

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Labour, Factories, Boilers and Insurance Medical Services Department – Ease of Doing Business(EoDB) - State Reforms Action Plan- Introduction of Self Compliance Certification/Third Party Compliance Certification instead of Departmental Inspections under Factories Act, 1948 & Andhra Pradesh Factories Rules – Orders - Issued.

LABOUR FACTORIES BOILERS AND INSURANCE MEDICAL SERVICES (Lab-II) DEPARTMENT

G.O.MS.No. 8

Dated: 03-12-2020

Read the following:

1. Minutes of meeting on SRAP, 20-21 held on 22.09.2020 by Special Chief Secretary, Industries & Commerce, Government of AP.
2. From the Director of Factories, Andhra Pradesh, Vijayawada, Lr.No. LAE05-112021(56)/7/2020-A SEC-DOF, Dt:30.11.2020.

ORDER:

The Special Chief Secretary, Industries & Commerce, Government of AP has convened a meeting on 22.09.2020 on "Ease of Doing Business(EoDB) - State Reform Action Plan 2020-21 and requested the Departments to comply with the recommendations/reforms issued under SRAP 2020-21. Among the recommendations/reforms, they have recommended for implementation of Self/Third Party Certification instead of Departmental Inspections under all the Labour laws and the Factories Act, 1948.

2. In the reference 2nd read above, the Director of Factories has furnished a proposal of the scheme of "Self Compliance Certification/Third Party Compliance Certification, 2020" and requested the Government to Notify the same for implementation.

3. After careful examination of the request of the Director of Factories, the Government of Andhra Pradesh have decided to introduce a scheme of "Self Compliance Certification / Third Party Compliance Certification, 2020" instead of departmental inspections in the State. Accordingly, the following notification will be published in the Extraordinary issue of Andhra Pradesh Gazette:-

NOTIFICATION

The Government of India, Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, New Delhi have recommended the introduction of Self-Certification/Third Party Certification of compliance instead of departmental inspections for verification of compliance of provisions under the Factories Act, 1948 to improve Ease of Doing Business (EoDB) in the State of Andhra Pradesh. Accordingly, the State Government have decided to introduce a scheme of "Self Compliance Certification/Third Party Compliance Certification, 2020" instead of departmental inspections have decided to introduce in the State as follows:-

A. Self / Third Party Compliance Certification Scheme under Factories Act

1. This scheme is extended to factories covered under Factories Act 1948 with effective from December 2020 and shall be in force till it is cancelled or modified.
2. The following factories are not eligible to apply under this scheme.
 - a. Factories not holding a valid license under Factories Act

b. Factories in which an accident had occurred during last 3 previous calendar years resulted into fatality or serious bodily injury or any dangerous occurrence resulted into Fire, Explosion, Bursting, Release of Toxic Gases, Spillages of Hazardous and molten metals, Collapse of structures/ buildings.

3. This scheme is optional. Hence the occupiers of factories which have been allocated for departmental inspection have to exercise their option of either Self certification of compliance or Third-Party Certification of compliance or Departmental inspection within 15 days from the date of allocation for inspection in the online CIS portal.

4. Those who have opted for Self-certification shall download the checklist for compliance from CIS portal and upload the self-certification in the manner prescribed at least 30 days before the scheduled date of inspection failing which the departmental inspection shall be carried on as per the schedule in accordance with the procedure in force.

5. Those who have opted for empanelled third party certification shall engage a third party from the list of empanelled third parties on random allocation by CIS portal if available. In case of non-availability of this system in CIS portal, the occupier himself shall engage the third party from the list of empanelled third parties in accordance with the guidelines issued, if any, by the Director of Factories. The engaged third party shall prepare the certification with the checklist to be downloaded from CIS portal and upload the same in the manner prescribed at least 30 days before the scheduled date of inspection failing which the departmental inspection shall be carried on as per the schedule in accordance with the procedure in force.

6. There will be no regular departmental inspections for those factories which have opted for either Self Certification or Third-Party certification and admitted by the concerned department, till the next inspection is scheduled by CIS portal. However, this will not obstruct the inspections/visits based on accidents, Complaints, Special Drives launched by Director of Factories, Mock Drills, Training Programs, Interactive meetings and any other circumstances wherein the enrolment is not admitted into this scheme or the admission stands cancelled.

Further, any certification uploaded within the stipulated time and no objections are communicated for a period of 14 days from the date of uploading shall be deemed to have been admitted.

7. The factories of the occupiers who have opted for the departmental inspection will be inspected on random allotment as per the existing procedure through CIS portal based on the checklist in CIS portal.

8. The frequency of inspections of factories shall be based on the risk potential of the factory which is classified as stipulated below. The criteria for classification are made available in CIS portal.

- a. All the High-Risk factories shall be once in a year
- b. All Medium Risk factories shall be once in two years
- c. All the low risk factories shall be once in three years

9. Procedure for Application into Scheme: The factories which have opted for self-certification or empanelled third party certification shall apply online for enrolment into the scheme in the prescribed format for enrolment (Annexure-I) through CIS portal by remitting an interest free 'Compliance Guarantee Deposit' (CGD) as prescribed in the table below.

(In Rupees)						
HP / Workers	Up to 100	101 to 250	251 to 500	501 to 1000	1001 to 5000	Above 5000

Up to 250	5000	10000	15000	20000	25000	30000
251 to 1000	10000	15000	20000	25000	30000	35000
1001 to 5000	15000	20000	25000	30000	35000	40000
5001 to 10,000	20000	25000	30000	35000	40000	45000
Above 10,000	25000	30000	35000	40000	45000	50000

10. (i) The valid enrolment into the scheme is liable for cancellation under the following circumstances.

- a. Whenever there is an accident resulting into fatality or serious bodily injury or dangerous occurrences as detailed vide 2(b) above due to violation of provisions of Factories Act & Rules besides Guide lines, norms, standards notified if any.
- b. Whenever there is no valid license in force issued under Factories Act.
- c. Whenever there is a complaint for non-compliance which is proved on enquiry.

The cancellation of enrolment under the above circumstances shall render the self- certification or Third-Party certification, as the case may be, cancelled and the CGD made at the time of enrolment shall be forfeited.

(ii) The occupier can opt for cancellation of enrolment sui motto at any time during its valid period and under such a situation the CGD amount shall be deducted on pro rata basis for the period of certification availed and the balance (without interest) shall be adjusted towards the license fee to be paid under Factories Act for the subsequent calender years. Similarly, the CGD can be brought forward to the subsequent allotment of inspections in this scheme but under no circumstances it shall be refunded.

(iii) The enrolment of any factory into the scheme does not relieve the occupier or manager or both from the responsibility under the law for the violations under Act & Rules if found at any time. The penalties prescribed under the Factories Act for the violations are in addition to forfeiting the CGD. The scheme is intended to regulate the compliance inspections under the Act & Rules.

11. Empanelment of Third Parties for Compliance Certification:

- a. The third parties shall be individuals or the firms.
- b. In order to facilitate the factory managements by keeping the persons/firms having relevant qualifications and experience readily available as third parties, the empanelment is proposed by grouping the factories based on the nature and risk potential as detailed in annexure-II. The individuals/firms qualified for high risk factories shall be deemed eligible for relatively low risk factories as stated in column no:6 of annexure-II. by mere submission of application along the proof of remittance of necessary fee stipulated therein.
- c. In case of individuals, the minimum required qualifications and experience for empanelment are also detailed in annexure-II.
- d. In case of firms, it shall have not less than 2 individuals associated with the firm applying for empanelment, who are qualified to be empanelled as third parties as per the criteria in annexure-II. The individuals associated in the empanelled firm are not eligible for empanelment in the individual category as long as the empanelment of the firm is valid.

- e. The individuals owning firms as proprietor with no other individual associated shall also be treated as individual under this scheme and the empanelment shall be given accordingly.
- f. The application for empanelment for individuals as well as firms shall be as per the proforma Form-TPI (Annexure-III) and Form-TPF (Annexure-IV) respectively. The applications shall be made to Director of Factories along with the proof of payment of the requisite fee.
- g. i. The applications for empanelment received in full shape shall be placed before the Empanelment Scrutiny Committee (ESC) which shall be constituted by Director of Factories under his chairmanship, with individuals having considerable experience in Operation/Maintenance of relevant Industries having good reputation, Safety Professionals or other individuals with relevant professional expertise as members.

ii. The individuals who are not empanelled third parties shall only be considered as members of ESC and the individuals who have served as members of ESC shall not be eligible for application for the empanelment as third parties in the scheme for the next two calendar years after ceases to be the member of the ESC.

iii. The Joint Chief Inspector of Factories dealing with this subject shall be the member convener for this committee and organize its meetings.

iv. There can, if necessary, be more than one ESC for this purpose by considering the grouping of manufacturing activities in Annexure-II.
- h. The ESC shall meet once in a quarter or as frequently as otherwise decided by the chairman of the committee and scrutinize the applications received, conduct the personal interviews either physical or virtual with the candidates applied for empanelment based on which the ESC may either recommend for empanelment or rejection. If the application is made by the firm associated with two or more individuals, all the individuals cited in the said application shall attend the personal interview either physical or virtual and accordingly the application of firm shall be recommended for empanelment if there are at least two individuals found meeting the qualifying criteria. The applicants recommended for empanelment by the ESC shall be issued with a certificate of empanelment. The certificate shall be issued for one year from the date of issue of the certificate.
- i. The individuals or the firms shortlisted for empanelment by ESC shall require to pay an interest free refundable cautionary deposit (RCD) equal to the annual fee payable for the groups applied for empanelment, within 7 days of acceptance of empanelment by ESC. The total RCD shall be forfeited if the person or firm empanelled as third party is found violated any condition in the certificate of empanelment or has acted in a manner inconsistency with the intent or the purpose of the Act and Rules made there under or has omitted to act as required under the act or the rules made there under or for any other reasons or observations in the certification is found false.
- j. The RCD is adjustable to subsequent years of empanelment if applied for renewal for subsequent years as prescribed.
- k. The individuals or the persons associated with the firms applied for empanelment as third Parties for certification shall not be above the age of 65 years and to be certified physically fit by a registered medical practitioner annually after attaining the age of 60 years by last birthday

onwards for carrying physical work of compliance assessment for the purpose of certification.

- l. The individual should not currently be a part time/full time employee in any factory listed in the State of Andhra Pradesh or its subsidiaries or branches elsewhere in the country.
- m. The individuals or the persons associated with the firm who are found to be with objectionable character are not eligible for empanelment as third parties.
- n. The certificate of empanelment shall stand cancelled in case of firms, if the persons empanelled leave the firm consequent of which or due to any other developments, the firm fall short of minimum two individuals at any given time in a year.

12. Renewal of Empanelment:

- a. Every individual/firm seeking renewal of empanelment as Third Party for certification of compliance shall submit an application in the prescribed format along with relevant documentary proof, payment fee, log record of work done in the previous empanelment year, Fitness certificate (If required) etc. at least 2 months before the expiry of the validity of the empanelment certificate to the Director of Factories, Andhra Pradesh, Vijayawada.
- b. The ESC shall evaluate the performance of the Third party with regard to quality of the work done during the previous year while considering the renewal. The committee shall also take into cognizance if there are any allegations of act of bribery or disclosure of information if any about the manufacturing or commercial or working processes which may come to their knowledge in the course of their work or any other relevant issues while examining the application of renewal of an individual or individuals in a firm and recommend for renewal of empanelment if found acceptable.

13. Functions of Empanelled Third Party :

- a. The third party engaged by an occupier of a factory shall abide by the terms and conditions of empanelment at all times.
- b. The third party shall record the compliance accurately without any concessions as per the checklist adequately supported with details and enclosures in order to establish the status of compliance.
- c. The third party is not entitled to depute any person on his behalf for carrying out the entrusted work. However, he may bring the assistance if required with permission of the occupier hiring the services of the third party whose particulars shall also be recorded in the certification.
- d. The certification duly signed by the third party as well as the occupier of the factory shall only be uploaded into the CIS portal within the stipulated time.

14. Penal action:

If an individual or firm empanelled as third party for compliance certification has been found violated any condition stipulated in the certificate of Empanelment or any other terms and conditions stipulated or has carried out the work or has acted in a manner inconsistent with the intent or the purpose of the Act or the Rules or guide lines or standards under which the certification of compliance is to be given or has omitted to act as required under the Act or

the Rules or guide lines under which the certification of compliance is to be given or any other reasons to be recorded in writing, the Director of Factories may, after giving the opportunity of being heard to the empanelled third party, revoke the certificate of empanelment. And in all such cases the cautionary deposit shall be forfeited and the individual/firm involved shall be black listed and shall not be eligible for applying again.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B.UDAYALAKSHMI
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Commissioner of Printing and Stationary, Vijayawada for publication in the Andhra Pradesh Gazette.

The Director of Factories, Andhra Pradesh, Vijayawada.

Copy to:

The P.S to Hon'ble Minister (LFB&IMS).

The P.S to Principal Secretary to Government, LFB&IMS Department.

The P.S. to Special Chief Secretary to Government, Industries and Commerce Department.

The Director of Industries, Andhra Pradesh, Vijayawada.

SF/SC.

//FORWARDED :: BY ORDER//

SECTION OFFICER

ANNEXURE – I

APPLICATION FOR ENROLMENT INTO SELF/THIRD PARTY COMPLIANCE CERTIFICATION SCHEME,2020

1	Name and Address of the Factory				
2	Name of Occupier with Contact details				
3	Name of the Manager with contact details				
4	Nature of Manufacturing Process				
5	Licensed Limits	HP		Workers	
6	Scheduled date of Inspection				
7	Date last Inspection				
8	Option Exercised for Certification	Self		Third Party	
9	Empanelment No and Name of Third Party				
10	Compliance Guarantee Deposit Details				
11	Enclosures:				
	Copy of the License				
	Orders of last Inspection / Certification				
	Proof of Payment of CGD				
	Proof of License fee of the current year				
	Copy of Third-Party Empanelment				
	Checklist of Compliance with its enclosures				

Declaration:

I/We,_____ hereby declare that the status of compliance of provisions under Factories Act & Rules and other allied Acts & Rules as per the checklist has been truly incorporated without compromise and accept the liability of cancellation of the enrolment if found otherwise contrary to what has been furnished. I/We also confirm that there are no fatal and Serious accidents or dangerous occurrences stipulated in the scheme in last 3 years in the factory. I/We have read the terms and conditions of this scheme and hereby commit that I/we will abide by them.

Signature of Third-Party

Signature of the Occupier

Date:

ANNEXURE – II

Gro ups	Category	Qualifications Required	Experience required	Fees for a Calendar Year	Simultaneous Eligibility for other groups
1	2	3	4	5	6
A	Factories involving Hazardous chemical production or processing or treatment or Recovery or consumption (like Bulk drug, Chemical Fertilizer, Pesticides and formulations, Chloro Alkali factories, Petroleum and Petrochemical products etc.)	Degree or its equivalent in Chemical, Mechanical or Electrical or Production Engineering	<ul style="list-style-type: none"> • Minimum of 20 years of experience in production or operations or maintenance or Safety Departments in any of the industries falling into this group. or • Minimum of 15 years' experience as Safety officer in any of the industries falling in this group with Diploma in Industrial safety as recognized in AP Factories Rules, or • Minimum of 20 years' experience in enforcement of factory safety related legislations in which 5 years in the cadre of not less than Dy Director and above or • Minimum 20 years of experience in training, education or research in the field of Industrial safety in any institution of state or Central Government 	Rs.25,000	B, C, D and E with payment of additional fee of Rs 5,000 for each group
B	Factories involving storage Petroleum and Petrochemical products Factories involving only using/handling of Hazardous chemicals like Ammonia, Chlorine, Hydrogen etc (without production or processing)	Degree or its equivalent in Chemical, Mechanical or Electrical Engineering	<ul style="list-style-type: none"> • Minimum 15 years of experience in production or operation or maintenance in any of the industries falling into this group. or • Minimum of 10 years' experience as Safety officer in any of the industries falling in this group with Diploma in Industrial safety as recognized in AP Factories Rules, or • Minimum of 15 years' experience in enforcement of factory safety related legislations in which 5 years shall be in the cadre of not less than Dy Director and above, or • Minimum 15 years of experience in training, education or research in the field of Industrial safety in any institution of state or Central Government 	Rs.20,000	C, D and E with payment of additional fee of Rs 5,000 for each group
C	Factories involving the Ferrous and Non ferrous process metallurgical and Physical metallurgical operations	Degree or its equivalent in Metallurgical/Me chanical/ Electrical/Produc tion Engineering	<ul style="list-style-type: none"> • Minimum 15 years of experience in production or Operations or maintenance in any of the industries falling into this group, or • Minimum of 10 years' experience as Safety officer in any of the industries falling in this group with Diploma in Industrial safety as recognized in AP Factories Rules, or • Minimum of 15 years' experience in enforcement 	Rs.15,000	D and E with payment of additional fee of Rs 5,000 for each group

			of factory safety related legislations in the cadre of Asst Director and above or <ul style="list-style-type: none"> • Minimum 15 years of experience in training, education or research in the field of Industrial safety in any institution of state or Central Government 		
D	Power generating plants Cement, pulp and paper, Glass, Ceramics, Sugar (Not covered by Group A & B above),	Degree or its equivalent in Electrical / Mechanical / Production Engineering	<ul style="list-style-type: none"> • Minimum 15 years of experience in production or Operations or maintenance in any of the industries falling into this group. or • Minimum of 10 years' experience as Safety officer in any of the industries falling in this group with Diploma in Industrial safety as recognized in AP Factories Rules or • Minimum of 15 years' experience in enforcement of factory safety related legislations in the cadre of Asst Director and above or • Minimum 15 years of experience in training, education or research in the field of Industrial safety in any institution of state or Central Government 	Rs.15,000	E with payment of additional fee of Rs 5,000
E	All Factories those are not covered under Group A to D	Degree or its equivalent in Electrical / Mechanical/Production/ Chemical Engineering	<ul style="list-style-type: none"> • Minimum 10 years of experience in production or Operations or maintenance in any of the industries falling into this group. or • Minimum of 5 years' experience as Safety officer in any of the industries falling in this group with Diploma in Industrial safety as recognized in AP Factories Rules or • Minimum 10 years' experience in enforcement of factory safety related legislations in the cadre of Asst Director and above, or • Minimum 10 years of experience in training, education or research in the field of Industrial safety in any institution of state or Central Government 	Rs.10,000	--

ANNEXURE – III
APPLICATION FOR EMPANELMENT OF THIRD PARTY – INDIVIDUAL
Form: TPI

1	Name and Address of the Individual	
	Age at last Birthday	
2	Educational Qualifications	
3	Professional Qualifications	
4	Name of the Firm owned if any	
5	Type of Application	Fresh / Renewal
6	Empanelment No in case of Renwal	
7	Mfg Group Applied for Empanelment	
8	Eligible Experience for the applied group	
9	Additional Eligible Groups applied	
10	Total Fee Paid & Particulars	
11	Enclosures	
	Copies of Qualifications	
	Copies of Experiences	
	Physical Fitness Certificate (Above 60 Years)	
	Proof of Payment	
	Group wise Log of Work done in last year in case of renewal	

Declaration:

I,_____ hereby declare that the above information true and correct and abide by the terms and conditions of Empanelment and the Self/Third Party Certification scheme, 2020.

Date:

Signature of Third-Party

ANNEXURE – IV
APPLICATION FOR EMPANELMENT OF THIRD-PARTY - FIRMS
Form: TPF

1	Name and Address of the Firm		
2	Particulars of the individuals in firm		
	I	a. Name	
		b. Age	
		c. Qualifications	
		d. Experience	
		e. Age at last Birthday	
		f. Main Group Applied	
		g. Additional Groups Applied	
	II	a. Name	
		b. Age	
		c. Qualifications	
		d. Experience	
		e. Age at last Birthday	
		f. Main Group Applied	
g. Additional Groups Applied			
3	Type of Application	Fresh / Renewal	
4	Empanelment No in case of Renewal		
5	Total Fee Paid & Particulars		
6	Enclosures		
	Copies of Qualifications		
	Copies of Experiences		
	Physical Fitness Certificate (Above 60 Years)		
	Proof of Payment		
	Group wise Log of Work done in last year in case of renewal		

Declaration:

I, _____ hereby declare that the above information true and correct and abide by the terms and conditions of Empanelment and the Self / Third Party Certification scheme, 2020.

Date:

Signature of Third-Party

B.UDAYALAKSHMI
PRINCIPAL SECRETARY TO GOVERNMENT