[October 2024 (v1.0)]

Modified Surveillance Process

under

Electronics and Information Technology Goods

(Requirement for Compulsory Registration) Order, 2021

1. INTRODUCTION

The growth of the IT and ESDM industry in the country has seen a surge in new products arriving at the domestic market. The commercial availability of these IT and Electronic products has also increased proportionately which in turn, calls for having scrupulous practices in place to assess the safety and security of consumers.

The Government has notified the "*Electronics and IT Goods (Requirement for Compulsory Registration) Order, 2012*" mandating Indian Safety Standards for the notified goods under the ambit of the Registration Scheme notified by BIS under the BIS Act, 1986. The Order has been renotified as "*Electronics and IT Goods (Requirement for Compulsory Registration) Order, 2021*" (CRO-2021) under the provisions of the BIS Act, 2016. The Bureau of Indian Standards (BIS) is responsible for search and seizure whereas MeitY conducts surveillance for registered manufactures

2. MODIFIED SURVEILLANCE PROCESS

The modified surveillance process is a step forward in this direction as it intends to have a wider outreach in terms of scalability and accountability. Effective surveillance is an integral part of the Compulsory Registration Order (CRO). MeitY has revamped the surveillance process wherein STPI has been entrusted to assist MeitY in activities like collection/ delivery of the test samples to the BIS-recognized labs, first-level review of test reports, and collection of surveillance charges (as notified by MeitY) for implementation of CRO-2021 notified on 18.03.2021. The surveillance comprises a random surveillance method of registered manufacturers. MeitY will empanel the BIS-recognized labs for the surveillance activity and shall be the nodal point for the labs for any clarification relating to surveillance. **The testing charges for surveillance will be fixed as STQC test charges. If STQC charges are not available, the test charges would be fixed based on the average of other test laboratories.** The entire process is managed through a web-based system through which MeitY initiates the surveillance and assigns laboratories for testing. STPI would purchase the sample(s) from the Market and submit it to a designated laboratory and also manage the financial transactions related to surveillance.

3. STANDARD OPERATING PROCEDURE (SOP)

3.1. **Initiation of Surveillance and Identification of Lab:** The MeitY will initiate the surveillance process for CRO notified goods through the Surveillance portal. MeitY will also select the Lab from empaneled laboratories (onward in the text, it is termed as Designated Test Lab or DTL) for carrying out the testing. The algorithm designed in the portal will provide the list of BIS registration numbers (R. Nos.) for testing under surveillance.

3.1.1. For surveillance, the test facilities available at STQC laboratories should be used to the extent possible. It should be ensured that the lab has the requisite facility for testing the products.

3.1.2. Test charges would be levied should test charges levied by the selected lab or STQC test charges/MeitY determined rate whichever is minimum.

3.1.3. To the extent possible, the chosen lab should also be different from the one where the earlier testing was done.

3.1.4. For the purpose of surveillance, the notified labs under the same management should be treated as a single entity.

3.1.5. All communications like surveillance initiation Orders (to STPI, DTL and, Manufacturer & LR); surveillance closure (to STPI, DTL, Manufacturer & LR, and BIS); and, cases forward to BIS for further necessary actions along with required instructions will be issued through the surveillance portal.

3.1.6. Since the surveillance activity is a time-bound activity, maintained and monitored through the surveillance portal only, the registered entities (i.e., STPI, Manufacturer/AIR, DTL, BIS, Reviewers etc.) are expected to provide/update/track the developments in the surveillance activity immediately and regularly through their respective dashboard on the surveillance portal.

3.2. Collection of Sample and Submission of the sample (s) to Lab for Testing:

3.2.1. Once the STPI gets the surveillance order issued by MeitY, it will purchase the surveillance sample (s) from the open market or e-commerce platform (like Amazon, Flipkart, etc.), seal it, and upload the details (e.g. model number, Serial number, pickup date, time, location from the market, etc.) on the surveillance portal.

3.2.2. The location of the sample purchase/pickup should be different, to the extent possible, during each surveillance. In case of delay in submission of the sample within the stipulated time, a penalty would be levied as per agreed in a work order to STPI.

3.2.3. Once the DTL gets the surveillance order, it will acknowledge the assignment and update its decision regarding the job acceptance/rejection (due to any reason like work overload, measurement constraints, facility issue, etc.) **within 2 working days**.

- In case, the DTL accepts the surveillance job, it will raise its document/design request to the manufacturer/LR (Local Representative, in case of a foreign manufacturer, it will be an All-India Representative) just after getting the surveillance sample and testing charges from the STPI.
- In case, the DTL rejects the surveillance job, the lab will be reassigned by the MeitY **within 2 working days**.

3.2.4. Once the DTL accepts the surveillance job and submits its consent through the surveillance portal, the STPI will submit the sample to the DTL along with the applicable test charges. Moreover, it will update the information/details on the surveillance portal **within a day**; and raise online payment demand/invoice to the manufacturer/LR through the surveillance portal.

3.2.5. The STPI will complete the tasks mentioned in Cl. No. 3.2.1 and 3.2.4 within 15 days from the date of the surveillance order issued by MeitY.

3.2.6. Once the manufacturer/AIR gets the information regarding the acceptance of their sample by the DTL through the surveillance portal, the Manufacturer/LR may visit the DTL **within 7 days** for verification of the surveillance sample (if he wants) from the date of acceptance of sample (s) by the DTL. **If the manufacturer/LR does not visit the DTL** within the stipulated timeframe, it will be assumed that it has no objection and the laboratory will proceed for testing.

3.2.7. The manufacturer has to submit the requisite technical document/information **within 10 working days** from the date of the request raised by the DTL. If the manufacturer does not provide the aforesaid information within the stipulated time frame, MeitY would recommend BIS not grant renewal of the registration or other appropriate action as per BIS Act, 2016.

3.2.8. If the DTL does not receive the requested information/technical documents from the manufacturer/LR within the stipulated timelines, the lab will conduct the possible tests based on the available information/resources, release the test report and upload on the surveillance portal. In such situation wherein despite follow ups & reminders, **the manufacturer/LR has intentionally not submitted the essential technical documents/samples etc. to complete the entire testing process: -**

- The full applicable surveillance charges will be levied from the manufacturer/AIR and the case will be forwarded to BIS for further necessary action for this particular R. No.
- In case the manufacturer/AIR does not provide the applicable surveillance charges, the cases would be treated as two types of non- compliances, i.e., (i) non-cooperation in surveillance, and (ii) non-payment for surveillance, and would be forwarded to BIS to take **strict action** against the manufacturer under the provisions of the BIS Act & Rules.

3.2.9. Once all the required information/technical documents are received by the DTL, it will start the testing and complete the process **within 60 days** or as per the prescribed/stipulated timelines in the applicable standard or the specific sample testing requirements.

3.2.10. The STPI shall ensure the completion of the surveillance process and proper fulfillment of norms and standards as laid under the BIS Act, 2016, and BIS Conformity Assessment Regulations, 2018.

3.3. Communications:

All the communications among the registered entities (i.e., Manufacturer/LR, STPI, DTL, BIS, Reviewers) would be done through the portal only. However, auto-generated e-mails/reminders will also be sent to the corresponding stakeholders indicating each communication.

3.4. Surveillance fees, its collection and reimbursement:

3.4.1. As per the provisions of the sub-paragraph (8) of paragraph 5 of Scheme-II of Schedule-II of BIS (Conformity Assessment) Regulations, 2018, “The cost of the samples and

the testing fee of the samples drawn for surveillance or complaint investigation shall be paid by the applicant or licensee, as the case may be."

3.4.2. The Surveillance cost includes the maximum retail price (MRP) of required quantities of the sample(s) for a particular R-number (the number of samples would be as required for testing as per notified IS standards), Logistics/Packaging charges, transportation charges (i.e. courier charges) on actual expense basis, and test charges of DTL., i.e., STQC test charges/Govt. approved test charges or actual test charges levied by the DTL as available on the BIS website (declared by the lab for testing the BIS samples), whichever is minimum.

3.4.3. Initially, the surveillance fees as mentioned in Para 3.4.2. above will be borne by the STPI.

3.4.4. The manufacturer/LR is required to submit the aforesaid surveillance fees to STPI **within 15 working days** from the date of invoice/online payment demand raised by the them in the bank account or online through the surveillance portal. The bank details are as follows:

1	Name of Account Holder	Software Technology Parks of India
2	Account No.	05860100024530
3	Location/Station	Sansad Marg
4	Bank	BANK OF BARODA
5	Branch Address	Sansad Marg, New Delhi
6	Type of Account	SAVING ACCOUNT
7	IFS Code of Bank	BARB0PARLIA **[Fifth character is zero]**

3.4.5. The surveillance sample(s) cost paid by the STPI will be reimbursed from the surveillance fees received from the manufacturer/LR against each BIS registration.

3.4.6. Before raising the payment demand for the surveillance activity through the portal/invoice, STPI must check whether (or not) any advance payment against the R. No. (under surveillance) was deposited with the STPI during earlier surveillance activity. If this condition emerges, the payment will be taken into account during the reimbursement for the present surveillance case. Further, it should be reflected on the dashboard of the manufacturer/AIR and MeitY.

Note:-

a) *In case all the models in the registration of a particular product category are custom-built, the manufacturer shall provide a declaration in this regard and arrange the sample for surveillance. STPI will raise demand as per the actual cost incurred on the surveillance* ***without including the cost of the custom-built sample****, which is not paid by them.*

b) *If the registered models of a particular product category include models available in the market and custom-built models, the manufacturer shall provide a declaration regarding the custom-built models. The STPI may pick available sample from the market will raise demand as per the actual cost incurred on the surveillance. However, in case, it is desirable to collect the*

custom-built sample (suppose it is a complaint-based surveillance for a particular model which is a custom-built), the manufacturer/AIR may be requested to arrange that particular sample and the STPI will raise demand as per the actual cost incurred on the surveillance without including the cost of the custom-built sample, which is not paid by them.

3.4.7. In case the charges are not submitted by the manufacturer, a maximum of two reminders will be sent through the surveillance portal the intervals of 7 days starting from the date of the date of the Surveillance Intimation Order. Despite the reminder, if no response is received, after 15 working days, the case will be forwarded to BIS (through the surveillance portal) for deferment/cancellation of registration on the account of non-co-operation in surveillance.

3.4.8. The issue of unpaid liability, whenever it arises on account of counterfeit products and non-payment by the respective manufacturers/AIRs would be assessed, and reimbursed/borne by MeitY. The STPI may rise its invoices quarterly.

3.5. Amendment in the surveillance charge:

The surveillance charges are subject to revision by MeitY, as and when notified.

3.6. Other important guidelines:

3.6.1. In case the product is not available in the market, the STPI representative shall get in touch with the manufacturer/LR to enquire about the authorized locations/channels where the product is available. Based on the information, STPI shall pick up the sample(s) for surveillance from:

- Such authorized location/channels such as e-commerce websites
- Manufacturer's premise/warehouse/storage facility

3.6.2. In case the information/sample is not made available to STPI within the stipulated time, it will be considered a violation of the Order and would lead to suspension of license.

3.6.3. The sample so drawn shall be professionally packed, temper-proof sealed, labeled, and should be signed by the STPI officials (along with their names and designation) indicating the registration number, the date of drawl of the sample, location of the sample picked up.

3.6.4. In the case of custom-built samples, the manufacturer shall deliver a made-to-order sample within the lead **time of 30 working days**. In case the sample is not made available to STPI within the stipulated time, it will be considered a violation of the Order and will lead to the suspension of the license.

3.6.5. The **DTLs** are expected to carry out the testing in a time bound after receipt of all documents/information from the manufacturer. The performance of laboratories will be monitored and samples will be assigned to laboratories as per performance **and previous track record**.

3.6.6. The surveillance sample pickup process should not **exceed 90 days** from the date of its initiation. It means once the surveillance is initiated against any R. No. either the sample must be pass through the surveillance process or the case may be forwarded to BIS (in case the sample (s) is/are not picked up within the stipulated timelines by any reason) for further necessary action under the BIS Act 2016.

3.7. Important guidelines regarding the surveillance conclusion

The result of the surveillance will be communicated to the Manufacturer/AIR, DTL, BIS & STPI through e-mail, and the status will also be reflected on the dashboard of the respective registered entities as mentioned above.

A. If the surveillance status is "*Surveillance completed successfully*":

   i. The manufacturer/AIR to be requested to collect their sample from the DTL within 30 days from the date of this intimation.

   ii. The DTL to be requested to release the test sample to the manufacturer/AIR or their authorized person within the stipulated timeline (i.e., 30 days from the date of this intimation). In case, the test sample is not collected by the manufacturer/AIR or their authorized person within the stipulated timeline, the DTL may dispose of the test sample as per their internal sample disposal policy.

   iii. The BIS may start the renewal process of the R. No.

B. If the surveillance status is "*Non-compliance has been observed*" or "*The surveillance is not completed successfully*" :

   i. The case to be forwarded to BIS for further necessary action under the provisions of the BIS Act & Rules.

   ii. BIS to take necessary action **keeping MeitY in the loop and update the final result on the surveillance portal**.

   iii. Once the process gets completed, the manufacturer/AIR to be intimated accordingly through e-mail/portal regarding the final outcome.

   iv. The DTL is to hold the test sample till the surveillance completion/closure is not intimated by the MeitY/BIS. After the closure of the surveillance process, the DTL may release the test sample to the manufacturer/AIR or their authorized person within the stipulated timelines as mentioned above.

   v. The possible reasons of "*The surveillance is not completed successfully"* (if applicable) may be:

      - Non-payment of surveillance charges;
      - Required technical documents/support is not provided to the DTL to complete the testing process;
      - In the case of custom-built/make to order samples, the stipulated timelines to provide surveillance sample has been exceeded;

- Stipulated timelines for the entire surveillance process have been exceeded; etc.

4. SURVEILLANCE TEST REPORT REVIEW AND SURVEILLANCE CONCLUSION

4.1. Review of test reports:

4.1.1. STPI may make take up the matter of review of surveillance test reports, received from the test laboratories, with STQC. In case STQC is not willing to do the same on account of any reason, STPI should do the initial report review.

4.1.2. Once the test reports are uploaded by the representative labs, STPI shall review the test reports **within 10 days** and the reviewed reports with comments, in the prescribed format shall be sent to MeitY through the portal for **second-level review** and necessary action.

4.2. Scrutiny of review reports at MeitY:

4.2.1. In case of **compliant test reports**, MeitY shall notify the manufacturer/LR through the surveillance portal (i.e., system generated Surveillance Closure Order) to collect the tested samples. In case the tested sample is not collected by the manufacturer/LR within **30 days**, the DTL will dispose of it as per their internal policy.

4.2.2. In case a **non-compliant test reports** are reported by the DTLs or MeitY notices non-compliance to the notified standard/registration scheme/other regulatory requirements of India during surveillance, it will issue a call for explanation letter to the manufacturer/LR (through the surveillance portal). The manufacturer/LR has to provide explanations with documentary evidence within 14 days from the date of the said letter. Based on the analysis of documentary evidence provided by the manufacturer/LR, MeitY will take a view of the non-compliant test report.

4.2.2.1. In case MeitY is convinced that the product in question does not conform or is non-compliant to the standards/provisions of the registration scheme/regulatory requirements of India, then subject to the approval of the competent authority, the case shall be forwarded to BIS for necessary as action as per the provisions of BIS Act 2016 and BIS Conformity Assessment Regulations, 2018. The surveillance would be completed and closed after the confirmation of action from BIS and the manufacturer/LR would be notified (through surveillance portal by system generated e-mails) to collect the tested sample from the laboratory.

4.2.2.2. In case the tested sample is not collected by the manufacturer/LR **within 30 days**, from the date of the intimation the DTL will dispose of it as per their internal policy.

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