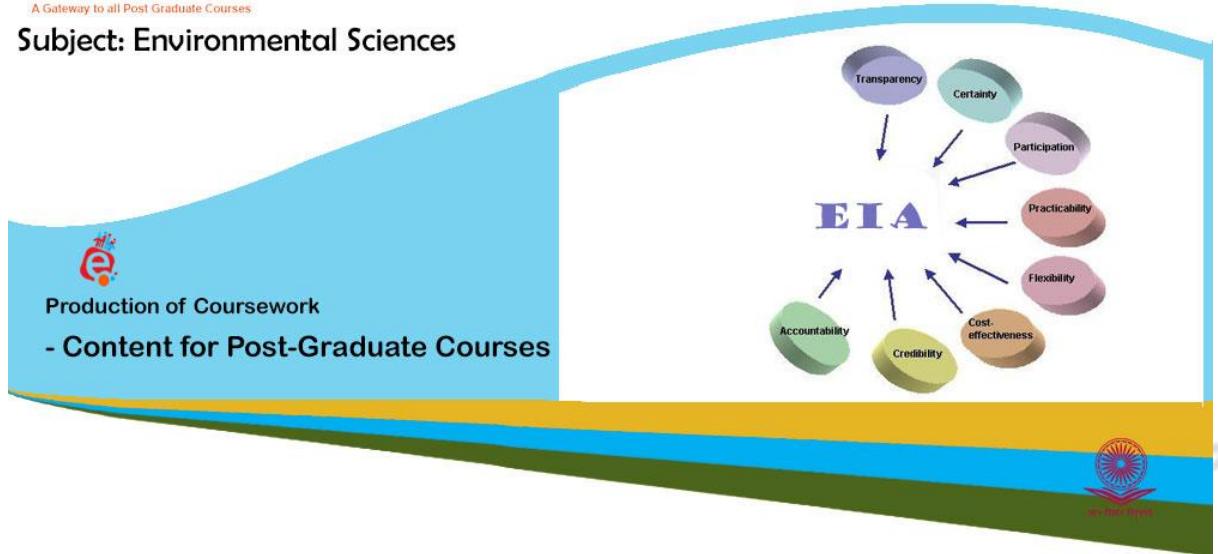


Subject: Environmental Sciences



Paper No: 12 Environmental Management

Module: 11 EIA Notification 2006 - Amendments



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Module 11: EIA Notification 2006 Amendments

1. Introduction

- 1.1 Prescribing qualifications/ eligibility criteria with respect to Chairman and Member EAC**
- 1.2 Post Environmental Clearance Monitoring**
- 1.3 Amendments in procedure for Scoping**
- 1.4 Introduction of new category B2 in Schedule and formation of DEIA and DEAC**
- 1.5 Scheme of accreditation of EIA consultants**
- 1.6 Product Mix Pet Coke in existing projects**
- 1.7 Integration of Environmental Conditions with Building Permissions**
- 1.8 Amendments in Schedule:**

1. Introduction

In suppression to EIA Notification 1994, a new notification 2006 was published in the Gazette of India on 14 September 2006 and implemented prospectively. A time line of 24 month was given for clearance of projects which were already at various stages and submitted pre EIA Notification 2006. The new notification was totally a reform to the previous notification. The notification included 12 main paragraphs and subparagraphs under each paragraph. The notification included a Schedule having list of projects or activities requiring prior environmental clearance. The various projects were divided into category “A” and “B”. Depending on the type of project/activity, the schedule contains 8 major types of projects/activities and each project type/activity type is subdivided into many activities. The notification also included appendix from I to VI.

However, during the last 11 years (December 2017), the notification has come a long way with many numbers of amendments, substitutions, deletions, additions etc. During the last 11 years, 26 amendments as listed following have been made changing nearly all structure of the notification.

1. The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section(ii)
2. vide number S.O. 1533(E), dated the 14th September, 2006
3. S.O.1737(E) dated the 11th October, 2007,
4. S.O. 3067(E), dated the 1st December, 2009,
5. S.O.695(E), dated the 4th April, 2011,
6. S.O.2896(E), dated the 13th December, 2012,
7. S.O.674(E), dated the 13th March, 2013,
8. S.O.2559(E), dated the 22nd August, 2013,
9. S.O.2731(E), dated the 9th September, 2013,

10. S.O. 562(E), dated the 26th February, 2014,
11. S.O.637(E), dated the 28th February, 2014,
12. S.O.1599(E), dated the 25th June, 2014,
13. S.O. 2601 (E), dated 7th October, 2014,
14. S.O. 2600(E) dated 9th October, 2014,
15. S.O. 3252(E) dated 22nd December, 2014,
16. S.O. 382 (E), dated 3rd February, 2015, and S.O. 811(E), dated 23rd March, 2015,
17. S.O. 996 (E) dated 10th April, 2015,
18. S.O. 1142 (E) dated 17th April, 2015,
19. S.O. 1141 (E) dated 29th April, 2015,
20. S.O. 1834(E) dated 6th July, 2015 and S.O. 2572(E) dated 14th September, 2015,
21. S.O. 141(E) dated 15th January, 2016,
22. S.O. 190(E) dated 20th January, 2016,
23. S.O. 648(E) dated 3rd March, 2016 and S.O. 2269(E) dated 1st July, 2016.
24. S.O. 2944 (E) dated 14th September 2016
25. S.O. 3518 (E) dated 23rd November 2016
26. S.O. 3999 (E) dated 9th December 2016
27. S.O. 804(E) dated 14th March, 2017

Some of these amendments were very minor and included in only minor insertions, substitutions deletions etc. But some of the amendments were very major and added new dimensions to the notification. The number of paragraphs in main EIA Notification has increased from 12 to 14. New subparagraphs have also been added in many main paragraphs.

The list of projects/activities in the schedule has also been amended with new additions and deletions. In Schedule another category of “B2” has been added up for mining of minor minerals. New appendix has also been added increasing the appendix I-VI to I-XVI. The following new appendix has been added.

APPENDIX VII: Qualifications and terms for the Experts in DEIAA and DEAC

APPENDIX VIII: FORM 1 M - Application for mining of minor minerals under category ‘B2’ for less than and equal to five hectare.

APPENDIX – IX: Exemption of certain cases from requirement of environmental clearance

APPENDIX – X: Procedure for preparation of district survey report

APPENDIX – XI: Procedure for environmental clearance for mining of minor minerals including cluster

APPENDIX – XII: Procedure for monitoring of sand mining or river bed mining

APPENDIX –XIII: Process for obtaining “No Increase in Pollution Load” certificate/permission from the State Pollution Control Board.

APPENDIX-XIV: Environmental conditions for buildings and constructions (Category 1: 5000 to <20,000 Square meters)

APPENDIX –XV: Accreditation of Environmental auditors (Qualified Building Auditors)

APPENDIX –XVI: Environmental cell at the level of local authority

Keeping in view of the large number of amendments it is not possible to discuss all but some of the important amendments are discussed follow.

1.1. Prescribing qualifications/ eligibility criteria with respect to Chairman and

Member EAC: The 1st amendment No. S.O.1737(E) dated the 11th October, 2007 mainly substituted the eligibility criteria given in APPENDIX VI for chairman EAC and other member. As per the amendment the Chairman and other member shall be an

expert in one of the specified fields as described below, with sufficient experience in environmental policy or management.

- **Environment Quality:** Experts in measurement, monitoring, analysis and interpretation of data in relation to environmental quality.
- **Sectoral Project Management:** Experts in Project Management or Management of Process or Operations or Facilities in the relevant sectors.
- **Environmental Impact Assessment Process:** Experts in conducting and carrying out Environmental Impact Assessments (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**
- **Life Science (Floral and Faunal Management)**
- **Forestry and Wildlife**
- **Environmental Economics with experience in project appraisal**
- **Public Administration or Management**

1.2. Post Environmental Clearance Monitoring: The 1st major amendment in **Post Environmental Clearance Monitoring** came in S.O. 3067(E), dated the 1st December, 2009 when in respect of Category 'A' projects, it was made mandatory for the project proponent to make public the environmental clearance granted for their project along with the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the district or State where the project is located and in addition, this shall also be displayed in the project proponent's website permanently. Further, in respect of Category 'B' projects, irrespective of its clearance by MoEF / SEIAA, the project proponent shall prominently advertise in the newspapers indicating that the project has been accorded environment clearance and the details of MoEF website where it is displayed. The Ministry of Environment and Forests and the State / Union Territory Level

Environmental Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Government portal. The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.

- 1.3. **Amendments in procedure for Scoping:** The amendments in respect of scoping were published vide S.O.2896(E), dated the 13th December, 2012.

“Scoping” refers to the process to determine detailed and comprehensive Terms of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought. Standard TOR developed by the Ministry in consultation with the sector specific Expert Appraisal Committees shall be the deemed approved TOR for the projects or activities. The standard Terms of Reference are displayed on the website of the Ministry of Environment, Forest and Climate Change:

Provided that the Expert Appraisal Committee (EAC) or State Expert Appraisal Committee (SEAC) may finalize amendment, if found necessary for a project within thirty days of the acceptance of application in specified application Form I or Form IA. These standards TOR shall enable the Project Proponent to commence preparation of an Environment Impact Assessment Report after successful online submission and registration of the application:

Provided further that, the Expert Appraisal Committee (EAC) or State Expert Appraisal Committee (SEAC) may stipulate additional Terms of Reference, if found necessary, within thirty days of the acceptance of the application in the specified application Form I or Form IA and the Project Proponent shall carry out the EIA study based on the standard TORs as well as the additional TOR, if any, stipulated by EAC/SEAC:

Provided also that the following shall not require Scoping–

- (i) all projects and activities listed under Category 'B', against Item 8(a) of the Schedule;
- (ii) All national high way and new state highways
- (iii) all Highway expansion projects involving expansion of national highways grater than 30 KM, involving additional right of way grater than 20 m involving land acquisition and passing through more than one state and expansion of national / State highways greater than 30 KM, involving additional right of way grater than 20 m involving land acquisition Provided also that –
 - (A) the project and activities referred to in clause (i) shall be appraised on the basis of Form I or Form IA and the conceptual plan;
 - (B) the projects referred to in clause (ii) shall prepare EIA and EMP report on the basis of standard TOR specified by the Ministry of Environment, Forest and Climate Change.

1.4. Introduction of new category B2 in Schedule and formation of DEIA and DEAC:

The most major amendment in the original notification came in S.O. 141(E) dated 15th January, 2016. A new category of 'B2' was inserted in the schedule. This category related to the mining of minor minerals in the said schedule. The amendment put the mining of minor minerals up to 5 ha of mining lease area (B2 category) under the preview of new committees District Level Environment Impact Assessment Authority (DEIAA) and District Level Expert Appraisal Committee at district level. The important points of the amendments are as follow.

- i) Inserting Category 'B2' for mining of minor minerals in the said Schedule
- ii) Formation of District Environment Impact Assessment Authority (DEIAA) for matters falling under Category 'B2' comprising of four members including a Chairperson and a Member Secretary.
- iii) Formation of District Level Expert Appraisal Committee (DEAC) comprising of eleven members, including a Chairman and a Member-Secretary.

- iv) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.
- v) The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist of the district shall be the Member-Secretary of the DEAC in that order.
- vi) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.
- vii) Introduction of Appendix VII-The term and qualifications of the expert fulfilling the eligibility for DEIAA and DEAC.
- viii) The 'B2' Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, as constituted for this notification.
- ix) Form 1M for mining of minor minerals up to five hectare under Category 'B2' projects, as given in Appendix VIII, before commencing any construction activity, or preparation of land, or mining at the site by the project proponent.
- x) Exemption of cases from prior environmental clearance as specified in Appendix IX . These are:
 - 1) Extraction of ordinary clay or sand, manually, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
 - 2) Extraction of ordinary clay or sand, manually, by earthen tile makers who prepare earthen tiles.
 - 3) Removal of sand deposits on agricultural field after flood by farmers.
 - 4) Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.

- 5) Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatama Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts.
- 6) Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management.
- 7) Traditional occupational work of sand by Vanjara and Oads in Gujarat *vide* notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.
- 8) Digging of well for irrigation or drinking water.
- 9) Digging of foundation for buildings not requiring prior environmental clearance.
- 10) Excavation of ordinary earth or clay for plugging of any breach caused in canal, nala, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate.
- 11) Activities declared by State Government under legislations or rules as non-mining activity with concurrence of the Ministry of Environment, Forest and Climate Change, Government of India.
 - xi) Prescribed procedure for preparation of District Survey Report for sand mining or river bed mining and mining of other minor minerals is given in Appendix X.
 - xii) Prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.
 - xiii) Prescribed procedure for sand mining or river bed mining and monitoring is given in Appendix XII.

1.5 Scheme of accreditation of EIA consultants: The EIA amendment through notification No. S.O. 648(E) dated 3rd March, 2016 introduced in new paragraph No.

13 for the preparation and presentation of Environment Impact Assessment (EIA) report and Environment Management Plan (EMP). It was made mandatory that the Environmental consultant organizations which are accredited for a particular sector and the category of project for that sector with the Quality Council of India (QCI) or National Accreditation Board for Education and Training (NABET) or any other agency as may be notified by the Ministry of Environment, Forest and Climate Change from time to time shall be allowed to prepare the Environmental Impact Assessment report and Environmental Management Plan of a project in that sector and category and to appear before the concerned Expert Appraisal Committee (EAC) or the State Expert Appraisal Committee (SEAC). The Ministry will also prepare a panel of national level reputed educational and research institutions to work as Environmental Consultant Organizations. The details in this regard are given in module No. 34 of this paper.

1.6 Product Mix Pet Coke in existing projects: Amendment vide S.O.3SfB (E) dated 23.11.2016 was issued regarding prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects: one of the important point of the amendment was exemption from the requirement of prior environmental clearance in case of any change in product-mix, change in quantities within products or number of products in the same category for which environmental clearance has been granted provided that there is no change in the total capacity sanctioned in prior environmental clearance and there is no increase in pollution load. The amendment further provides that the project proponent shall follow the procedure for obtaining **No Increase in Pollution Load certificate** from the concerned State Pollution Control Board as given in Appendix –XIII.

1.7 Integration of Environmental Conditions with Building Permissions: The Government vide notification S.O. No. 3999 (E) dated 09.12.2016 put in place a new framework and an institutional structure for streamlining the environmental clearance for building and construction sector. This was a step towards decentralization, delegation of powers and enhancing the ‘**Ease of Doing Responsible Business**’. The

amendment mainly focused on integrating standard and objectively monitorable environmental conditions with building permissions for buildings of different sizes:

Category '1': 5000 sq. mtr. to 20,000 sq. mtr

Category '2': 20,000 sq. mtr. to 50,000 sq. mtr

Category '3': 50,000 sq. mtr. to 1,50,000 sq. mtr

The important features of the amendment are:

- i) All building and construction projects covering 20,000 sq. mtr. and above are subject to environmental clearance given by the State Level Environmental Impact Assessment Authority. Under the revised norms, the environmental clearance will now be issued in an integrated manner along with the building permission under building bye laws for all building constructions covering 20,000 to 1,50,000 sq. mtr. of built up area.
- ii) Environmental clearance for built up areas from 1,50,000 to 3,00,000 sq. mtr. will be given by the State Level Authorities subject to EIA while the areas above 3,00,000 sq. mtr. will be approved and cleared by the Union Government. In other words, the Townships and Area Development projects of size $\geq 3,00,000$ sq. mtr. of built up area or covering an area ≥ 150 ha area are being included in Category "A" of Schedule and appraised at the central level.
- iii) Area less than 20,000 sq. mtr. will be subject to a self-declaration. However, the buildings of size 5000 sq. mtr. to 20,000 sq. mtr. will also follow environmental norms for construction and maintenance phase.
- iv) For the first time, it has been envisaged that the Qualified Building Environment Auditors as empanelled by the MoEFCC would assess and certify the building projects.
- v) For the first time the provision of self-declaration for compliance and also certification by Qualified Building Environment Auditors have been introduced for building and environmental clearance.

- vi) It is mandatory to constitute an Environmental Cell in the local authorities to support appraisal, compliance and monitoring of building projects and to provide environmental planning in this area.
- vii) The Environmental Cell will also have independent sectoral experts.
- viii) The Environment Cell in the local authority will process the application and present it in the meeting of the Committee headed by the authority competent to give building permission in that local authority. The Committee will appraise the project and stipulate the environmental conditions to be integrated in the building permission. After recommendations of the Committee, the building permission and environmental clearance will be issued in an integrated format by the local authority.
- ix) The project proponent shall submit Performance Data and Certificate of Continued Compliance of the project for the environmental conditions parameters applicable after completion of construction from Qualified Building Environment Auditors every five years to the Environment Cell with special focus on the following parameters:-
- Energy Use (including all energy sources)
 - Energy generated on site from onsite Renewable energy sources
 - Water use and waste water generated, treated and reused on site
 - Waste Segregated and Treated on site
 - Tree plantation and maintenance
- x) After completion of the project, the Cell shall randomly check the projects compliance status including the five years audit report. The State Governments will enact the suitable law for imposing penalties for non-compliances of the environmental conditions and parameters.
- xi) The cases of false declaration or certification shall be reported to the accreditation body and to the local body for blacklisting of Qualified Building

Environment Auditors and financial penalty on the owner and Qualified Building Environment Auditors.

- xii) No Consent to Establish and Operate under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 will be required from the State Pollution Control Boards for residential buildings of built up area up to 1,50,000 square meters.

1.8. Amendments in Schedule: Apart from these many major amendments have been made in **Schedule** since EIA notification 2006. Instead of discussing each amendment, the amendments have been compiled in single table and are attached with the next module No. 12 of this paper.

Note: The current module is written only for education purpose and not for any legal purpose.

The contents of the module have been taken from the Govt. of India websites mainly ministry of Environment, Forest and Climate Change.

Only those contents have been taken which author feel are important for education/teaching to students purpose.