

The Jammu and Kashmir State Non-Biodegradable Material (Management, Handling and Disposal) Rules, 2009.

SRO .-In exercise of powers conferred by Section 17 of the Jammu and Kashmir Non-Biodegradable Material (Management, Handling and Disposal) Act, 2007, the Government after consultation with Prescribed Authority under the Act, hereby makes following Rules, namely:-

Preliminary:

1. Short title and commencement

- (1) These Rules shall be called Jammu and Kashmir Non-Biodegradable Material (Management, Handling and Disposal) Rules, 2009.
- (2) They shall come in force from the date of publication in Official Gazette.

2. Definitions:

In these Rules unless context otherwise requires:-

- (a) “Act” means the Jammu and Kashmir Non-Biodegradable Material (Management, Handling and Disposal) Act, 2007.
- (b) “Chairman” means Chairman of the Prescribed Authority.
- (c) “Member” means the Member of Prescribed Authority and includes the Chairman thereof
- (d) “Municipal Authority” means Municipal Corporation, Municipal Council, Municipal Committee, or any other local body constituted under relevant statute and, where the management and handling of municipal solid waste is entrusted to such agency.
- (e) “Non-biodegradable material control area” means an area declared as such under Section 7 of the Act.
- (f) “Non-biodegradable material collection centre” means a centre for proper collection, segregation and sorting of non-biodegradable solid

waste setup by the Municipal Authority or facilitated by it with the help of any other agency including NGO's in the municipal area.

- (g) "Processing" means the process by which the non-biodegradable material is transformed into a new or recycled product.
- (h) "Receptacle" means the temporary common bin with a cap or covering facility to prevent the littering placed at a designated spot for collection of non-biodegradable material in a manner so as to prevent littering, attraction of vectors, stray animals and excessive foul odour.
- (i) "Re-cycling" means the process of transforming the non-biodegradable material into raw material for producing new products which may or may not be similar to the original products.
- (j) "Section" means Section of the Act.
- (k) "Segregation" means to separate the non-biodegradable material and wastes from degradable wastes and material.
- (l) "Storage" means the temporary containment of biodegradable waste and material in a manner so as to prevent littering, attraction to vectors, stray animals and excessive foul odour.
- (m) "Transportation" means conveyance of non biodegradable material from one place to another, hygienically through specially designed transport system so as to prevent foul odour, littering, unsightly conditions and accessibility to vectors.

3. Directions under section 5

1. All the directions issued under Section 5 of the Act shall be in writing.
2. The direction under Section 5 (2) shall specify the nature of the action to be taken and the time within which it shall be complied with by the person, officer or the authority to whom such direction is given.

3. The person, officer or authority to whom any direction is sought to be issued shall be served with a copy of proposed direction, and shall be given an opportunity of not less than 15 days from the date of service of a notice to file with an officer designated in this behalf, the objections, if any, to the issue of the proposed direction.
4. The Prescribed Authority shall within a period of 45 days from the date of receipt of the objections if any, or from the date up to which opportunity is given to the person, officer or authority to file objections whichever is earlier, after consideration of the objections, if any received from the person, officer or authority sought to be directed and for the reasons to be recorded in writing, confirm, modify or decide not to issue the proposed direction.
5. In a case where the Prescribed Authority is of the opinion that in view of the likelihood of a grave injury to the environment it is not expedient to provide an opportunity to file objections against the proposed direction, it may for reasons to be recorded in writing issue directions without providing such opportunity.
6. Every notice or direction required to be issued under the rule shall be deemed to be duly served. Where:
 - a. the person to be served is a company if the document is addressed in the name of the company at its registered office or its principal office or place of business and is either :-
 - i. Sent by registered post or,
 - ii. Delivered at its registered office or at the principal office or place of business;
 - b. the person to be served is an officer serving the Government, if the document is addressed to the person a copy thereof is endorsed to the Head of the Department, also to the Secretary to the Government, as the case may be, in-charge of the Department in which, for the time being, the business relating to the

Department in which the officer is employed is transacted is either;-

- i. Sent by registered post or,
 - ii. Is given or tendered to him;
- c. In other case, if the document is addressed to the person to be served :-
- i. is given or tendered to him or,
 - ii. if such person can not be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of family or is affixed on some conspicuous part of the land or building, if any to which it relates, or
 - iii. is sent by registered post to that person.

4. Responsibility of the Municipal Authority:

1. Every Municipal Authority shall, within its territorial area be responsible for implementation of the provisions of the Act, and for any infrastructure development for collection, storage, transportation, recycling and disposal of non-biodegradable material, other than the material seized under Section 6(5) of the Act.
2. The Municipal Authority shall:-
 - i. encourage segregation of non-biodegradable material from biodegradable material at source.
 - ii. place separate receptacles of different colors for biodegradable and non-biodegradable garbage and material to prevent mixing and spilling of the garbage and maintain uniform colour code systems for the receptacles for this purpose.

- iii. provide appropriate arrangements to avoid mixing of non-biodegradable and biodegradable material at receptacles placed for the purpose.
- iv. use and provide proper vehicles for transportation of such material so as to avoid mixing of non-biodegradable and biodegradable material during its transportation. Transportation vehicle shall also be properly covered to avoid the spillage or flying of the material on the roads during transportation.
- v. set up non-biodegradable material collection centers at various places, with the help of any agency including NGO's and self help groups, depending upon the estimated quantum of the material generation in the area and density of population.
- vi. carry out further segregation of material at every collection center.
- vii. permit the rag-pickers to separate the waste and to take away non-biodegradable material from such collection centers.
- viii. provide enough space to deal with and enable sorting and segregation of waste.
- ix. in consultation with the Prescribed Authority, provide specially designed land fill site with the facility of incinerator, restricted to non-biodegradable material and inert waste not suitable for recycling or for any processing.

5. Responsibility of the State Government and Prescribed Authority.

1. The District Magistrate / Deputy Commissioner of the concerned district or any other officer nominated by the Government shall also

have the responsibility for the enforcement of the provisions of these Rules within the territorial limit of their jurisdiction.

2. The Prescribed Authority apart from having the over all responsibility of enforcement of the provisions of these Rules along with the concerned Deputy Commissioners shall also have the responsibility to act as facilitator and guide in the matters of dealing with non-biodegradable material

6. Responsibility of Occupiers and Owners.

1. The owners and occupiers of the premises shall place a minimum of two separate receptacles specified by the Municipal Authority for collection of biodegradable and non-biodegradable material generated in their respective premises.
2. Non-biodegradable material generated during construction shall not be thrown in the drains, sewers, nallah's, wetlands, water bodies and on surface land and shall be handed over by the owner or occupier, as the case may be, to the Municipal Authority for proper disposal.
3. Without prejudice to the provisions of sub-rule 2, the owner or occupier may dispose off such material in a proper and scientific manner himself, provided he adheres to the guidelines prescribed by the Municipal Authority in this behalf.

7. Management of Non-biodegradable Material.

Management and handling of any non-biodegradable material generated in “non-biodegradable material control area” and the waste processing and disposal facilities to be setup by the Municipal Authority on their own or through the operator of the facility shall be done in accordance with Rule 4 and 6 with the compliance of time schedule laid down in Schedule-I.

8. Annual Report.

1. Municipal Authorities shall prepare and submit, to the Prescribed Authority, an Annual Report with regard to implementation of these Rules by 1st of June every year in form-I.
2. The prescribed Authority shall prepare a consolidated annual review report on the management of non-biodegradable material and submit it to the State Government by 1st of September every year. The review report shall interalia contain analysis of the data and the inputs provided by the Municipal Authorities and shall also be suggestive of corrective measures if warranted.

9. Disposal of seized non-biodegradable material.

Any non-biodegradable material seized under Section 6(5) of the Act shall be disposed off;-

1. By auction out of the Non-Biodegradable Material Control Area, after following the confiscation procedure, if the material comprises of polythene or polythene carry bags and the proceeds of the auction shall be considered to be part of the fund of the Prescribed Authority
2. By incineration, at land fill site, if the material comprises of non-biodegradable material waste.
3. By any other method as may be prescribed by the Prescribed Authority.

10. Seizure and confiscation of Non Bio degradable material.

- (1) When there is a reason to believe that prohibited or banned non biodegradable material is stored or stocked or is being stored, stocked or transported for the purposes of such storage, stocking or for sale or use, unauthorizedly, such non bio-degradable material along with the

vehicle, if any used for carriage, may be seized by the officer empowered in this behalf by the prescribed authority.

- (2). Any empowered officer seizing any property or non bio-degradable material under this rule, shall place on such property or Non Bio-degradable material, a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such seizure before an officer not below the rank of the Regional Director of the Prescribed Authority (hereinafter referred to as 'authorized officer').
- (3) Subject to sub-rule (5), where the authorized officer upon receipt of report about seizure ,is satisfied that an offence has been committed under the Act, he may, by order in writing and for reasons to be recorded, confiscate non bio-degradable material so seized together with all tools, vehicles or any other article used in committing such offence. Copy of the order of confiscation shall be forwarded without any undue delay to the person from whom the non- bio degradable material or other property is seized and to the Chairman of the Prescribed Authority.

Provided that Non Bio-degradable material shall not be liable for confiscation if the value of the seized Non-Bio degradable material appears to be less than Rs.5000/=

- (4) No order confiscating any property or Non-Bio degradable Material shall be made under sub- Rule (3) unless the Authorized Officer :-
 - (a) sends an intimation in writing about the proceedings of confiscation of the non bio degradable material or the property to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made but no order to be passed.
 - (b) issues a notice in writing to the person from whom the non bio degradable material or property is seized and to any other person who may appear to the Authorized Officer to have some interest in said property or the non bio degradable material
 - (c) gives the officer effecting the seizure and the person or the

persons to whom notice is issued under clause (b) hearing on date to be fixed for such purpose.

- (5). No order of confiscation under sub rule (3) of any tools, equipment, vehicle or any other article (other than the non bio-degradable material seized) shall be made if any person referred to in clause (b) of sub rule (4) ,proves to the satisfaction of authorized Officer that any such tools, equipment, vehicle or any other article were used without his knowledge or connivance or as the case may be, without the knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against the use of objects aforesaid or commission of offence..

11. Declaration of Non-Biodegradable Material Control Areas.

1. Every notification under of section 7(1) of the Act, declaring any area within the state as Non-Biodegradable Material Control Areas shall specify:-
 - a. The boundaries of the area if the area is not whole district or whole state.
 - b. The date on which such declaration shall come in to force.
2. A notification referred to in sub-rule (1) shall be published in the Official Gazette and at least in one English and one vernacular daily news paper having a circulation not less than 7000 in the state.

By order of the Government of Jammu and Kashmir.

*Commissioner Secretary to Government
Forest Department*

SCHEDULE

[See rules 4,6 and 7]

Implementation Schedule

Serial No.	Compliance Criteria	Time limit
(1)	(2)	(3)
1	Setting up of colored receptacles at public places	By 31st of December,2009 or earlier
2	Setting up of non-biodegradable waste collection centers	By 31st of December,2009 or earlier
3	Setting up of colored receptacles at Co-operative Housing Societies, Hotels, Commercial Establishments, Shops.	By 31st of December,2009 or earlier

Form-I.

[See rule 8]

Format for Annual Report to be submitted by the Municipal Authority.

- (i) Name _____ of _____ the
City/Town/Panchayat:.....
- (ii) Population:.....
- (iii) Name _____ of _____ municipal
authority:.....and
address.....
.....
.....
Telephone No.....
Fax:.....
- (iv). Name of the Incharge dealing with non-biodegradable waste with
designation:.....

1. Quantification:-

- i. Total quantity of non-biodegradable
waste generated per day
- ii. Total quantity of non-biodegradable
waste collected per day

2. Collection of Non-biodegradable waste:-

- i. No. of collection centers.
- ii. No. of receptacles.
 - a. at public places.
 - b. at residential locations.
 - c. at places of tourist & religious
importance.
 - d. at eco-sensitive zone.
- iii. Quantity of the non-biodegradable waste

segregated at collection centers per day.

3. **Transportation.**

- i. Truck
- ii. Tipper
- iii. Tractor Trailer
- iv. Refuse collector.
- v. Dumper placer.
- vi. Others (please specify).

4. **Treatment and Disposal.**

- i. Total waste lifted by Rag-pickers.
from collection centers.
- ii. Total waste segregated for
processing/recycling
- iii. Total waste disposed off through
Incineration.