DRAFT AMENDMENT

MoEFCC publishes draft extended producer responsibility rules for used oil, with targets from 2024-25

G.S.R. 338(E), a draft of May 2, 2023, proposes EPR for used oil under a new Schedule X, with producer targets from 10% for 2024-25.

G.S.R. 338(E), A NOTIFICATION OF the Ministry of Environment, Forest and Climate Change dated May 2, 2023, publishes a draft which the Central Government proposes to issue under sections 6, 8 and 25 of the Environment (Protection) Act, 1986, 'for bringing out regulations for extended producer responsibility (EPR) for Used Oil'. The draft rules are called the Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2023. They would add a sub-rule (5) to rule 9 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, under which the utilization and management of used oil follows a new Schedule X, and they would come into force from April 1, 2024.

THE CHANGE

Proposed: a new sub-rule (5) in rule 9 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and a new Schedule X, Extended Producer Responsibility (EPR) for Used Oil, with registration on a portal, recycling targets for producers of base oil or lubrication oil and for used oil importers, and EPR certificates bought from registered recyclers.

KEY FACTS

TYPE
Draft amendment

G.S.R. NUMBER
G.S.R. 338(E)

DATED
May 2, 2023

APPLIES FROM
Proposed: from the 1st Day of April, 2024 (rule 1(2) of the draft)

REFERENCES

G.S.R. 338(E)

CG-DL-E-02052023-245597

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G.S.R. 338(E) · May 2, 2023

G.S.R. 338(E), a notification of the Ministry of Environment, Forest and Climate Change dated May 2, 2023, publishes a draft which the Central Government proposes to issue under sections 6, 8 and 25 of the Environment (Protection) Act, 1986, 'for bringing out regulations for extended producer responsibility (EPR) for Used Oil'. The draft rules are called the Hazardous and Other Wastes (Management and Transboundary Movement) Amendment Rules, 2023. They would add a sub-rule (5) to rule 9 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, under which the utilization and management of used oil follows a new Schedule X, and they would come into force from April 1, 2024.

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. Counting sixty days from May 2, 2023, the day itself not counted, the period closes on July 1, 2023; this date is worked out, not printed. May 2, 2023 is the issue date, the e-Gazette's publish date and the day the final rules record that copies were made available.

Schedule X would require producers, collection agents, recyclers and used oil importers to register on a portal of the Central Pollution Control Board, and would bar business without registration. Producers of base oil or lubrication oil would meet recycling targets set as a share of the base oil or lubrication oil sold or imported two years earlier: 10% for 2024-25, 20% for 2025-26, 30% for 2026-27, 40% for 2027-28, 50% for 2028-29, and 60% from 2029-30 onwards. Used oil importers would recycle 100% of the used oil imported in the previous year, and used oil could be imported for re-refining only. Producers would meet their targets only by buying EPR certificates online from registered recyclers.

Certificates would be calculated as QEPR = QP x CF x WP, with a weightage of 1.0 for re-refined base oil or lubrication oil and 0.25 for co-processing, utilization or energy recovery of used oil not suitable for recycling, and would be valid for two years from the end of the financial year in which they were generated. The schedule also sets annual returns by June 30, environmental compensation of which 85, 60 or 30 percent is returned if a shortfall is made up after one, two or three years, prosecution under section 15 of the Act, and a Steering Committee chaired by the Chairman of the Central Pollution Control Board.

The notification (F. No. 23/75/2021-HSMD) appears in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), No. 268, dated May 2, 2023. Its Note records that the principal rules were published by G.S.R. 395(E), dated April 4, 2016, and amended nine times since, most recently by G.S.R. 900(E), dated December 23, 2022. The final rules, G.S.R. 677(E) of September 18, 2023, cite it as their draft.

G.S.R. number	G.S.R. 338(E)
Dated	May 2, 2023
Gazette ID	CG-DL-E-02052023-245597
Rule	Used oil
Type	Draft amendment
Would amend	Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016
Products	Used oil, Base oil, Lubrication oil
What it does	Proposed: a new sub-rule (5) in rule 9 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 and a new Schedule X, Extended Producer Responsibility (EPR) for Used Oil, with registration on a portal, recycling targets for producers of base oil or lubrication oil and for used oil importers, and EPR certificates bought from registered recyclers.
Applies from	Proposed: from the 1st Day of April, 2024 (rule 1(2) of the draft)
Comments	• Closing date July 2, 2023, as MoEFCC states. MoEFCC's What's New lists it for comment from May 10, 2023 • Closing date July 1, 2023, worked out: 60 days from May 2, 2023, the day G.S.R. 677(E) says copies were made public
Made final by	G.S.R. 677(E) of September 18, 2023
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 and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi - 110003, or electronically at the two email addresses the notice prints. • Closing date, worked out and not printed in the notice: July 1, 2023, counting sixty days from May 2, 2023, the day itself not counted. May 2, 2023 is the Gazette's issue date, the e-Gazette's publish date and the day the final rules, G.S.R. 677(E), record that copies were made available to the public. • The final rules G.S.R. 677(E), dated September 18, 2023, cite this draft.
Applies to	As proposed: producers of base oil or lubrication oil, used oil importers, collection agents, recyclers and bulk generators of used

	oil ('more than 100 Metric Tonnes per annum').
Issued under	Sections 6, 8 and 25 of the Environment (Protection) Act, 1986 (29 of 1986); published as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986
Signed by	NARESH PAL GANGWAR, Addl. Secy.

The notification, entry by entry

Entry	Text
Rule 9, sub-rule (5) (to be inserted)	The utilization and management of used oil shall be in accordance to the provisions contained in Schedule X
Schedule X, paragraph 1: Definitions (to be inserted)	'bulk generator' means any entity like automobile industry, railways, defence establishments, transport companies, industrial units, power transmission companies etc which are generating more than 100 Metric Tonnes per annum of used oil. 'producer' means any person or entity who manufactures and offers to sell base oil or lubrication oil domestically under its own brand; or offers to sell lubrication oil domestically under its own brand, using the base oil manufactured by other manufacturers or suppliers; or offers to sell imported base oil or lubrication oil domestically; or irrespective of the selling technique used such as dealer, retailer, e-retailer, etc. 'used oil importers' means any person or entity who imports used oil.
Schedule X, paragraph 2: Registration	Producers, collection agents, recyclers and used oil importers shall register on the portal. No such entity shall carry out business without registration, and registered entities shall not deal with any entity not registered on the portal. For false information, willful concealment or any irregularity, the Central Pollution Control Board may revoke a registration for a period up to five years after giving an opportunity to be heard, and environmental compensation may also be levied under paragraph 15.
Schedule X, paragraph 3(1): modes, in order of priority	(i) Producing re-refined base oil or lubrication oil; (ii) Energy Recovery
Schedule X, paragraph 3(2)(I)(a): targets for producers of base oil or lubrication oil	EPR obligation of the Year 2024-25 (The year in which these rules comes into force): 10% of the base oil or lubrication oil sold or imported in the Year 2022-23. 2025-26: 20% of that sold or imported in 2023-24. 2026-27: 30% of 2024-25. 2027-28: 40% of 2025-26. 2028-29: 50% of 2026-27. 2029-30 (Y) onwards: 60% of the base oil or lubrication oil sold or imported in the year (Y-2). For units established after 1st April, 2024, the obligation will start after two years from the end of the financial year in which the unit was established.
Schedule X, paragraph 3(2)(I)(b): used oil importers	The extended producer responsibility obligation for used oil importers in year (Y) shall be 100% of the used oil imported in year (Y-1). The import of used oil is permitted for the purpose of re-refining only.

Schedule X, paragraph 3(2)(II) and (III): meeting the targets	The producers' target would be reduced by a factor laid down by the Central Pollution Control Board on account of operational loss of base oil. Producers shall fulfil their extended producer responsibility through online purchase of extended producer responsibility certificates from registered recyclers only; where the figures of producers and recyclers differ on the portal, the lower figure counts; the certificates are subject to environmental audit.
Schedule X, paragraph 4: certificate generation	QEPR = QP x CF x WP. Weightage: 1.0 for producing re-refined base oil or lubrication oil; 0.25 for co-processing/ utilization/ energy recovery for used oil not suitable for recycling, maximum permissible percentage to be prescribed by CPCB. A certificate is valid for two years from the end of the financial year in which it was generated, in denominations of 100, 200, 500, 1000 and 10,000 kilograms or as laid down by the Central Pollution Control Board with the approval of the Steering Committee.
Schedule X, paragraph 5: transactions	A producer may purchase certificates limited to its liability of the current year (Year Y) plus any leftover liability of preceding years plus 10% of the current year liability. Producers and used oil importers fulfill the obligation by proportionately purchasing certificates on a quarterly basis; a purchased certificate is adjusted against liability, earlier liability first, and then extinguished and cancelled.
Schedule X, paragraph 6: portal	The Central Pollution Control Board shall establish an online system for registration, quarterly and annual returns, EPR certificates and tracing of oil, to be operationalized within six months from the date of notification of the schedule.
Schedule X, paragraphs 7 to 11: producers, importers, collection agents, recyclers and bulk generators	Producers and used oil importers register, meet their targets and file annual returns on or before 30th June following the financial year. Collection agents and recyclers register and file quarterly returns by the end of the month succeeding the quarter and annual returns on or before 30th June. Bulk generators set up collection points and hand used oil only to registered recyclers or producer or collection agents.
Schedule X, paragraphs 12 to 14: the Central Pollution Control Board, States and the Bureau of Indian Standards	The Central Pollution Control Board runs the portal, issues guidelines and standard operating procedures and conducts random checks. State departments of industry earmark industrial space for collection and re-refining units; municipalities and local bodies facilitate collection points. BIS shall issue necessary standards for re-refined oil within 6 months from the date of notification of these rules.
Schedule X, paragraph 15: Environmental Compensation	Levied under CPCB guidelines approved by the Ministry for non-fulfillment of obligations and false certificates. Unfulfilled responsibility is carried forward up to three years; 85 percent of the compensation is returned if the shortfall is addressed after one year, 60 percent after two years and 30 percent after three years, and none thereafter. False information resulting in over generation of certificates above 5 percent leads to revocation of registration and compensation that is not returnable.
Schedule X, paragraphs 16 to 19: prosecution, audit, Steering Committee	Prosecution under section 15 of the Environment Protection Act, 1986, in addition to environmental compensation; verification and audit by the Central Pollution Control Board; a Steering Committee under the Chairmanship of the Chairman, Central Pollution Control Board; and powers for the Board to remove difficulties.

The notification (PDF, 1.5 MB)

Gazette of India, CG-DL-E-02052023-245597, published May 2, 2023.

Checked against the official copy on October 27, 2026.

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