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Vijay Lakhani

Ref. No. MCHI/PRES/19-20/535

June 29, 2020

To,
Shri Prakash Javadekar
Hon'ble Minister for MoEF&CC
Ministry for Environment, Forests and Climate Change
Indira Pariyavaran Bhawan, Jor Bagh Road,
New Delhi 110 003

Sub : Suggestions on the proposals contained in the EIA Notification 2020

Ref: Notification S.O. 1199 (E) dated 23/03/2020 ("EIA Notification 2020")

Respected Sir,

We write to you in reference to the above captioned EIA Notification 2020 whereby certain new guidelines have been proposed for the purpose of environmental clearance and other issues incidental thereto.

At the outset, we would like to introduce ourselves as a part of the apex association of real estate developers and builders in India comprising of 20,000 Members, 220 City Chapters and 21 State Chapters. We have extensively worked towards the welfare of the real estate sector in our respective states and aided Governments, both State and Central alike, in evolving policies and framework for the continued growth and development of infrastructure across India.

The EIA Notification 2006 was extensive and covered a comprehensive gamut of guidelines with respect to the environmental clearances, we understand that several of these were met with judicial challenges and in addition, with the needs of the changing times, the Hon'ble Ministry has decided to update the guidelines in this regard.

Whilst we are appreciative of the active steps taken by you in this regard, we also would like to put forth our suggestions below to the EIA Notification 2020 for the purpose of ensuring our continued support for protection of environment without compromising ease of doing business with transparency in India in alignment with the Hon'ble Prime Minister's vision for better and sound infrastructure development which would aid the country in achieving economic growth.

We humbly request you to accept our humblest suggestions (Annexed), all of which would provide greater clarity and increase the business friendliness and transparency of the Hon'ble Government.

We request you to give us a fair chance in person or through video conference (due to Covid related travel restrictions) of explaining our suggestion and objections stated above

Thanking you
Yours Sincerely,

For CREDAI-MCHI


Nayan A. Shah
President


Bandish Ajmera
Hon. Secretary

Suggestion/Objection on Draft EIA Notification, 2020 (Published on 23rd March, 2020)

S/O no.	Page no.	Section	Original Clause	Suggested Changes	Reason
1	99	3 (16)	(16) “Corporate Environment Responsibility (hereinafter referred to as ‘CER’)” is the part of EMP wherein the project proponent is mandated to carry out certain activities for environment safeguard in the immediate surroundings of the project based on the issues raised during the public consultation and / or social need based assessment carried during the EIA studies	(16) “Corporate Environment Responsibility (hereinafter referred to as ‘CER’)” is the part of EMP wherein the project proponent is mandated to carry out certain activities for environment safeguard in the immediate surroundings of the project based on the issues raised during the public consultation and / or social need based assessment carried during the EIA studies; <u>In case of real estate developers, the CER should be applicable to the extent of the various equipment installed in the project.</u>	Environmental safeguards required in the Real Estate projects are not arising out of civil construction. Environment safeguards if at all required in the real estate projects will be for the equipment's to be installed in the Real Estate projects.
2	105	7 (9)	(1) SEIAA or UTEIAA shall meet at least once in every month.	(1) SEIAA or UTEIAA shall meet at least once in every fortnight month .	Considering the quantum of the application filed for the clearance and to ensure speedy and timely processing of the application to its logical conclusion. It is necessary to have meetings of SEIAA etc and SEAC etc atleast twice a month. The past experience of only 1 meeting per month has created huge back logs.
3	105	8 (12)	(12) SEAC or UTEAC or DEAC shall meet at least once in every month.	SEAC or UTEAC or DEAC shall meet at least once in every fortnight month .	Considering the quantum of the application filed for the clearance and to ensure speedy and timely processing of the application to its logical conclusion. It is necessary to have meetings of SEIAA etc and SEAC etc atleast twice a month. The past experience of only one meeting per month has created huge back logs.

4	107	under Appraisal Form no 2	<p>(i) Final EIA Report;</p> <p>(ii) Copy of Feasibility Report or Approved Mining Plan in case of mining projects;</p> <p>(iii) Copy of final layout plan;</p> <p>(iv) Public consultation proceedings;</p> <p>(v) District Survey Report in case of mining of minor minerals; and</p> <p>(vi) Cluster certificate in case of cluster situation; and</p> <p>(vii) Certificate of compliance of conditions earlier prior-EC or prior-EP, as the case may be, issued by the Component Authority in case of expansion or modernization proposals; and</p> <p>(viii) (vii) Other pre-requisites as specified at sub-paragraph (5) of paragraph 17 of this notification.</p>	<p>(i) Final EIA Report;</p> <p>(ii) Copy of Feasibility Report or Approved Mining Plan in case of mining projects;</p> <p>(iii) (a) Copy of final layout plan;</p> <p>(iii) (b) Copy of Layout plan as conceptualized by the project proponent, outlining building blocks, open spaces, recreational spaces and various services proposed and: in case of projects mentioned at column (5) under item 42 of the schedule.</p> <p>(iv) Public consultation proceedings;</p> <p>(v) District Survey Report in case of mining of minor minerals; and</p> <p>(vi) Cluster certificate in case of cluster situation; and</p> <p>(vii) Certificate of compliance of conditions earlier prior-EC or prior-EP, as the case may be, issued by the Component Authority in case of expansion or modernization proposals; and</p> <p>(viii) (vii) Other pre-requisites as specified at sub-paragraph (5) of paragraph 17 of this notification.</p> <p>(ix) Standard TOR applicable to the industry, if specified on the website.</p>	<p>For Building Construction and Area Development projects mentioned under item 42 of the schedule the layout plan as conceptualized by the project proponent outlining entire project development on a conceptual basis is more than sufficient to assess the environment impact of the project. Also if Standard TOR is already uploaded on the website of the ministry of any industry then the same can be uploaded along with the application by the project proponent and hence it is proposed to be submitted along with the application.</p>
5	108	12 (3)	<p>(3) The Standard ToR shall be issued to the following projects through online mode, on acceptance of application within 7 working days, without referring to Appraisal Committee by to the Regulatory Authority:</p> <p>(a) All Highway projects in Border Areas covered under entry (i) and (ii) of columns (3) and (4) against item 38 of the Schedule;</p> <p>(b) All projects, proposed to be located</p>	<p>(3) The EIA report based on the sector specific Standard ToR shall be submitted for issued to the following projects through online mode, on acceptance of application within 7 working days, without referring to Appraisal Committee by to the Regulatory Authority:</p> <p>(a) All Highway projects in Border Areas covered under entry (i) and (ii) of columns (3) and (4) against item 38 of the Schedule;</p> <p>(b) All projects, proposed to be located in</p>	<p>The procedure proposed as per draft notification is that on receipt of application form project proponent the standard TOR as published on the website of the ministry will be issued by the Regulatory authority within seven days and issue of such standard TOR will be informed to appraisal committee who may decide to issue project specific TOR. As the standard ToR is already available on public domain, hence, one</p>

			<p>6in notified industrial estates and which are not disallowed in such notification;</p> <p>(c) All expansion proposals of existing projects having earlier Prior Environment Clearance;</p> <p>(d) All Building construction and Area development projects covered under entries of column (4) against item 42 and 43 of the Schedule. Provided that Appraisal Committee shall be informed regarding issuance of standard ToR for a project. The Appraisal Committee may recommend specific ToR, if found necessary for that project, within 30 days from the issue of Standard ToR.</p>	<p>notified industrial estates and which are not disallowed in such notification;</p> <p>(c) All expansion proposals of existing projects having earlier Prior Environment Clearance;</p> <p>(d) All Building construction and Area development projects covered under entries of column (4) against item 42 and 43 of the Schedule.</p> <p>Provided that Appraisal Committee shall be informed of receipt of EIA report based on the sector specific regarding issuance of standard ToR for a project within 7 days. The Appraisal Committee may recommend specific ToR in addition to the Standard ToR, if found necessary for that project, within 30 days from the date of receipt of application issue of Standard ToR.</p>	<p>can prepare the EIA report based on standard ToR. Standard ToR is published and available on MoEF or CPCB website. Hence we have proposed that application itself must be accompanied by sector specific standard TOR and EIA studies based on such sector specific standard TOR. This will reduce unnecessary paper work at the level of Regulatory authority and appraisal committee. Also the project proponent can submit the application along with EIA report based on standard TOR instead of submitting first an application, getting the standard TOR issued, conducting the study as per standard TOR and then submitting the EIA study to regulatory authority. Also if EIA studies based on sector specific is submitted with the application then appraisal committee will be in much better position to issue project specific TOR.</p>
6	109	12 (9)	<p>(9) In case, more than one proposal is received for the same land or having land overlapping with the other project(s), in part or full for which, ToR or prior-EC or prior-EP, have already been granted to some other project, all such cases will be kept on hold. The Regulatory Authority will make written communication to the Chief Secretary of the Concerned State or Union Territory and the decision will be taken based on the advice of the State Government or Union Territory Administration.</p>	<p>(9) In case, more than one proposal is received for the same land or having land overlapping with the other project(s), in part or full for which, ToR or prior-EC or prior-EP, have already been granted to some other project, all such cases will be kept on hold. The Regulatory Authority will make written communication to the Chief Secretary of the Concerned State or Union Territory and the decision will be taken based on the advice of the State Government or Union Territory Administration.</p> <p>Provided for all Building construction</p>	<p>All Building Construction and Area Development projects, there are many instances that different developer are independently developing the project which are self-sufficient in all respect and are being implemented over a differing period of time. Each developer is independent of other and cannot be responsible for execution of the project by another developer. In such situation we request that the project proponent may be allowed to obtain prior EP or Prior EC based on notional sub division of land. Also if the project is spread over</p>

				<p>and Area development projects covered under entry of column (4) against item 42 of the Schedule, the project proponent shall have an option of submitting fresh application either by excluding the land on which prior EC or prior EP have already been granted by way of notional sub division of land where there are different project proponents, of land or submit the fresh application by including the area for which prior EC or prior EP have already been granted as an expansion of previous prior EC or prior EP.</p>	<p>no. of years and is being carried out in multiple phases then project proponent may be allowed to submit fresh application by including the area for which prior EC or prior EP have already been granted as an expansion of previous prior EC or prior EP.</p>
7	111	15(4)	<p>(4) The appraisal in respect of cases, as per the sub-clause (2) of clause 15 of this notification, shall be made by Appraisal Committee in a transparent manner in a proceeding to which the project proponent shall be invited for furnishing necessary clarifications in person or through an authorized representative (not below the level of officer in Board of Directors) or through video conference. The project proponent may take assistance of the EIA Coordinator and Functional Area Expert(s) involved in the preparation of EIA report during appraisal, before the committee. On conclusion of this proceeding, the Appraisal Committee shall make categorical recommendations to the Regulatory Authority concerned either for grant of prior-EC on stipulated terms and conditions, or rejection of the application for prior-EC, together with reasons for the same.</p>	<p>(4) The appraisal in respect of cases, as per the sub-clause (2) of clause 15 of this notification, shall be made by Appraisal Committee in a transparent manner in a proceeding to which the project proponent shall be invited for furnishing necessary clarifications in person or through an authorized representative (not below the level of officer in Board of Directors) or through video conference. The project proponent may take assistance of the EIA Coordinator and Functional Area Expert(s) involved in the preparation of EIA report during appraisal, before the committee. On conclusion of this proceeding, the Appraisal Committee shall make categorical recommendations to the Regulatory Authority concerned either for grant of prior-EC on stipulated terms and conditions, or rejection of the application for prior-EC, together with reasons for the same.</p>	<p>Any person having authority to represent from project proponent side should be allowed to present the case. Mostly, director level personel are not available during the time of presentation or hearing, hence, a representative of the company with valid authority letter of company or project proponent letterhead should be allowed. He/she would have all the rights to implement the decision or judgement of SEAC and SEIAA for the project.</p>

8	112	16	Procedure for grant of Prior Environment Clearance for modernization	Procedure for grant of Prior Environment Clearance for modernization or Expansion	All Building construction and Area development projects involves expansion which need not necessarily involve modernization. Therefore, it is proposed to add the word "expansion" at relevant location to capture its real intent or building construction projects.
9	112	16 (1)	(1) All applications seeking prior-EC for modernization within the existing premises or mine lease area, as the case may be, in respect of projects listed in the schedule, shall be subjected to the requirements as per matrix given hereunder:-	(1) All applications seeking prior-EC for modernization or expansion within the existing premises or mine lease area, as the case may be, in respect of projects listed in the schedule, shall be subjected to the requirements as per matrix given hereunder:-	All Building construction and Area development projects involves expansion which need not necessarily involve modernization. Therefore, it is proposed to add the word "expansion" at relevant location to capture its real intent or building construction projects.
10	112	16 (1) Table	Column 2 Heading Intended increase in production capacity through modernization	Column 2 Heading Intended increase in production capacity through modernization or expansion of the project	All Building construction and Area development projects involves expansion which need not necessarily involve modernization. Therefore, it is proposed to add the word "expansion" at relevant location to capture its real intent or building construction projects.
11	112	16 (1) Table Column 2 Slab 1	Modernization without increase in the production capacity	(1) All applications seeking prior-EC for modernization or expansion within the existing premises or mine lease area, as the case may be, in respect of projects listed in the schedule, shall be subjected to the requirements as per matrix given hereunder:-E15+E14	All Building construction and Area development projects involves expansion which need not necessarily involve modernization. Therefore, it is proposed to add the word "expansion" at relevant location to capture its real intent or building construction projects.
12	112	16 (2)	(2) The requirement, as per the matrix, shall apply to cumulative increase in production capacity taking reference to the latest prior-EC (including prior-EC under 'expansion' category) issued to	(2) The requirement, as per the matrix, shall apply to cumulative increase in production capacity or expansion of the project , taking reference to the latest prior-EC (including prior-EC under 'expansion'	All Building construction and Area development projects involves expansion which need not necessarily involve modernization. Therefore, it is proposed to add the word "expansion"

			the project without involving relaxation under this clause	category) issued to the project without involving relaxation under this clause	at relevant location to capture its real intent or building construction projects.
13	113	16(5)	(5) All applications for prior-EC, for the proposals intended for modernization without increase in the production capacity or increase in production capacity up to 10 percent with respect to prior-EC granted earlier shall be issued online, on acceptance of application by the Regulatory Authority.	(5) All applications for prior-EC, for the proposals intended for modernization without increase in the production capacity or increase in production capacity or expansion of the project up to 10 percent with respect to prior-EC granted earlier shall be issued online, on acceptance of application by the Regulatory Authority.	All Building construction and Area development projects involves expansion which need not necessarily involve modernization. Therefore, it is proposed to add the word "expansion" at relevant location to capture its real intent or building construction projects.
14	113	16(6)	(6) All applications for prior-EC, for the proposals intended for increase in production capacity from 10 percent to 50 percent with respect to prior-EC granted earlier shall be considered by the Appraisal Committee within forty-five working days from the date of application and appraised accordingly for grant of prior-EC.	(6) All applications for prior-EC, for the proposals intended for increase in production capacity or expansion of the project from 10 percent to 50 percent with respect to prior-EC granted earlier shall be considered by the Appraisal Committee within forty-five working days from the date of application and appraised accordingly for grant of prior-EC.	All Building construction and Area development projects involves expansion which need not necessarily involve modernization. Therefore, it is proposed to add the word "expansion" at relevant location to capture its real intent or building construction projects.
15	114	18(2)	(2) All the applications for amendment in prior-EC shall be considered by the Appraisal Committee within forty-five working days from the date of application and appraised for recommendation of amendment in prior-EC.	(2) All the applications for amendment in prior-EC shall be considered by the Appraisal Committee within forty-five Twenty working days from the date of application and appraised for recommendation of amendment in prior-EC.	IF the time frame is reduced, it would speed up the process
16	115	18(6)	(6) In case of other projects, no amendment in the prior-EC or prior-EP, as the case may be, is required for change in configuration of the units or equipment or machinery, without change in overall sanctioned capacity for which prior-EC or prior-EP, as the case may be, has been granted.	(1) In case of other projects, no amendment in the prior-EC or prior-EP, as the case may be, is required for change in configuration of the units or equipment or machinery, without change in overall sanctioned capacity or area for which prior-EC or prior-EP, as the case may be, has been granted.	All Building construction and Area development projects involves expansion which need not necessarily involve modernization. Therefore, it is proposed to add the word "or area" at relevant location to capture its real intent or building construction projects.

17	115	19(1) I (f)	(f) All other projects: Ten years	(f) All other projects: Ten years and for item 42 and 43 of the Schedule: twenty years.	All Building construction and Area development projects are executed over a very long period of time and unlike other industries does not undergo none of the environmental undergo any change during the execution of the project. In case of industries once the project is completed it is important to check the environmental parameters due to various pollutants generated post completion of the project. In case of building construction, the project is executed over a period of time spread over multiple buildings but irrespective of the time of construction of each of the building in the project the environmental parameter does not change at all. and post completion of the building and handing over to the customer there are no activities which generated pollutants. In view of the item 42 and 43 of the schedule the validity of the prior EC and prior EP should be 20 years.
18	116	20(3)	(3) The copies of the prior-EC shall be submitted by the project proponents to the following authorities within thirty days of grant of clearance, who in turn have to display the same for thirty days from the date of receipt:	(3) The copies of the prior-EC shall be submitted by the project proponents regulatory authority to the following authorities within thirty days of grant of clearance, who in turn have to display the same for thirty days from the date of receipt:	Ease of Doing business would be greatly enhanced by co-ordination between the various Governmental Authorities and immediate data sharing, which would substantially simplify the entire process, and not put the project proponent in administrative tangles.
19	117	20 (12)	N/A	(12) Notwithstanding above provisions in respect of item, 42 of the Schedule, the compliance monitoring will not be applicable in respect of the building for which Occupation certificate	All Building construction and Area development projects are executed over a very long period of time and unlike other industries does not undergo none of the environmental undergo any

				or Building Completion Certificate has been issued by the local body.	change during the execution of the project. In case of industries once the project is completed it is important to check the environmental parameters due to various pollutants generated post completion of the project. In case of building construction, the project is executed over a period of time spread over multiple buildings but irrespective of the time of construction of each of the building in the project the environmental parameter does not change at all. and post completion of the building and handing over to the customer there are no activities which generated pollutants.
20	118	22(8)	(8) On cognizance of violation through suo moto application, a late fee of Rs. 1,000/- per day in case of Category 'B2' projects; Rs. 2,000/- per day in case of Category 'B1' projects; and Rs. 5,000/- per day in case of Category 'A' projects shall be paid by the Project Proponent, at the time of application, calculated for a period of date of violation to date of application.	(1) On cognizance of violation through suo moto application, a late fee of Rs. 1,000/- per day week in case of Category 'B2' projects; Rs. 2,000/- per day week in case of Category 'B1' projects; and Rs. 5,000/- per day week in case of Category 'A' projects shall be paid by the Project Proponent, at the time of application, calculated for a period of date of violation to date of application.	Per week fine will aid in reducing the burden on project proponent.
21	118	22(9)	(1) On cognizance of violation reporting by any Government Authority or found during the appraisal by Appraisal Committee or processing of application, if any, by the Regulatory Authority, a late fee of Rs. 2,000/- per day in case of Category 'B2' projects; Rs. 4,000/- per day in case of Category 'B1' projects; and Rs. 10,000/- per day in case of Category 'A' projects shall be paid by the Project Proponent, at the	On cognizance of violation reporting by any Government Authority or found during the appraisal by Appraisal Committee or processing of application, if any, by the Regulatory Authority, a late fee of Rs. 2,000/- per day week in case of Category 'B2' projects; Rs. 4,000/- per day week in case of Category 'B1' projects; and Rs. 10,000/- per day week in case of Category 'A' projects shall be paid by the Project Proponent, at the time of	Per week fine will aid in reducing the burden on project proponent

			time of application, calculated for a period of date of violation to date of application.	application, calculated for a period of date of violation to date of application	
22	118	22(10)	The project proponent will be required to submit a bank guarantee valid for five years equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan and with the SPCB or UTPCC, as the case may be, and the quantification will be recommended by Appraisal Committee and finalized by Regulatory Authority, with a condition to implement the same within a period of three years.	(1) The project proponent will be required to submit a bank guarantee valid for five years or until completion of remedial plans for equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan and with the SPCB or UTPCC, as the case may be, and the quantification will be recommended by Appraisal Committee and finalized by Regulatory Authority, with a condition to implement the same within a period of three years.	In most cases, remedial plans are implemented on an expedited basis. Therefore, in the event of the remedial plans being successfully carried out within a period of 5 years, then the bank guarantees should be released which would greatly reduce the financial burden and increase liquidity of the project proponents, which is very vital for the purpose of expanding existing projects & building new projects, which is a pre-requisite for infrastructure development of the country.
23	118	22(14)	Further the action will be taken against the project proponent by the respective State Government or Union Territory Administration or SPCB or UTPCC, as the case may be, under the provisions of section 19 of the Environment (Protection) Act, 1986.	No further the action will be taken against the project proponent by the respective State Government or Union Territory Administration or SPCB or UTPCC, as the case may be, under the provisions of section 19 of the Environment (Protection) Act, 1986.	Since remedial measures as required by the regulatory authority are implemented by the project proponent no further action should be taken.
24	130	Schedule Item 42 Column 4	>1,50,000 sq.mtrs. of built-up area and or total land area of > 50 hectare	>1,50,000 >2,50,000 sq.mtrs. of built-up area and or total land area of > 50 hectare	Building Construction and Area Development projects mentioned under item 42 of the schedule, the area prescribed for the project to qualify under B2 category is very low. Considering the most of the project irrespective for the size up to the BUA of 250000 sq mtr generally has the similar the environment impact and are generally issued EC clearance with the same conditions to be complied with by the project proponents. To ensure that the regulatory authority and appraising authority are not over loaded with

					proposals which could be cleared based on standard TOR with standard compliance conditions and also to ensure that the larger project are assessed qualitatively we proposed this change.
25	130	Schedule Item 42 Column 5	<p>(i) >20,000 sq. mtrs. and <50,000 sq. mtrs. of built-up area</p> <p>(ii) > 50,000 sq. mtrs. and < 1, 50,000 sq. mtrs. of built-up area projects having provisional certificate of green building' or relating to industrial sheds, educational institutions, hospitals and hostels for educational institutions > 50,000 sq. mtrs. and < 1, 50,000 sq. mtrs. of built-up area</p>	<p>(i) >20,000 50,000 sq. mtrs. and <1,50,000 sq. mtrs. of built-up area</p> <p>(ii) > 1,50,000 sq. mtrs. and < 2,50,000 sq. mtrs. of built-up area projects having provisional certificate of green building' or relating to industrial sheds, educational institutions, hospitals and hostels for educational institutions > 1,50,000 sq. mtrs. and <2 1, 50,000 sq. mtrs. of built-up area</p>	<p>Building Construction and Area Development projects mentioned under item 42 of the schedule, the area prescribed for the project to qualify under B2 category is very low. Considering the most of the project irrespective for the size up to the BUA of 250000 sq mtr generally has the similar the environment impact and are generally issued EC clearance with the same conditions to be complied with by the project proponents. To ensure that the regulatory authority and appraising authority are not over loaded with proposals which could be cleared based on standard TOR with standard compliance conditions and also to ensure that the larger project are assessed qualitatively we proposed this change.</p>