

Recommendations on Draft EIA, 2020 Notification of MoEF&CC

Gazette Notification No. S.O. 1199 (E) Dated 23rd March 2020

Based on Brainstorming in Joint Webinar held on Dated 31 May, 2020

Executive Summary

(For Detailed Recommendations, Original document of Recommendations may be referred at Associations websites)



International Development Centre Foundation (IDC Foundation)

Indian Association of Air Pollution Control (IAAPC) - (DC)

CPCB Alumni Association (CPCBAA)

Executive Summary of Recommendations on Draft EIA 2020 Notification of MoEF&CC

The Environment Impact Assessment (EIA) notification first issued in 1994, under the Environment Protection Act 1986, is a critical mechanism which regulates clearances granted to all types of development projects and economic activities in the country. It is one of the environmental decision-making processes that make it mandatory for project developers and companies to not just study the socio-economic, ecological and other impacts of a proposed project but also place these before the affected communities for their opinions and objections, i.e. free, fair and informed consent. However, this notification has been amended several times in the last two decades in favour of 'Easing the Norms' for business.

The latest draft EIA 2020 was issued by Ministry of Environment & Forest vide Gazette Notification No. S.O. 1199 (E) dated 23rd March 2020. This latest draft EIA 2020 also continues to move in the direction of various problematic dilutions and changes in the draft. The proposed changes could make our country more vulnerable to unprecedented environmental disasters by dilution and giving free reign to polluting enterprises/industries. Therefore, a brainstorming session was organized through webinar jointly by three non-government associations namely International Development Centre Foundation (IDCF), New Delhi, Indian Association For Air Pollution Control (Delhi Chapter), IAAPC (DC), New Delhi and Central Pollution Control Board Alumni Association (CPCBAA), Delhi on 31st May 2020 from 4 pm to 7.30 pm, which was attended by more than 468 participants directly registering in webinar & more than 700 joined live on the Facebook. There were 13 Resource persons/speakers besides coordinator cum moderator from across all stakeholders i.e. Central Govt. Ministries, many Industries, Pollution Control Boards, EAC committee member, EIA consultant, Techno-legal & other experts, university/institutions and NGOs etc. The participants were also from all stakeholders as mentioned. The major suggestions which are outcome of the brainstorming webinar session are as follows:

Salient Suggestions:

- i) **Site Selection for Large Projects:** Site selection of large projects (Oil Refinery, Thermal Power Plant, Petro Chemical Complex, Dams and Hydro Electric Projects, Integrated Steel Plants, Pulp & Paper Mill, Fertilizer Plants, Incineration etc.) should be integrated with appraisal process of EC. In 1980's and early 1990's D.O.E. (now MoEF&CC) used to do the same. Also in Critically Polluted Area, Carrying Capacity based approach is to be followed.
- ii) **Integration of other impacts in EIA:** In EIA Notification 2006 / 2020, air & water pollution impact and mitigation measures were given prominence. The other impacts like: Health Impact, Ecological Impact, Social Impact, Noise Impact should also be given adequate importance.

- iii) Baseline Environmental Quality Data: Generally, most of the EIA Reports (*on an average 2000-3000 EIA reports are prepared every year*) shows baseline air quality, water quality, soil quality, all well within the standards. This is contradictory to CPCB data on air quality /AQI/ CPA/ SPA/ non-attainment cites, etc. and also data provided by CPCB/ MoEF&CC to NGT and Hon'ble Supreme Court. The authorities (MOEF, CPCB, SEIAA) must address the issue urgently. Health Impact, Ecological Impact, Social Impact, Noise Impact, should also be given adequate importance. Baseline data can be collected only after acceptance of application for TOR along with Proposed Terms of Reference for EIA study containing details of the monitoring locations, frequency and methods, submitted for the Scoping. Pollution load has not been defined and there is no clarity how it would be calculated. Pollution load definition should be included and calculation method should also be recommended and annexed.
- iv) EIA should achieve Sustainable Development Goals: EIA 2020 should also be link with our SDG and climate change mitigation goals. : Multidisciplinary expert committee constituted by CPCB shall issue guidelines for assessment of ecological damage from time to time.
- v) Remove Conflict of Interest: Generally project proponents are paying for Baseline Data Generation and Preparation of EIA Reports to EIA Consultants. Therefore, there is direct conflict of interest. MoEF&CC must address this issue by 3rd party (EIA Authority or QCI) involvement in EIA 2020. Look at model of payment - if payment link between EIA Agency and its client is broken to remove conflict of interest.
- vi) Strengthen EMP in EIA Report: EMP / implementation of sustainable mitigation measures is one of the most important part of EIA report , requirement of recycling / reuse of waste, adoption of clean technologies, risk & hazard preventive action plan, requirement of ZLD, target to meet standards should be adequately included in this section. The merging of process of EC with CTE (Consent To Establish), is missing.
- vii) Accreditation of Consulting Firms by NABET-QCI: Approval process of NABET-QCI to EIA consulting firm/ Professional experts and EIA Assessors also need to be reviewed for more transparency, Criteria for EIA Consultants /agency accreditation to be looked at for impartiality - how strong is this imbibed in the process. Does NABET witness actual EIA study and report writing - at least parts of it, should be part of accreditation process and surveillance by NABET. Look into conflict of interest of NABET Assessors, if they come from EIA agencies, can there be bar on assessors being associated with any EIA agency, is training of assessors adequate in auditing/assessment of the process. Bring more competent persons into the domain of EIA. Minimum charges of environment quality monitoring should be fixed so that quality data are generated by EIA consultants on the line of CPCB.
- viii) Stress on Risk Assessment: For chemical and petro chemical industries, risk assessment and consequence analysis is most important which has not been adequately covered in EIA 2020. There are many cases in our country namely HPCL fire, Union Carbide MIC leak, Jaipur IOC fire and recently LG Polymers gas leak are due to poor risk assessment. As SPCBs are not covering it in their CTO/CTE adequately, in EIA 2020 risk assessment should be properly covered in EIA.
- ix) HAPs & VOC Monitoring & Control: Hazardous air pollutants (HAPs) / Volatile Organic Compounds (VOC) monitoring & control should be integral part of EIA 2020 in chemical industries. In appraisal process,

we are still relying on criteria pollutants (SO₂, PM, NO_x etc.) in chemical industrial zone, whereas the problem is due to HAP / VOC (due to loss of solvents to the tune of 15-20% into the atmosphere).

- x) Membership of EAC and SEAC: Criteria for selection of Expert Member should be transparent and based on technical qualification, field experience and subject matter specialist should be made member of EAC/ SEAC/EIA Assessor. Criteria & selection process should be elaborated in the EIA 2020.
- xi) Scope of the Technical Committee: Scope of the Technical Committee may be elaborated and should include Risk Assessment, Soil / Ground Water remediation, HAPs Assessment and Control, ZLD requirement, recycling / Reuse of Waste, Baseline Environment Quality Data.
- xii) Several Projects which were categorised as Category 'A' and Category 'B1' (such projects were to undergo approval of ToR for EIA Study, conduction of EIA Study, Public consultation) are categorised as Category 'B2' dispensing with the above requirements. (Irrigation (Irrigation projects, projects, Mineral beneficiation units, Chlor-alkali industry, industry, Dyes & dyes intermediates, Bulk drugs, Basic organic chemicals etc.).

Several Activities, which were categorised as Category 'B2' are dispensed with the appraisal process by the expert committee and deemed Environment Permission would be granted automatically through online within 15 days from the date of application.(mining projects up to 2 ha. of mine lease area and building construction projects with built-up area between 20,000 to 1,50,000 sq. metres).

Any kind of dredging in offshore area within 12 nautical miles should need prior EC due to Fishing, navigational or disposal waste material underground pipelines or from marine life point of view.

Waiving public hearing for 50% increase in capacity without environmental scrutiny including public consultation is not justifiable. Public hearing should be necessary if expansion is more than 20%.

- xiii) Impact Analysis Report of the EIA Notification 2006 should be prepared.
 - a. This will help to understand how effective was 2006 notification in maintaining the baseline environment, what are the drawbacks and what should be done to plug the gaps.
 - b. Since first EIA Notification (January 1994), 26 years had passed, few tens of thousands projects were considered for EC, more than 10 million pages of minutes of meeting issued.
 - c. Public does not know the efficacy of 1994 & 2006 EIA Notifications, whether or not it produced the desired or intended result.
 - d. The general environment of the industrial areas and urban areas of the country deteriorated in the last 26 years. (approx. 80 - 85 critically & severally polluted areas, 102 - 105 non-attainment cities added)
 - e. Therefore, Impact Analysis of the EIA process and Effectiveness of EIA reports need to be evaluated.
- xiv) The institutional framework of EIA Notification 2020 should be simple
 - a. EIA Notification 2006 and its institutional framework were complicated.
 - b. More than 40 amendments were issued by MOEF after 14th Sept. 2006.

- c. More than 120 Office Memorandums & Circulars were issued
 - d. Number of violation cases and litigations increased after 14th Sept., 2006.
 - e. Projects were categorised as A & B, there are many ambiguities which need to be addressed.
 - f. EC process was decentralised, SEIAA and SEAC formed for all States /UT.
 - g. Proper capacity building of SEAC not done. Proper training not imparted.
 - h. Questionable credibility and competence of Expert Members.
 - i. Most of the EAC & SEAC meetings are done with 4-5 Members
 - j. EAC & SEAC members do not get adequate time to go through the reports
 - k. Quality of EIA Reports prepared post 2006 showed little improvement.
 - l. Baseline data reported in EIA reports post 2006: 100% within standards.
 - m. Poor quality of Environmental Management Plan & Monitoring Plan.
- xv) National EIA Authority is required for effective implementation of EIA Notification 2020
- a. Proposed institutional framework in 2020 Notification is convoluted
 - b. Absence of transparent method of selection of Expert Members.
 - c. Absence of administrative control of Ministry over Expert Members
 - d. Absence of mechanism to check Conflict of Interest of Expert Members
 - e. Absence of Surveillance Mechanism / Grievance Redressal Mechanism / Designated Appellate Authority
 - f. Available pool of relevant talent remain underutilised (CPCB, SPCB, SPCB, BSI, ZSI, WII, GBPIHED, FRI, NRCD, NAEB, NIAW, SACON, AFBI, NCSCM, IIFM, CGWB and the numerous Centre for Excellence(s) at various stages of EIA i.e. different Technical Expert , EAC, SEAC Committees, post monitoring task etc.
 - g. Absence of control mechanism (Ministry/EAC/SEAC) over QCI –NABET on conflict of interest free and transparent mechanism of selection of competent EIA Assessors & effective assessment of EIA Consultants are needed.
 - h. Absence of competent technical body to deal with Violation Cases, Non Compliances of EC conditions, post-project efficacy of Pollution Mitigation & Measures Monitoring, post-project impact of CSR / CER activities.
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