its Note records that the principal rules were published by G.S.R. 320(E), dated March 18, 2016, and last amended by G.S.R. 318(E), dated April 27, 2023. The final rules that cite it are G.S.R. 201(E) of March 14, 2024; G.S.R. 807(E) of October 30, 2023 carries the same short title but does not cite it.

G.S.R. number	G.S.R. 744(E)
Dated	October 16, 2023
Put online	October 18, 2023
Gazette ID	CG-DL-E-18102023-249510
Rule	Plastic
Type	Draft amendment
Would amend	Plastic Waste Management Rules, 2016
Products	Plastic packaging, Plastic raw material, Compostable plastics, Biodegradable plastics
What it does	Proposed amendments to the Plastic Waste Management Rules, 2016: registration and reports for manufacturers, importers and sellers of plastic raw material, and EPR for its manufacturers and importers; compostable and biodegradable plastics limited to listed uses, with labels and EPR; five categories of plastic packaging; duties and annual reports for local bodies and district panchayats; and electronic platforms for trading EPR certificates.
Applies from	Proposed: on the date of their publication in the Official Gazette (rule 1(2) of the draft)
Comments	• No closing date stated. MoEFCC's What's New lists it for comment from December 6, 2023 • Closing date December 15, 2023, worked out: 60 days from October 16, 2023, the day G.S.R. 201(E) says copies were made public
Made final by	G.S.R. 201(E) of March 14, 2024
Conditions	• Objections or suggestions in writing within sixty days from the date on which copies of this notification as published in the Gazette of India are made available to the public (the notice's words), by post to the Secretary, Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi-

110003, or electronically at the two email addresses the notice prints.

- Closing dates, worked out and not printed in the notice: December 15, 2023, counting sixty days from the issue date, October 16, 2023; December 17, 2023, counting from the e-Gazette's publish date, October 18, 2023; the day itself not counted. The final rules, G.S.R. 201(E), record that copies were made available to the public on October 16, 2023, which gives December 15, 2023.
- The final rules G.S.R. 201(E), dated March 14, 2024, cite this draft.

Applies to	As proposed: producers, importers and brand owners of plastic packaging; manufacturers, importers and sellers of plastic raw material; manufacturers of commodities from compostable and biodegradable plastics; local bodies and Panchayati Raj Institutions at the district level.
Issued under	Sections 3, 6 and 25 of the Environment (Protection) Act, 1986 (29 of 1986), as the opening paragraph states; the draft notification itself cites sections 6, 8 and 25 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986; published as required under sub-rule (3) of rule 5 of those Rules
Signed by	NARESH PAL GANGAWAR, Addl. Secy.

The notification, entry by entry

Entry	Before	After
Rule 3(k), 'Importer' (to be substituted)	'Importer' means a person who imports plastic packaging or products with plastic packaging or carry bags or multilayered packaging or plastic sheets or like	'Importer' means a person who imports for the purpose of further sale plastic packaging or commodities with plastic packaging or carry bags or plastic packaging or plastic sheets or like and plastic raw material including in the form of resin or pellets
Rule 3(m), 'manufacturer' (to be substituted)	'manufacturer' means and include a person or unit or agency engaged in production of plastic raw material to be used as raw material by the producer	'manufacturer' means and include a person or unit or agency engaged in production of plastic raw material

Rule 3(n), 'multi-layered packaging' (to be substituted)	'multi-layered packaging' means any material used or to be used for packaging and having at least one layer of plastic as the main ingredients in combination with one or more layers of materials such as paper, paper board, polymeric materials, metallised layers or aluminium foil-, either in the form of a laminate or co-extruded structure	'multi-layered packaging' means any material used or to be used for packaging and having at least one layer of plastic as the main ingredients in combination with one or more layers of materials such as paper, paper board, polymeric materials, aluminum foil, either in the form of a laminate or co-extruded structure
Rule 3(oa), 'Plastic Packaging' (to be substituted)	'Plastic Packaging' means packaging material made by using plastics for protecting, preserving, storing and transporting of products in a variety of ways	'Plastic Packaging' means packaging material made by using plastics for protecting, preserving, storing and transporting of products in a variety of ways and having the following categories: Category I, Rigid plastic packaging; Category II, Flexible plastic packaging of single layer or multilayer (more than one layer with different types of plastic), plastic sheets or like and covers made of plastic sheet, carry bags, plastic sachet or pouches including metallised layers; Category III, Multilayered plastic packaging (at least one layer of plastic and at least one layer of material other than plastic or having one material as plastic and another material other than plastic); Category IV, Plastic packaging made of compostable plastics; Category V, Plastic packaging made from biodegradable plastics
Rule 3(ub), 'seller' (to be inserted)		'seller' means a person who sells plastic raw material/intermediate material for plastic packaging for further use or sale.
Rule 4(1)(e) (to be substituted)	the manufacturer shall not sell or provide or arrange plastic to be used as raw material to a producer, not having valid registration from the concerned State Pollution Control Boards or Pollution Control Committee	the manufacturer shall not sell or provide or arrange plastic to be used as raw material to a producer or to a seller not registered on the centralized online portal specified in Schedule II

Rule 4(1)(h) (to be substituted)	The provision of thickness shall not be applicable to carry bags and commodities made up of compostable plastic and biodegradable plastics. Carry bags and commodities made from compostable plastics shall conform to the Indian Standard: IS/ISO 17088:2021 titled as Specifications for Compostable Plastics, as amended from time to time. The manufacturers or seller, of compostable plastic and biodegradable plastic carry bags and/or commodities or both, shall obtain a certificate from the Central Pollution Control Board before marketing or selling	The provision of thickness shall not be applicable to carry bags, sachets used for storing, packing or selling gutkha, tobacco and pan masala and commodities banned under sub rule (2)(b) of rule 4 of these rules, made up of compostable plastic and biodegradable plastics. Carry bags and commodities made from compostable plastics shall conform to the Indian Standard: IS/ISO 17088:2021 titled as Specifications for Compostable Plastics, as amended from time to time. The manufacturers of compostable plastic and biodegradable plastic carry bags and/or commodities permitted under the rules, or both, shall obtain a certificate from the Central Pollution Control Board before marketing or selling; and
Rule 4(1)(ha) (to be inserted)		The use of compostable plastics and biodegradable plastics is permitted only for manufacture of carry bags, sachets used for storing, packing or selling gutkha, tobacco and pan masala and commodities banned under sub rule (2)(b) of rule 4 of these rules, with mandatory marking and labeling as prescribed under these rules. CPCB may as required, prescribe guidelines, to permit manufacture of further commodities from compostable and biodegradable plastics, after approval of Government.
Rule 4(3a) (to be inserted)		The manufacturer of commodities mentioned in sub – rule (2) (b) made from biodegradable plastics shall have obligation to report on the quantum of such commodities introduced in the market and quantum of pre-consumer waste generated as per proforma prescribed by CPCB with effect from 1st April 2024.
Rule 4(5) (to be inserted)		Units manufacturing commodities made from plastic or commodities containing part (s) made of plastic shall, as part of consent requirements, ensure processing of the pre-consumer plastic waste generated in the form of reject or discard at the stage of manufacturing of such commodities either through self or through plastic waste processors registered under these rules and report pre-consumer plastic waste processed on annual basis online under Consent mechanism.

Rule 6: local bodies	Every local body shall be responsible for development and setting up of infrastructure for segregation, collection, storage, transportation, processing and disposal of the plastic waste either on its own or by engaging agencies or producers	... either on its own or by engaging agencies or producers or brand owners, as per mutually agreed terms and conditions. New sub-rules (5) to (8): the local body assesses plastic waste generated, including legacy plastic waste, by 30th June of next financial year and projects plastic waste to be generated as per CPCB guidelines; reports its plastic waste management infrastructure on its website by 30th June; takes action to prevent stocking, distribution, sale and usage of banned Single Use Plastic items; and submits an annual report by 30th June in Form V(A) through the Centralized Plastic Waste Annual Report Portal to be developed by CPCB.
Rule 7 and rule 7A (to be inserted): gram panchayats and Panchayati Raj Institutions at the district level	Every gram panchayat either on its own or by engaging agencies or producers shall set up, operationalize and co-ordinate for waste management in the rural area under their control	Every gram panchayat or Panchayati Raj Institution at the district level either on its own or by engaging agencies or producers or brand owners or manufacturers, as per mutually agreed terms and conditions shall set up, operationalize and co-ordinate for waste management in the rural area under their control. Added functions: creating awareness among all stakeholders; engaging civil societies or groups working with waste pickers; ensuring that open burning of plastic waste does not take place; taking necessary action to prevent stocking, distribution, sale and usage of Single Use Plastic items. Rule 7A: the Panchayati Raj Institution at District Level assesses plastic waste and infrastructure by 30th June of next financial year and reports in Form V(B).
Rule 9(1) and (2): extended producer responsibility	The Producers, Importers and Brand Owners, shall fulfill Extended Producer Responsibility for Plastic Packaging as per guidelines specified in Schedule- II	The Producers, Importers and Brand Owners and manufacturer of permitted commodities and plastic packaging mentioned in clause (ha) of sub-rule (1) of Rule 4, made from compostable and biodegradable plastics, shall fulfill Extended Producer Responsibility for Plastic Packaging as per guidelines specified in Schedule- II. Under sub-rule (2), Producers, Importers & Brand-Owners, and manufacturers and importers of plastic may operate schemes such as deposit refund system or buy back or any other model.

Rule 10(7) and (8) (to be inserted)	(7) Where sample testing commenced before the laboratory was recognized/certified by BIS or NABL and the report complies with IS 17899 T:2022, the applicant may be asked to re-test and be permitted to continue production or usage of the biodegradable plastic material till the fresh test report is received from a duly accredited laboratory. (8) 'BIS shall prescribe separate colour / marking for plastic packaging and commodities made from compostable and biodegradable plastics based upon processing for compostable plastics and end of life environmental media / site for biodegradation.'
Rule 11(2) to (4): labels	(2) Each recycled carry bag or plastic packaging or commodity shall bear a label or a mark 'recycled' and conform to IS 14534: 1998. (3) Each carry bag or plastic packaging or commodity covered under Rule 4 made from compostable plastics shall bear a label 'compostable only under industrial composting' and conform to IS or ISO 17088:2008. (4) Each one made from biodegradable plastic shall bear the label 'Biodegradable in [--- specify number of days ---] only in the [---specify recipient environment such as land, landfill, water etc.---]'.
Rule 13(4), (4a) and (8): registration	Every manufacturer and importer of plastic raw material applies to the State Pollution Control Board or Pollution Control Committee for one-time registration in Form III through the centralized online portal, and is to sell plastic raw material only to producers registered on the portal, with the producer's registration number on the sale invoice, and to registered sellers; not sell to units manufacturing banned single use plastic items; submit a Quarterly Report in Form VII; print 'Not to be used in the manufacture of SUP items prohibited under PWM Rules, 2016 including plastic sheets < 50 micron thickness, non-woven carry bags < 60 GSM, Carry bags < 120 micron thickness' on all packaging bags; and put an undertaking against use in banned Single Use Plastic items in all MoU/ Sale Contracts/Price Lists. Sellers of plastic raw material or intermediate material apply for one-time registration (4a). An application pending with the State board for more than 30 days passes to CPCB as the authority for registration (8).

Rule 17: Annual reports (to be substituted)		Plastic waste recyclers and processors: Form IV by the 30th April. Manufacturers and importers of plastic raw material: Form VII by the 30th June. Sellers of plastic raw material or intermediate material: by the 30th June. Urban local bodies and Panchayati Raj Institutions at District Level: Form V by the 30th June. State Pollution Control Boards and Pollution Control Committees: Form VI to CPCB by the 31st July. CPCB: a consolidated annual report to the Central Government before the 31st August. Sub-rules (1) to (5) each say 'through online reporting module developed by CPCB'.
Schedule II, title	Guidelines on Extended Producer Responsibility for Plastic Packaging	Guidelines on Extended Producer Responsibility for Plastic Packaging and commodities made from compostable plastics and biodegradable plastics
Schedule II, clause 4: Obligated Entities	(i) Producer (P) of plastic packaging; (ii) Importer (I) of all imported plastic packaging and / or plastic packaging of imported products; (iii) Brand Owners (BO) including online platforms/marketplaces and supermarkets/retail chains other than those, which are micro and small enterprises as per the criteria of Ministry of Micro, Small and Medium Enterprises, Government of India.; (iv) Plastic Waste Processors	(i) Producer (P) of plastic packaging, other than those which are micro and small enterprises as per the criteria of Ministry of Micro, Small and Medium Enterprises, Government of India; (ii) Importer (I); (iii) Brand Owners (BO), as before; (iv) Plastic Waste Processors; (v) Manufacturers and importers of plastic raw material; (vi) Manufacturers of items, mentioned in sub rule (4)(ha), made from compostable plastics and biodegradable plastics.
Schedule II, clause 5.1, items (iv) and (v): Categories IV and V	Category IV Plastic sheet or like used for packaging as well as carry bags made of compostable plastics	Category IV: carry bags, sachets used for storing, packing or selling gutkha, tobacco and pan masala and commodities banned under sub rule (2)(b) of rule 4 of these rules and commodities covered under sub-rule (1)(ha) of rule 4, made of compostable plastics. Category V: carry bags, sachets used for storing, packing or selling gutkha, tobacco and pan masala and commodities banned under sub rule (2)(b) of rule 4 of these rules and commodities covered under sub-rule (1)(ha) of rule 4, made of biodegradable plastics.

Schedule II, clauses 6.1(a) and 6.3: registration on the portal	To register on the centralized portal: Producer (P) including those which are micro and small enterprises; Importer (I); Brand owner (BO); Plastic Waste Processors; Manufacturers and importers of plastic raw material; Manufacturers of items, mentioned in sub rule (4)(ha), made from compostable plastics and biodegradable plastics. Clause 6.3, as printed: 'The entities covered under clause (6.1) any unregistered entity covered under Clause 6.1 shall not deal with any entity not registered through on-line centralized portal developed by Central Pollution Control Board'.
Schedule II, clause 7.8 (to be omitted) and clause 7.9 (to be inserted)	The EPR of micro and small producers is to be fulfilled by the manufacturer or importer of plastic raw material that supplied them, the target for use of recycled plastic content remaining with those producers; the target is the quantity of plastic raw material sold to micro and small producers on sale invoices authenticated on the portal. Minimum level of recycling (excluding end of life disposal), % of EPR target, for 2024-25, 2025-26, 2026-27 and 2027-28 and onwards: Category I 50, 60, 70, 80; Category II 30, 40, 50, 60; Category III 30, 40, 50, 60; Category IV 50, 60, 70, 80, recycling meaning composting through industrial composting facilities for Category IV.
Schedule II, clauses 8.5, 8.6, 8.7 and 8.9 (to be inserted; the draft prints no 8.8): trading platforms	CPCB issues guidelines for authorization of agencies for electronic platform(s) for trade of EPR certificates between obligated entities; the number of platforms may be restricted; their operation follows CPCB guidelines. 'The CPCB shall fix the highest and lowest price for EPR certificate every six month or as required, keeping in view the cost for collection and environmentally sound management of plastic packaging waste and the environmental compensation regime in force.'
Schedule II, clauses 10, 10.1, 10.5, 10.6, 15.1 and 15.3	Roles, registration, take-back schemes, annual returns and recycling certificates are extended to manufacturers and importers of plastic raw material. Clause 15.3: 'Manufacturers of biodegradable plastics shall fulfill their EPR obligations by obtaining EPR certificates generated by local authorities based upon mutually agreed modalities.'

Forms V, VI and VII	Form V is replaced by Form V(A), the annual report of the urban local body, and Form V(B), that of the Panchayati Raj Institution at the district level; Form VI, the annual report of the SPCB/PCC, is replaced; Form VII, the quarterly report of the plastic raw material manufacturer or importer, is inserted.

The notification (PDF, 1.6 MB)

Gazette of India, CG-DL-E-18102023-249510, published October 16, 2023.

Checked against the official copy on October 27, 2026.

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