

NOTIFICATION

S.R.O. 693 (I)/2001. - In exercise of the powers referred by section 31 of the Pakistan Environmental Protection Act, 1997 (XXXIV of 1997), the Federal Government is pleased to make the following Rules, namely: -

THE POLLUTION CHARGE FOR INDUSTRY (CALCULATION AND COLLECTION) RULES, 2001

1. Short title and commencement. -

- (1) These rules may be called the Pollution Charge for Industry (Calculation and Collection) Rules, 2001.
- (2) They shall come into force from the 1st July 2001.

2. Definitions. -

- (1) In these rules, unless there is anything repugnant in the subject or context, -
 - (a) "Act" means the Pakistan Environmental Protection Act, 1997 (XXXIV of 1997);
 - (b) "Board" means the Provincial Sustainable Development Fund Board constituted under section 10 of the Act;
 - (c) "Director-General" means the Director-General of the Provincial Agency;
 - (d) "Guidelines" means the "Guidelines for determination of a Pollution Charge for Industry" as contained in Schedule I;
 - (e) "industrial unit" means any legal entity carrying on industrial activity;
 - (f) "Inspection Team" means the Inspection Team constituted under rule 5;
 - (g) "pollution charge" means the pollution charge payable under subsection (2) of section 11 of the Act;
 - (h) "pollution level" means the number of pollution units per unit of production, calculated in accordance with the procedure contained in Guidelines and Schedule IV;
 - (i) "pollution unit" means the quantity of pollutant which reflects its relative toxicity *vis-a-vis* other parameters, as specified in Guidelines and Schedule IV; and
 - (j) "Schedule" means the schedule to these rules;
- (2) All other words and expressions used but not defined shall have the same meanings as are assigned to them in the Act.

3. Determination of pollution charge. -

The pollution charge payable by an industrial unit shall be determined in accordance with the Guidelines.

4. Responsibility for calculation, reporting and payment. -

An industrial unit liable to pay the pollution charge shall itself be responsible for ensuring the correct calculation, reporting and payment of the pollution charge.

5. Determination of pollution level. -

- (1) For the purposes of determining the pollution level of an industrial unit, the Director-General shall constitute an Inspection Team comprising of -
 - (a) a representative of the Provincial Agency;
 - (b) a representative of the industrial unit;
 - (c) not more than two representatives each drawn from the list of any two authorized NGOs specified in Schedule II; and
 - (d) a representative of a certified environmental laboratory or any other agency approved and designated by the Provincial Agency for the purposes of determination of the pollution level.
- (2) The Inspection Team shall determine the pollution level of an industrial unit at least once a year in respect of discharges of effluents and waste, and emissions of air pollutants.
- (3) The Inspection Team shall also determine the exemption allowed to an industrial unit as required under Schedule IV.
- (4) All samples obtained by the Inspection Team shall be tested and analysed by a certified environmental laboratory.
- (5) The pollution units per unit of production determined by the Inspection Team shall form the basis for calculation of the pollution charge of an industrial unit under rule 6.

6. Calculation and payment. -

- (1) The pollution charge shall be calculated by multiplying the pollution level with the actual production during the period for which the charge is to be paid, and with the applicable rate per pollution unit for the year in accordance with the rates and escalation table shown in Schedule III.
- (2) The pollution charge shall be payable biannually, based on the actual production in the preceding six months.
- (3) The payment of the pollution charge shall be made by deposit, against proper receipt in the Government Treasury or any branch of the National Bank of Pakistan.
- (4) The industrial unit shall submit a copy of the receipt, along with details of calculation of the pollution charge in the form as set out in Schedule IV, to the Provincial Agency.

7. Re-determination of pollution level. -

- (1) If during the year an industrial unit reduces, for at least three consecutive months, the pollution units discharged by it to eighty per cent or less of the level of at least one parameter, it shall have the right to apply to the Provincial Agency for re-determination of its pollution level.
- (2) The Director-General may at any time, on application from any person or suo motu and after giving an industrial unit an opportunity of being heard, have the pollution level of the industrial unit re-determined by the Inspection Team if he has reason to believe that the actual pollution units being discharged by such industrial unit in respect of any pollution parameter are twenty per cent or more than the level determined by the Inspection Team at the time of last measurement.
3. Re-determination of the pollution charge under sub-rules (1) and (2) shall be allowed by the Provincial Agency subject to payment of the prescribed fees by the applicant specified in Schedule V.

8. Costs of determination of pollution level. -

The industrial unit shall provide all requisite assistance at the site for the visit of the Inspection Team and shall bear all costs relating to determination of the pollution level, including the prescribed fees specified in Schedule V, and costs of sampling, testing and reporting of results:

Provided that the costs of re-determination of the pollution level on an application of any person under sub-rule (2) of rule 7 shall be deposited with the Provincial Agency when such re-determination is allowed, and shall be refunded to the applicant and charged from the industrial unit, only if the actual pollution units being discharged by such unit in respect of any parameter are determined by the Inspection Team to be twenty per cent or more than the level determined at the time of last measurement.

9. Collection through industrial associations and Chambers of Commerce and Industry. -

- (1) Subject to rule 4, where industrial units have formed an association to look after their collective interests, such association may collect the pollution charge from its member industrial units and deposit the same against proper receipt in the Government Treasury or any branch of the National Bank of Pakistan.
- (2) The Chambers of Commerce and Industry at the Federal and Provincial levels shall use their good offices to ensure that all industrial units in their respective jurisdictions pay the pollution charge in accordance with these rules.
- (3) All industrial associations and Chambers of Commerce and Industry shall submit a monthly report to the Board indicating the total amount of pollution charge collected by them during the previous month along with copies of the receipts of payment.

SCHEDULE I
[See rule 2(1)(d)]

Guidelines for determination of pollution charge for Industry

Legal Basis

Section 11 of the Environmental Protection Act, 1997, contains the following subsections that provide a legal basis for application of pollution charge, namely:-

- (2) The Federal Government shall levy a pollution charge on any person who contravenes or fails to comply with the provisions of subsection (1), to be calculated at such rate, and collected in accordance with such procedures as may be prescribed.
- (3) Any person who pays the pollution charge levied under sub-section (2) shall not be charged with an offence with respect to that contravention or failure.
- (4) The provisions of sub-section (3) shall not apply to projects, which commenced industrial activity on or after the thirtieth day of June 1994.

Primary Considerations

The proposed system of pollution charge has been developed to achieve a balance among the following, namely: -

1. The need for an equitable, simple and workable approach towards establishment of pollution charge.
2. The need for real progress towards making the industry environmentally friendly without jeopardizing the economic growth in the country.
3. The need of the industry to be allowed a period in which it can prepare for compliance with the National Environmental Quality Standards (NEQS).

Guideline

Basic principles discussed and agreed upon in different meetings of the Environment Standards Committee (ESC) comprising representatives of FPCCI, NGOs and the Government are summarized below:

1. The level of pollution charge shall be established through a process of negotiations.
2. The level of pollution charge should initially be such that the industry should feel the impact, but should not be excessive such that the financial health of the concern is jeopardized.
3. The system should be applied uniformly across all the industrial sectors.