

THE NATURAL RESOURCES AND ENVIRONMENT ORDINANCE
(Cap. 84 – Laws of Sarawak, 1958 Ed.)

THE NATURAL RESOURCES AND ENVIRONMENT (AUDIT) RULES, 2008

[Made under section 18(q)]

In exercise of the powers conferred by section 18(q) of the Natural Resources and Environment Ordinance, 1993 [Cap. 84 - Laws of Sarawak 1958 Ed.], the Majlis Mesyuarat Kerajaan Negeri has made the following Rules:-

Citation and Commencement

1. These Rules may be cited as the Natural Resources and Environment (Audit) Rules, 2008 and shall come into force on the 2008

Interpretation

2. In these Rules -

“audit report”	means a report prepared by an environmental auditor and is required to be submitted to the Controller under rule 9;
“Board”	means the Natural Resources and Environment Board established under section 3 of the Natural Resources and Environment Ordinance;
“Controller”	means the person appointed pursuant to section 3(9) of the Ordinance, and includes a Deputy Controller;
“environmental audit”	means a periodic, systematic, documented and objective evaluation to determine – <ol style="list-style-type: none">(a) the compliance status of any order, directive, conditions of approval or any requirement issued or made by the Board;(b) the environmental management system and its compliance; and(c) any risk, that may be caused to the environment in regard to the use, exploitation or development of any of the natural resources of the State.

“environmental expert”	a person with appropriate knowledge and experience in the field of environment for a period of ten years and above;
“environmental management system”	means a system or process comprising of an organizational structure with its responsibilities, procedures, practices and control for the overall management and protection of the environment;
“environmental risk”	means any risk, hazard or chances of bad consequences that may be brought upon the environment;
“environmental risk assessment”	means the examination of risks that may be caused to the environment or that threaten ecosystems, animals and people in regard to the use, exploitation or development of any of the natural resources of the State. It includes human health risk assessments, ecological or ecotoxicological risk assessments;
“Order”	means the Natural Resources and Environment (Prescribed Activities) Order, 1994 (Sarawak gazette ref. LN_____);
“Ordinance”	means the Natural Resources and Environment Ordinance;
“Panel”	means persons appointed under rule 4;
“prescribed activities”	means any of the activities specified in the First Schedule of the Natural Resources and Environment (Prescribed Activities) Order, 1994;
“qualified person”	means any person who has been appointed as environmental auditor under these Rules to conduct environmental audit, prepare and submit a report to the Controller;
“Register”	means a Register of Environmental Auditors maintained by the Controller under rule 9;
“Registration”	means a listing of appointed environmental auditors.

Application of the Environmental Audit

3. The Environmental Audit shall be applicable to:
 1. all prescribed activities enumerated in the First Schedule of the Natural Resources and Environment (Prescribed Activities) Order, 1994;
 2. where there is non-compliance with the approval or permit conditions, directives or orders issued by the Controller;
 3. for determining the effectiveness of the environmental management systems; and
 4. for assessing environmental risks caused by development activities or by the exploitation or utilization of the natural resources.

Establishment of Assessment Panel

4. (1) The Board shall appoint a panel whose duty shall be to assess the applicant against the requirements set out in rule 5; the panel shall be chaired by an independent environmental expert and consists of three other members drawn from among members or the officers of the Board with relevant qualification and work experience;
 - (2) The Controller shall select applicants for interview under the direction of the chair of the panel using the assessment requirements under rule 5, and the panel shall interview those applicants using a case study as the basis for that interview;
 - (3) The panel shall make a recommendation to the Controller regarding the appointment of each applicant;
 - (4) The environmental auditor's appointment only takes effect upon payment of a fee of Ringgit Malaysia two thousand.

Appointment, Suspension or Revocation of Environmental Auditor

- 5 (1) The Controller may under these Rules –
 - (a) appoint any person to be environmental auditor under these Rules;
 - (b) suspend or revoke an appointment;
 - (c) impose any conditions to an appointment.

- (2) The Controller in appointing an environmental auditor must have regard to the following requirements –
- (a) a tertiary qualification in a relevant discipline awarded by a recognized tertiary institution;
 - (b) understanding of relevant provisions of the Ordinance and its subsidiary legislations, associated statutory policies, regulations and guidelines;
 - (c) experience in forming and managing multidisciplinary teams, which contain the appropriate balance of expertise for complex assessments;
 - (d) a thorough understanding of the principles of and methods for conducting environmental audits; and experience and expertise of at least five years relating to environmental assessment in public or private sector.
- (3) The Controller may conduct a review of an environmental auditor's appointment with a view to determining whether the appointment should be suspended or revoked or renewed.
- (4) The Controller may ordinarily institute a review of the environmental auditor's appointment where –
- (a) he raises concerns on the explicit contents of an environmental audit report;
 - (b) he is of the opinion that an environmental audit report provided is unsatisfactory;
 - (c) he receives a complaint, and is appropriately verified about unprofessional conduct of an environmental auditor;
 - (d) an environmental auditor behaves fraudulently or deceptively;
 - (e) an environmental auditor is declared a bankrupt; and
 - (f) an environmental auditor is found guilty of an indictable offence.

Order to carry out the Environment Audit

6. (1) The Controller shall order any body or person to carry out environmental audit on any activity under rule 3;

- (2) The Controller may by notice require an occupier or owner or developer to carry out an environmental audit in total or for specific portions of the scope of an environmental audit, or for the specific stages of activity and to submit a report thereof to the Controller at such times and such a manner as directed by the Controller;
- (3) Notwithstanding paragraph 1, upon being notified by the Controller, an occupier or owner or developer shall carry out environmental audit at such frequency or interval as may be directed by the Controller;
- (4) The Controller may for whatever reason, initiate and carry out an environmental audit or risk assessment and notify the occupier or owner or developer of such action. In such a circumstance the Controller may select the auditor and ensures the audit is completed within the timeframe established by him. In such circumstance the cost shall be borne by the Occupier, or owner or developer.

Audit to be carried out by Appointed Auditors

7. (1) The Environmental Audit shall be carried out by the Environmental Auditors appointed by the Controller pursuant to rule 5;
- (2) The Controller shall undertake to scope with the environmental auditor to determine the scope, coverage and depth of the intended audit.

Register of Appointed Environmental Auditors

- 8 (1) The Controller may prescribe a form for registration;
- (2) The Controller shall keep and maintain a register of appointed Environmental Auditors.

Submission of Audit Report

9. (1) The Environmental Auditor shall prepare and submit to the Controller the Audit Report for assessment by the Controller;
- (2) The report shall be in a format as may be prescribed by the Controller.

Confidentiality of Audit Report

10. The audit report and associated audit notations shall not be made known to any other party without written consent of the Controller.

Audit Recommendations

11. For the purpose of effective and expeditious corrective actions –
- (1) The auditor shall submit audit recommendations in the form prescribed in the Schedule, to include proposed corrective or preventive or mitigative actions that shall be undertaken to eliminate, reduce, control or mitigate adverse impacts on the environment;
 - (2) The Controller shall direct the owner or occupier or developer to plan and implement any or all of the recommendations contained in the environmental audit report;
 - (3) The Controller shall thereafter issue the directives incidental to these Rules.

Audit Fees

12. The occupier or owner or developer shall –
- (1) Bear all fees and costs for or incidental to the conduct of the environmental audit and submission of the environmental audit report.
 - (2) Deposit with the Controller the amount equivalent to the estimated cost of the audit as assessed by the environmental auditor.

Penalty

13. (1) The owner or occupier or developer who fails to implement the audit recommendations within a timeframe stipulated by the Controller shall be guilty of an offence: penalty, a fine not exceeding fifty thousand Ringgit and imprisonment not exceeding five years and/or a subsequent fine of one thousand Ringgit for every day the offence is committed after a notice has been issued;
- (2) Any Environmental Auditor who submits the environmental audit report pursuant to rule 9 containing facts, data or information which he knows or has reason to believe is false or calculated to deceive the Controller; or any person providing facts, data or information for the audit which he knows or has reason to believe is false or calculated to deceive the Controller;

shall be guilty of an offence: Penalty, a fine not exceeding fifty thousand ringgit and imprisonment not exceeding five years.

SCHEDULE
CORRECTIVE AND PREVENTIVE ACTION REPORT

PART A: AUDIT FINDING

[Note: To be submitted to the NREB within 30 days of audit report submission to the NREB]

Audit Report Ref. No.: _____ Audit Finding Ref. No.:

Brief Audit Finding:

PART B: PROPOSED CORRECTIVE AND PREVENTIVE ACTION

Proposed completion date: _____ Prepared by: _____

Actual completion date: _____ Reported by: _____

[NREB USE ONLY]

PART C: NREB VERIFICATION AND COMMENT

Completion: satisfactory/not satisfactory*
(delete whichever not applicable)*

Verification comment:

Verification date: _____ Controller of Environmental Quality _____
