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December 03, 2021

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

**Subject: Request for clarifications in latest EPR framework for Plastic Packaging**

Respected Sir,

***Greetings from MAIT!***

We as MAIT representing the Electronic Hardware Sector in India established with the prime objective to work closely with the Government and ICT Electronics industry in building a robust ecosystem for electronics manufacturing in India.

MAIT is the industry body with members from segments of Datacom, Server and Telecom & represents a 62 Bn\$ industry. Today, we have members in both leading MNC corporations such as Apple, Cisco, Dell, HP, Lenovo, Canon, IFB, Samsung, Panasonic, Qualcomm, Xiaomi, etc. as well as many niche SMEs in the field of ICT electronics.

Through this representation the industry members would like to bring forth some of these clarifications that are required and some requests & concerns with the industry recommendations before your good offices for due consideration, which are given below:

**Transition Period**

The new draft Extended Producer Responsibility Regulations (“EPR Regulation”) which is proposed to come into force with immediate effect, casts an undue burden of compliance on the industry. In 2021 alone, we have witnessed the introduction of three new regulations/guidelines under the Plastics Waste Management Rules, 2016 (“Rules”) namely, the Standard Operating Procedures for Registration of Producers, Importers & Brand Owners (PIBOs) (“SOP”), the Plastic Waste Management (Amendment) Rules, 2021 (“Amendment”) and the now proposed EPR Regulation and the industry is already grappling with compliance challenges arising out of onerous obligations, ambiguities and overlap arising out of these regulations/guidelines. Therefore, the industry needs sufficient time, at least 24 months upon the EPR Regulation being notified, to align its internal stakeholders and meet the compliance needs.

**Section 5 . Coverage of EPR**

**5.1** The following plastic packaging categories are covered under EPR:

**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 (including carry bags made of compostable plastics), plastic sachet or pouches and

## **Category III**

Multi-layered plastic packaging (at least one layer of plastic and at least one layer of material other than plastic)

**Industry's Query** – How are 7 types of plastics defined under PWM rules mapped with Category I, II and III?

### **Industry's Recommendation-**

It is recommended that the plastic types as defined under PWM Rules be mapped clearly in the Rigid, Flexible and MLP categories.

*Following is the suggested mapping:*

Category I (Rigid): PET, HDPE [Source: CPCB FAQ Document]

Category II (Flexible): PP, PS, LDPE [Source: CPCB FAQ Document];

Others (Other means all other resins and multi-materials like ABS (Acrylonitrile butadiene styrene), PPO (Polyphenylene oxide), PC (Polycarbonate), PBT (Polybutylene terephthalate)]

Category III (MLP): MLP

## **Section 6. Registration**

**6.1** The following entities shall register on the centralized portal developed by CPCB:

Producer (P)

Importer (I)

Brand owner (BO)

Plastic Waste Processor engaged in (a) recycling, (b) waste to energy, (c) waste to oil

Registration of PIBOs (operating in one or two states) and Plastic Waste processors as per Rule 13(2) and 13 ( 3) of PWM Rules shall be done by SPCB/PCC through the centralized EPR portal developed by CPCB.

**Industry's Query-** If the PIBO does the online registration in the CPCB portal will it be sufficient? In addition will there be any state wise registration certificate required under Plastic Waste Management Rules ?

**6.3** The entities covered under clause 6.1 shall not deal with any entity not registered obtained through on-line centralized portal developed by CPCB.

**Industry's Query** – The obligated entities are not to work with non-registered actors. How will kabadiwala's & informal sector be incorporated into program.

**Industry's Concern-** The overseas suppliers of plastic packaging would not be having the PWM registration.

**Industry's Recommendation-** Exemption to be given on overseas plastic packing suppliers(producers) from registration on CPCB portal.

**6.5** In case any entity falls in more than one sub-category mentioned in the clause 6.1, then the entity shall register under each of those sub-categories separately. Further, in cases, where the entity has units in different States, in a particular sub-category mentioned in clause 6.1, then these units shall also be registered separately. However, only one registration under a subcategory in a State would be needed, even if, more than one units are located in a State. The registration shall be as per SOP prescribed by CPCB for the purpose as per these guidelines.

**Industry's Request-** Registration under multiple sub-categories will duplicate the EPR obligation/ targets. This will also increase the administrative burden on the industry as well as on the regulators (CPCB/SPCB/PCC). We therefore request if any entity qualifies in more than one sub-category mentioned in clause 6.1, then the entity should be allowed to get themselves registered to do the compliance under PWM rules, under any of the most appropriate category as per their business model which is also fulfilling the criteria of the PWM rules.

### **Section 7. Targets for Extended Producer Responsibility and Obligations of PIBOs**

**7.1** The EPR Targets for the PIBOs shall be determined category-wise and State/UT wise.

**Industry's Concern** – Industry is not able to provide state wise data. As per PWM rules any deviation will translate into five year ban with no options for relief. There should be appeal and redressal process made available to the industry.

**Industry's Request** – To keep the compliance simple government should focus on National EPR framework. Entities who have National presence should not be forced for submitting State-wise data for plastic packaging used with products distributed nationally since most of the companies have multiple sales network & may not have the realistic data of locations where the products are ultimately sold for usage. Meeting State-wise collection target against such unrealistic data may lead to audit issues.

Ministry can also set a maximum threshold limit of the plastic packaging introduced in the market and exempt such companies if the annual plastic packaging weight is less than the prescribed limit. MAIT volunteers to work with the ministry to arrive at this threshold limit.

#### **7.2 Producer (P)**

##### **a) EPR Target**

Eligible Quantity in MT (Q 1) shall be the average weight of plastic packaging material (category-wise and state wise) sold in the last two financial years (A) plus average quantity of pre-consumer plastic packaging waste in the last two financial year (B) minus the annual quantity (C) supplied to the entities covered under sub-clause 4 (iii) in the previous financial year.

$$Q 1 \text{ (in MT)} = (A + B) - C$$

The EPR Target shall be determined, category-wise and state/UT wise, as given below

Table: EPR Target

	Year	EPR Target (as a percentage of Q1 – category-wise and state-wise)
I	2021-22	35 %
II	2022–23	70 %
III	2023–24 and onwards	100 %

The EPR target in MT category-wise and state-wise, as applicable, shall be provided by producer, as part of Action Plan on the centralized portal developed by CPCB.

#### Industry’s Query –

**A.** Definition of pre-consumer plastic packaging is required to enable understanding of EPR target calculation. Calculation of Q1, Q2 and Q3 demonstrative examples are not understood. Request for clarity in definitions of B and C.

**B.** Consumer Electronics / IT Products Manufacturers (who buy the plastic packaging sheets and wrap it on their products are also defined as ‘Producers’ in PWM rules) do not sell any plastic packaging material.

**C.** In (A), only Quantity "Sold" is mentioned, but the calculation formula for Producers (e.g. CE /IT Products Manufacturer) which are "using" or "purchasing" the plastic packaging is not specified.

#### Industry’s Recommendation-

The definition of ‘A’ should be revised considering the IT and CE industry’s nature of business.

‘Pre-consumer plastic packaging waste’, ‘B’, should also be defined as it is currently not defined anywhere.

#### b) Obligation for recycling

The producer shall ensure minimum level of recycling (excluding end of life disposal) of plastic packaging waste collected under EPR Target, category-wise, as given below.

Minimum level of recycling (excluding end of life disposal) of plastic packaging waste  
(% of EPR Target)

Plastic packaging category	2023-24	2024-25	2025-26	2026-27 and onwards
Category I	50	60	70	80
Category II	30	40	50	60
Category III	30	40	50	60

**Industry’s response:** Producers should not be enforced with the recycling efficiency obligation & should be just confined with the collection target as initially intended under the PWM Rules 2016. Recyclers are third party organizations with no controlling stake of Producers. Technology for improving the recycling efficiency is owned & controlled the by recyclers. Producers have no role and control on the recycling efficiencies and its improvement. The recycling target should be the on the recyclers and a proper audit mechanism should be implemented by CPCB to ensure its compliance by the recyclers.

**c) End of life disposal (Refer example 1 to 3 in Annexure)**

Only those plastics, which cannot be recycled such as multilayered multi-material plastics (at least one layer of plastic and at least one layer of other material), will be sent for end of life disposal such as road construction, waste to energy, waste to oil, cement kilns (for co processing) etc. as per relevant guidelines issued by Indian Road Congress/CPCB from time to time.

The producers shall ensure end of life disposal of the plastic packaging waste only through methodologies prescribed in Rule 5 (1) (b) of Plastic Waste Management Rules, 2016, as amended. Any violation shall attract provisions of Section 15 of Environment (Protection) Act, 1986, as amended.

**Industry’s request:** Producer should not be enforced with end-of-life disposal responsibility and should be just confined with the collection target as initially intended under the PWM Rules 2016. Recycling process & the methodology followed by the recyclers is completely in their hands & cannot be controlled by the Producers and hence should be the responsibility of recyclers.

**Industry’s recommendation:** A proper audit mechanism should be implemented by CPCB to ensure its compliance by the recyclers as prescribed under Rule (1) (b) of plastic Waste Management Rules 2016 as amended.

**d) Obligation for use of recycled plastic content**

The producer shall ensure use of recycled plastic in plastic packaging category-wise as given below.

Mandatory use of recycled plastic in plastic packaging  
(% of plastic manufactured for the year)

Plastic packaging category	2023-24	2024-25	2025-26	2026-27 and onwards
Category I	30	40	50	60
Category II	20	20	30	30
Category III	5	5	10	10

In cases, where it is not possible to meet the obligation in respect of recycled plastic content on account of statutory requirements, the exemption will be granted by CPCB on a case-to-case basis. However, in such cases, the PIBO will have to fulfil its obligation of use of recycled content (in quantitative terms) through purchase of certificate of equivalent quantity from such PIBOs who have used recycled content in excess of their obligation. CPCB will develop mechanism for such exchange on the centralized online portal.

**Industry's Concern-** Consumer Electronics/ IT Products Manufacturers (who buy the plastic packaging sheets and wrap it on their products are also defined as 'Producers' in PWM rules) do not manufacture/produce any plastic packaging sheets.

1. How will such Producers (CE / IT products manufacturers) ensure that for a given type of plastic procured from a manufacturer, X% is recycled content?
2. What types of proofs are required to demonstrate compliance to this clause by such CE/IT Manufacturers?
3. A lot of Consumer electronics/IT products are manufactured at global manufacturing facilities which are located outside the India's jurisdiction. In such Consumer electronics/IT products, the plastic packaging is procured from suppliers who are based outside India. In such Global supply chain, it is very difficult to enforce a country specific requirement including but not limited to mandating certain percentage of recycled content in the plastic packaging.
4. Industry foresees a compliance challenge in terms of enough availability of such excess recycled material & possibility of black marketing when enough stocks are not available.

**Industry's Recommendation –** Industry requests MOEF&CC not to enforce any prescribed percentage of recycled content in the plastic packaging instead as a good regulatory practice, introduce such provisions as a voluntary requirement.

Further, there should be clear standard/guidelines on how CE/IT Products can ensure about the percentage of recycled content in any type of plastic packaging can be purchased.

### 7.3 Importer (I)

#### a) EPR Target

Eligible Quantity in MT (Q 2) shall be the average weight of all plastic packaging material and / or plastic packaging of imported products (category-wise and state-wise) imported and sold in the last two financial years (A) plus average quantity of pre-consumer plastic packaging in the last two financial year (B) waste minus the annual quantity (C) supplied to the entities covered under sub-clause 4 (iii) in the previous financial years.

$$Q 2 \text{ (in MT)} = (A + B) - C$$

The EPR Target shall be determined, category-wise and state/UT wise, as given below

	Year	EPR Target(as a percentage of Q 2 - category-wise and state-wise)
I	2021-22	35 %
II	2022 – 23	70 %
III	2023 – 24 and onwards	100 %

The EPR target in MT category-wise and state-wise, as applicable, shall be provided by Importer as part of Action Plan on the centralized portal developed by CPCB.

#### Industry's Query–

1. What is meaning of Pre-consumer plastic packaging for Importers?

2. For calculating C, what does 'previous financial years' imply? Does it also mean average of last 2 financial years as above?

**Industry's Recommendation-** Few detailed examples mentioning scenarios (considering IT and CE industry) should be helpful for better understanding.

**b) Obligation for recycling**

The Importer shall ensure minimum level of recycling (excluding end of life disposal) of plastic packaging waste collected under EPR Target, category-wise, as given below.

Minimum level of recycling (excluding end of life disposal) of plastic packaging waste  
(% of EPR Target)

Plastic packaging category	2023-24	2024-25	2025-26	2026-27 and onwards
Category I	50	60	70	80
Category II	30	40	50	60
Category III	30	40	50	60

**Industry's Request-**

Importers should not be enforced with the recycling efficiency obligation & should be just confined with the collection target as initially intended under the PWM Rules 2016. Recyclers are third party organizations with no controlling stake of Importers. Technology for improving the recycling efficiency is owned & controlled the by recyclers. Importers have no role and control on the recycling efficiencies and its improvement. The recycling target should be the on the recyclers and a proper audit mechanism should be implemented by CPCB to ensure its compliance by the recyclers.

**c) End of life disposal**

Only those plastics, which cannot be recycled such as multi-layered multi-material plastics (at least one layer of plastic and at least one layer of other material), will be sent for end of life disposal such as road construction, waste to energy, waste to oils per relevant guidelines issued by Indian Road Congress/CPCB from time to time.

The importer shall ensure end of life disposal of the plastic packaging waste only through methodologies prescribed in Rule 5 (1) (b) of Plastic Waste Management Rules, 2016, as amended. Any violation shall attract provisions of Section 15 of Environment (Protection) Act, 1986, as amended.

**Industry's request:** Importer should not be enforced with end-of-life disposal responsibility & should be just confined with the collection target as initially intended under the PWM Rules of 2016. Recycling process & the methodology followed by the recyclers is completely in their hands & cannot be controlled by the Importers and hence should be the responsibility of recyclers.

**Industry's recommendation:** A proper audit mechanism should be implemented by CPCB to ensure its compliance by the recyclers as prescribed under Rule (1) (b) of plastic Waste Management Rules 2016 as amended.

#### **d) Obligation for use of recycled plastic content**

The producer shall ensure use of recycled plastic in plastic packaging category-wise as given below.

Mandatory use of recycled plastic in plastic packaging  
(% of plastic manufactured for the year)

Plastic packaging category	2023-24	2024-25	2025-26	2026-27 and onwards
Category I	30	40	50	60
Category II	20	20	30	30
Category III	5	5	10	10

In cases, where it is not possible to meet the obligation in respect of recycled plastic content on account of statutory requirements, the exemption will be granted by CPCB on a case-to-case basis. However, in such cases, the PIBO will have to fulfil its obligation of use of recycled content (in quantitative terms) through purchase of certificate of equivalent quantity from such PIBOs who have used recycled content in excess of their obligation. CPCB will develop mechanism for such exchange on the centralized online portal.

#### **Industry response:**

A lot of Consumer electronics/IT products are manufactured at global manufacturing facilities which are located outside the India's jurisdiction. In such Consumer electronics/IT products, the plastic packaging is procured from suppliers who are based outside India. In such Global supply chain, it is very difficult to enforce a country specific requirement including but not limited to mandating certain percentage of recycled content in the plastic packaging.

Therefore, Industry requests MOEF&CC not to enforce any prescribed percentage of recycled content in the plastic packaging instead as a good regulatory practice, introduce such provisions as a voluntary requirement.

Exemption required on the Obligation for use of recycled plastic content for category 3 (MLP) . Adding Recycle content in multi-layer plastics (laminates) will a big challenge as there are no sufficient sources for films with recycled content except polyethylene films.

Industry foresees a compliance challenge in terms of enough availability of such excess recycled material & possibility of black marketing when enough stocks are not available. Suggest CPCB to keep a control of the entire excess available stock & fix a price for the same.

#### **7.4 Brand Owner (BO)**

##### **a) EPR Target**

Eligible Quantity in MT (Q 3) shall be the average weight of fresh plastic packaging material (category- wise and state-wise) purchased and introduced in market in the last two financial years (A) plus average quantity of (B) of pre-consumer plastic packaging in the last two financial years.

$$Q\ 3\ (\text{in MT}) = A + B$$

The EPR Target shall be determined, category-wise and state/UT-wise as given below:

	Year	EPR Target (as a percentage of Q 3 - category-wise and state-wise)
I	2021-22	35 %
II	2022 – 23	70 %
III	2023 – 24 and onwards	100 %

The EPR target in MT category-wise and State-wise, as applicable, shall be provided by BO as part of the Action Plan on the centralized portal developed by CPCB.

#### **Industry's Request-**

1. Definition of pre-consumer plastic packaging is required to enable understanding of EPR target calculation.
2. Calculation of Q1, Q2 and Q3 demonstrative examples are not understood. Request for clarity in definitions of A and B.

#### **b) Obligation for reuse**

The BO using Category I (rigid) plastic packaging for their products shall have minimum obligation to reuse such packaging as given below.

Minimum obligation to reuse for Category I (rigid plastic packaging).

	Year	Target (as percentage of Category I rigid plastic packaging in product sold annually)
A	Category I rigid plastic packaging of product with volume or weight equal or more than 0.9 liter or kg but less than 4.9 liters or kg, as the case may be	
I	2023 – 24	10
II	2024 – 25	15
III	2025 – 26	20
IV	2026 – 27 and onwards	25
B	Category I rigid plastic packaging of product with volume of weight equal or more than 4.9 liters or kg.	
I	2023 – 24	70

II	2024 – 25	75
III	2025 – 26	80
IV	2026 – 27 and onwards	85

The quantity of rigid packaging reused by BO shall be calculated by reducing fresh plastic packaging manufactured/imported/purchased in that year from the sales of the BO. The BO shall provide this information on the centralized portal developed by CPCB.

The quantity of Category I rigid plastic packaging reused shall be reduced from the total plastic packaging used under Category I by the obligated entities (BOs).

The quantity of Category I rigid plastic packaging reused during the years 2021-22 and 2022 – 23 shall get reduced from the total plastic packaging used under Category I.

### Industry's Concern-

1. The plastic packaging is the integral part with which goods are sealed prior to shipment/use. Product with sealed packaging instills confidence in the customer about genuineness of the product. When this packaging is opened by the customer upon receipt of the product then it is torn/damaged and is rendered unfit for Re-use.

2. It is practically not possible to ensure that the customer gives back the packaging in undamaged /unsoiled condition. Soiled/Damaged packaging is not conducive for Re-use.

3. Some Brand Owners import the products for sale in India. These products are manufactured and packed overseas. Hence Re-use of this packaging is not practical.

Industry's Recommendation- Considering the above concerns/challenges, it is recommended to remove this clause for Re-use. Instead as a good regulatory practice, MOEF&CC may consider introducing such provisions on a voluntary basis.

### e) Obligation for use of recycled plastic content

The BO shall ensure use of recycled plastic in plastic packaging, category-wise, as given below.

#### Mandatory use of recycled plastic in plastic packaging (% of manufactured plastic for the year)

Plastic packaging category	2023-24	2024-25	2025-26	2026-27 and onwards
Category I	30	40	50	60
Category II	20	20	30	30
Category III	5	5	10	10

In cases, where it is not possible to meet the obligation in respect of recycled plastic content on account of statutory requirements, the exemption will be granted by CPCB on case-to-case basis. However, in such cases, the PIBO will have to fulfil its obligation of use of recycled content (in quantitative terms) through purchase of certificate of equivalent quantity from such

PIBOs who have used recycled content in excess of their obligation. CPCB will develop mechanism for such exchange on the centralized online portal.

In case, where BO is also P and/or I of plastic packaging material, the clause 7.2 and 7.3 shall also apply for determining their EPR targets and obligations as P and /or I, respectively.

### **Industry's Request –**

A lot of Consumer electronics/IT products are manufactured at global manufacturing facilities which are located outside the India's jurisdiction. In such Consumer electronics/IT products, the plastic packaging is procured from suppliers who are based outside India. In such Global supply chain, it is very difficult to enforce a country specific requirement including but not limited to mandating certain percentage of recycled content in the plastic packaging.

Therefore, Industry requests MOEF&CC not to enforce any prescribed percentage of recycled content in the plastic packaging instead as a good regulatory practice, introduce such provisions as a voluntary requirement.

Exemption required on the Obligation for use of recycled plastic content for category 3 (MLP). Adding Recycle content in multi-layer plastics (laminates) will a big challenge as there are no sufficient sources for films with recycled content except polyethylene films.

### **Section 9 - Guidelines for Environmental Compensation**

**9.1** CPCB shall lay down guidelines for imposition and collection of environment compensation on PIBOs, recyclers and end of life processors, in case of non-fulfilment of obligations set out in these regulations and also for violations of conditions or false information / certificates as mandated under these guidelines.

**Industry's Request –** Industry requests for issuance of Guidelines for environmental compensation & should be clarified in a public document(Gazette).

### **Section 10 – Role of PIBO's**

#### **Registration & Action Plan**

**10.1** The PIBOs shall have to register through the online centralized portal developed by CPCB. The certificate of registration shall be issued using the portal.

**10.2** PIBOs shall provide Action Plan containing information on the EPR Target, category-wise and state- wise, where applicable, through the online centralized portal developed by CPCB, along with application for registration/renewal of registration under PWM Rules, 2016. The Action Plan shall cover tenure of the Registration as per the provisions of PWM Rules, 2016. The standard operating procedure for Registration and the Action Plan pro forma shall be developed by CPCB as per these guidelines.

**Industry's Concern –** PIBOs have their own set of obligations. Imposing similar requirements will overlap the requirements and lead to double reporting. In most cases Brand owner & Importer remains the same as well as the Plastic packaging materials are manufactured by Producers which are used by Brand Owners.

**10.6** The PIBO shall file annual returns on the plastic packaging waste collected and processed towards fulfilling obligations under EPR with the concerned CPCB/SPCB/PCC as per pro forma prescribed by CPCB by the 30 April of the next financial year. Information on the reuse and/or recycled content used for packaging purposes will also be provided. The

details of the registered recyclers from whom the recycled plastic has been procured will also be provided.

**Industry's Request** – To fix a deadline for submission of Annual Return be 30th June i.e. 3 months after the completion of the financial year just like in case of e-waste rules.

### **Section 11 - Role of Plastic Waste Processors (Recyclers or Other Waste Processors)**

#### Provision of Certificate for Plastic Waste Processing

**11.7** Only plastic waste processors registered under PWM Rules, 2016, as amended, shall provide certificate for plastic waste processing, except in case of use of plastic waste in road construction. In case where plastic waste is used in road construction the PIBO shall provide a self-declaration certificate in pro forma developed by CPCB. The certificate provided by only registered plastic waste processors shall be considered for fulfilment of EPR obligations by PIBOs.

**Industry's concern-** Currently, as we understand, Cement companies are not willing to register themselves as 'Plastic Waste Processing Facilities'.

**Industry's Request-** Till the time this matter is sorted out, the requirement "The certificate provided by only registered plastic waste processors shall be considered for fulfilment of EPR obligations by PIBOs." should be relaxed and the co-processing certificates from cement companies should be allowed even if they are not registered as PWPF.

We look forward to the clarifications and concerns highlighted above from your good office.

We wish to **seek a meeting** to discuss the same.

With regards,



George Paul  
Chief Executive Officer

CC: Shri Satyendra Kumar, Director, MoEF&CC

CC: Shri Amit Love, Additional Director, MoEF&CC