

MINISTRY OF INDUSTRY

(Department of Industrial Policy & Promotion)

ORDER

New Delhi, the 19th July, 1995

S.O. 641(E) - In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955) and in supersession of the Order of the Government of India in the Ministry of Steel and Heavy Industries (Department of Heavy Industries) No.S.O.3595/ECA/2/62 dated the 24th November, 1962 except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following Order, namely:-

1. Short title and commencement –

- (1) This Order may be called the Cement (Quality Control) Order, 1995.
- (2) It shall come into force on the date of its publication in the Official Gazette.

2. Definitions.-In this Order, unless the context otherwise requires-

(a) "Appropriate Authority" means an officer not below the rank of an Under Secretary to the Government of India or an officer not below the rank of a General Manager, District Industries Centre of a State Government as may be appointed by the Central Government or the State Governments by a notification published in the Official Gazette to implement the provisions of this Order;

(b) "Bureau" means the Bureau of Indian Standards;

(c) "cement" means any variety of cement manufactured in India and includes blast furnace slag cement, Portland pozzolana cement, rapid hardening portland cement , white portland cement, hydrophobic portland cement, ordinary portland cement, low heat portland cement, high strength ordinary portland cement, cement used for the manufacture of railway sleepers, masonry cement , oil well cement, super sulphated cement or any other variety of cement which the Central Government may, by notification in the Official Gazette, specify for the purpose of this Order;

(d) "Prescribed standard" means the Indian Standard Specification of cement prescribed by the Bureau of Indian Standards;

(e) "dealer" means a person who, or a firm or Hindu Undivided Family which carries on directly or otherwise the business of buying, selling, supplying or distributing cement, whether in cash or for deferred payment or for commission, remuneration of other valuable consideration;

(f) "manufacturer" in relation to cement, means a person who or a firm or Hindu Undivided Family which, produces, makes or manufacturers cement and includes a person who, or a firm or Hindu Undivided Family which, claims such cement to be produced, made or manufactured by any such person or firm or Hindu Undivided Family, as the case may be;

(g) "Standard Mark" has the meaning assigned to it in the Bureau of Indian Standard Act, 1986 (63 of 1986);

(h) "State Government" in relation to a Union territory means the Administrator of that Union Territory appointed by the President under Article 239 of the Constitution.

3. Prohibition to manufacture, sale and store of cement which is not of the prescribed standard - (1) No person shall himself or by any person on his behalf, manufacture or store for sale, sell or distribute cement which does not conform to the prescribed standard and which do not bear the standard Mark:

Provided that the Central Government may, on an application made, permit any person to manufacture or store for sale, or sell or distribute cement without Standard Mark for a period of not exceeding one hundred and twenty days, if it is satisfied that the grant of regular Standard Mark is pending with the authorities under the Bureau of Indian Standards Act, 1986;

Provided further that the Central Government may, on an application made, grant exemption from Standard Mark, if it is satisfied that the cement manufactured and dispatched is for export purpose and is as per the Overseas Standards or as per Buyer's Specifications and do not coincide with the corresponding requirements of the Indian Standards.

(2) The cement which do not conform to the prescribed standard shall be destroyed immediately with a report to the Appropriate Authority.

4. Certification of Manufacturers –

(1) The manufacturer of cement shall make an application to the Bureau for obtaining licence for use of the Standard Mark and shall not produce the cement till he obtains the Standard Mark.

(2) The grant of licence by the Bureau for use of the Standard Mark shall be as per provisions of the Bureau of Indian Standards Act, 1986 and the rules and regulations made there under.

(3) When any person by himself or through any person on his behalf proposes to manufacture cement he shall make an application to the Bureau before the commencement of production.

(4) Information relating to lapse or cancellation of any licence or closure of application by the Bureau for manufacture of one or more of the cement shall be sent to the Appropriate Authority immediately.

5. Prohibition of storage, sale and distribution - No person by himself or through any person acting on his behalf shall store for sale, sell or distribute any cement which does not bear the Standard Mark and which has not been manufactured by a person who has obtained a licence for the purpose as specified under paragraph 4.

6. Power to call for information - The Appropriate Authority may, with a view to secure compliance with this Order:-

(a) Require any person engaged in the manufacture, storage for sale, sale or distribution of cement to give such information as it deems necessary in relation to the manufacture, storage for sale, sale or distribution of cement for the implementation of this Order or require any such person to furnish to it samples of such cement;

(b) Inspect or cause to be inspected any books or other documents or cement kept by or belonging to or in possession or under the control of any person engaged in the manufacture, storage for sale, sale or distribution of such cement;

(c) Cause an officer duly authorised under paragraph 8 to enter and search any premises and seize cement in respect of which it has reason to believe that a contravention of this Order has been made or the said cement is not of the prescribed standard; and

(d) The provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be, applied to searches and seizures under this paragraph.

7. Testing of Samples - Samples of cement bearing the Standard Mark and drawn by the Appropriate Authority, for ascertaining whether they are of the prescribed standard, shall be tested in the laboratory approved by the Bureau and in the manner as may be determined by the Bureau.

8. Delegation of powers - The Appropriate Authority may by general or special order in writing authorise any officer to exercise on its behalf all or any of its functions under this Order:

Provided that no officer who is not of a Gazetted rank shall be authorized by the Appropriate Authority to exercise the powers of search and seizure under Clause (c) of paragraph 6.

9. Power to issue direction to manufacturer and dealer - The Appropriate Authority may issue such directions to manufacturer and dealer, consistent with the provisions of this Order, as may be necessary for carrying out the provisions of this Order.

10. Compliance of direction - Every person engaged in the manufacture, storage for sale, sale or distribution of any cement, to whom any direction is issued under paragraph 9 shall comply with such directions.

11. Obligation to furnish information - No manufacturer or dealer shall, with intent to evade the provisions of this Order, refuse to give any information called for from him under paragraph 6 conceal, destroy, mutilate or deface any books or documents or any cement kept by, or in the possession or control of such person.

12. Penalty for contravention - Any person who contravenes any of the provisions of this Order or fails to carry out any direction or requisition made there under shall be punishable, and the property in respect of which the order has been contravened shall be liable to forfeiture under section 7 of the Essential Commodities Act, 1955 (10 of 1955).

13. Appeal –

(1) Any manufacturer or dealer aggrieved by any decision of the Appropriate Authority may prefer an appeal in writing to the Central Government within thirty days from the date of receipt by him of the copy of the Order communicating such decision.

Provided that the Central Government may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

(2) On receipt of the appeal under sub-paragraph (1), the Central Government may, after giving the appellant an opportunity of being heard, pass such order as it may deem fit.

F.No. 1(4)/94-Cement

PRATIBHA KARAN,
Jt. Scy.