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AMENDMENT IN THE ENVIRONMENT IMPACT ASSESSMENT NOTIFICATION OF 14TH SEPTEMBER 2006

Background: Till September 2006, the requirement of an Environmental Impact Assessment (EIA) Study for Environmental Clearance (EC) was governed by the EIA Notification of 27th January 1994, issued under the *Environment (Protection) Act 1986 (EPA 1986)*, and as amended through 4th July 2005 (hereafter referred to as the *Old EIA Notification*). The *Old EIA Notification* made EIA a mandatory requirement for 32 different identified activities¹ included in *Schedule-I (i.e. the List of Projects requiring EC from the Central Government)*. As per the *Old EIA Notification*, if a specific project was listed under the categories of projects specified in *Schedule-I* of the *EIA Notification*, EC was required from the Ministry of Environment of Forests (MoE&F), Government of India (GOI)².

Subsequently, on 14th September 2006, the MoE&F, in exercise of powers conferred to it by *EPA 1986*, and in supersession of the *Old EIA Notification (as amended)*³ notified *the New EIA Notification*. The *New EIA Notification* imposes certain restrictions and prohibitions on new projects or activities, OR on the expansion OR modernization of existing projects or activities based on their potential environmental impacts as indicated in the *Schedule* to the Notification, being undertaken in any part of India⁴, unless **Prior Environmental Clearance (PEC)** had been accorded in accordance with the objectives of *National Environment Policy (NEP)* as approved by the Union Cabinet on 18th May 2006 and the procedures specified in the Notification.

As per the *New EIA Notification*, the Central Government (i.e. MoE&F) has directed that, on and from the date of its publication, the construction of new projects/activities OR the expansion or modernization of existing projects/activities listed in the *Schedule* to the Notification entailing capacity addition with change in process and or technology shall be undertaken in any part of India only after the PEC has been obtained from the Central Government (CG) OR by the State/Union Territory (UT) Level EIA Authority [SEIAA/UTEIAA respectively, duly constituted by the CG, in accordance with the procedures specified in this Notification.

And whereas it has been decided to exempt the mineral prospecting and seismic surveys which are part of exploratory surveys from seeking EC as had been done in the past; in order to bring in more clarity to the eligibility criteria in the disciplines given for selection of Members of the

¹ These activities were broadly categorized under the following sectors: (1) Industries; (2) Mining; (3) Thermal Power Plants; (4) River Valley Development; (5) Ports, Harbors and Airports; (6) Communication; (7) Atomic Energy; (8) Transport (Rail, Road & Highway); and (9) Tourism (including Hotels and Beach Resorts in the Coastal Regulation Zone). Further, the MoE&F, through its Notification S.O.801 (E) dated 7th July 2004, had amended the *Old EIA Notification* to include "New Construction Projects" and "New Industrial Estates" in *Schedule-I*. However, new projects with investments of less than Rs. 1000 million, even if falling in one of the categories of *Schedule-I* were exempted from the EIA requirement (also depending on the location of a specific project).

² As per the *Old EIA Notification*, some of the specified categories of projects were required to get EC only at the State/UT level.

³ Except in respect of things done or omitted to be done before such supersession.

⁴ Includes the territorial waters.

SEIAA and the SEAC and for that purpose to issue suitable amendments in the *New EIA Notification*.

And whereas *Clause (a) of Sub-rule (3) of Rule 5 of the Environmental Protection Rules (EPR)* provides that, whenever the CG considers that prohibition or restrictions of any industry or carrying on any processes or operation in any area should be imposed, it shall give notice of its intention to do so.

And whereas, *Sub-rule (4) of Rule 5 of the EPR* provides that, notwithstanding anything contained in *Sub-rule (3)*, whenever it appears to the CG that it is in public interest to do so, it may dispense with the requirement of notice under *Clause (a) of Sub-rule (3)*.

Now, therefore, in exercise of the powers conferred by *Sub-section (1) and Clause (v) of Sub-section (2) of Section 3 of the EPA 1986*, read with *Clause (d) of Sub-rule (3) of Rule 5 of the EPR*, the CG hereby makes the following amendments in the *New EIA Notification*.

Amendments made in the *Paragraph-3, Paragraph-12, Schedule (1a, 1b and 7f) and Appendix-VI* of the *New EIA Notification* are highlighted in grey background and whatever has been substituted or omitted through this notification has been stroked through.

3. State Level Environment Impact Assessment Authority (SEIAA):

- (1) A SEIAA shall be constituted by the CG under *Sub-section (3) of Section 3 of the EPA 1986* comprising of three (3) Members including a Chairman and a Member-Secretary to be nominated by the State Government or the Union Territory Administration concerned.
- (2) The Member-Secretary shall be a Serving Officer of the concerned State Government or Union Territory administration familiar with environmental laws.
- (3) ~~The other two (2) Members shall be either a professional or expert fulfilling the eligibility criteria given in *Appendix VI* to this Notification.~~
- (3) The Chairman shall be an expert in terms of the eligibility criteria given in *Appendix VI* in one of the specified fields, with sufficient experience in Environmental Policy or Management.
- (4) ~~One of the specified Members in sub-paragraph (3) above who is an expert in the EIA process shall be the Chairman of the SEIAA.~~
- (4) The other Member shall be an expert fulfilling the eligibility criteria given in *Appendix VI* in one of the specified fields.
- (5) The State Government or Union Territory Administration shall forward the names of the Members and the Chairman referred in sub-paragraph 3 to 4 above to the CG and the CG shall constitute the SEIAA as an Authority for the purposes of this Notification within thirty (30) days of the date of receipt of the names.
- (6) The non-official Member and the Chairman shall have a fixed term of three (3) years (from the date of the publication of the Notification by the CG constituting the Authority).
- (7) All decisions of the SEIAA shall be unanimous and taken in a meeting.

12. Operation of EIA Notification 1994, till disposal of pending cases:

From the date of final publication of this Notification, the EIA Notification # S.O. 60 (E) dated 27th January 1994 is hereby superseded, except in suppression of the things done or omitted to be done before such suppression to the extent that in case of all or some types of applications made for PEC and pending on the date of final publication of this Notification, the CG may relax any one or all provisions of this Notification except the list of the projects or activities requiring PEC in *Schedule-I*, or continue operation of some or all provisions of the said Notification, for a period not exceeding ~~one (1) year~~ **twenty four months** (2 years) from the date of issue of this Notification.

In the *Schedule* of the *New EIA Notification*, the following amendments have been made:

PROJECT OR ACTIVITY		CATEGORY WITH THRESHOLD LIMIT		CONDITIONS, IF ANY
		A	B	
(1)	(2)	(3)	(4)	(5)
1	Mining, Extraction of Natural resources and Power generation (for a specified production capacity)			
1(a)	Mining of Minerals	<p>≥ 50 ha of mining lease area</p> <p>Asbestos mining, irrespective of mining area</p>	<p>< 50 ha</p> <p>≥ 5 ha of mining lease area</p>	<p>General Condition shall apply</p> <p>Note: Mineral prospecting (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey.</p> <p>General Condition shall apply</p> <p>Note: Mineral prospecting is exempted provided the concession areas have got previous clearance for physical survey.</p>
1(b)	Offshore and Onshore oil and gas exploration, development & production	All projects		<p>Note: Exploration Surveys (not involving drilling) are exempted provided the concession areas have got previous clearance for physical survey.</p> <p>Note: Seismic surveys which are part of Exploration Surveys are exempted provided the concession areas have got previous clearance for physical survey.</p>
7(f)	Highways	<p>(i) New National Highways; and</p> <p>(ii) Expansion of National Highways > 30 km, involving additional right of</p>	<p>(i) New State Highways; and</p> <p>(ii) Expansion of National State Highways > 30 km involving</p>	General Condition shall apply

		way >20 m involving land acquisition and land passing through more than one state.	additional right of way > 20 m involving land acquisition.	
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In the Para 2 of *Appendix-VI* of the *New EIA Notification*, the following amendments have been made:

2. The Members of the EAC shall be Experts with the requisite expertise and experience in the following fields/ disciplines. In the event that persons fulfilling the criteria of "Experts" are not available, Professionals in the same field with sufficient experience may be considered:
 - **Environment Quality Experts:** Experts in measurement, monitoring, analysis and interpretation of data in relation to environmental quality.
 - **Sectoral Experts in Project Management:** Experts in Project Management or Management of Process or Operations or Facilities in the relevant sectors.
 - **Environmental Impact Assessment Process Experts:** Experts in conducting and carrying out EIAs and preparation of Environmental Management Plans (EMPs) and other Management Plans and who have wide expertise and knowledge of predictive techniques and tools used in the EIA process.
 - **Risk Assessment Experts**
 - ~~Life Science Experts in floral and faunal management~~
 - **Life Science (Floral and Faunal Management)**
 - **Forestry and Wildlife Experts**
 - **Environmental Economics Expert with experience in project appraisal**
 - **Public Administration or Management**
3. The Membership of the EAC shall not exceed 15 regular Members. However, the Chairperson may co-opt an expert as a Member in a relevant field for a particular meeting of the Committee.
4. ~~The Chairperson shall be an outstanding and experienced Environmental Policy Expert or Expert in Management or Public Administration with wide experience in the relevant development sector.~~
5. The Chairperson shall nominate one of the Members as the Vice Chairperson who shall preside over the EAC in the absence of the Chairman/Chairperson.
6. A representative of the MoE&F shall assist the Committee as its Secretary.

7. The maximum tenure of a Member, including Chairperson, shall be for two (2) terms of three (3) years each.
8. The Chairman/Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

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If you have any queries on the above or need any clarifications or more information on the above,
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