

(3) Without prejudice to the provisions of sub-section (2), a State Board may, with a view to preventing or controlling pollution of water, give directions requiring any person in charge of any establishment where any ¹[industry, operation or process, or treatment and disposal system] is carried on, to furnish to it information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto in such establishment and such other particulars as may be prescribed.

21. Power to take samples of effluents and procedure to be followed in connection therewith.—(1) A State Board or any officer empowered by it in this behalf shall have power to take for the purpose of analysis samples of water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into any such stream or well.

(2) The result of any analysis of a sample of any sewage or trade effluent taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3), (4) and (5) are complied with.

(3) Subject to the provisions of sub-sections (4) and (5), when a sample (composite or otherwise as may be warranted by the process used) of any sewage or trade effluent is taken for analysis under sub-section (1), the person taking the sample shall—

(a) serve on the person in charge of, or having control over, the plant or vessel or in occupation of the place (which person is hereinafter referred to as the occupier) or any agent of such occupier, a notice, then and there in such form as may be prescribed of his intention to have it so analysed;

(b) in the presence of the occupier or his agent, divide the sample into two parts;

(c) cause each part to be placed in a container which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;

(d) send one container forthwith,—

(i) in a case where such sample is taken from any area situated in a Union territory, to the laboratory established or recognised by the Central Board under section 16; and

(ii) in any other case, to the laboratory established or recognised by the State Board under section 17;

(e) on the request of the occupier or his agent, send the second container,—

(i) in a case where such sample is taken from any area situated in a Union territory, to the laboratory established or specified under sub-section (1) of section 51; and

(ii) in any other case, to the laboratory established or specified under sub-section (1) of section 52.

²[(4) When a sample of any sewage or trade effluent is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3) and the occupier or his agent wilfully absents himself, then,—

(a) the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (e) of sub-section (3) and such person shall inform the Government analyst appointed under sub-section (1) or sub-section (2), as the case may be, of section 53, in writing about the wilful absence of the occupier or his agent; and

(b) the cost incurred in getting such sample analysed shall be payable by the occupier or his agent and in case of default of such payment, the same shall be recoverable from the occupier or his agent, as the case may be, as an arrear of land revenue or of public demand:

1. Subs. by Act 53 of 1988, s. 10, for “industry or trade” (w.e.f. 29-9-1988).

2. Subs. by Act 44 of 1978, s. 10, for sub-section (4) (w.e.f. 12-12-1978).

Provided that no such recovery shall be made unless the occupier or, as the case may be, his agent has been given a reasonable opportunity of being heard in the matter.]

(5) When a sample of any sewage or trade effluent is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent a notice under clause (a) of sub-section (3) and the occupier or his agent who is present at the time of taking the sample does not make a request for dividing the sample into two parts as provided in clause (b) of sub-section (3), then, the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (d) of sub-section (3).

22. Reports of the result of analysis on samples taken under section 21.—(1) Where a sample of any sewage or trade effluent has been sent for analysis to the laboratory established or recognised by the Central Board or, as the case may be, the State Board, the concerned Board analyst appointed under sub-section (3) of section 53 shall analyse the sample and submit a report in the prescribed form of the result of such analysis in triplicate to the Central Board or the State Board, as the case may be.

(2) On receipt of the report under sub-section (1), one copy of the report shall be sent by the Central Board or the State Board, as the case may be, to the occupier or his agent referred to in section 21, another copy shall be preserved for production before the court in case any legal proceedings are taken against him and the other copy shall be kept by the concerned Board.

(3) Where a sample has been sent for analysis under clause (e) of sub-section (3) or sub-section (4) of section 21 to any laboratory mentioned therein, the Government analyst referred to in that sub-section shall analyse the sample and submit a report in the prescribed form of the result of the analysis in triplicate to the Central Board or, as the case may be, the State Board which shall comply with the provisions of sub-section (2).

(4) If there is any inconsistency or discrepancy between, or variation in the results of, the analysis carried out by the laboratory established or recognised by the Central Board or the State Board, as the case may be, and that of the laboratory established or specified under section 51 or section 52, as the case may be, the report of the latter shall prevail.

(5) Any cost incurred in getting any sample analysed at the request of the occupier or his agent shall be payable by such occupier or his agent and in case of default the same shall be recoverable from him as arrears of land revenue or of public demand.

23. Power of entry and inspection.—(1) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right at any time to enter, with such assistance as he considers necessary, any place—

(a) for the purpose of performing any of the functions of the Board entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder of any notice, order, direction or authorisation served, made, given, or granted under this Act is being or has been complied with;

(c) for the purpose of examining any plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such plant, record, register, document or other material object, if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder:

Provided that the right to enter under this sub-section for the inspection of a well shall be exercised only at reasonable hours in a case where such well is situated in any premises used for residential purposes and the water thereof is used exclusively for domestic purposes.