

B: Rules & Regulations:

1. State Environmental Quality Standards (Certification of Environmental Laboratories) Regulations, 2009

**Azad Government of the State of Jammu & Kashmir
Planning and Development Department
Environmental Protection Secretariat**

'Muzaffarabad'

Dated: April 11, 2009

NOTIFICATION

No. 1111-22/P&DD/Gen /2009. In exercise of the powers conferred by Section 32 of the Azad Jammu and Kashmir Environmental Protection Act, 2000 (IV of 2000), read with clause (k) of sub-section (1) of Section 6 *ibid*, the AJ&K Environmental Protection Agency, with the approval of the Government, is pleased to make the following regulations, namely:-

1. **Short title and commencement.**- (1) These regulations may be called the *State Environmental Quality Standards (Certification of Environmental Laboratories) Regulations, 2009*.

(2) They shall come into force at once.

2. **Definitions.**- (1) In these Regulations, unless there is anything repugnant in the subject or context,-

(a) **'Act'** means the Azad Jammu & Kashmir Environmental Protection Act, (IV of 2000);

(b) **'Agency'** means Azad Jammu & Kashmir Environmental Protection Agency (AJK-EPA) established under Section 5 of the Act;

(c) **'Certification'** means certification of a laboratory as an environmental laboratory under these Regulations;

(d) **'Certificate'** means certificate issued under regulation 8;

(e) **'Committee'** means the Advisory Committee on Laboratory Certification established by the Government under sub-section (6) of Section 5 of the Act;

(f) **'Director General'** means the Director-General of the Agency;

(g) **'Environmental Laboratory'** means a laboratory to whom certification as an environmental laboratory has been awarded under these regulations;

(h) **'Government'** means the Azad Government of the State of Jammu & Kashmir;

(i) **'Laboratory'** means any premises equipped to conduct scientific and technical experiments, tests, analysis, studies, investigations; and

- (j) **'Schedule'** means the schedule appended to these Regulations.
- (2) All other words and expressions used in these regulations but not defined herein shall have the same meanings as are assigned to them in the Act.

- 3. Functions of an environmental laboratory.**- The functions of an environmental laboratory shall;
- (a) to test and analyze samples of air, water, soil, effluents or wastes sent to it by any factory or any person authorized by Environmental Protection Agency or any agency to determine whether such samples comply with the State Environmental Quality Standards;
 - (b) to measure noise being emitted at any place by any industrial or other activity or motor vehicle;
 - (c) to issue test reports containing the results of tests and analysis carried out under clauses (a) and (b);
 - (d) to carry out such experiments, studies and investigations as may be required by the Agency to monitor and enforce and where necessary to propose revision of the National Environmental Quality Standards;
 - (e) to send an annual report of its activities to the Agency, including a list of all test reports issued by it; and
 - (f) to carry out such other functions as may be entrusted to it by the AJK-EPA from time to time.

- 4. Application for Certification.**- (1) Any laboratory which fulfils the criteria laid down in regulation 5, may make an application in the form set out in Schedule I to the Agency for certification as an environmental laboratory.

- (2) Every such application for certification shall be accompanied by a non-refundable scrutiny fee at the rate as may be prescribed by the Agency under the Authority confirmed upon the Agency by the Act.

- 5. Criteria for Certification.**- (1) Subject to clause (2), a laboratory shall not be certified as an environmental laboratory unless it fulfills the following criteria, namely;-

- (a) the laboratory is located in a clean area and not adjacent to an open sewerage drain of factory from which emissions of air pollutants or discharge of effluents or wastes may interfere with, contaminate or otherwise adversely affect the reliability of its tests and analysis;
- (b) the building in which the laboratory is housed is suitable in size, design and quality of construction, for use as an environmental laboratory;

- (c) the laboratory has qualified and experienced scientific and technical staff and appropriate analytical equipment and apparatus as may be prescribed by the Agency under the Authority confirmed upon the Agency by the Act.
 - (d) the laboratory has deposited with the Agency the scrutiny fee and certification fee at the rates as may be prescribed by the Agency under the Authority confirmed upon the Agency by the Act ;
 - (e) the laboratory has installed a comprehensive scientific system of reporting test results, supported by data handling facilities; and
 - (f) the laboratory has proper waste disposal arrangements.
- (2) A laboratory may be certified as an environmental laboratory for testing of water, liquid effluents, wastes, soil, gaseous emissions or noise or a combination of these for specific State Environmental Quality Standards parameters, in which case the requirements of analytical equipment and apparatus specified in Schedule IV, scientific and technical staff as may be prescribed by the Agency under the Authority confirmed upon the Agency by the Act, will be adjusted accordingly.
- 6. Scrutiny of Application.**- (1) Every application for certification shall be scrutinized by the Committee.
- (2) The Committee shall carryout such inquiry as it may deem necessary to verify and evaluate the date mentioned in the application which shall include sending of trial sample; and obtaining sample test reports and a visit to the laboratory by the Committee itself, or its sub-committee, or a panel of experts appointed by the Committee for the purpose, for an on-site assessment of its capability and capacity as to whether or not it fulfills the criteria laid down in regulation 5.
- (3) Subject to clause (4), the Committee shall submit its recommendations, in writing, to the Agency, who may, after such further inquiry as it may consider necessary, accept or reject the said recommendations.
- (4) In case the Agency decides to reject the recommendations referred to in clause (3), it shall record reasons for decision.
- 7. Decision on Application:**- (1) Subject to clause (2), an application for certification may be rejected, accepted in full or accepted partially for certain purposes or parameters only.
- (2) Before the Agency decides to reject an application or accept it partially or conditionally, shall give the applicant an opportunity of being heard.
- (3) Where the Agency rejects an application, the applicant shall be informed of the reasons for such rejection.
- (4) Subject to clause (5), rejection of an application for certification shall not debar a laboratory from submitting a fresh application for certification.
- (5) A fresh application shall not be entertained until the lapse of at least three months from the date of rejection of an application.

8. Issuance of Certificate.- (1) Where the Agency approves an application for certification in full or partially or conditionally, the applicant shall be informed accordingly and asked to deposit with the Agency within fifteen days, the certification fee at the rate specified in Schedule II.

(2) On receipt of the certification fee, Agency shall issue a certificate to the laboratory in the form set out in Schedule V and notify the laboratory to be an environmental laboratory in the official Gazette.

(3) If a certificate is defaced, damaged or lost, duplicate thereof may be issued on payment of such fee as is specified in Schedule II.

9. Conditions of Certification.- (1) An environmental laboratory shall:-

(a) comply with all relevant provisions of the Act and rules and regulations;

(b) carry out all tests and analysis, measurements, experimental studies and investigations with due diligence and in accordance with such guidelines, procedures and methods as may be stipulated by the Agency;

(c) carry out and maintain record of calibration of its equipment and apparatus;

(d) follow the quality control and quality assurance procedures established by the Agency and participate in performance, system audits, quality control and quality assurance programs organized by Agency.

(e) keep its premises neat and clean at all times;

(f) allow any member of the Committee or any officer of Agency, duly authorized in this behalf, to enter and inspect equipment and apparatus used in conducting tests and analyses and the reports and records in respect thereof;

(g) retain records of all tests and analysis and measurements conducted by it for a period of three years from the date thereof;

(h) take adequate safety measures and precaution against fire hazards and accidents including provision of first-aid facilities;

(i) ensure availability in its store of adequate stocks of chemicals, back-up equipments and apparatus, and spare parts;

(j) ensure that it fulfills the criteria laid down in regulation 5 at all times, and that if at any stage any equipment, apparatus or staff is required to be replaced, the replacement of equipment, apparatus or replacement of staff is of equivalent, or better, specifications or qualifications and experience respectively;

(k) display the certificate issued to it under regulation 8 and a list of its fees for various tests and analyses and measurements, at a prominent place in its premises; and

- (l) submit to Agency an annual report including a list of all tests and analyses conducted by it relating to the environment.
- (2) An Environmental laboratory shall not, without the prior permission in writing of the Agency.
 - (a) shift its location or remove any equipment or apparatus from its premises but the equipment or apparatus requiring repair or maintenance outside the premises may be removed for this purpose for a specific period under intimation to the Agency.
 - (b) charge more than the rates as may be fixed from time to time by AJK-EPA for specified tests and analysis; or
 - (c) subcontract any work to any other laboratory.
- (3) Certification of an environmental laboratory shall not be transferable to any other laboratory.

10. Validity of certification.- (1) Subject to clause (2), a certificate issued under regulation 8 shall unless earlier suspended or revoked, be valid for a period of three years from the date of issue.

- (2) If an application for renewal of certification is made under regulation 13, the certificate shall continue to remain valid till the application for renewal is decided.

11. Bar to function without certification.- (1) No laboratory shall function as an environmental laboratory unless it is granted certification under these regulations.

12. Test reports.- (1) An environmental laboratory shall issue test reports in the form set out in Schedule VI containing the results of tests an analysis carried out in discharge of its functions as provided under clauses (a) and (b) or regulation 3.

13. Renewal of certification.- (1) An application for renewal of certification shall be made in the form set out in Schedule IV, to the Agency at least forty-five days prior to the date of expiry of the certificate issued under regulation 8.

- (2) An application for renewal shall be accompanied by a copy of the annual report of the activities of the environmental laboratory.
- (3) An application for renewal shall be dealt with, scrutinized and decided exactly in the same manner as an application for certification and the provisions of these regulations relating to an application for certification shall, *mutatis mutandis*, apply to an application for renewal of certification.
- (4) The fee for renewal of certification shall be payable at the rate specified in Schedule II, and the certificate issued on receipt thereof shall also be in the form set out in Schedule V.

- 14. Revocation or suspension of certification.**- (1) Without prejudice to any other action that may be taken against an environmental laboratory under the Act, Rules or Regulations or any other law for the time being in force, the Agency may, by an order in writing stating the reasons therefore, revoke a certification or suspend it for such period as the Agency deems fit, if the environmental laboratory-
- (a) fails to comply with any of the conditions of certification listed in regulation 9;
 - (b) violates, aids or abets in the violation of, any of the provisions of the Act, rules or regulations;
 - (c) issues any report which is false, or which is designed to misrepresent or conceal or suppress any material fact;
 - (d) has obtained certification through fraud or misrepresentation;
 - (e) fails or ceases to perform or is rendered incapable of performing any of the functions of an environmental laboratory listed in regulation 3; or
 - (f) no longer fulfils the criteria for certification as an environmental laboratory as laid down in regulation 5.
- (2) Agency shall, before revoking or suspending a certification, provide the environmental laboratory an opportunity of being heard.
- (3) here any order of revocation or suspension has been passed, the laboratory shall forthwith surrender its certificate to the Agency who shall make an entry of the revocation or suspension thereon.
- (4) Certificate shall be returned to the laboratory on expiry of the suspension period or on restoration of the certification in appeal, after the Agency has made necessary entry thereon.
- (5) Where the certification of an environmental laboratory has been revoked, it shall not be eligible to apply again for certification until lapse of at least one year from the date of such revocation.
- 15. Appeal.**- (1) Any person aggrieved by an order of the Agency on an application for certification or an application for renewal of certification or by an order revoking or suspending, or refusing to revoke or suspend, a certification may, within thirty days of the date of communication of the impugned order, file an appeal with the Environmental Tribunal, as provided under sub-section (1) of Section 22 of the Act.
- (2) The appeal shall be in such form and be accompanied by such fee as may be prescribed in the rules made in this behalf.