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Ref.No.MAIT/PY/2369

June 21, 2021

Shri Naresh Pal Gangwar
Jt. Secretary
Ministry of Environment, Forests & Climate Change

Subject: Request for clarification and postponement of new Standard Operating Procedure (SOP) implementation under Plastic Waste Management Rules, 2016 (Amd 2018)

Respected Sir,

Greetings from MAIT!

The Electronics & IT manufacturing industry is committed to safeguard and preserve the environment. This reflects clearly in the best practices that are followed on the shop floor and the supply chain.

The new SOP for Registration of Producers, Importers & Brand-Owners (**PIBOs**) under Plastic Waste Management Rules 2016 (Amd 2018) (PWM Rules) impose an onerous burden on the PIBOs for collecting plastic waste through own distribution channel or direct engagement with Urban Local Bodies(ULB) or a Waste Management Agency (WMA).

PIBO's struggle to put in infrastructure that is required to sustain business in our large country. For this reason, business is carried out with the help of channel partners spread across the country so that the requirements of the customers can be fulfilled. Activities such as logistics, customer support, warehousing, advertising, servicing, maintenance etc. are outsourced so that the cost vs benefit ratio is optimum. That for each of the outsourced activity to become an independent business, it requires a minimum size, else it will fail. On the other hand, if the PIBO's were to do all the outsourced activities by themselves, then the cost and effort required would be prohibitive and efficiency would suffer.

It is important to bear in mind that PIBO's have no expertise in the field of waste management /collection. Coercing the PIBO's to collect plastic waste and engage with the waste collection ecosystem would divert them from their core business and make them uncompetitive. This would be counterproductive for the economy.

There are 36 states and 8 union territories in India. In addition, there are around 3,700 ULBs with 100 corporations, 1500 municipal councils and 2100 Nagar Panchayats, besides 56 cantonment boards. PIBOs do not have the bandwidth in terms of manpower, finances, expertise, systems to be able to comply with the provisions of the PWM Rules. Under these circumstances that PIBOs are seriously challenged under the compliance weight of PWM Rules.

It is the understanding of our members that the Delhi High Court order dated 12/5/21 in the matter between Cement Manufacturers Association vs Union of India through Secretary, Ministry of Environment, Forests & Climate Change, has directed CPCB as follows:

- 1) To process the action plan submitted by the manufacturers under the existing regime, without insisting upon the additional conditions imposed in the SOP issued in March 21.
- 2) The members of the Cement Manufacturers Association have been directed to submit the Action plan in terms of Form-1, for collecting and for the disposal of waste etc, in terms of the rules which are currently existing and in compliance with the Action Plan 2019.
- 3) No coercive steps to be taken against the petitioner for the violation of the SOP till PWR 2021 are notified.

In view of the above, would the last date for applying/ replying to queries by end Jun/early July hold any relevance. It is prudent to wait till the Draft EPR guidelines and the Amendment 2021 to these rules, which are under finalization by end of July 2021 and will have a bearing on the implementation of this SOP.

However, the industry members have acknowledged, reviewed and made efforts towards implementing the **new SOP** under **PWM Rules** issued by the Central Pollution Control Board (**CPCB**) on 23rd March 2021 and would like to represent before your offices some of the challenges that our members are facing. It would be relevant to state the new SOP though was consulted with the stakeholders in the EPR ecosystem, but as such the members were unprepared at the time of its notification.

The second wave of Covid-19 in the country which immediately followed, the release of the new SOP by CPCB had a paralysing impact on EPR activities as well as the business operations of the members. As you aware the second wave of Covid-19 brought with it many governments announced restrictions including curfews, lockdowns and other movements restrictions which significantly curtailed the EPR operations of the members. Notwithstanding the challenges the members & their employees were faced by the various Covid-19 restrictions, **the members did hold discussions with various WMAs to review the implementation of the new SOP and these efforts brought to light certain significant challenges such as lack of readiness of stakeholders & regulators, absence of systems & processes necessary to implement the new SOP which were in addition to the onerous requirements mandated under the new SOP.**

Through this representation the industry members would like to bring forth some of these challenges before your good offices for due consideration and resolution, which are given below:

- 1. State-wise collection targets being impractical for PIBOs under the timeline proposed as well for PIBOs with small take back targets**

The new SOP requires all PIBOs irrespective of size of their take back obligation to revise their existing approved plans to cover not only the five zones under the country but rather to each and every state. The new SOP mandates the WMAs to secure agreements with Urban Local Bodies (ULB) (format will need to be provided by CPCB like Annex IV & V), Recyclers, Plastic Waste Processing Facility (PWPF) and other in formats prescribed under the new SOP. As you are aware, scoping and execution of agreements and stakeholders requires extensive interactions between parties which are presently curtailed due to prevailing restrictions on account of Covid-19. Further, as you are also aware, many of the ULBs are deficient in their waste collection and administration related systems and processes to realise such agreements remotely and under the short period of time suggested by the new SOP. The structural systems and processes at ULBs necessary to effectively manage waste and integrate themselves with the EPR systems under various regulations is mostly missing. This gap in structural capability of ULBs needs to be addressed through regulatory intervention, infrastructure development and creation of support systems at state level

such as the state level SPCB nominated nodal agency which is envisioned in the new SOP but yet to be made functional. The significant structural deficiencies at ULBs should be addressed before PIBOs are mandated to implement state / city level collection.

Recommendation: The members are of the opinion that the present timeline for revision of EPR plans with state level collection by June 2021 seems impractical considering the various restraining factors in play. It is requested that CPCB reconsiders the timeline for implementing state level collection targets until such time the SPCB nominated nodal agencies in respective states are made operational and have been able to develop capabilities of ULBs to engage with EPR systems of WMAs and PIBOs.

Further, as it is known to your offices that most of companies in Electronics & IT segment use significantly less plastic packaging as compared to companies in FMCG or the Pharma sector, and hence have very small take back obligations under the PWM Rules, it would be impractical for such PIBOs to extend their EPR plans to each and every state irrespective of the time provided to them. The **draft Uniform EPR Guidelines** released by the MoEF&CC had recognised this constraint of PIBOs and advised an alternative fee-based model for compliance. At the present, the PIBOs while waiting on the fee-based model of compliance are implementing their EPR plan to extend to all five zones of the country, which is already a significant stretch on compliance operations of PIBOs with small take back obligations. Any further revision of EPR plans to extend their existing coverage is simply impractical on account of the huge administration efforts necessary in such an endeavour as well as the commercials being unattractive for agencies to even consider engage with such PIBOs.

Recommendation: The new SOP should recognise PIBOs with small take back obligations and treat them separately as extending PIBOs EPR Plans to every state is impractical and unfeasible to execute.

2. Mandate on PIBOs for state wise sales data to determine state level targets

The members would like to draw attention to the fact that PIBOs have consistently conveyed their inability to provide state level sales information which is being requested for calculating state level targets under the new SOP. To reiterate, most PIBOs operate on a pan-India basis via multiple channels to distribute their products to the end consumers in the country. The distribution channels are usually complex with the products changing multiple hands before being presented for sale before a consumer. Considering the complexities of the distribution and sales channel, it is not possible to ascertain sales of products at a particular state at a given time. Accordingly, setting a target based on sales in a narrow parameter within a state is unviable.

Recommendation: The members would like to request that national level targets be the modes of enforcement with PIBOs being allowed to report state level collection as they are executed on the ground throughout the country as against as attempting to collect waste against an inaccurate or unavailable data set. This method of implementation will ensure that PIBOs are enabled to implement pan-India EPR coverage while allowing for the PIBOs constraints in determining state-level sales information. Alternatively, the members may be allowed to voluntarily implement state level targets basis industry reports or other verified statistics with adjustments to allow for their respective unique business models, product types & classes.

3. Unregistered recyclers, plastic waste processing facility (PWPF) and co-processors are a significant hurdle in implementation of the new SOP

During the members discussions with their WMAs, it has come to light that many of the recyclers & co-processors of plastic are still in the process of seeking registration

under the PWM Rules. The prevailing Covid-19 restrictions are said to be adding to the delays on part of these stakeholders in securing the necessary registration. Further, it is also of information that the co-processors of plastic such as cement plants, road constructors are reluctant to seek registration under PWM Rules in view of the additional compliance and reporting obligations they are required to meet under the new SOP. **The lack of adequate time in securing registrations as well the reluctance of certain stakeholders in seeking registration significantly hampers the efforts of PIBOs in implementing the new SOP.**

Recommendation: It is recommended that the stakeholders such as recyclers, PWPF and other co-processors be provided adequate time for registration as well clear directions be issued these stakeholders along with enforcement actions against non-complying parties in order to enable PIBOs to implement revised EPR plans per the new SOP. Also, it requested that the list of PWPFs be displayed on CPCB website.

4. Like for like collection of plastic waste is not supported by the existing plastic waste management infrastructure in the country

The new SOPs requires setting a type based EPR collection target i.e., the EPR target shall be equal to the quantity as well as the type of plastic introduced by the PIBOs in the market as against the present classification of plastic waste between recyclable plastics and energy recoverable plastics i.e Multi-Layered Packaging (MLP). In experience of the members execution of EPR under PWM Rules, the requirement for like for like plastic waste collection mandated under the new SOP possess multiple challenges not only for PIBOs but also ULBs, such as,

- (a) ULBs in most cases do not have the ability to segregate the waste based on the type of plastic waste. Further, the type of plastic waste that will be generated cannot be accurately ascertained for every state as PIBOs products and the packaging used for each product SKU will vary significantly.
- (b) ULB-linked collection centres at present are only managing non-recyclable plastic waste i.e MLP. Recyclable wastes are outside the ULB system for now, and are aggregated by informal workers, as such ULBs do not give endorsement of such recyclable wastes.
- (c) ULBs also have not widely adopted systems and processes to validate collections nor give permissions to new collection centres that can drive the collection of recyclable plastics.

Recommendation: Considering the significant challenges prevailing at the present time in terms of immaturity of collection, segregation, and administration of plastic waste management systems in the country, any attempts to implement a like for like EPR collection is not feasible to say the least. It is the opinion of members that this requirement be taken back from the new SOP and may be considered for introduction in the future years when the waste collection systems in the country are mature enough to implement and administer such a requirement.

5. Onerous and unclear reporting requirements pose significant challenges to ease of doing business

- (a) The new SOPs mandates PIBOs to submit half-yearly progress reports to all State Pollution Control Boards (SPCB) or Pollution Control Committees (PCC) across the states and the union territories instead of solely reporting to the CPCB (for PIBOs with pan-India operations). The requirement seems ineffective for the objective of disseminating information to various regulators as well as is

inconsistent with centrally managed reporting systems established by CPCB under E-Waste (Management) Rules, 2016. The fragmented reporting obligation mandated in the new SOP will lead to tremendous duplication of information, increase the chances of misinterpretations, and increase compliance confusion because of having multiple authorities to report to. For illustration: A single PIBO with nation-wide operations will be required to submit up to 72 half-yearly progress reports in one year. Further, the new SOP also requires PIBOs to resubmit all these reports at the time of renewal of registration which is not only a duplication and waste of resources for PIBOs but will potentially overwhelm CPCB's capacity to process renewal applications.

- (b) The format of the half yearly reports in the new SOP makes it mandatory for the PIBOs to submit the annual reports of PWPF engaged under their EPR plan. The engagements with PWPFs have indicated a refusal from PWPFs to share this information directly with the PIBOs / WMAs. PWPFs are fine with submitting this information to the CPCB / SPCB directly, and then incorporating the inward letter code as a reference for the regulators.
- (c) The members also note, a need for clarification in the new SOP as there are requirements on PIBOs to submit half yearly report to SPCBs but the Annexure 2 of the new SOP has a format for a Quarterly Progress Report (QPR). It's unclear whether half – yearly reports are sufficient compliance or there exists a requirement for quarterly reporting.
- (d) It is not possible to consolidate all the data & file half-yearly return within 15 days of completion of the half year. As requested above, half yearly return should be allowed to be filed only with CPCB & subsequent 3 months post expiry of half year be given for consolidating the data & filing of return.

Recommendation:

(a) The new SOP should be revised to allow for a consolidated reported filing by PIBOs with CPCB for further dissemination to various SPCB /PCCs by the CPCB. It is impractical and ineffective to expend such enormous amount of time, resources and efforts of several hundred PIBOs for mere dissemination of information. PIBOs request CPCB to consider centrally management reporting system over the fragmented reporting system mandated in the new SOP

(b) It is requested that such a requirement for reports of PWPF be not sought from PIBOs when they would be pre-existing with CPCB directly. If the CPCB still intends to require such reports from PIBOs, it is essential that CPCB directs PWPFs to share their reports with PIBOs, a failure of which may be penalised on PWPF instead of PIBOs being held liable for such a non-compliance.

(c) It is requested to clarify the filing obligations of PIBOs over the confusion indicated over half yearly vs quarterly report.

6. Systems & readiness necessary to implement the new SOP are lagging behind

- (a) The new SOPs requires all new submission of EPR applications to be made through an online platform which is yet to rolled out to the industry. Any new system roll outs will need industry briefing and trainings sessions to be organised for familiarity of use.
- (b) The new SOPs requires SPCBs / PCCs to set up a nodal agency or department at each and every state to administer the work of the ULBs in their states, to map existing PWM facilities, and consolidate the details of EPR activities by PIBOs and PWPFs. It is of information that this critical administrative infrastructure necessary

for co-ordination and development of resources, systems and processes in States & at the ULBs has so far not been set up by up the SPCBs / PCC. The co-ordinating nodal agency as rightly envisioned in the new SOP is an essential prior step to help develop essential capabilities of the ULBs in the state so that a seamless integration into PIBOs EPR implementation is possible. A lack such administrative support at the state impedes the implementation of the new SOP under the timelines proposed by the CPCB.

Recommendation: The members would like to request CPCB to co-ordinate and direct the set of the critical administrative infrastructure at the states and ULBs with immediate effect. It is extremely challenging to meet the timelines proposed for implementation of the new SOP without such administrative support on the ground. The members would requests that CPCB reconsiders the timeline for implementing state level collection targets until such time the SPCB nominated nodal agencies in respective states have been made operational and have been able to successful develop capabilities of ULBs to engage EPR systems of WMAs and PIBOs.

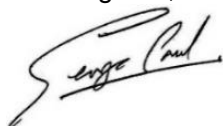
7. Redundancy in standards with implementation of the new SOP coinciding with release of new Uniform EPR Guidelines

It is of information to the members that the MoEF has submitted to the High Court of Delhi in an ongoing petition that the Ministry intends to publish the Uniform EPR Guidelines by August 2021. Considering the Uniform EPR Guidelines would take precedence over the new SOP and that the guidelines will be available in a short period of time, the members would like to suggest that the new SOP is revisited, framed and implemented concurrently with the new Uniform EPR Guidelines. It is quite an extensive exercise to change EPR plans mid-year and to do so twice once for the new SOP and then again for the new Uniform EPR Guidelines would be extremely wasteful of the time, resources of all stakeholders engaged in the EPR execution.

Recommendations: While the members appreciate the vision and spirit of EPR systems being considered by CPCB in the new SOP, it also a fact that the on-ground realities at present indicate that there are significant shortcomings in the infrastructure, stakeholder capabilities and systems & processes which significantly hinder the efforts of PIBOs to implement the requirements mandated upon them in the new SOP. PIBOs, lacking in enforcement and incentive structure of the government alone are not capable enough in solving the various challenges seen in implementing effective waste management systems in the country. As such, a collaborative and shared distribution of role and responsibility should form the essential structure in developing the waste management ecosystem.

Therefore, for the proper implementation of the new SOP and the challenges it poses for the implementation, it is requested that enforcement of the new SOP may be set aside until the issues stated above can be suitably deliberated with your office for resolution. MAIT would be happy to organize industry consultations to further deliberate on these issues that have been cited above. It's also requested that implementation of this SOP may be aligned with the guidelines of EPF framework which are under finalization with the Ministry.

With regards,



George Paul
Chief Executive Officer

CC: Ms. Divya Sinha, Additional Director, Central Pollution Control Board