

BEFORE HON'BLE NATIONAL GREEN TRIBUNAL
 PRINCIPAL BENCH, NEW DELHI
 O.A NO. 327 of 2022

IN THE MATTER OF

AMRAVATI FLY ASH BRICKS
 MANUFACTURER ASSOCIATION

APPLICANT

VERSUS

UNION OF INDIA & ORS

RESPONDENTS

INDEX

S.N.	PARTIUCALRS	PAGES
1.	Additional Affidavit on behalf of Ministry of Environment, Forest & Climate Change (Respondent no.1)	1-6
2.	ANNEXURE-I Copy of order dated 15.12.2022	7-14
3.	ANNEXURE-II Copy of Notification dated 31.12.2021	15-25
4.	ANNEXURE-III Copy of Amended Notification dated 30.12.2022	26-30
5.	Proof of Service	31

Dated :- 05.02. 2023
 New Delhi

Filed by:-



KUMAR RAJESH SINGH
 Advocate for Ministry of MoEF & CC
 (Respondent no.1)
 53, Lawyer's Chamber
 Supreme Court of India
 New Delhi -110001
 Tel :- 9811013515
 Enr. No. D-631/1991
 Email: adv.kumarrajeshsingh@gmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL
AT NEW DELHI
ORIGINAL APPLICATION No. 327 of 2022

IN THE MATTER OF:

AMARAVATI FLY ASH BRICKS
MANUFACTURERS ASSOCIATION

... APPLICANT(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

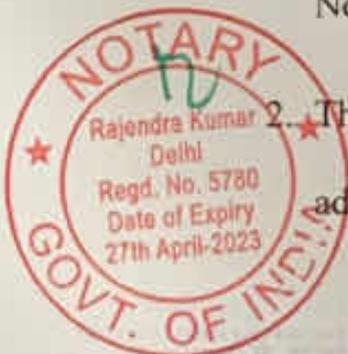
ADDITIONAL AFFIDAVIT ON BEHALF OF THE MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE,
RESPONDENT NO. 1.

I, N. Subrahmanyam aged about 36 years, S/o Shri Narsimha Rao N, working as Scientist 'D' at Ministry of Environment, Forest and Climate Change having office at Aliganj, Jor Bagh, New Delhi- 110003 do hereby solemnly affirm and state as under:

1. That I, in the capacity of Scientist 'D' at Ministry of Environment, Forest and Climate Change, am fully conversant with the facts of the case and competent to swear this affidavit on behalf of Respondent No 1.

2. That the contents of the application under reply, unless specifically admitted, are denied to the extent that they are inconsistent with the

N. Subrahmanyam
(N. SUBRAHMANYAM)
Scientist 'D' / Scientist 'D'
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



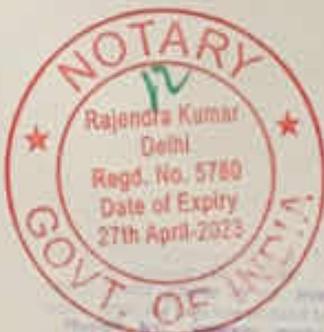
submissions made hereinafter. The annexure accompanying this affidavit is true copy of its original.

3. That, without prejudice to the above and as an alternative submission, the deponent craves liberty to raise further required contentions during the course of the proceedings.
4. That vide order dated 15.12.2022, Hon'ble Tribunal directed Respondent no. 1-MoEF&CC file an additional affidavit with respect to Para 10 (g): The period of storage of fly Ash in Ash Dykes/ponds in the past and reasons for prolonging future storage of fly Ash in Ash Dykes/ponds for period extending upto ten years and Para 10 (h): Recommendations, if any, of any Committee appointed or study made for finding out methods of early utilization/disposal of fly Ash and assessing comparative cost of adverse impact of prolonged storage and advantages of early disposal for making informed policy decisions in this regard. A copy order dated 15.12.2022 is annexed at **Annexure- I**.
5. That in compliance to Para 10 (g) of the aforesaid order, it is submitted that-

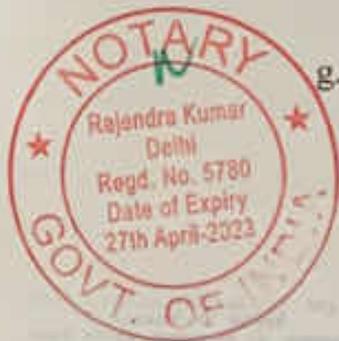
- a. The ash stored in all ash ponds or dykes other than operational ash pond or dyke designated for temporary storage of ash shall constitute legacy ash.

N. Subrahmanyam

(N. SUBRAHMANYAM)
 (N. SUBRAHMANYAM)
 Director, Ministry of Environment, Forest and Climate Change
 Govt. of India, New Delhi



- b. The legacy ash constitutes all such ash stored before 1st April, 2022.
- c. The notification provides for legacy ash stabilisation or reclamation with greenbelt or plantation or solar power plant or wind power plant as per the guidelines issued by the Central Pollution Control Board (CPCB) and concerned State pollution Control Board (SPCB) shall certify in this regard.
- d. The stabilisation and reclamation of ash pond or dyke shall be carried out by 31st March, 2025.
- e. The legacy ash remaining after stabilisation and reclamation of ash pond/dyke, shall be utilised over a period of 10 years starting from 1st April, 2022 with minimum annual utilisation targets, atleast 20% in the 1st year, atleast 30% in the 2nd year and atleast 50% from 3rd year onward till 20th year.
- f. The utilisation of remaining legacy ash to be completed in 10 years. During first three years, both stabilisation and reclamation of the legacy ash as well as utilisation of legacy ash are to be done simultaneously with minimum annual targets as mandate under the notification.
- g. The ten years period for complete utilisation of legacy Ash has been prescribed based on inputs received from stakeholders. It is submitted that the TPPs which are pithead



3

(N. Subrahmanyam)
 (N. SUBRAHMANYAM)
 Minister, Ministry of Environment, Forest and Climate Change
 Govt. of India, New Delhi

4

power plants have lesser avenues for eco-friendly purposes for utilisation of both legacy as well as currently generated ash.

6. That in compliance to Para 10 (h) of the aforesaid order, it is submitted that-

- a. MoEFCC has published Ash Utilisation Notification vide G.S.R 285(E) dated 31st December, 2021 for ensuring 100% utilization of ash generated from coal and lignite based thermal power plants.
- b. The draft notification has been published on 22.04.2021 after carrying out consultative process with relevant stakeholders, viz. thermal power plants, coal mines, cement and steel plants, brick manufacturing industry, etc.
- c. After publication of the draft notification, several consultations were held including inter-ministerial consultations. All the available inputs have been considered for finalisation of the draft notification.
- d. Further, Para A(6) of Ash utilisation notification has provided technical specifications of operational as well as established and reclaimed ash ponds or dykes shall be as per the guidelines of the Central Pollution Control Board (CPCB) made in consultation with Central Electricity Authority (CEA)



4

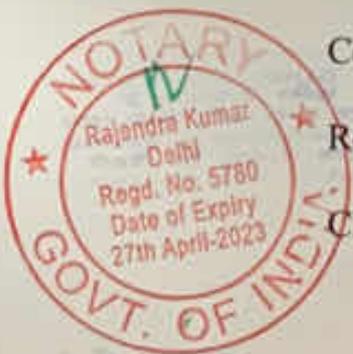
N Subrahmanyam
(N. SUBRAHMANYAM)
Scientist 'D'
Min. of Environment, Forest and Climate Change
Govt. of India, New Delhi

and these guidelines shall also lay down a procedure for annual certification of the operational as well as stabilised and reclaimed ash pond or dyke on its safety, environmental pollution, available volume, mode of disposal, water consumption and conservation in disposal, ash water recycling and green belt, etc. A copy of Ash Utilisation Notification dated 31.12.2021 and Amendment Notification vide S.O. 6169 (E) dated 30th December, 2022 are attached at **Annexure-II & III**, respectively.

7. That it is submitted that as per Para (E) Sub-Para (2) (i) of Ash Utilisation Notification dated 31.12.2021, it is mentioned that "Thermal power plants shall upload monthly information regarding ash generation and utilisation by 5th of the next month on the web portal. Annual implementation report (for the period 1st April to 31st March) providing information about the compliance of provisions in this notification shall be submitted by the 30th day of April, every year to the Central Pollution Control Board, concerned State Pollution Control Board or Pollution Control Committee (PCC), Central Electricity Authority (CEA), and concerned Integrated Regional Office of Ministry of Environment, Forest and Climate Change by the coal or lignite based thermal power plants. Central

N. Subrahmanyam

(एन. सुब्रह्मण्यम)
(N. SUBRAHMANYAM)
वैज्ञानिक 'डी'/Scientist 'D'
पर्यावरण, वन एवं प्रजनन परिवर्तन विभाग
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



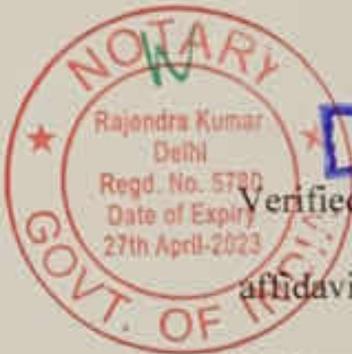
Pollution Control Board and Central Electricity Authority shall compile the annual reports submitted by all the thermal power plants and submit to Ministry of Environment, Forest and Climate Change by 31st May."

8. It is respectfully submitted that in view of the above mentioned facts and circumstances, the Hon'ble Court may pass such order as may deem fit and proper in the facts and circumstances of the case.

N. Subrahmanyam

DEPONENT

(एन. सुब्रह्मण्यम)
(N. SUBRAHMANYAM)
वैज्ञानिक "बी"/Scientist "B"
पर्यावरण, वन एवं जलवायु परिवर्तन विभाग
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



VERIFICATION:

03 FEB 2023

Verified at **DELHI** on this the 03 day of FEB 2023 that the contents of this reply affidavit based on official record(s) maintained and information available in the office are correct to my knowledge and belief. No part of it is false and nothing has been concealed there from.

N. Subrahmanyam

DEPONENT

(एन. सुब्रह्मण्यम)
(N. SUBRAHMANYAM)
वैज्ञानिक "बी"/Scientist "B"
पर्यावरण, वन एवं जलवायु परिवर्तन विभाग
Min. of Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

RAJENDRA KUMAR, NOTARY, Reg. No. 5780
F No.-9(486)

EMPOWERED TO ADMINISTER THE OATHS
SECTION 139 OF CPC 1908
SECTION 287 OF CRPC 1973
DELHI HIGH COURT All India 1987
PART-6, Ch. 1
EVIDENCE BY J.
SUPREME COURT Rules, 2013
ORDER 17-7

03 FEB 2023

IDENTIFIED

Rajendra Kumar
BEFORE ME
RAJENDRA KUMAR
NOTARY, DELHI-R-5780
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./81, No. 857
Mobile No.: 9899446209 03 FEB 2023

Item No. 2

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.**

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 327/2022
(I.A. No. 110/2022, I.A. No. 174/2022 & I.A. No. 256/2022)

Amaravati Fly Ash Bricks
Manufacturers Association

...Applicant

Versus

Union of India & Ors.

...Respondents

Date of hearing: 15.12.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: Mr. Gaurav Kumar Bansal, Advocate.
Ms. Nandita Dhar, Advocate (in I.A. No. 174/2022 and
I.A. No. 256/2022).

Respondents: Mr. K.M. Nataraj, ASG with Mr. Joshi Watsal, Advocate for
respondents no. 3, 4 and 6-MMSME, MoP and MoC
(through VC).
Mr. GIGI.C.George, Advocate for MMSME, MoP and MoC
with Mr. Satish, Director, Ministry of Power.
Mr. Kumar Rajesh Singh and Ms. Punam Singh,
Advocates for respondent no. 1-MoEF&CC
Mr. Mahfooz A. Nazki and Ms. Rajeswari, Advocates for
respondent no. 5-Dr. NTR Thermal Power Station.
None for respondent no. 2-Niti Ayog.

**APPLICATION IS UNDER SECTION 18(1) READ WITH SECTION 14 OF
NATIONAL GREEN TRIBUNAL ACT, 2010**

ORDER

1. The Amaravati Fly Ash Bricks Manufacturers Association has filed the present application under Section 18(1) read with Section 14 of the National Green Tribunal Act, 2010 for quashing of office order dated 22.02.2022 issued by respondent no. 4-Ministry of Power (MoP) and office order dated

16.03.2022 issued by respondent no. 5- Dr. NTR Thermal Power Station on the ground of being violative of order dated 18.01.2022 passed in O.A. No. 164/2018 (earlier O.A. No. 276/2013) titled as **Ashwani Kumar Dubey Vs. Union of India and Others** and for directing respondent no. 4 to issue office orders prohibiting dumping of ash into ash pond and to put fly ash depots at urban growth centers to cater to fly Ash needs of brick manufacturing industries.

2. Initially the application was filed against respondents no. 1 to 5 and vide order dated 14.11.2022, Ministry of Coal (MoC) was impleaded as respondent no. 6.

3. Notice of the application was served on the respondents. Replies were filed by respondent no. 4-MoP vide emails dated 04.08.2022 and 22.08.2022, by respondent no. 5-Dr. Narla TATA Rao Thermal Power Station vide email dated 22.08.2022 and by respondent no. 1-MoEF&CC vide emails dated 14.11.2022 and 09.12.2022.

4. Affidavit has been filed by MoP in the course of proceedings today, which is taken on record.

5. In the affidavit filed on behalf of respondent no. 4-MoP, it has been mentioned that the joint meeting of senior IAS Officers of respondent no. 1 and respondent no. 4-MoP was held on 14.11.2022 and they arrived at the following conclusions:-

- i. *The Notification dated 31.12.2021 provides freedom to thermal power plants to exercise options in order to ensure 100% utilization of ash.*
- ii. **The MoP's Advisory dated 22.2.2022 is in consonance with the Ash Utilization Notification dated 31.12.2021 issued by MoEFCC.**

- iii. *The Advisory dated 22.02.2022 mentioned one of the approaches for 100% utilization of ash by thermal power plants.*
- iv. *The MoP advisory dated 22.02.2022 falls within the clause on 'mutually agreed terms' specified in para B(1) of Ash Utilization Notification, 2021."*

6. In the affidavit, it has been mentioned that auction/competitive bidding of fly ash not been introduced for the first time and competitive bidding/auction of fly ash has been in practice for a very long time. The present Advisory dated 22.02.2022 has been introduced to make the process of fly ash disposal/utilization by Thermal Power Plants (TPPs) more systematic and to remove the malpractices. In the affidavit, it has also been prayed that "this Tribunal may examine the present matter only with regard to the environmental protection and the advisory of the MoP dated 22.02.2022 which deals with economic policy of the department and the same may not be interfered by it.

7. Due to complexities of environmental litigations requiring assessment to scientific data, this Tribunal was set up by enactment of the National Green Tribunal Act, 2010 by the Parliament, in view of directions of Hon'ble Supreme Court and recommendations of the Law Commission, to adjudicate upon civil cases involving question relating to environment arising out of enactments specified in Schedule I and to grant relief and compensation to the victims of pollution/environmental damage and direct restitution of property and environment damaged. This Tribunal has also been conferred appellate jurisdiction in respect of any direction issued under Section 5 of the Environmental (Protection) Act, 1986 besides order or decision made by the appellate authority or the State Government or other authorities, directions issued by the Pollution Control Board (PCB)/the Central Pollution Control Board (CPCB)/MoEF&CC and order granting or refusing to grant

environmental clearance on or after commencement of the National Green Tribunal Act, 2010. Section 20 of the National Green Tribunal Act, 2010 mandates this Tribunal to apply the principles of sustainable development, the precautionary principle and the polluter pays principle while passing any order or decision or award.

8. The environment and economics are two sides of a coin. The economic policy ignoring environment may lead to disasters. Therefore, in our view, Sustainable Development can only be achieved by integrating Economics with Environment. While adjudicating upon civil disputes/appeals within its jurisdiction, this Tribunal is required to assess the impact of economic policies/activities/programs on environment for ensuring sustainable development. Generally speaking, there can be no objection to any method including sale of utilization and disposal of fly Ash so long as the same facilitates timely utilization and disposal of entire fly Ash generated and does not cause any hindrance/obstruction to utilization and disposal of the same. It may be added here that any such method cannot be arbitrary, discriminatory or unreasonable so as to offend the mandates of constitution of India embodied in Part III and Part IV thereof. Even though this Tribunal is not primarily concerned with enforcement of fundamental rights yet. This Tribunal is also under obligation to protect and enforce fundamental rights which are integral to/give rise to environmental rights and this Tribunal can also go into the questions of constitutional legality/validity of economic policy adversely impacting environment.

9. This Tribunal has, vide order dated 18.01.2022 passed in O.A. No. 164/2018 (Earlier O.A. No. 276/2013) titled as **Ashwani Kumar Dubey Vs. Union of India and Others**, already held that fly ash has adverse impacts

on the environment and causes air, soil and water pollution and accordingly this Tribunal issued directions for taking of remedial measures for utilization/disposal of fly ash. The dispute raised before this Tribunal in the present case raises questions relating to environment arising out of the implementation of the enactments specified in Schedule I of the National Green Tribunal Act, 2010 and in view of the averments made in the application and replies submitted the following questions arise in the present case:-

- i. Whether notification dated 31.12.2021 issued by MoEF&CC, respondent no. 5 contemplating utilization/disposal of legacy fly ash during period extending to ten years permitting storage thereof in fly ash dykes/ponds for the above said period is detrimental to environment and violative of the fundamental right to clean and healthy environment forming part of the right to life and liberty under Article 21 of the Constitution of India and the mandates of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986.
- ii. Whether the TPPs are liable to pay environmental compensation for air and water pollution caused by legacy fly ash stored by them in the ash dykes/ponds without taking appropriate remedial measures for utilization/disposal thereof.
- iii. Whether advisory dated 22.02.2022 issued by MoP and order dated 16.03.2022 issued by respondent no. 5 are not in consonance with notification dated 31.12.2021 issued by MoEF&CC and are violative of order dated 18.01.2022 passed by this Tribunal in O.A. No. 164/2018 (earlier O.A. No. 276/2013)

titled as *Ashwani Kumar Dubey Vs. Union of India and Others*.

10. In view of the questions involved in the present case, respondent no. 1-MoEF&CC and respondent no. 4-MoP are directed to file additional affidavits with respect to following aspects covering all the TPPs run by coal/lignite by Governments (Central/State), Public Sector Undertakings (PSUs), Private:

- a. Numbers of TPPs as on 31.12.2022.
- b. The installed capacity (MW) as on 31.12.2022.
- c. Coal consumed (in million tons) during the period from 01.01.2022 to 31.12.2022.
- d. Fly Ash generated (in million tons) during the period from 01.01.2022 to 31.12.2022.
- e. Quantum of fly Ash (in million tons) utilized/disposed of during the period from 01.01.2022 to 31.12.2022 with mode of utilization/disposal.
- f. Quantum of legacy fly Ash (in million tons) stored in Ash dykes/ponds upto 31.12.2022.
- g. The period of storage of fly Ash in Ash Dykes/ponds in the past and reasons for prolonging future storage of fly Ash in Ash Dykes/ponds for period extending upto ten years.
- h. Recommendations, if any, of any Committee appointed or study made for finding out methods of early utilization/disposal of fly Ash and assessing comparative cost of adverse impact of prolonged storage and advantages of early disposal for making informed policy decisions in this regard.

- i. Quantum of legacy fly Ash (in million tons) utilized/disposed out of legacy fly Ash stored in Ash dykes/ponds of during the period from 01.01.2022 to 31.12.2022 with mode of utilization/disposal.
 - j. Quantum of (a) fly Ash generated and (b) legacy fly ash (in million tons) disposed of by way of (i) bidding (tender/contracts mutually agreed upon between the TPP and the users), (ii) giving free of cost to the consumer with stipulation for bearing of cost of transportation by such consumer and (iii) given free of cost to the consumer with stipulation for bearing of cost of transportation by the TPP during the period from 01.01.2022 to 31.12.2022.
 - k. The extent of land (in ha) occupied by the fly Ash dykes/ponds in all the TPPs in the country, the area of land (in ha) to be released (year wise) by utilization/disposal of legacy fly Ash and financial benefits to accrue from use/utilization for other purposes.
11. Additional affidavits, as directed above, be filed by respondents no. 1 and 4 **within six weeks** by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.
12. Copy of Circular No. 15/2/2022-EC&ET-1 dated 06.12.2022 issued by MoP, GoI has been filed today whereby in pursuance of the direction of this Tribunal, all coal/lignite based TPPs have been informed to keep the implementation of MoPs Advisory dated 22.02.2022 in abeyance till the matter before this Tribunal attains finality.
13. I.A. No. 174/2022 has been filed by VTPS Fly Ash Brick Association, Vizag Area Fly Ash Building Material Manufacturers Association and Rayalaseema Fly Ash Brick Industries Association for impleading them (as

co-applicants) in the main application and I.A. No. 256/2022 has been filed by Mr. Kumar Keshav vide email dated 17.10.2022 for impleading him as co-applicant and impleading Central Pollution Control Board (CPCB), Bihar State Pollution Control Board, NTPC-Corporate Office, NTPC-Barh STPP, NTPC Kahalgaon Power Station, NTPC Kanti Thermal Power Plant, NTPC Nabinagar and NTPC Barauni, NTPC Eastern Region as respondents.

14. Replies to I.A. No. 174/2022 and I.A. No. 256/2022 be filed by the original applicant and the respondents, if so desired, **within one month** by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.

15. Vide order dated 25.08.2022 passed on Interim Application no. 110/2022, this Tribunal stayed operation of above said orders dated 22.03.2022 and 16.03.2022 which order shall continue to operate till further orders to the contrary as already directed.

16. List for further consideration on 07.02.2023.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

December 15, 2022
AVT

Toneeroy

	सीमेंट शीट या पाइप या बोर्ड या पैनल):			
	ii. सीमेंट विनिर्माण:			
	iii. रेडी मिक्स कंक्रीट:			
	iv. राख और जीओ-पॉलिमर आधारित निर्माण सामग्री:			
	v. सिंटेड या कोल्ड बॉन्डेड राख एसीमेट का निर्माण:			
	vi. सड़कों, सड़क और फ्लाई ओवर के पुश्तों का निर्माण:			
	vii. बांधों का निर्माण:			
	viii. निम्न भू-क्षेत्र का भराव:			
	ix. खनिज क्षेत्रों का भराव:			
	x. अधिभार वाले इम्पों में उपयोग:			
	xi. कृषि:			
	xii. तटीय जिलों में तटरेखा सुरक्षा संरचनाओं का निर्माण:			
	xiii. अन्य देशों को राख का निर्यात			
	xiv. अन्य (कृपया विनिर्दिष्ट करें):			
20.	सार :			
	व्यौरा	सूचित मात्रा (एमटीपी)	उपयोग की गई मात्रा (एमटीपी) और (%)	शेष मात्रा (एमटीपी)
	रिपोर्टिंग की अवधि के दौरान राख			
	पुरानी राख			
	कुल			
21.	कोई अन्य सूचना : वार्षिक अनुपालन रिपोर्ट, और विद्युत संयंत्रों और राख कुण्डों की शेष फाइनों की सॉफ्ट कॉपी ई-मेल:- moefcc- coalash@gov.in पर भेजी जाए।			
22.	प्राधिकृत हस्ताक्षरकर्ता के हस्ताक्षर			

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 31st December, 2021

S.O. 5481(E).—Whereas by notification of the Government of India in the erstwhile Ministry of Environment and Forests *vide* S.O.763 (E), dated the 14th September, 1999, as amended from time to time, the Central Government, issued directions for restricting the excavation of top soil for manufacturing of bricks and promoting the utilisation of fly ash in the manufacturing of building materials and in construction activity within a specified radius of three hundred kilometres from the coal or lignite based thermal power plants,

And whereas, to implement the aforesaid notification more effectively based on the polluter pays principle (PPP) thereby ensuring 100 per cent utilisation of fly ash by the coal or lignite based thermal power plants and for the sustainability of the fly ash management system, the Central Government reviewed the existing notification; and whereas environmental compensation needs to be introduced based on the polluter pays principle;

And whereas, there is a need to conserve top soil by promoting manufacture and mandating use of ash based products and building materials in the construction sector;

And whereas, there is a need to conserve top soil and natural resources by promoting utilisation of ash in road laying, road and flyover embankments, shoreline protection measures, low lying areas of approved projects, backfilling of mines, as an alternative for filling of earthen materials;

And whereas, it is necessary to protect the environment and prevent the dumping and disposal of fly ash discharged from coal or lignite based thermal power plants on land;

And whereas, in the said notification the phrase 'ash', has been used which includes both fly ash as well as bottom ash generated from the Coal or Lignite based thermal power plants;

And whereas, the Central Government intends to bring out a comprehensive framework for ash utilisation including system of environmental compensation based on polluter pays principle;

And whereas, a draft notification on ash utilisation by coal or lignite thermal power plants in supersession of the notification of the Government of India, Ministry of Environment and Forests published in the Gazette of India, Extra Ordinary part II, section 3, sub-section (i) *vide* S.O.763 (E), dated the 14th September, 1999, by notification in exercise of the powers conferred under sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule (5) of the Environment (Protection) Rules, 1986, was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i), *vide* G.S.R. 285(E), dated the 22nd April, 2021 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of sixty days from the date on which copies of the Gazette containing the said draft provisions were made available to the public;

And, whereas all the objections and suggestions received from all persons likely to be affected thereby in respect of the said draft notification have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule (5) of the Environment (Protection) Rules, 1986, and in supersession of the Notification S.O.763 (E), dated the 14th September, 1999 except as respect things done or omitted to be done before such supersession, the Central Government hereby issues the following notification on ash utilisation from coal or lignite thermal power plants which shall come into force on the date of the publication of this notification, namely:-

A. Responsibilities of thermal power plants to dispose fly ash and bottom ash.—

- (1) Every coal or lignite based thermal power plant (including captive or co-generating stations or both) shall be primarily responsible to ensure 100 per cent utilisation of ash (fly ash, and bottom ash) generated by it in an eco-friendly manner as given in sub-paragraph (2);
- (2) The ash generated from coal or lignite based thermal power plants shall be utilised only for the following eco-friendly purposes, namely:-
 - (i) Fly ash based products *viz.* bricks, blocks, tiles, fibre cement sheets, pipes, boards, panels;
 - (ii) Cement manufacturing, ready mix concrete;
 - (iii) Construction of road and fly over embankment, Ash and Geo-polymer based construction material;
 - (iv) Construction of dam;
 - (v) Filling up of low lying area;
 - (vi) Filling of mine voids;
 - (vii) Manufacturing of sintered or cold bonded ash aggregate;
 - (viii) Agriculture in a controlled manner based on soil testing;
 - (ix) Construction of shoreline protection structures in coastal districts;

- (x) Export of ash to other countries;
- (xi) Any other eco-friendly purpose as notified from time to time.
- (3) A committee shall be constituted under the chairmanship of Chairman, Central Pollution Control Board (CPCB) and having representatives from Ministry of Environment, Forest and Climate Change (MoEFCC), Ministry of Power, Ministry of Mines, Ministry of Coal, Ministry of Road Transport and Highways, Department of Agricultural Research and Education, Institute of Road Congress, National Council for Cement and Building Materials, to examine and review and recommend the eco-friendly ways of utilisation of ash and make inclusion or exclusion or modification in the list of such ways as mentioned in Sub-paragraph (2) based on technological developments and requests received from stakeholders. The committee may invite State Pollution Control Board or Pollution Control Committee, operators of thermal power plants and mines, cement plants and other stakeholders as and when required for this purpose. Based on the recommendations of the Committee, Ministry of Environment, Forest and Climate Change (MoEFCC) may publish such eco-friendly purpose.
- (4) Every coal or lignite based thermal power plant shall be responsible to utilise 100 per cent ash (fly ash and bottom ash) generated during that year, however, in no case shall utilisation fall below 80 per cent in any year, and the thermal power plant shall achieve average ash utilisation of 100 per cent in a three years cycle:

Provided that the three years cycle applicable for the first time is extendable by one year for the thermal power plants where ash utilisation is in the range of 60-80 per cent, and two years where ash utilisation is below 60 per cent and for the purpose of calculation of percentage of ash utilisation, the percentage quantity of utilisation in the year 2021-2022 shall be taken into account as per the table below:

Utilisation percentages of thermal power plants	First compliance Cycle to meet 100 per cent utilisation	Second compliance cycle onwards, to meet 100 per cent utilisation
>80 per cent	3 years	3 years
60-80 per cent	4 years	3 years
<60 per cent	5 years	3 years

Provided further that the minimum utilisation percentage of 80 per cent shall not be applicable to the first year and first two years of the first compliance cycle for the thermal power plants under the utilisation category of 60-80 per cent and <60 per cent, respectively.

Provided also that 20 per cent of ash generated in the final year of compliance cycle may be carried forward to the next cycle which shall be utilised in the next three years cycle along with the ash generated during that cycle.

- (5) The unutilised accumulated ash i.e. legacy ash, which is stored before the publication of this notification, shall be utilised progressively by the thermal power plants in such a manner that the utilization of legacy ash shall be completed fully within ten years from the date of publication of this notification and this will be over and above the utilisation targets prescribed for ash generation through current operations of that particular year:

Provided that the minimum quantity of legacy ash in percentages as mentioned below shall be utilised during the corresponding year and the minimum quantity of legacy ash is to be calculated based on the annual ash generation as per installed capacity of thermal power plant.

Year from date of publication	1 st	2 nd	3 rd -10 th
Utilisation of legacy ash (in percentage of Annual ash)	At least 20 per cent	At least 35 per cent	At least 50 per cent

Provided further that the legacy ash utilisation shall not be required where ash pond or dyke has stabilised and the reclamation has taken place with greenbelt or plantation and the concerned State Pollution Control Board shall certify in this regard. Stabilisation and reclamation of an ash pond or dyke including certification by the Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) shall be carried out within a year from the date of publication of this notification. The ash remaining in all other ash ponds or dykes shall be utilised in progressive manner as per the above mentioned timelines.

Note: The obligations under sub-paragraph (4) and (5) above for achieving the ash utilisation targets shall be applicable from 1st April, 2022.

- (6) Any new as well as operational thermal power plant may be permitted an emergency or temporary ash pond with an area of 0.1 hectare per Mega Watt (MW). Technical specifications of ash ponds or dykes shall be as per the guidelines of Central Pollution Control Board (CPCB) made in consultation with Central Electricity Authority (CEA) and these guidelines shall also lay down a procedure for annual certification of the ash pond or dyke on its safety, environmental pollution, available volume, mode of disposal, water consumption or conservation in disposal, ash water recycling and greenbelt, etc., and shall be put in place within three months from the date of publication of this notification.
- (7) Every coal or lignite based thermal power plant shall ensure that loading, unloading, transport, storage and disposal of ash is done in an environmentally sound manner and that all precautions to prevent air and water pollution are taken and status in this regard shall be reported to the concerned State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) in Annexure attached to this notification.
- (8) Every coal or lignite based thermal power plant shall install dedicated silos for storage of dry fly ash silos for at least sixteen hours of ash based on installed capacity and it shall be reported upon to the concerned State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) in the Annexure and shall be inspected by Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) from time to time.
- (9) Every coal or lignite based thermal power plant (including captive or co-generating stations or both) shall provide real time data on daily basis of availability of ash with Thermal Power Plant (TPP), by providing link to Central Pollution Control Board's web portal or mobile phone App for the benefit of actual user(s).
- (10) Statutory obligation of 100 per cent utilisation of ash shall be treated as a change in law, wherever applicable.

B. For the purpose of utilisation of ash, the subsequent sub-paras shall apply.—

- (1) All agencies (Government, Semi-government and Private) engaged in construction activities such as road laying, road and flyover embankments, shoreline protection structures in coastal districts and dams within 300 kms from the lignite or coal based thermal power plants shall mandatorily utilise ash in these activities.

Provided that it is delivered at the project site free of cost and transportation cost is borne by such coal or lignite based thermal power plants.

Provided further that thermal power plant may charge for ash cost and transportation as per mutually agreed terms, in case thermal power plant is able to dispose the ash through other means and those agencies makes a request for it and the provisions of ash free of cost and free transportation shall be applicable, if thermal power plant serves a notice on the construction agency for the same.

- (2) The utilisation of ash in the said activities shall be carried out in accordance with specifications and guidelines laid down by the Bureau of Indian Standards, Indian Road Congress, Central Building Research Institute, Roorkee, Central Road Research Institute, Delhi, Central Public Works Department, State Public Works Departments and other Central and State Government Agencies.

- (3) It shall be obligatory on all mines located within 300 kilometres radius of thermal power plant, to undertake backfilling of ash in mine voids or mixing of ash with external Overburden dumps, under Extended Producer Responsibility (EPR). All mine owners or operators (Government, Public and Private Sector) within three hundred kilometres (by road) from coal or lignite based thermal power plants, shall undertake measures to mix at least 25 per cent of ash on weight to weight basis of the materials used for external dump of overburden, backfilling or stowing of mine (running or abandoned as the case may be) as per the guidelines of the Director General of Mines Safety (DGMS):

Provided that such thermal power stations shall facilitate the availability of required quantity of ash by delivering ash free of cost and bearing the cost of transportation or cost of transportation arrangement decided on mutually agreed terms and mixing of ash with overburden in mine voids and dumps shall be applicable for the overburden generated from the date of publication of this notification and the utilisation of ash in the said activities shall be carried out in accordance with guidelines laid down by the Central Pollution Control Board, Director General of Mines Safety and Indian Bureau of Mines.

Explanation.- For the purpose of this sub-paragraph, it is also clarified that the provisions of ash free of cost and free transportation shall be applicable, if thermal power plants serve a notice on the mine owner for the same and the mandate of using 25 per cent of ash for mixing with overburden dump and filling up of mine voids shall not be applicable unless a notice is served on the mine owner by thermal power plant.

- (4) (i) All mine owners shall get mine closure plans (progressive and final) to accommodate ash in the mine voids and the concerned authority shall approve mine plans for disposal of ash in mine voids and mixing of ash with overburden dumps. The Ministry of Environment, Forest and Climate Change (MoEFCC) has issued guidelines on 28th August, 2019 regarding exemption of requirement of Environmental Clearance of thermal power plants and coal mines along with the guidelines to be followed for such disposal.
- (ii) The Ministry in consultation with Central Pollution Control Board (CPCB), Director General of Mine Safety (DGMS) and Indian Bureau of Mines (IBM) may issue further guidelines time to time to facilitate ash disposal in mine voids and mixing with overburden dumps and it shall be the responsibility of mine owners to get the necessary amendments or modifications in the permissions issued by various regulatory authorities within one year from the date of identification of such mines.
- (5) (i) There shall be a committee headed by Chairperson, Central Pollution Control Board (CPCB) with representatives from Ministry of Environment, Forest and Climate Change, Ministry of Power, Ministry of Mines, Ministry of Coal, Director General of Mine Safety and Indian Bureau of Mines for identification of mines for backfilling of mine voids with ash or mixing of ash with overburden dump including examination of safety, feasibility (not economic feasibility) and aspects of environmental contamination and the committee shall get updated quarterly reports prepared regarding identified mines (both underground and opencast) for the stakeholder Ministries or Departments and the committee shall start identifying the suitable mines immediately after the publication of this notification.
- (ii) Thermal power plants or mines shall not wait for disposal of ash till the identification is done by the above mentioned committee, to meet the utilisation targets mandated as above.
- (6) Filling of low lying areas with ash shall be carried out with prior permission of the State Pollution Control Board or Pollution Control Committee for approved projects, and in accordance with guidelines laid down by Central Pollution Control Board (CPCB) and the State Pollution Control Board or Pollution Control Committee (PCC) shall publish approved sites, location, area and permitted quantity annually on its website.
- (7) Central Pollution Control Board after engaging relevant stakeholders, shall put in place the guidelines within one year for all types of activities envisaged under this notification including putting in place time bound online application process for the grant permission by State Pollution Control Boards (SPCBs) or Pollution Control Committees (PCCs).

- (8) All building construction projects (Central, State and Local authorities, Govt. undertakings, other Govt. agencies and all private agencies) located within a radius of three hundred kilometres from a coal or lignite based thermal power plant shall use ash bricks, tiles, sintered ash aggregate or other ash based products, provided these are made available at prices not higher than the price of alternative products.
- (9) Manufacturing of ash based products and use of ash in such products shall be in accordance with specifications and guidelines laid down by the Bureau of Indian Standards, Indian Road Congress, and Central Pollution Control Board.

C. Environmental compensation for non-compliance.—

- (1) In the first two years of a three years cycle, if the coal or lignite based thermal power plant (including captive or co-generating stations or both) has not achieved at least 80 per cent ash (fly ash and bottom ash) utilisation, then such non-compliant thermal power plants shall be imposed with an environmental compensation of Rs. 1000 per ton on unutilised ash during the end of financial year based on the annual reports submitted and if it is unable to utilise 100 per cent of ash in the third year of the three years cycle, it shall be liable to pay an environmental compensation of Rs. 1000 per ton on the unutilised quantity on which environmental compensation has not been imposed earlier.

Provided that the environmental compensation shall be estimated and imposed at the end of last year of the first compliance cycle as per the various utilisation categories as mentioned in sub-paragraph (4) of Para A.

- (2) Environmental compensation collected by the authorities shall be deposited in the designated account of Central Pollution Control Board.
- (3) In case of legacy ash, if the coal or lignite based thermal power plant (including captive or co-generating stations or both) has not achieved utilisation equivalent to at least 20 per cent (for the first year), 35 per cent (for the second year), 50 per cent (for third to tenth year) of ash generated based on installed capacity, an environmental compensation of Rs. 1000 per ton of unutilised legacy ash during that financial year shall be imposed and if the utilization of legacy ash is not completed at the end of 10 years, an environmental compensation of Rs. 1000 per ton shall be imposed on the remaining unutilised quantity which has not been imposed earlier.
- (4) It shall be the responsibility of the transporters or vehicle owner to deliver ash to authorised purchaser or user agency and if it is not complied, then an environmental compensation of Rs. 1500 per ton on such quantity as mis-delivered to unauthorised users or non-delivered to authorised users will be imposed besides prosecution of such non-compliant transporters by State Pollution Control Board (SPCB) or Pollution Control Committee (PCC).
- (5) It is the responsibility of the purchasers or user agencies to utilise ash in an eco-friendly manner as laid down at para B of this notification and if it is not complied, then an environmental compensation of Rs. 1500 per ton shall be imposed by State Pollution Control Board (SPCB) or Pollution Control Committee (PCC).
- (6) If the user agencies do not utilise ash to the extent obligated under para B or the extent to which they have been intimated through Notice(s) served under sub-paragraph (1) of para D, whichever is lower, they shall be liable to pay Rs. 1500 per ton of ash for the quantity they fall short off:

Provided that the environmental compensation on building constructions shall be levied at Rs. 75/- per square feet of built up area of construction.

- (7) (i) The environmental compensation collected by Central Pollution Control Board from the thermal power plants and other defaulters shall be used towards the safe disposal of the unutilised ash and the fund may also be utilised for advancing research on use of ash including ash based products.

(ii) The liability of ash utilisation shall be with thermal power plants even after imposition of environmental compensation on unutilised quantities and in case thermal power plant achieves the ash utilisation of any

particular cycle after imposition of environmental compensation in subsequent cycles, the said amount shall be returned to thermal power plant after deducting 10 per cent of the environmental compensation collected on the unutilised quantity during the next cycle and deduction of 20 per cent, 30 per cent, and so on, of the environmental compensation collected is to be made in case of utilisation of ash in subsequent cycles.

D. Procedure for supply of ash or ash based products.—

- (1) The owner of thermal power plants or manufacturers of ash bricks or tiles or sintered ash aggregate shall serve written notice to persons or agencies who are liable to utilise ash or ash based products, offering for sale, or transport or both.
- (2) Persons or user agencies who have been served notices by owner of thermal power plants or manufacturers of ash bricks or tiles or sintered ash aggregate, if they have already tied up with other agencies for the purpose of utilisation of ash or ash products, shall inform the thermal power plant accordingly, if they cannot use any ash or ash products or use reduced quantity.

E. Enforcement, Monitoring, Audit and Reporting.—

- (1) The Central Pollution Control Board (CPCB) and the concerned State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) shall be the enforcing and monitoring authority for ensuring compliance of the provisions and shall monitor the utilisation of ash on quarterly basis. Central Pollution Control Board shall develop a portal for the purpose within six months of date of publication of the notification. The concerned District Magistrate shall have concurrent jurisdiction for enforcement and monitoring of the provisions of this notification.
- (2) (i) Thermal power plants shall upload monthly information regarding ash generation and utilisation by 5th of the next month on the web portal. Annual implementation report (for the period 1st April to 31st March) providing information about the compliance of provisions in this notification shall be submitted by the 30th day of April, every year to the Central Pollution Control Board, concerned State Pollution Control Board or Pollution Control Committee (PCC), Central Electricity Authority (CEA), and concerned Integrated Regional Office of Ministry of Environment, Forest and Climate Change by the coal or lignite based thermal power plants. Central Pollution Control Board and Central Electricity Authority shall compile the annual reports submitted by all the thermal power plants and submit to Ministry of Environment, Forest and Climate Change by 31st May.

(ii) All other user agencies shall submit consumption or utilisation or disposal of ash and use of ash based products as mandated in this notification in the compliance report of Environmental Clearance (EC) issued by Ministry of Environment, Forest and Climate Change or State Level Environment Impact Assessment Authority (SEIAA) or Consent to Operate (CTO) issued by State Pollution Control Board (SPCB) or Pollution Control Committee (PCC), whichever is applicable. The Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) shall publish annual report of ash utilisation of all other agencies except thermal power plants to review the effective implementation of the provisions of the notification.
- (3) For the purpose of monitoring the implementation of the provisions of this notification, a committee shall be constituted under the Chairperson, Central Pollution Control Board (CPCB), with members from Ministry of Power, Ministry of Coal, Ministry of Mines, Ministry of Environment, Forest and Climate Change, Ministry Road Transportation and Highways, Department of Heavy Industry as well as any concerned stakeholder(s), to be nominated by the Chairman of the committee. The committee may make recommendations for effective and efficient implementation of the provisions of the notification. The committee shall meet at least once in six months and review annual implementation reports and the committee shall also hold stakeholder consultations for monitoring of ash utilisation as mandated by this notification by inviting relevant stakeholder(s) at least once in six months. The committee shall submit the six monthly report to Ministry of Environment, Forest and Climate Change (MoEFCC).

- (4) For the purpose of resolving disputes between thermal power plants and users of ash or manufacturer of ash based products, the State Governments or Union territory administration constitute a Committee within three months from the date of publication of this notification under the Chairman, State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) with representatives from Department of Power, and one representative from the Department which deals with the subject of concerned agency with which dispute is made.
- (5) The compliance audit for ash disposal by the thermal power plants and the user agency shall be conducted by auditors, authorised by Central Pollution Control Board (CPCB) and audit report shall be submitted to Central Pollution Control Board (CPCB) and concerned State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) by 30th November every year. Central Pollution Control Board (CPCB) and concerned State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) shall initiate action against non-compliant thermal power plants within fifteen days of receipt of audit report.

[F. No. HSM-9/1/2019-HSM]

NARESH PAL GANGWAR, Jt. Secy.

Annexure

Ash Compliance Report (for the period 1st April-31st March) to be submitted on or before 31st May.

Sl. No.	Details	
1.	Name of Power Plant	
2.	Name of the company	
3.	District	
4.	State	
5.	Postal address for communication:	
6.	E-mail:	
7.	Power Plant installed capacity (MW):	
8.	Plant Load Factor (PLF):	
9.	No. of units generated (MWh):	
10.	Total area under power plant (ha): (including area under ash ponds)	
11.	Quantity of coal consumption during reporting period (Metric Tons per Annum):	
12.	Average ash content in percentage (per cent):	
13.	Quantity of current ash generation during reporting period (Metric Tons per Annum): Fly ash (Metric Tons per Annum): Bottom ash (Metric Tons per Annum):	
14.	Capacity of dry fly ash storage silo(s) (Metric Tons):	
15.	Details of utilisation of current ash generated during reporting period (a) Total quantity of current ash utilised (MTPA) during reporting period: (b) Quantity of fly ash utilised (MTPA): (i) Fly ash based products (bricks or blocks or tiles or fibre cement sheets or pipes or boards or panels) (ii) Cement manufacturing:	

	<ul style="list-style-type: none"> (iii) Ready mix concrete: (iv) Ash and Geo-polymer based construction material: (v) Manufacturing of sintered or cold bonded ash aggregate: (vi) Construction of roads, road and fly over embankment: (vii) Construction of dams: (viii) Filling up of low lying area: (ix) Filling of mine voids: (x) Use in overburden dumps: (xi) Agriculture: (xii) Construction of shoreline protection structures in coastal districts; (xiii) Export of ash to other countries: (xiv) Others (please specify): <p>(c) Quantity of bottom ash utilised (MTPA):</p> <ul style="list-style-type: none"> (i) Fly ash based products (bricks or blocks or tiles or fibre cement sheets or pipes or boards or panels): (ii) Cement manufacturing: (iii) Ready mix concrete: (iv) Ash and Geo-polymer based construction material: (v) Manufacturing of sintered or cold bonded ash aggregate: (vi) Construction of roads, road and flyover embankment: (vii) Construction of dams: (viii) Filling up of low lying area: (ix) Filling of mine voids: (x) Use in overburden dumps: (xi) Agriculture: (xii) Construction of shoreline protection structures in coastal districts: (xiii) Export of ash to other countries: (xiv) Others (please specify): <p>Total quantity of current ash unutilised (MTPA) during reporting period:</p>	
16.	Percentage utilisation of current ash generated during reporting period (per cent):	
17.	<p>Details of disposal of ash in ash ponds</p> <p>(a) Total quantity of ash disposed in ash pond(s) (Metric Tons) as on 31st March (excluding reporting period):</p> <p>(b) Quantity of ash disposed in ash pond(s) during reporting period (Metric Tons):</p> <p>(c) Total quantity of water consumption for slurry discharge into ash ponds during reporting period (m³):</p> <p>(d) Total number of ash ponds:</p> <ul style="list-style-type: none"> (i) Active: (ii) Exhausted (yet to be reclaimed): (iii) Reclaimed: <p>(e) total area under ash ponds (ha):</p>	
18.	<p>Individual ash pond details</p> <p><i>Ash pond-1,2, etc (please provide below mentioned details separately, if number of ash ponds is more than one)</i></p> <p>(a) Status: Under construction or Active or Exhausted or</p>	

	<p>Reclaimed</p> <p>(b) Date of start of ash disposal in ash pond (DD/MM/YYYY or MMYYYY):</p> <p>(c) Date of stoppage of ash disposal in ash pond after completing its capacity (DD/MM/YYYY or MM/YYYY): (Not applicable for active ash ponds)</p> <p>(c) area (hectares):</p> <p>(d) dyke height (m):</p> <p>(d) volume (m³):</p> <p>(e) quantity of ash disposed as on 31st March (Metric Tons):</p> <p>(f) available volume in percentage (per cent) and quantity of ash can be further disposed (Metric Tons):</p> <p>(g) expected life of ash pond (number of years and months):</p> <p>(c) co-ordinates (Lat and Long): (please specify minimum 4 co-ordinates)</p> <p>(f) type of lining carried in ash pond: HDPE lining or LDPE lining or clay lining or No lining</p> <p>g) mode of disposal: Dry disposal or wet slurry (in case of wet slurry please specify whether HCSD or MCSD or LCSD)</p> <p>(h) Ratio of ash: water in slurry mix (1:___):</p> <p>(i) Ash water recycling system (AWRS) installed and functioning: Yes or No</p> <p>(j) Quantity of wastewater from ash pond discharged into land or water body (m³):</p> <p>(k) Last date when the dyke stability study was conducted and name of the organisation who conducted the study:</p> <p>(l) Last date when the audit was conducted and name of the organisation who conducted the audit:</p>									
19.	<p>Quantity of legacy ash utilised (MTPA):</p> <ol style="list-style-type: none"> i. Fly ash based products (bricks or blocks or tiles or fibre cement sheets or pipes or boards or panels): ii. Cement manufacturing: iii. Ready mix concrete: iv. Ash and Geo-polymer based construction material: v. Manufacturing of sintered or cold bonded ash aggregate: vi. Construction of roads, road and flyover embankment: vii. Construction of dams: viii. Filling up of low lying area: ix. Filling of mine voids: x. Use in overburden dumps: xi. Agriculture: xii. Construction of shoreline protection structures in coastal districts, xiii. Export of ash to other countries: xiv. Others (please specify): 									
20.	<p>Summary:</p> <table border="1" data-bbox="279 1926 1423 2013"> <thead> <tr> <th data-bbox="279 1926 571 2013">Details</th> <th data-bbox="571 1926 858 2013">Quantity generated (MTP)</th> <th data-bbox="858 1926 1141 2013">Quantity utilised (MTP) and (per cent)</th> <th data-bbox="1141 1926 1423 2013">Balance quantity (MTP)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Details	Quantity generated (MTP)	Quantity utilised (MTP) and (per cent)	Balance quantity (MTP)					
Details	Quantity generated (MTP)	Quantity utilised (MTP) and (per cent)	Balance quantity (MTP)							

	Current ash during reporting period			
	Legacy ash			
	Total			
21.	Any other information Soft copy of the annual compliance report, and shape files of power plant and ash ponds may be e-mailed to:- moefcc-coalash@gov.in			
22.	Signature of Authorized Signatory			

True copy 

25

26



भारत का राजपत्र

The Gazette of India

सी.जी.-डी.एल.-अ.-30122022-241524
CG-DL-E-30122022-241524

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 5926]
No. 5926]

नई दिल्ली, शुक्रवार, दिसम्बर 30, 2022/पौष 9, 1944
NEW DELHI, FRIDAY, DECEMBER 30, 2022/PAUSHA 9, 1944

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 30 दिसम्बर, 2022

का.आ. 6169(अ).—पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय में भारत सरकार ने पर्यावरण (संरक्षण) नियम, 1986 के नियम (5) के उप-नियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उप-धारा (1) और उप-धारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत के राजपत्र, असाधारण, भाग II, खंड 3 उप खंड (ii) का.आ. 5481(अ), तारीख 31 दिसंबर, 2021 द्वारा एक अधिसूचना जारी की थी (जिन्हें इसमें इसके पश्चात् इसे राख के उपयोग से संबंधित अधिसूचना कहा गया है);

और, राख के उपयोग से संबंधित अधिसूचना के उपबंधों के कार्यान्वयन के संबंध में विद्युत मंत्रालय, ताप विद्युत संयंत्रों और विभिन्न हितधारकों से अनुरोध प्राप्त हुए हैं;

और, राख के उपयोग से संबंधित अधिसूचना के कार्यान्वयन में सुचारु परिवर्तन जाने हेतु उक्त अधिसूचना के कतिपय उपबंधों में संशोधन लाना उचित है;

अतः अब, केन्द्रीय सरकार पर्यावरण (संरक्षण) नियम, 1986 के नियम (5) के उप-नियम (1), (2) और (4) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उप-धारा (1) और उप-धारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, जारी राख के उपयोग संबंधी अधिसूचना में निम्नलिखित संशोधन करती है, अर्थात्:-

जारी राख के उपयोग से संबंधित अधिसूचना में संशोधन -

1. पैरा क में, -

(i) उप पैरा क (4) में, तीसरे परंतुक के पश्चात निम्नलिखित परन्तुक अंतर्विष्ट किया जाएगा, अर्थात् :

"परन्तु, यह भी कि इस अधिसूचना के प्रकाशन की तारीख को अथवा उसके पश्चात् स्थापित नए ताप विद्युत संयंत्र सारणी में यथा विनिर्दिष्ट 60 प्रतिशत से कम ताप विद्युत संयंत्रों के लिए विनिर्दिष्ट अनुपालन चक्र के समान प्रथम अनुपालन चक्र का अनुसरण करेंगे।

टिप्पण : लागू अनुपालन चक्र के अनुसार उपयोग के लक्ष्य 1 अप्रैल, 2022 से प्रभावी होंगे।"

(ii) उप पैरा 5 में, -

(क) आरंभिक पैरा में, "इस अधिसूचना के प्रकाशन की तारीख" शब्दों के स्थान पर "1 अप्रैल, 2022" उक्त अक्षर और शब्द रखे जाएंगे;

(ख) दूसरे परंतुक में, -

(i) "हरित पट्टी या पौधरोपण" के पश्चात, "या उप पैरा (6) में यथा विनिर्दिष्ट केन्द्रीय प्रदूषण नियंत्रण बोर्ड (सीपीसीबी) द्वारा जारी मार्गदर्शी सिद्धांतों के अनुसार सौर ऊर्जा संभव या पवन ऊर्जा संयंत्र" शब्द कोष्ठकों और अक्षरों को अंतःस्थापित किए जाएंगे;

(ii) "केन्द्रीय प्रदूषण नियंत्रण बोर्ड (सीपीसीबी) या" शब्द कोष्ठक और अक्षर हटा दिया जाएगा।

(iii) "एक वर्ष" शब्दों के स्थान पर "तीन वर्ष" शब्दों को रखा जाएगा।

(iv) "इस अधिसूचना के प्रकाशन की तारीख" शब्दों के स्थान पर "1 अप्रैल, 2022" उक्त अक्षर और शब्द रखे जाएंगे;

(ग) दूसरे परंतुक के पश्चात निम्नलिखित उपलब्ध अंतःस्थापित किया जाएगा, अर्थात् :

"परंतु कि पैरा क (6) में यथाविनिर्दिष्ट राख के अस्थायी भंडारण हेतु अभिहित किए गए संचालित राख कुंड या डाइक के सिवाय सभी राख कुंडों या डाइक में संग्रहीत राख में पुरानी राख एकत्रित होगी और या तो इसे पुनःप्राप्त या स्थिर या उपयोग करना होगा।"

(iii) उप पैरा (6) के स्थान, उप पैरा रखा जाएगा, अर्थात्:

"(6) किसी भी नए और साथ ही चालू थर्मल पावर प्लांट को 0.1 हेक्टेयर प्रति मेगा वाट (मेगावाट) के क्षेत्र में राख के अस्थायी भंडारण के लिए परिचालन राख तालाब या डाइक की अनुमति दी जा सकती है। केन्द्रीय विद्युत प्राधिकरण के परामर्श से बनाए गए केन्द्रीय प्रदूषण नियंत्रण बोर्ड (सीपीसीबी) के दिशा-निर्देशों के अनुसार परिचालन के साथ-साथ स्थिर और पुनः दावा किए गए राख तालाबों या बांधों की तकनीकी विशिष्टताओं के अनुसार होंगे और ये दिशानिर्देश वार्षिक प्रमाणन के लिए एक प्रक्रिया भी निर्धारित करेंगे। परिचालन के साथ-साथ राख तालाब या डाइक को उसकी सुरक्षा, पर्यावरण प्रदूषण, उपलब्ध मात्रा, निपटान के तरीके, पानी की खपत या निपटान में संरक्षण, राख जल पुनर्चक्रण और हरित पट्टी, आदि पर परिचालन के साथ-साथ स्थिर और पुनः प्राप्त किया जाएगा और इस अधिसूचना के प्रकाशन की तारीख से तीन महीने भीतर रखा जाएगा :

परंतु कि 31 दिसंबर, 2021 से पहले चालू किए गए ताप विद्युत संयंत्रों के लिए 1600 मेगावाट से कम या उसके बराबर स्थापित क्षमता वाले दो परिचालन राख तालाबों या डाइकों तक और 1600 से अधिक स्थापित क्षमता वाले ताप विद्युत संयंत्रों के लिए चार परिचालन राख तालाबों या बांधों तक MW, मौजूदा राख तालाबों या बांधों से निर्दिष्ट क्षेत्र के भीतर कई लैगून होने पर, निर्देशांक के साथ स्पष्ट सीमांकन के साथ नामित किया जा सकता है, और केन्द्रीय प्रदूषण नियंत्रण बोर्ड (सीपीसीबी) और संबंधित राज्य प्रदूषण नियंत्रण बोर्ड (एसपीसीबी)/प्रदूषण को मुचित करेगा। नियंत्रण समिति (पीसीसी) 31 मार्च, 2023 तक :

परंतु आगे कि नए थर्मल पावर प्लांट या मौजूदा थर्मल पावर प्लांट के विस्तार के मामले में केवल एक ऐश पॉइंट या डाइक की अनुमति दी जाएगी 31 दिसंबर, 2021 को या उसके बाद, जो केन्द्रीय प्रदूषण नियंत्रण बोर्ड (सीपीसीबी) और संबंधित राज्य प्रदूषण नियंत्रण बोर्ड (एसपीसीबी)/प्रदूषण नियंत्रण समिति (पीसीसी) को कमीशन की तारीख से 3 महीने के भीतर निर्देशांक के साथ सीमांकन के विवरण की सूचना देगा। थर्मल पावर प्लांट या 31 मार्च, 2023 तक, जो भी बाद में हो :

परंतु यह और कि कोयला और लिग्नाइट आधारित तापीय विद्युत संयंत्रों को आगे किसी भी नए कार्यशील राख कुंड या डाइक को स्थापित करने या नाम निर्दिष्ट करने की अनुमति नहीं दी जाएगी।

परंतु यह और कि कार्यशील राख कुंड या डाइक की 0.1 हे./मेगावॉट (एमडब्ल्यू) का विनिर्देशन तारीख 3 नवम्बर, 2009 से पूर्व चालू तापीय विद्युत संयंत्रों पर लागू नहीं होगा।”

2. पैरा ख में, -

(i) उप पैरा (1) में, “300 कि.मी. के भीतर” शब्दों कोष्ठकों और आंकड़ों के स्थान पर “300 कि.मी. के रेडियस के भीतर” शब्द कोष्ठक और आंकड़े रखे जाएंगे।

(ii) उप पैरा (8) में, उच्चतर “वैकल्पिक उत्पादों के मूल्य से अधिक” शब्दों के स्थान पर “केन्द्रीय लोक कार्य विभाग (सीपीडब्ल्यूडी) या संबंधित लोक कार्य विभाग (पीडब्ल्यूडी) द्वारा विनिर्दिष्ट दरों की अनुसूची में उल्लिखित मूल्य या दरों की अनुसूची के अधीन निर्धारित न होने परल वैकल्पिक उत्पादों का मूल्य” शब्द रखे जाएंगे।

3. पैरा घ में, -

(i) उप पैरा (2) के स्थान, उप पैरा रखा जाएगा, अर्थात्:

“(2) जिन व्यक्तियों या उपयोगकर्ता या एजेंसियों को धर्मल पावर प्लांट के मालिक द्वारा नोटिस दिया गया है, अगर वे राख के उपयोग के उद्देश्य से पहले से ही अन्य एजेंसियों के साथ करार कर चुके हैं तो धर्मल पावर प्लांट को तदनुसार सूचित करेंगे और यदि वे उपयोग नहीं कर सकते हैं कोई राख या कम मात्रा का उपयोग कर सकता है।”

(ii) उप-पैरा (2) के पश्चात्, निम्नलिखित उप-पैरा अंतःस्थापित किया जाएगा, अर्थात्:

“(3) जिन व्यक्तियों या उपभोक्ता अभिकरणों को, यदि वे राख आधारित उत्पादों के उपयोग के उद्देश्य से अन्य अभिकरणों के साथ पहले से जुड़े हुए हैं, ऐश ब्रिक्स या टाइल्स या सिंटेड ऐश ऐग्रीगेट या अन्य राख आधारित उत्पादों के विनिर्माताओं के द्वारा नोटिस दिया गया है तो उन्हें ऐश ब्रिक्स या आइल्स या सिंटेड ऐश ऐग्रीगेट या अन्य राख आधारित उत्पादों के विनिर्माताओं को सूचित करना होगा, तदनुसार, यदि वे राख आधारित उत्पादों का उपयोग नहीं कर सकते या कम प्रमात्रा में उपयोग कर सकते हैं।”

2. यह अधिसूचना राजपत्र में प्रकाशन की तारीख से प्रवृत्त होगी।

[फा. सं. एचएसएम - 9/1/2019- एचएसएम]

नरेश पाल गंगवार, अपर सचिव

टिप्पण: मूल अधिसूचना भारत के राजपत्र, असाधारण, भाग-II, खंड 3, उप-खंड (ii) सं. एम 5481(अ) तारीख 31 दिसम्बर, 2021 के द्वारा में प्रकाशित की गई।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE NOTIFICATION

New Delhi, the 30th December, 2022

S.O. 6169(E).—Whereas, the Government of India, Ministry of Environment, Forest and Climate Change, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule (5) of the Environment (Protection) Rules, 1986, issued a notification published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) vide S.O.5481(E), dated the 31st December, 2021 (herein after referred to as the ash utilisation notification);

And whereas, requests have been received from Ministry of Power, thermal power plants and various stakeholders regarding implementation of provisions of the ash utilisation notification;

And whereas, it is expedient to make amendments to certain provisions of the said notification to have smooth transitioning in implementation of the ash utilisation notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with of sub-rule (1), (2) and (4) of rule (5) of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the ash utilisation notification namely:-

In the ash utilisation notification,-

(1) in paragraph A,-

(i) in sub-paragraph (4), after the third proviso, the following shall be inserted, namely,-

“Provided also that new thermal power plants commissioned on or after the date of publication of this notification shall follow the first compliance cycle similar to the compliance cycle specified for thermal power plants having utilisation per cent. less than 60 per cent. as specified in the table.

Note: The utilisation targets as per the applicable compliance cycle shall commence from 1st April, 2022.”

(ii) in sub- paragraph (5),-

(a) in the opening paragraph, for the words “the date of publication of this notification”, the figures, letters and word “1st April, 2022” shall be substituted,

(b) in the second proviso, -

(i) after the words “green belt or plantation”, the words, brackets, letters and figure “or solar power plant or wind power plant as per the guidelines issued by the Central Pollution Control Board (CPCB) as specified in sub-para (6)” shall be inserted,

(ii) the words, brackets and letters “Central Pollution Control Board (CPCB) or” shall be deleted,

(iii) for the words “a year”, the words “three years” shall be substituted,

(iv) for the words “the date of publication of this notification”, the figures, letters and word “1st April, 2022” shall be substituted.

(c) after the second proviso, the following proviso shall be inserted, namely:

“Provided that ash stored in all ash ponds or dykes other than operational ash pond or dyke designated for temporary storage of ash as specified in sub-para (6) shall constitute the legacy ash and either to be reclaimed or stabilised or utilised.”

(iii) for sub- paragraph (6), the following sub-para shall be substituted, namely,-

“(6) Any new as well as operational thermal power plant may be permitted operational ash pond or dyke for temporary storage of ash within an area of 0.1 hectare per Mega Watt (MW). Technical specifications of operational as well as stabilised and reclaimed ash ponds or dykes shall be as per the guidelines of the Central Pollution Control Board (CPCB) made in consultation with the Central Electricity Authority (CEA) and these guidelines shall also lay down a procedure for annual certification of the operational as well as stabilised and reclaimed ash pond or dyke on its safety, environment pollution, available volume, mode of disposal, water consumption or conservation in disposal, ash water recycling and green belt, etc. and shall be put in place within three months from the date of publication of this notification:

Provided that up to two operational ash ponds or dykes for thermal power plants commissioned before 31st December, 2021, having installed capacity less than or equal to 1600 MW, and up to four operational ash ponds or dykes for thermal power plants having installed capacity more than 1600 MW, having multiple lagoons, within the specified area from the existing ash ponds or dykes, may be designated with clear demarcation along with coordinates, and shall inform to Central Pollution Control Board (CPCB) and concerned State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) by 31st March, 2023:

Provided further that one ash pond or dyke shall be permitted in case of new thermal power plants or expansion of existing thermal power plants commissioned on or after 31st December, 2021, which shall inform the details of demarcation along with coordinates to Central Pollution Control Board (CPCB) and concerned State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) within 3 months from the date of commissioning of thermal power plant or by 31st March, 2023, whichever is later:

Provided also that coal and lignite based thermal power plants shall not be allowed to further establish or designate any new operational ash pond or dyke:

Provided also that specification of 0.1 hectare per Mega Watt (MW) of an operational ash pond or dyke shall not be applicable for the thermal power plants commissioned before 03rd November, 2009."

(2) in paragraph B,-

(i) in sub-paragraph (1), for the words, figures and letters "within 300 kms", the words, figures and letters "within a radius of 300 kms" shall be substituted,

(ii) in sub-paragraph (8), for the words "higher than the price of alternative products", the words, brackets and letters "more than the price mentioned in the Schedule of Rates as specified by Central Public Works Department (CPWD) or concerned Public Works Department (PWD) or price of alternative products, if not mentioned in the Schedule of Rates." shall be substituted.

(3) in paragraph -D, -

(i) for sub-paragraph (2), the following sub-paragraph shall be substituted, namely,-

"(2) Persons or user agencies who have been served notice by owner of thermal power plants, if they have already tied up with other agencies for the purpose of utilisation of ash, shall inform the thermal power plant accordingly, and if they cannot use any ash or may use reduced quantity."

(ii) after sub-paragraph (2), the following sub-para shall be inserted, namely,-

"(3) Persons or user agencies who have been served notice by manufacturers of ash bricks or tiles or sintered ash aggregate or other ash based products, if they have already tied up with other agencies for the purpose of utilisation of ash based products, shall inform the manufacturer of ash bricks or tiles or sintered ash aggregate or other ash based products, accordingly, and if they cannot use ash based products, or may use reduced quantity."

2. This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. HSM-9/1/2019-HSM]

NARESH PAL GANGWAR, Addl. Secy.

Note : The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 31st December, 2021, vide number S.O.5481 (E), dated the 31st December, 2021.

True copy
[Signature]

