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EXTRAORDINARY

PART II-- Section 3--Sub-section (ii)

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**No. 948] NEW DELHI, WEDNESDAY, NOVEMBER 6,
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S.O.1164 (E).--The following draft of a notification to amend the notification of the Government of India in the Ministry of Environment and Forests number S.O. 763 (E) dated the 14th September, 1999, relating to restriction of excavation of top soil for manufacture of bricks and promoting the utilization of fly ash in the manufacture of building materials and in construction activity within a specified radius of coal or lignite based-thermal power plants which the Central Government proposes to issue, in exercise of the powers conferred by sub-section (1), read with clause (v) of sub-section (2) of section 3 and clause (e) of sub-section (2) of section 6 of the Environment (Protection) Act, 1986 (29 of 1986) is hereby published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft notification will be taken into consideration by the Central Government on or after the expiry of sixty days from the date on which the copies of the Gazette containing this notification are made available to the public.

Any person interested in filing any objection or suggestion on the proposed draft amendment may do so in writing to the Secretary, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi-110 003, within the said period of sixty days.

DRAFT AMENDMENTS

1. In the said notification, in the preamble, for the words “fifty kilometres” the words “one hundred kilometres” shall be substituted.
2. In the said notification, in paragraph 1,-
 - (a) in sub-paragraph (1), for the words “fifty kilometres” the words “one hundred kilometres” shall be substituted;

(b) after sub-paragraph (1), the following sub-paragraphs shall be inserted, namely:-

“(1A) Every construction agency engaged in the construction of buildings within a radius of one hundred kilometres from a coal or lignite based thermal power plant shall use fly ash bricks or blocks or tiles or clay fly ash bricks or cement fly ash bricks or blocks or a combination or aggregate of them in such construction as per the following minimum percentage (by volume) of the total bricks, blocks and tiles, as the case may be, used in each construction project namely:-

- (i) 25 percent by 31st March, 2003;
- (ii) 50 percent by 31st December, 2003;
- (iii) 75 percent by 31st December, 2004; and
- (iv) 100 percent by 31st December, 2005.

“(1B) The provisions of sub-paragraph (1A) shall be applicable to all construction agencies such as Housing Boards and those in the private sector builders of apartments, hotels, resorts and cottages and the like. It shall be the responsibility of the construction agencies either undertaking the construction or approving the design or both to ensure compliance of the provisions of sub-paragraph (1A) and to submit such returns and compliance reports to the State Government.”;

(c) in sub-paragraph (2), for the words, brackets and figure “as per para (1) above” the words, brackets and figure “as per sub-paragraph (1) shall be substituted;

(d) after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:-

“(2A) The concerned State Government shall be the enforcing and monitoring authority for ensuring compliance of the provisions of sub-paragraph (1A)”;

(e) in sub-paragraph (3), for the words, brackets and figure “under para (1)” the words, brackets and figure “under sub-paragraph(1)” shall be substituted;

(f) after sub-paragraph (3), the following sub-paragraphs shall be inserted, namely:-

“(3A) A decision on the application for manufacture of fly ash bricks/block/tiles and similar other fly ash based products shall be taken within thirty days from the date of receipt of the application by the competent authority. A decision on consent to establish the brick kiln shall be taken by the Pollution Control Board or the Pollution Control Committee, as the case may be, within a period of thirty days from the date of receipt of application.

(3B) In case of non-compliance of the provisions of sub-paragraph (1) of paragraph 1, the competent authority, in addition to cancellation of consent order issued to establish the brick kiln, shall move the district administration for cancellation of the mining lease.

(3C) All authorities sanctioning or renewing any land, soil or clay mining lease shall not grant such lease or extension of lease or renewal to clay brick, block or tile manufacturing unit within a radius of one hundred kilometres of the coal or lignite based thermal power plant in cases where the manufacturer does not mix a minimum of 25 percent by weight of fly ash or pond ash in the manufacture of bricks or blocks or tiles. The cancellation of mining lease shall be decided by the district administration after due hearing. To enable the competent authority to verify the actual use of ash, the thermal power plant shall maintain month-wise records of ash made available to each brick kiln.

(3D) It shall be sufficient compliance of this notification if within twelve months from the 1st day of April, 2003, manufacturers of clay bricks, blocks and tiles located within a radius of 50 to 100 kilometres of a coal or lignite based thermal power plant comply with the provisions of sub-paragraph (1) and (2)".

(g) after sub-paragraph (4), the following sub-paragraphs shall be inserted, namely:-

“(5) No agency, person or organization shall, within a radius of 100 kilometres of a thermal power plant undertake construction or approve design for construction of roads or flyover embankments in contravention of the guidelines/specifications issued by the Indian Road Congress (IRC) as contained in IRC specification No. SP: 58 of 2001. Any deviation from this direction can only be agreed to on technical reasons if the same is approved by the Chief Engineer (Design) or Engineer-in-Chief of the concerned agency or organization or on production of a certificate of “Pond ash not available” from the thermal power plant(s) (TPPs) located within 100 kilometres of the site of construction. This certificate shall be provided by the TPP within two working days from the date of making a request for ash.

(6) Soil required for top or side covers of embankments of roads or flyovers shall be excavated from the embankment site and if it is not possible to do so, only the minimum quantity of soil required for the purpose shall be excavated from the soil borrow area, and this soil borrow area shall be filled up with pond ash with proper compaction as required for structural fill. This would be done as an integral part of embankment project within the time schedule of the project.

(7) No agency, person or organization shall within a radius of 100 kilometres of a coal or lignite based thermal power plant allow reclamation of low-lying areas with any material other than pond ash. They shall also ensure that such reclamation is done in accordance with the bye-laws, regulations and specifications laid down by the authorities mentioned in sub-paragraph (3) of paragraph 3.”

3. In said notification, in paragraph 2, in sub-paragraph (1), after the words “products such as cement, concrete blocks, bricks, panels” the words “or a combination thereof” shall be inserted.

4. In the said notification, after paragraph 2, the following paragraph shall be inserted, namely:-

“2A. Utilization of fly ash for reclamation of sea.-

(1) Subject to the rules made under the Environment (Protection) Act, 1986, reclamation of sea shall be a permissible method of utilization of fly ash.”

5. In the said notification, after sub-paragraph (2), paragraph 3, the following paragraphs shall be inserted, namely

“(3) All agencies including the Central Public Works Department and State Government agencies concerned with utilization of fly ash for construction purpose shall, within three months from the2002 (date of commencement of the amending notification will be filled in here at the appropriate time),-

(a) make provisions for the use of fly ash and fly ash based bricks, blocks or tiles or aggregates of them in the schedule of approved materials and rates.

(4) All agencies undertaking construction of roads or fly over bridges including Ministry of Road Transport and Highways (MORTH), National Highways Authority of India (NHAI), Central Public Works Department (CPWD), State Public Works Department and other State Government agencies, shall, within three months from the2002 (date of commencement of the amending notification will be filled in here at the appropriate time),-

(a) make provisions in their tender documents, schedules of approved materials and rates as well as technical documents, including those relating to soil borrow area or pit as per sub-paragraph (7) of paragraph 1; and

(b) make necessary specifications/guidelines for road or fly over embankments that are not covered by the specifications laid down by the Indian Road Congress(IRC).”

6. The existing sub paragraph (3) of paragraph 3 shall be renumbered as (5).

[F. No. 16-2/95-HSMD]

DR. V. RAJAGOPALAN, Joint Secy.

Footnote- The principal notification was published in the Gazette of India, Part II, Section 3, sub-section (ii) *vide* S.O. 763 (E) dated 14.9.1999.