

THE MANUFACTURE, STORAGE AND IMPORT OF HAZARDOUS CHEMICAL RULES, 1989

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1. Short title and commencement

(1) These rules may be called the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions

In these rules, unless the context otherwise requires,—

(a) “Act” means the Environment (Protection) Act, 1986 (29 of 1986);

(b) “Authority” means an authority mentioned in column 2 of Schedule 5;

(c) “export” with its grammatical variations and cognate expression, means taking out

of India to a place outside India;

(d) “exporter” means any person under the jurisdiction of the exporting country and includes the exporting country, who exports hazardous chemicals;

(e) “hazardous chemical” means,—

(i) any chemical which satisfies any of the criteria laid down in Part I of 1[Schedule 1 or] listed in column 2 of Part II of this Schedule;

(ii) any chemical listed in column 2 of Schedule 2;

(iii) any chemical listed in column 2 of Schedule 3;

(f) “import”, with its grammatical variations and cognate expression, means bringing into India from a place outside India;

(g) “importer” means an occupier or any person who imports hazardous chemicals;

(h) “industrial activity” means,—

(i) an operation or process carried out in an industrial installation referred to in Schedule 4 involving or likely to involve one or more hazardous chemicals and includes on-site storage or on-site transport which is associated with that operation or process, as the case may be; or

(ii) isolated storage; or

(iii) pipeline;

(i) “isolated storage” means storage of a hazardous chemical, other than storage associated with an installation on the same site specified in Schedule 4 where that storage involves at least the quantities of that chemical set out in Schedule 2; 2[(j) “major accident” means - an incident involving loss of life inside or outside the installation, or ten or more injuries inside and/or one or more injuries outside or release of toxic chemicals or explosion or fire or spillage of hazardous chemicals resulting in on-site or off-site emergencies of damage to equipment leading to stoppage of process or adverse affects to the environment;

(ja) “major accident hazards (MAH) installations” means - isolated storage and industrial activity at a site handling (including transport through carrier or pipeline) of hazardous chemicals equal to or, in excess of the threshold quantities specified in, column 3 of Schedules 2 and 3 respectively;]

(k) “pipeline” means a pipe (together with any apparatus and works associated therewith) or system of pipes (together with any apparatus and works associated therewith) for the conveyance of a hazardous chemical other than a flammable gas as set out in column 2 of Part II of Schedule 3 at a pressure of less than eight bars absolute; the pipeline also includes inter-state pipelines;

(l) “Schedule” means Schedule appended to these rules;

(m) “site” means any location where hazardous chemicals are manufactured or processed, stored, handled, used, disposed of and includes the whole of an area under the

control of an occupier and includes pier, jetty or similar structure whether floating or not;

(n) “Threshold quantity” means,—

(i) in the case of a hazardous chemical specified in column 2 of Schedule 2, the quantity of that chemical specified in the corresponding entry in columns 3 and 4;

(ii) in the case of a hazardous chemical specified in column 2 of Part I of Schedule 3, the quantity of that chemical specified in the corresponding entry in columns 3 and 4 of that Part;

(iii) in the case of substances of a class specified in column 2 of Part II or Schedule 3, the total quantity of all substances of that class specified in the corresponding entry in columns 3 and 4 of that part.

3. Duties of authorities

The concerned Authority shall,—

(a) inspect the industrial activity at least once in a calendar year;

(b) except where such authority is the Ministry of Environment and Forests, annually report on the compliance of the rules by the occupiers to the Ministry of Environment and Forests through appropriate channel;

(c) subject to the other provisions of these rules, perform the duties specified in column 3 of Schedule 5.]

4. General responsibility of the occupier during industrial activity

(1) These rules shall apply to,—

(a) an industrial activity in which a hazardous chemical, which satisfies any of the criteria laid down in Part I of Schedule I 1[or listed] in column 2 of Part II of this Schedule is, or may be, involved; and 1[(b) isolated storage of a hazardous chemical listed in Schedule 2 in a quantity equal to or more than the threshold quantity specified in column 3, thereof.]

(2) An occupier who has control of an industrial activity in terms of sub-rule (1) shall provide evidence to show that he has,—

(a) identified the major accident hazards; and

(b) taken adequate steps to—

(i) prevent such major accidents and to limit their consequences to persons and the environment;

(ii) provide to the persons working on the site with the information, training and equipment including antidotes necessary to ensure their safety.

5. Notification of major accident

(1) Where a major accident occurs on a site or in a pipeline, the occupier shall 1[within

48 hours] notify the concerned authority as identified in Schedule 5 of that accident, and furnish thereafter to the concerned authority a report relating to the accidents in instalments, if necessary, in Schedule 6.

(2) The concerned authority shall on receipt of the report in accordance with sub-rule (1) of this rule, shall undertake a full analysis of the major accident and send the 1[requisite information within 90 days to the Ministry] of Environment and Forests through appropriate channel. 1[(3) An occupier shall notify to the concerned Authority, steps taken to avoid any repetition of such occurrence on a site.] 2[(4) The concerned Authority shall compile information regarding major accidents and make available a copy of the same to the Ministry of Environment and Forests through appropriate channel.

(5) The concerned Authority shall in writing inform the occupier, of any lacunae which in its opinion needs to be rectified to avoid major accidents.]

6. Industrial activity to which rules 7 to 15 apply

(1) Rules 7 to 15 shall apply to,—

(a) an industrial activity in which there is involved a quantity of a hazardous chemical listed in column 2 of Schedule 3 which is equal to or more than the quantity specified in the entry for that chemical in columns 3 and 4 (rules 10-12 only for column 4); and

(b) isolated storage in which there is involved a quantity of a hazardous chemical listed in column 2 of Schedule 2 which is equal to or more than the quantity specified in the entry for that chemical in 1[columns 3 and 4 (rules 10-12 only for column 4)].

(2) For the purposes of rules 7 to 15,—

(a) “new industrial activity” means an industrial activity which,—

(i) commences after the date of coming into operation of these rules; or

(ii) if commenced before that date, is an industrial activity in which a modification has been made which is likely to cover major accident hazards, and that activity shall be deemed to have commenced on the date on which the modification was made;

(b) an “existing industrial activity” means an industrial activity which is not a new industrial activity.

7. Approval and Notification of sites

(1) An occupier shall not undertake any industrial activity 2[unless he has been granted an approval for undertaking such an activity and has submitted] a written report to the concerned Authority containing the particulars specified in Schedule 7 at least 3 months before commencing that activity or before such shorter time as the concerned Authority may agree and for the purposes of this paragraph, an activity in which subsequently there is or is liable to be a threshold quantity or more of an additional hazardous chemical shall be deemed to be a different activity and shall be notified accordingly.

2[(2) The concerned Authority within 60 days from the date of receipt of the report, shall approve the report submitted and on consideration of the report if it is of the opinion that

contravention of the provisions of the Act or the rules made thereunder has taken place, it shall issue notice under rule 19.]

8. Updating of the site notification following changes in the threshold quantity

Where an activity has been reported in accordance with rule 7(1) and the occupier makes a change in it (including an increase or decrease in the maximum threshold quantity of a hazardous chemical to which this rule applies which is or is liable to be at the site or in the pipeline or at the cessation of the activity) which affects the particulars specified in that report or any subsequent report made under this rule, the occupier shall forthwith furnish a further report to the concerned authority.

9. Transitional provisions

Where,—

(a) at the date of coming into operation of these rules, an occupier is in control of an existing industrial activity which is required to be reported under rule 7(1); or

(b) within six months after that date, an occupier commences any such new industrial activity, it shall be a sufficient compliance with that rule if he reports to the concerned authority as per the particulars in Schedule 7 within 3 months after the date of coming into operation of these rules or within such longer time as the concerned authority may agree in writing.

10. Safety reports and safety audit reports

(1) Subject to the following paragraphs of this rule, an occupier shall not undertake any industrial activity to which this rule applies, unless he has prepared a safety report on that industrial activity containing the information specified in Schedule 8 and has sent a copy of that report to the concerned authority at least ninety days before commencing that activity.

(2) In the case of a new industrial activity which an occupier commences, or by virtue of sub-rule (2) (a) (ii) of rule 6 is deemed to commence, within 6 months after coming into operation of these rules, it shall be a sufficient compliance with sub-rule (1) of this rule if the occupier sends to the concerned authority a copy of the report required in accordance with that sub-rule within ninety days after the date of coming into operation of these rules.

(3) In case of an existing industrial activity, the occupier shall prepare a safety report in consultation with the concerned authority and submit the same within one year from the date of the commencement of the Manufacture, Storage and Import of Hazardous Chemicals (Amendment) Rules, 1994, to the concerned Authority.]

(4) After the commencement of the Manufacture, Storage and Import of Hazardous Chemicals (Amendment) Rules, 1994, the occupiers of both the new and the existing industrial activities shall carry out an independent safety audit of the respective industrial activities with the help of an expert, not associated with such industrial activities.

(5) The occupier shall forward a copy of the auditor's report alongwith his comments, to the concerned Authority within 30 days after the completion of such Audit.

(6) The occupier shall update the safety audit report one a year by conducting a fresh safety audit and forward a copy of it with his comments thereon within 30 days to the concerned Authority.

(7) The concerned Authority may, if it deems fit, issue improvement notice under rule 19 within 45 days of the submission of the said report.]

11. Updating of reports under rule 10

(1) Where an occupier has made a safety report in accordance with sub-rule (1) of rule 10 he shall not make any modification to the industrial activity to which that safety report relates which could materially affect the particulars in that report, unless he has made a further report to take account of those modifications and has sent a copy of that report to the concerned Authority at least 90 days before making those modifications.

(2) Where an occupier has made a report in accordance with rule 10 and sub-rule (1) of this rule and that industrial activity is continuing, the occupier shall within three years of the date of the last such report, make a further report which shall have regard in particular to new technical knowledge which has affected the particulars in the previous report relating to safety and hazard assessment, and shall within 30 days 1[***] send a copy of the report to the concerned Authority.

12. Requirements for further information to be sent to the authority

Where, in accordance with rule 10, an occupier has sent a safety report relating to an industrial activity to the concerned authority, the concerned authority may, by a notice served on the occupier, require him to provide such additional information as is specified in the notice and the occupier shall send that information to the concerned Authority within 90 days.]

13. Preparation of on-site emergency plan by the occupier

(1) An occupier shall prepare and keep up-to-date 1[an on-site emergency plan containing details specified in Schedule 11 and detailing] how major accidents will be dealt with on the site on which the industrial activity is carried on and that plan shall include the name of the person who is responsible for safety on the site and the names of those who are authorised to take action in accordance with the plan in case of an emergency.

(2) The occupier shall ensure that the emergency plan prepared in accordance with sub-rule (1) takes into account any modification made in the industrial activity and that every person on the site who is affected by the plan is informed of its relevant provisions.

(3) The occupier shall prepare the emergency plan required under sub-rule (1),—

(a) in the case of a new industrial activity, before that activity is commenced;

(b) in the case of an existing industrial activity within 90 days of coming into operation of these rules. 2[(4) The occupier shall ensure that a mock drill of the on-site emergency plan is concluded every six months;

(5) A detailed report of the mock drill concluded under sub-rule (4) shall be made immediately available to the concerned Authority.]

14. Preparation of off-site emergency plans by the authority

(1) It shall be the duty of the concerned Authority as identified in column 2 of Schedule 5 to prepare and keep up-to-date 1[an adequate off-site emergency plan containing particulars specified in Schedule 12 and detailing] how emergencies relating to a possible major accident on that site will be dealt with and in preparing that plan the concerned authority shall consult the occupier and such other persons as it may deem necessary.

(2) For the purpose of enabling the concerned Authority to prepare the emergency plan required under sub-rule (1), the occupier shall provide the concerned Authority with such information relating to the industrial activity under his control as the concerned Authority may require, including the nature, extent and likely effects off-site of possible major accidents and the authority shall provide the occupier with any information from the off-site emergency plan which relates to his duties under rule 13.

(3) The concerned authority shall prepare its emergency plan required under sub-rule (1),—

(a) in the case of a new industrial activity, before that activity is commenced;

(b) in the case of an existing industrial activity, within six months of coming into operation of these rules. 2[(4) The concerned Authority shall ensure that a rehearsal of the off-site emergency plan is concluded at least once in a calendar year.]

15. Information to be given to persons liable to be affected by a major accident

(1) The occupier shall take appropriate steps to inform persons outside the site either directly or through District Emergency Authority who are likely to be in an area which may be affected by a major accident about,—

(a) the nature of the major accident hazard; and

(b) the safety measures and the “Dos” and “Don’ts” which should be adopted in the event of a major accident.

(2) The occupier shall take the steps required under sub-rule (1) to inform persons about an industrial activity, before that activity is commenced, except in the case of an existing industrial activity in which case the occupier shall comply with the requirements of sub-rule (1) within 90 days of coming into operation of these rules.

16. Disclosure of information

Where for the purpose of evaluating information notified under rule 5 or 7 to 15, the concerned Authority discloses that information to some other person, that other person shall not use that information for any purpose except for the purpose of the concerned Authority disclosing it, and before disclosing the information the concerned authority shall inform that other person of his obligations under these paragraphs.

17. Collection, development and dissemination of information

(1) This rule shall apply to an industrial activity in which a hazardous chemical which satisfies any of the criteria laid down in Part I of Schedule 1 1[or listed] in column 2 of Part II of this Schedule is or may be involved.

(2) An occupier, who has control of an industrial activity in terms of sub-rule (1) of this rule, shall arrange to obtain or develop information in the form of safety data-sheet as specified in Schedule 9. The information shall be accessible upon request for reference.

(3) The occupier while obtaining or developing a safety data-sheet as specified in Schedule 9 in respect of a hazardous chemical handled by him shall ensure that the information is recorded accurately and reflects the scientific evidence used in making the hazard determination. In case any significant information regarding hazard of a chemical is available, it shall be added to the material safety data-sheet as specified in Schedule 9 as soon as practicable.

(4) Every container of a hazardous chemical shall be clearly labelled or marked to identify,—

(a) the contents of the container;

(b) the name and address of the manufacturer or importer of the hazardous chemical;

(c) the physical, chemical and toxicological data as per the criteria given at Part I of Schedule 1.

(5) In terms of sub-rule (4) of this rule, where it is impracticable to label a chemical in view of the size of the container or the nature of the package, provision should be made for other effective means like tagging or accompanying documents.

18. Import of hazardous chemicals

(1) This rule shall apply to a chemical which satisfies any of the criteria laid down in Part I of Schedule 1 [or listed] in column 2 of Part II of this Schedule.

(2) Any person responsible for importing hazardous chemicals in India shall provide [before 30 days or as reasonably possible but not later than] the date of import to the concerned authorities as identified in column 2 of Schedule 5 the information pertaining to,—

(i) the name and address of the person receiving the consignment in India;

(ii) the port of entry in India;

(iii) mode of transport from the exporting country to India;

(iv) the quantity of chemical(s) being imported; and

(v) complete product safety information. 3[(3) If the concerned authority of the State is satisfied that the chemical being imported is likely to cause major accidents, it may direct the importer to take such safety measures as the concerned Authority of the State may deem appropriate.] 4[(3A) In case the concerned Authority of the State is of the opinion that the chemical should not be imported on safety or on environmental considerations, such Authority may direct stoppage of such import.]

(4) The concerned authority at the State shall simultaneously inform the concerned Port Authority to take appropriate steps regarding safe handling and storage of hazardous chemicals

while off-loading the consignment within the port premises.

(5) Any person importing hazardous chemicals shall maintain the records of the hazardous chemicals imported as specified in Schedule 10 and the records so maintained shall be open for inspection by the concerned Authority at the State or the Ministry of Environment and Forests or any officer appointed by them in this behalf.

(6) The importer of the hazardous chemical or a person working on his behalf shall ensure that transport of hazardous chemicals from port of entry to the ultimate destination is in accordance with the Central Motor Vehicles Rules, 1989, framed under the provisions of the Motor Vehicles Act, 1988.

19. Improvement notices

(1) If the concerned Authority is of the opinion that a person has contravened the provisions of these rules, the concerned Authority shall serve on him a notice (in this para referred to as “an improvement notice”) requiring that person to remedy the contravention or, as the case may be, [the matters occasioning it within 45 days].

(2) A notice served under sub-rule (1) shall clearly specify the measures to be taken by the occupier in remedying the said contraventions.

20. Power of the Central Government to modify the Schedules

The Central Government may, at any time, by notification in the Official Gazette, make suitable changes in the Schedules.