

# Business Standard

## Govt releases new plastic waste management norms: How they fall short

05 October 2020

The draft rules propose to give manufacturers five years to achieve waste management targets, starting with 30% and moving up to 90% in the fifth year

The central government's proposed rules for 'extended producer responsibility' (EPR) for plastic waste--which would make a manufacturer responsible for managing plastic waste after a consumer has used their product--are unlikely to meet their objective, industry observers and stakeholders say.

The Ministry of Environment, Forest and Climate Change released the draft Uniform Framework for Extended Producer Responsibility (Under Plastic Waste Management Rules 2016) on June 26, 2020, seeking stakeholder comment by July 31. IndiaSpend wrote to the environment ministry to ask how many comments had come in and when the rules would be finalised, but they did not respond. India's green court, the National Green Tribunal, in an ongoing case about plastic waste management, directed the environment ministry on September 10, to finalise and enforce the EPR guidelines "as far as possible within three months".

EPR puts the financial and/or physical onus on manufacturers--meaning plastic producers, importers and brand-owners--for the treatment, recycling, reuse or disposal of products after a consumer has used and disposed of them.

India first introduced EPR to manage electronic-waste in 2012. It extended EPR to plastic manufacturers after the Plastic Waste Management Rules 2016 (PWMR) were notified in 2016. The PWMR made producers and importers of plastic as well as brand owners that use plastic for packaging accountable for managing the end waste. The mechanism through which they would do so is spelled out in the draft EPR rules issued in June.

The draft rules offer three options to producers: pay a fee into a central corpus that would be spent towards managing the waste; buy credits from a system that would be established to offset the plastic waste they generate; or participate in and pay for establishing producer responsibility organisations (PROs) to collect and manage post-consumer plastic waste.

The draft rules propose to give manufacturers five years to achieve waste management targets, starting with 30% and moving up to 90% in the fifth year after the rules are notified. All stakeholders involved in the waste management process--producers, civic bodies, collectors, recyclers, etc.--would be registered with a new national registry through an online portal.

Industry experts who have studied the draft say the rules do not hold producers responsible, rather offer them ways to evade responsibility. By failing to put curbs on

overproduction, the draft fails to emphasise waste minimisation and also provides no clarity on how these models will work.

“The polluter-pays principle is behind all the three models suggested for producers, which, in other words, is [equivalent to telling plastic manufacturers to] pay and continue to pollute,” Dharmesh Shah, an independent public policy researcher who advises the Global Alliance for Incinerator Alternatives (GAIA) and several other groups, told IndiaSpend. “This approach fails to address the production issue and does little to stop the production of single-use plastics at source.”

The draft guidelines permit all possible EPR models without examining the ones most suited for the Indian context, Swati Singh Sambyal, a Delhi-based waste management expert, told IndiaSpend. “The draft needs further streamlining and strengthening. It cannot work with multiple licensing/registration procedures, committees and authorities.”

IndiaSpend reached out to the environment ministry for their response to these objections. We will update this story if and when they respond.

### A burgeoning crisis

The new EPR rules will impact the entire plastic industry, estimated to comprise more than 40,000 processing units, 85-90% of which are small and medium-sized enterprises; the industry employs about four million people.

Around 43% of manufactured plastic in India is used for packaging purposes, and is mostly single-use plastic. Accurate data on plastic waste generation, collection and disposal are elusive as several regional pollution boards do not file this information, as IndiaSpend had reported on April 2, 2019. These data are integral to formulating waste management policy.

Nevertheless, it is estimated that India generates 9.46 million tonnes of plastic waste annually or about 946,000 truckloads at 10 tonnes a truck. Nearly 40% of this waste remains uncollected, as per the environment ministry. Most cities and towns are unable to efficiently implement plastic waste management rules, as IndiaSpend had reported earlier.

This waste piles up in landfills, chokes drains and rivers and flows into the sea where it is ingested by marine animals. It leaches into the soil and groundwater, contaminating the natural environment with poisonous dioxins, as IndiaSpend reported earlier.

The consequences of mismanaged waste, including plastics, to human health have become a silent and toxic crisis, killing between 400,000 and 1 million people each year in low- and middle-income countries.

One of the biggest reasons for India's plastic crisis is that the country's plastic industry uses different tactics to distract, delay, dilute and derail progressive legislations on plastic control that are unfavourable to them, according to an addendum to the September 2020 global report, Talking Trash: The Corporate Playbook of False Solutions to the Plastic Crisis. The India-segment of this report was researched and written by Shah, quoted earlier.

### Gaps in proposed mechanisms

Acknowledging that there cannot be a single EPR solution suitable for implementation across all regions of the country, the draft EPR rules provide plastic manufacturers with three options, as we said.

**Fee-based mechanism:** Under this model, plastic manufacturers need not get directly involved in the processing, i.e. collection, segregation and recycling of post-consumer plastic waste. Instead, they would contribute money to an EPR corpus fund at the central level. This may be an escrow account managed by a special purpose vehicle (SPV), an independent entity wherein private and other stakeholders can become members.

The corpus is proposed to be used to provide funding to three entities in order to manage plastic waste: firstly, to urban local bodies (ULBs) that are primarily responsible for managing waste in the cities; secondly, to waste collectors/assemblers/recyclers; and thirdly for spending on information, education and communication (IEC) activities to create public awareness about segregating and managing waste.

The fee amount that a plastic manufacturer (producer/importer/brand owner) would be required to contribute to the corpus would be decided based on their quantum of plastic generation vis-à-vis “the efforts required and money spent by the ULB/government to handle the plastic part of the waste”, the draft rules state.

The draft EPR rules are unclear about which plastic producer can opt for this fee-based option, said Sambyal. It states that producers/importers/brand owners “who are using less quantity of plastic for packaging (cut-off quantity shall be decided by the Government after the registration process)” would work with this model.

The fee-based model misses out on details and throws up several questions, said Sambyal. “Why is ‘less quantity’ of plastic taken as a criteria for the private sector to contribute to the central corpus? Why keep a threshold limit for producers to contribute towards EPR compliance when the fee will be decided based on generation quantities?” she said.

The fee-based model would also be burdened due to regulatory channels, said Sambyal and added that deciding the appropriate fee amount would be tricky as the

cost of EPR compliance depends on multiple factors “such as type of plastic, geographical regions, type of end processing, the state of ULB and so on”.

If the fee is lower than the actual EPR cost, most producers might want to opt for the fee-based option, said Sambyal. “This would hurt the core objective of EPR, which is to improve reuse rates and recycle packaging. Also, small entities or informal companies may not have the means to contribute to the fee.”

For state-level coordination, state-level advisory boards (SLABs) constituted under the Solid Waste Management Rules, 2016 may be engaged to manage the process of recommending the disbursement of funds to the ULBs, recyclers and for IEC activity. Representatives of producers/importers/brand owners would also become a part of these SLABs, according to the draft EPR rules.

The notion of plastic manufacturers being on boards that influence funding for plastic waste clean-up could create problems. “Yes, this [plastic manufacturers on SLABs] is a major conflict of interest,” said Shah. “They can have representation like civil society has but why should they be on the board?”

Manufacturers’ representatives can be on a central committee instead, said Sambyal. The draft EPR rules also lack clarity about the SPV’s role and indicators for SLABs to monitor for effective EPR enforcement and implementation, she said. The draft additionally recommends the setting up of an auditing agency to certify every kilogram recycled/processed by end destination. It, however, fails to provide details on the nature of the independent auditing agency, she said.

Given that waste management is a state subject, Shah of GAIA said that the draft EPR rules encroach on a subject that falls under the state list. “It is inappropriate to create a central authority to implement and monitor a programme that is completely under the discretionary power of the state government,” he said.

The corpus could be created at the state level with urban development departments (UDD) and be monitored at the central level, suggested Sambyal. “Cities should be able to access the corpus through proposals to UDD,” Sambyal told IndiaSpend. “This will reduce administrative approvals and improve efficiency of implementation.”

The draft refers to formalising the informal waste management sector. For instance, it suggests registering waste-pickers with ULBs “but how and what kind of modalities would be adopted to do this needs to be spelled out”, said Sambyal.

PRO model: Under this model too, plastic manufacturers need not take on the complete operational responsibility of collecting and processing plastic waste. Instead, they can form a producer responsibility organisation (PRO) or contract service to an existing one. PROs would be registered in the EPR rules to perform EPR liabilities of member companies on their behalf. “However, the final responsibility of

providing final evidence of reprocessing/export of plastic packaging rests with the producer,” states the draft EPR rules.

The guiding principle is that “plastic producers/importers/brand-owners either by their own or through PRO are required to ensure that an equivalent amount of plastic is being collected and processed”, the draft states.

The draft fails to outline a clear definition and role of PROs within the EPR Rules, Ashish Jain, founder and director of Indian Pollution Control Association (IPCA), told IndiaSpend; Jain was a member of a committee constituted by the Central Pollution Control Board for the draft EPR rules.

It is unclear which agency is a PRO as the draft uses the abbreviation ‘PRO’ to refer to multiple agencies, said Jain. For instance, in some cases the draft EPR rules use ‘PRO’ to refer to a group of brand owners and producers, in other cases, PRO is used for recyclers and in yet other places, PRO is used to refer to waste management agencies. “Unless it is clear who the PRO is, and what its role would be, how will this model be executed?”

The draft does not clarify whether these PROs will work in tandem with ULBs—who are primarily responsible for waste management in the existing set-up—or if they will create an independent channel, said Sambyal.

“If ULBs are to collect, sort and segregate [plastic waste], then what role would the PROs play?” she said. “Would they add to existing waste management mechanisms or manage plastic in collaboration with ULBs and companies? None of this is mentioned [in the draft EPR rules]. The guidelines need to clarify this with details.”

The PRO operational model would have to be flexible, said Jain of IPCA. “They can work with informal systems and ULBs to work on behalf of producers/importers/brand-owners with the objective to collect and segregate plastic waste from the source and channelise it to authorised recyclers and co-processors,” he said.

Sambyal is not in favour of parallel systems. “An integrated approach, with the ULBs forming the core of waste management services, would be more effective for cities to become better at plastic waste management,” she said. “Else, this [plastic waste management efforts] would be akin to passing the parcel.”

**Plastic credits:** Under this model, a plastic manufacturer is not required to recycle its own plastic waste. Instead, the model proposes that the manufacturer purchase plastic credits from “properly accredited processors (recyclers, waste-to-energy plant operators, cement co-processors, users utilising plastic in road) or exporters” to ensure that an equivalent amount of “packaging waste” has been recovered and recycled to meet their waste management obligation, the draft states.

Manufacturers are “mandated to acquire evidence of recycling or recovery” from properly accredited processors, the draft states. Plastic manufacturers--either themselves or by PROs--and processors/exporters may exchange plastic credits for a financial transaction at a price and other terms as negotiated between them.

“The accredited processors therefore receive additional funding for every tonne of packaging waste they reprocess and have an incentive to acquire further tonnage, thereby driving up recovery rates [of plastic waste],” the draft states.

The plastic credit model does not discourage plastic production, said Shah of GAIA. “Instead, it aims to offset the impact on the worst polluters by allowing certain companies or entities to extract plastics from the environment and convert them into credits that can be sold in the market,” he said and added that “conceptually, the plastic credit model borrows from the failed carbon credits mechanism”.

Offset credits could typically be awarded for activities such as removing plastic from natural ecosystems such as oceans and forests or for increasing plastic recycling. “These credits will then be sold to companies that wish to spruce up their image,” said Shah. “For example, a company would be able to claim that its bottles are made of “50% recycled plastic” if it buys credits representing increased plastic recycling even if none of the recycled plastic actually makes it into the company’s bottles.”

Alternatively, a company could claim to “collect 100% of the plastic we use” because it buys offset credits representing plastic collection equivalent to its plastic footprint, he said. “Plastic offset credits will offer companies a way to outsource the responsibility of the plastic they produce or use,” said Shah.

Curbs on overproduction, alternative materials

An effective EPR policy should emphasise on mechanisms to ensure reduction of plastic waste through design change in packaging and by promoting alternative materials for packaging, said Sambyal. The mantra should be to, “Refuse > Reduce > Reuse > Recycle > Recover > Dispose”.

Shah agrees that the guidelines should aim to stop excessive production. “Targets are still linked to recovery and disposal in incinerators and cement plants, and not to reduction,” he said. “The targets should instead aim at reducing the production of single-use plastics.”

Source: [https://www.business-standard.com/article/current-affairs/govt-releases-new-plastic-waste-management-norms-how-they-fall-short-120100500310\\_1.html](https://www.business-standard.com/article/current-affairs/govt-releases-new-plastic-waste-management-norms-how-they-fall-short-120100500310_1.html)