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PART II

Statutory Notification (S.R.O.)

GOVERNMENT OF PAKISTAN

PAKISTAN NUCLEAR REGULATORY AUTHORITY

NOTIFICATIONS

*Islamabad, the 9<sup>th</sup> of December, 2010*

S.R.O. 1146(I)/2010 .– In exercise of powers conferred by section 16(2)(a) and section 56, of the Pakistan Nuclear Regulatory Authority Ordinance, 2001 (III of 2001), the Pakistan Nuclear Regulatory Authority is pleased to make and promulgate the following regulations for the purpose of implementing actions prescribed by sections 24, 28, 29, and 44 of the Ordinance:-

**1. Short title, extent, applicability and commencement.**–(1) These regulations may be called “Pakistan Nuclear Regulatory Authority Enforcement Regulations – (PAK/950)”

(2) These regulations extend to the whole of Pakistan.

(3) These regulations shall be applicable to all nuclear and radiation facilities and activities.

(4) These regulations shall come into force at once.

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

(a) “activities” mean

(i) production, use, storage, handling, sale, import and export of sources of ionizing radiation (e.g. for medical, industrial, agricultural, research and educational purposes etc.);

(ii) transport of radioactive material;

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- (iii) mining and processing of radioactive ores (e.g. uranium and thorium ores), and closure of associated facilities;
  - (iv) activities in radioactive waste management (e.g. discharge, disposal and clearance);
  - (v) protective actions (intervention practices);
  - (vi) decommissioning or closure of nuclear facilities and site rehabilitation.
- (b) “aircraft” means a cargo aircraft which is carrying goods or property or a passenger aircraft that carries any person including a crew member or any other person accompanying a consignment.
- (c) “Authority” means the Pakistan Nuclear Regulatory Authority established under section 3 of Pakistan Nuclear Regulatory Authority Ordinance, 2001;
- (d) “authorization” means an authorization granted under section 20 or, as the case may be, sections 21, 22 or 23 of the Ordinance;
- (e) “Chairman” means the Chairman of the Authority;
- (f) “complaint” means the allegations made in writing pursuant to section 45 of the Ordinance;
- (g) “court” means court of competent jurisdiction notified by the federal or provincial government to take cognizance, according to section 45, of the offences made under section 44 of the Ordinance.
- (h) “Directorate” means a Directorate of the Authority established under section 13 of the Ordinance;
- (i) “DG (I&E)” means Director General (Inspection and Enforcement) of PNRA so designated by the Authority as the overall in-charge for carrying out the purpose of these regulations;
- (j) “Member (Executive)” means full time Member of the Authority appointed by the Federal Government under section 4(1) of the Ordinance and so designated by a general or specific order by the Chairman.
- (k) “facilities” mean
- (i) nuclear power plants;
  - (ii) spent fuel and radioactive waste management installations (such as treatment, storage and disposal facilities);
  - (iii) nuclear and irradiation installations for medical, industrial and research purposes;
  - (iv) installations using radiation sources and radioactive material for any purpose;
  - (v) other reactors and installations.
- (l) “Inspector” means an officer designated by DG (I&E) to perform such functions as prescribed by section 29 of the Ordinance;
- (m) “interested party” means a licensee, an authorization holder and/or such person, who in the opinion of the Authority is a necessary party to the proceeding, and it may also include any person who is required to obtain a licence under section 19 of the Ordinance but is not the holder of a licence;

- (n) “licensee” means the holder of a licence issued by the Authority under section 19 of the Ordinance;
- (o) “offence” means any act or omission made punishable under section 44 of the Ordinance.
- (p) “Ordinance” means the Pakistan Nuclear Regulatory Authority Ordinance No. III of 2001.;
- (q) “person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency, any state or any political subdivision or any political entity within a state, any foreign Government or nation, or other entity and includes any legal successor, representative, agent or agency of any of the aforesaid;
- (r) “premises” means a building or a part of building and the area of ground belonging to it.
- (s) “Registrar” means an officer of the Authority so designated as Registrar for the purpose of these regulations.
- (t) “report” means the allegations of commission of an offence or violation, made in writing, by any person or an employee of the Authority against any person;
- (u) “suspension” means temporary stoppage of the activity being carried out under such licence or authorization, till the Authority withdraws its decision of suspension;
- (v) “vehicle” means a road vehicle (including an articulated vehicle, i.e. a tractor and semi-trailer combination) or railroad car or railway wagon. Each trailer shall be considered as a separate vehicle.
- (w) “vessel” means any seagoing vessel or inland waterway craft used for carrying cargo.
- (x) “violator” means any person who has contravened any provision of the Ordinance, rules and regulations made there under or directive of the Authority, or who has failed to comply with the terms and conditions of a licence or authorization;

**3. Interpretation.**— The decision of the Chairman regarding the interpretation of any word or phrase of these regulations shall be final and binding on all the persons whether licensed or unlicensed.

## PART I

### PROCEDURE FOR OBTAINING INFORMATION

**4. Notice to obtain information.** – (1) The Director or any other official designated by the Director may send a notice to a licensee or any other person pursuant to section 28 of the Ordinance to obtain information for the purpose of satisfying himself as to whether the provisions of the Ordinance or the rules and regulations made there under and/or terms and conditions of the licence and directives, have been or are being adequately complied with.

(2) The concerned person is bound to facilitate and provide all relevant data, records, information and full access to the necessary areas to the Inspector(s) or Directorate in performance of its duties and functions without any obstruction, hindrance or delay.

**5. Issuance of show cause notice.** – The reply has to be furnished within the time frame stipulated in the notice issued under regulation 4 (1). However, if the Directorate does not receive any reply of the notice within thirty (30) days of its serving, it may issue a show cause notice as stipulated in regulation 13.

## PART II

### PROCEDURE FOR ENTRY OR INSPECTION

**6. Designation of Inspector.** – (1) Any officer who fulfills the eligibility criteria, as approved by the Authority from time to time and available on PNRA's website, may be designated as Inspector by the DG (I & E) in writing. An Inspector may be designated for a particular place or area or for a specific purpose or period.

(2) The Inspector shall carry with him a valid identity card of such designation and if so required he shall show his identity card for identification to any person, in relation to whom he is exercising or proposing to exercise any of his powers.

**7. Powers of the Inspector.** – (1) An Inspector shall have the powers to:

- (a) Enter any premises, vehicle, vessel or aircraft for the purpose of satisfying himself as to whether the provisions of the Ordinance or the rules and regulations made there under have been or are being adequately complied with;
- (b) carry out any tests and investigations;
- (c) obtain and analyze any samples;
- (d) carry out periodic inspections of any premises / installation or radiation apparatus;
- (e) record the statement of any person in the performance of his duties;
- (f) issue warning or directive;
- (g) lock and seal any premises, nuclear installation, radiation generator, or any part thereof, where any nuclear substance or radiation generator is being used, stored, operated or maintained in contravention of the Ordinance or the rules and regulations made there under;
- (h) carry out any other functions pursuant to section 29 of the Ordinance.

(2) The licensee shall provide any Inspector, immediate unfettered access, with applicable access control measures for security, radiation protection and personal safety, in case of nuclear installations;

**8. Assistance to the Inspector.** – (1) Every person related to a facility or activity, whether licensed or unlicensed, shall be bound to assist and facilitate the Inspector to provide all relevant data, records, information and full access to the necessary areas to the Inspector in performance of his duties and functions without any obstruction, hindrance or delay.

(2) The Inspector may seek assistance of the local police in case of any resistance during entry and inspection with the approval of the Director of the concerned Regional Directorate.

(3) In case of locked premises, efforts will be made to inform the owner before entering the premises with the help of local police.

**9. Filing of report.**— If an Inspector determines that the provisions of the Ordinance or the rules and regulations made there under and/or terms and conditions of the licence and directives have not been or are not being complied with, the Inspector may submit a report to the concerned Director for assessment of violation as stipulated in Regulation 12.

### **PART III**

#### **PROCEDURE FOR SUSPENSION OR CANCELLATION OF LICENCE AND/OR AUTHORIZATION**

**10. Grounds for suspension and cancellation.** – A licence or an authorization may be suspended or cancelled upon any one of the following grounds:

- (a) the licensee or authorization holder has violated any provision of the Ordinance or the rules and regulations made there under;
- (b) action or inaction of the licensee or authorization holder has resulted in the breach of any of the provisions of the Ordinance or the rules and regulations made there under;
- (c) the licensee or authorization holder has not complied with the terms and conditions of the licence, authorization or any other directive issued by the Authority;
- (d) if any of the allegation contained in the violation report submitted pursuant to regulation 9, is determined by the Director to be correct;
- (e) default in payment of fee or any other dues of the Authority;
- (f) commission of any of the offences provided in the Ordinance.

**11. Types of violation.** – (1) An Inspector may submit report to the respective Directorate of:

- (a) any action or inaction of a licensee or authorization holder which constitutes alleged violation of the Ordinance or the rules and regulations made there under, orders, directives of the Authority;
- (b) any action or inaction of a licensee or authorization holder which constitute alleged non-compliance with the terms and conditions of the licence or authorization, as the case may be;
- (c) a licensee or authorization holder engaged in conduct which may endanger the safety of the workers, patients, general public and/or the environment;
- (d) a licensee or authorization holder who is found guilty of:
  - (i) unprofessional conduct, any felony, willful misconduct or negligence pertaining to obligations arising out of Ordinance and Regulations;
  - (ii) obtaining or attempting to obtain a licence or authorization or renewal thereof by bribery or fraudulent representation or through provision of incorrect information;
  - (iii) providing the Authority with false or misleading information;

- (iv) violating, aiding or abetting others in violation of any provision of the Ordinance or the rules and regulations made there under.

**12. Assessment of violation.** – (1) The Director of the concerned Directorate shall consider the report of violation and the documents placed before him by the concerned Inspector. The Director shall consider the following factors amongst others:

- (a) safety significance of the violation;
- (b) effectiveness of physical protection;
- (c) whether first time violation or repeated violation;
- (d) whether the cause is due to negligence, deliberate or willful;
- (e) whether identified and reported by the violator himself or by any other person including inspectors of the Authority;
- (f) past performance and record of the violator;
- (g) violators preparedness as well as willingness to rectify the violation;
- (h) the impact of contravention on other persons, interested parties or the general public or environment;
- (i) any other factor, not herein provided, but considered essential by the Authority.

(2) After considering the report of violation and the documents placed before him by the concerned Inspector the Director will assess the violation or constitute a committee for the assessment of violation. After assessment of violation the Director may:

- (a) issue a show cause notice on behalf of the Authority; or
- (b) issue a final directive to the licensee or the authorization holder, to rectify the violation or to submit compliance report with terms and conditions of the licence or the authorization, within a specified period;
- (c) reject the violation report.

**13. Contents and issuance of show cause notice.** – (1) The Director after consultation with the DG (I & E) may decide to publish show cause notice, if the circumstances so require, in addition to dispatch of show cause notice.

(2) A show cause notice may be dispatched or communicated to the violator by any one or more of the following means:

- (a) by post with acknowledgement due;
- (b) by a courier service;
- (c) by publication in national or international newspaper of large circulation, where the violator normally resides, or carries on business or where its head office is located.

(3) A show cause notice shall comprise of the following essential information but may also include such other information as the Director may deem fit:

- (a) name and address of the violator;

- (b) the provisions of the Ordinance or the rules and regulations made there under, orders or directives of the Authority, which have been contravened, every contravention, if more than one, shall be specifically stated;
  - (c) the penalties, as provided in statutes, for each breach, which the Authority can determine to impose, shall be specifically stated for the information of the violator;
  - (d) reference to the previous correspondence on the subject, if any, in such instance, photocopy of the previous correspondence may also be annexed with show cause notice;
  - (e) the date by which reply of the show cause notice will be sent and the name, address and designation of person to whom it will be sent.
- (4) The show cause notice may preferably be drafted by a legally qualified person.
- (5) Show cause notice shall be signed and served upon the violator by the respective Director.

**14. Reply of the show cause notice.** – The Director, on receipt of reply to show cause notice shall assess whether:

- (a) to accept the reply; or
- (b) to reject the reply.

**15. Prior to hearing procedure.** – In case of rejection of the reply or no reply by the violator, the Director may refer the matter to the DG (I & E) who may, as the case be, do the following:

- (a) seek assistance of a legal consultant and/or technical expert, for evaluation of the reply to the show cause notice.
- (b) accept or deny the violator's reply;
- (c) call for comments or interventions from interested parties before the conduct of hearing.
- (d) cause a notice of hearing to the violator.
- (e) decide date, time and venue for the conduct of hearing.
- (f) determine a date or time for close of evidence, discovery, or admission of facts and documents.
- (g) limit the number of experts or witnesses and may impose time limits for presentation of their testimony, keeping in view the relevancy of evidence to the issue.
- (h) determine issues to be addressed by the parties and the same shall be communicated to the concerned persons minimum seven (07) days prior to the date of hearing.

**16. Hearing and the decision.** – (1) The DG (I & E) shall conduct hearing on the date and time as communicated to the parties.

(2) The Registrar of the Authority may make arrangements for audio, video or both types of recording of the proceedings, as the DG (I & E) may approve.

(3) The Registrar of the Authority may inform all participants of the program of hearing and the rules of decorum for the smooth running of the proceedings, just prior to the commencement of the proceedings.

(4) The DG (I & E) may conclude hearing in a single day or if required, adjourn it to such subsequent dates as it may deem necessary.

(5) The DG (I & E) shall pronounce the close of evidence, discoveries or the hearing proceedings in the presence of the participants.

(6) The DG (I & E) shall formulate and notify its decision at such later date as it may deem fit in the circumstances, but not later than ten (10) days after the closure of hearing.

(7) Where the violator is a licensee or authorization holder and the DG (I & E) has determined and decided that contravention of the Ordinance, rules and regulations made there under, has taken place or the violator has consistently failed to comply with terms and conditions of the licence or authorization and/or the directives, as the case may be, the DG (I & E) may, on behalf of the Authority:

(a) suspend the licence or authorization; or

(b) cancel the licence or authorization.

(8) The decision of the DG (I & E) shall be communicated in the same manner as prescribed for issuance of show cause notice in regulation 13.

**17. Cancellation of decision.**— The DG (I & E) may, after the pronouncement or issuance of a decision, as the case may be, cancel the decision provided:

(a) the violator has rectified the violation to comply with the terms and conditions of the licence or authorization and such action has been verified by the DG (I & E) through his own means

(b) the licensee or the authorization holder submits an application to the DG (I & E) for review and withdrawal of order.

**18. Actions to be taken subsequent to cancellation or suspension.** – In case the licence is cancelled or suspended, the DG (I & E) may take all or any of the actions specified in section 25 of the Ordinance.

**19. Filing of complaint.** – In case of non-compliance of the orders of the Authority, DG (I & E) or the Director of the concerned Directorate may forward the report to the Registrar for filing the complaint for prosecution pursuant to section 45 of the Ordinance.

#### PART IV

##### PROCEDURE FOR INVESTIGATION OF OFFENCES

**20. Reporting of offence.** – (1) A report that an offence has been committed may be submitted or filed with the Authority:

(a) by any person;

(b) by respective Directorate of the Authority.

(2) A report to be submitted or filed pursuant to clause (1) shall be filed with the Registrar of the Authority, during the working hours, by the person himself or its duly authorized representative.

**21. Requirements of a report.** – Each report submitted to the Authority by any person shall be:



- (a) neatly and legibly written typed or printed and shall precisely set forth the facts, grounds and the applicable provisions of the Ordinance, rules or regulations contravened by the accused person;
- (b) in case of an individual filing the report, who is not an employee of the Authority, duly signed, dated and verified by person making it and in case of company, firm, partnership etc., signed and verified by chief executive officer, director, secretary, administrator or an authorized representative as applicable;
- (c) accompanied by documents referred to or relied upon;
- (d) accompanied by copy of NIC or any other satisfactory identification. In case of a minor, he may submit a copy of NIC of his father or guardian.

**22. Submission of report by any person other than an employee of the Authority.** – Any report filed with the Authority by any person other than its employee, shall be examined by the Registrar for its compliance with regulations:

- (a) Where the report is considered to be in conformity with the requirements of these regulations, he shall accept the application and endorse thereon a stamp acknowledging the filing along with the number given there to in register; or
- (b) Where the report is found not in conformity with the requirements of regulation 21, he shall, as soon as but not later than fourteen (14) days of filing thereof, return the report with directions to amend, correct or to annex such documents, as are required to substantiate the allegations, or for any other requirement, and re-submit the report in accordance with these regulations.
- (c) The Registrar shall forward the report to the concerned Directorate for verification of facts and submission of comprehensive report within fourteen (14) days.
- (d) Where the Registrar or the Directorate is not satisfied with the contents of the report and of its conformity with the requirements of regulation 21, he shall place the report before the Member (Executive) for its direction, as it may deem necessary, not later than seven (07) days of the date of re-submission thereof by that person. The Member (Executive) shall not reject a report on the grounds of any defect therein without giving the person, an opportunity of rectifying the defect within the time specified for the purpose by the Member (Executive).
- (e) All reports shall be deemed to be filed on the date of acceptance thereof by the Registrar where re-submitted in accordance with the provisions of clause (b) and/or (d) above, on the date the Registrar accepts the filing thereof.

**23. Submission of report by an employee of the Authority.** – Any report filed with the Authority by the designated Inspector of the Authority shall be forwarded to the DG (I & E), through the concerned Directorate for further action.

**24. Show cause notice and hearing procedure.** – Issuance of show cause notice and hearing will be done pursuant to regulations 13, 14, 15 and 16.

**25. Publication and service of legal notices.** – (1) Before filing the complaint the Registrar may serve legal notice to the accused person.

(2) The legal notice may be served to the accused person by the Registrar through any one or more of the following modes of service, namely:

- (a) by hand delivery through messenger;
- (b) by registered post acknowledgement due;
- (c) by publishing in a national daily English language newspaper and an Urdu language daily newspaper;
- (d) by advertisement in the electronic media or foreign newspapers where the Authority is satisfied that it is not reasonably practicable to serve legal notices in any other manner.

(3) Every legal notice or process required to be served on, or delivered to any accused person, may be sent to the person at the address furnished by him for service or at the place where the person or his authorized agent normally resides or conducts business or personally works for gain.

(4) Where a person is to be served a legal notice during the course of proceedings and such a person, has an authorized agent or representative to represent him in the proceedings, such agent or representative shall be considered duly authorized to accept service of a legal notice and process on behalf of the person concerned.

(5) No service or publication shall be deemed invalid by reason only of any defect in the name or description of a person if the Registrar is satisfied that such service or publication is sufficient in all other aspects.

**26. Filing of complaint.** – The filing of complaint will be according to the internal working procedure made under the provisions of the Ordinance and these Regulations.

**27. Repeal.**– Regulations 6, 7, 8 and 25 of Pakistan Nuclear Safety and Radiation Protection Regulations, 1990 (SRO 957(I)/90) are hereby repealed.

[PNRA-PPD-02(50)/07]

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Member (Corporate)