

No.J-20012/11/98-IA.II(M)  
Government of India  
Ministry of Environment & Forests

Paryavaran Bhawan,  
CGO Complex, Lodi Road,  
New Delhi-110003.

Dated: 28<sup>th</sup> October 2004

## **C I R C U L A R**

In modification to the Circular dated 12.02.2004 in regard to the procedure for obtaining environmental clearance in the case of mining projects under the Environmental Impact Assessment (EIA) Notification, 1994 and amendments thereto, the following are to be followed with immediate effect:

### **I APPLICABILITY OF EIA NOTIFICATION 1994**

The EIA Notification, 1994 as amended from time to time shall include:

- (i) Mining projects of major mineral with more than 5ha lease area, which have started production or increased their production and/or lease area on or after 27.01.994.
- (ii) In addition, all mining projects of major minerals of more than 5 ha lease area which have so far not obtained an environmental clearance under the EIA Notification, 1994 shall do so at the time of renewal of their lease in the context of the SC Judgement dated 18.03.2004 in W.P. 4677/1985 – M.C.Mehta vs UOI & Ors.

### **II ISSUES PERTAINING TO ROUTING/FORWARDING OF PROPOSAL.**

- (i) **Routing of proposal through the concerned Central Government/State Government Department is a must with reference to the following:**
  - (a) The projects in respect of which an application is being made to the Ministry of Environment & Forests for Site/Environmental clearance for the first time either for new lease area/expansion in lease area and/or production or both or for renewal of lease area.
- (ii) **Nodal Department for routing of applications:**
  - (a) The nodal Department in the State Government for routing of proposals of private sector companies is the State Mines and Geology Department or the Department that controls the Mines & Geology/ Mineral Resources Dept./Division.

- (b) Public Sector Projects should be routed through their respective Ministries in the Central Government.

**(iii) The forwarding letter of the Central Govt. Dept./State Govt. must clearly indicate the following:**

- (a) Name of the proposal.
- (b) Name of the Company.
- (c) Location: village, Taluk/Mandal, District and State.
- (d) Details of lease area and production.
- (e) Details of expansion from .... ha/tpa to ....ha/tpa (if expansion in area and/or in production).

- (iv)** If the application involves different leases of the same company from the same area/region, then a separate application for each lease has to be made and the forwarding letter should also preferably be for each separate application. In case, the State Government forwards the proposals in one composite letter, then the letter must clearly specify the names of all the leases, their location (village, Taluk, and District), lease area and production capacity for each of the applications.

**(v) Routing of proposal is not required for the following:**

- (a) If the project has already been accorded environmental clearance once from MOEF (after 27.01.1994) and is now again applying for expansion (in lease area and/or production) **for the same project.**
- (b) IBM/Ministry of Coal's approval of the Mining Plan for the total lease area/project area as the case may be has been obtained even if the application is being made for the first time.

### **III Expansion in Production**

The term 'expansion' would include increase in production or lease area or both.

- (a) If the rated capacity given in the Environmental Clearance letter is being exceeded it would constitute expansion.
- (b) The projects cannot increase production even if they have the IBM/Min. of Coal's approval for the enhanced production until environmental clearance is obtained for the enhanced rated capacity.
- (c) If the annual production of any year from 1994-95 onwards exceeds the annual production of 1993-94 or its preceding years (even if approved by IBM), it would constitute expansion.
- (d) Expansion in production beyond the approved capacity however small would constitute a violation and attract the penal provisions of the Environment (Protection) Act. Therefore, the proponent should make a suitable calendar plan for obtaining clearance for the maximum annual

production levels achievable from the project. The EIA-EMP Study should also be prepared keeping this in view. If the production increases/is proposed to increase beyond what was submitted in the EIA-EMP report for which an environmental clearance was obtained/applied for, then it would constitute expansion.

#### **IV ISSUES PERTAINING TO PUBLIC HEARING**

Public Hearing for all mining projects, which attract the provisions of the EIA Notification, 1994 as amended from time to time. However, in view of the various queries received from time to time, it is clarified that Public Hearing is a pre-requisite for the following projects:

- (i) If the proposal is a new one.
- (ii) If a pre-1994 project is being submitted for environmental clearance to MOEF for the first time for proposed expansion in production and or lease area.
- (iii) If a project had obtained an environmental clearance between 1994-1997 (prior to introduction of Public Hearing), and is now applying for environmental clearance for expansion in lease area and/or production.
- (vi) If a project had obtained environmental clearance after 10.09.1997 (after the notification on Public Hearing) and has had Public Hearing already for the original lease area, but is now applying for environmental clearance for expansion in lease area.
- (v) If a project had obtained environmental clearance after 10.09.1997 (after the notification on Public Hearing) and has already had Public Hearing on the proposal and is now applying for expansion in production only.

#### **V ISSUES PERTAINING TO EIA-EMP REPORT**

- (a) EIA-EMP Report based on data that is more than **3 years** old shall not be accepted by the MOEF.
- (b) The EIA-EMP Report in the cover as well as in the Introduction para must clearly state the rated capacity and the period for which the study has been made.
- (c) Environmental clearance will be valid only for the rated capacity for which the EIA-EMP Report has been prepared even if the project has IBM approval for a higher rated capacity/production.
- (d) If the proponent has already obtained an environmental clearance after 27.01.1994 and has applied again for increase in production and/or lease area within 5 years from date of obtaining environmental clearance, then a Supplementary EIA-EMP Report incorporating the essential issues should be

submitted to MOEF while making the application in the relevant form and questionnaire along with NOC and Public Hearing and IBM approval for the proposed expansion. A copy of the original EIA-EMP Report would be required to be submitted for the appraisal.

- (e) If there are several mining leases in the same area located contiguous or adjacent to each other or at a distance from each other, the EIA-EMP Report should be prepared for the baseline data of the lease area (core zone) and 10km study area (buffer zone) around each mine separately for each mine.
- VI** (a) All Mining Plans/Renewal of Mining Schemes close to the last year of the Plan/Scheme period would require to submit the IBM Approval of their renewal for the next 5-year Period while submitting their application for environmental clearance. As Ministry of Coal is approving Mine Plan for the entire life of the mine, the approved calendar plan for annual production for the life of the mine should be submitted.
- (b) If the project after grant of environmental clearance, obtains approval for Mining Plan/renewal of Mining Scheme for a rated capacity higher than that for which the Environmental clearance was granted, a fresh application in accordance with the procedure specified in the EIA Notification should be submitted for obtaining environmental clearance for the higher rated capacity.

**(R.CHANDRAMOHAN)**

**Joint Secretary to the Government of India**

To

1. All State Governments (Department of Mines & Geology, Dept. of Environment & Forests)
2. All State Pollution Control Boards
3. FIMI and other Mine Associations
4. Ministry of Coal & Mines: Department of Coal, Department of Mines
5. Indian Bureau of Mines and Coal India Limited
6. MOEF Regional Offices

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**AMENDMENT TO NOTIFICATION ON PUBLIC HEARING DT. 10.09.1997**

**ON PUBLIC HEARING:** Presently, there is no provision in the P.H. Notification for reconduct of P.H. There is also no time limit prescribed thereunder for its validity. An amendment to the EIA Notification on P.H. is reqd. specifying that the validity for submission of a P.H. for obtaining environmental clearance is for a maximum period of 5 years only. The amendment will cover the following issues:

Fresh conduct of Public hearing is required w.r.t the following:

- (i) If the proposal was received in the MOEF beyond 5 years time limit from the date of conduct of P.H.
- (ii) Application was received in the MOEF but the file was closed/returned back to proponent/rejected due to any reason (may or may not in reference to P.H.) and 5 years had elapsed since the conduct of P.H.
- (iii) Project was not taken up by the PP even 5 years after the issuance of the environmental clearance.
- (iv) The EIA -EMP Report submitted by the Proponent required extensive revision/resubmission. Summary Report of the revised EIA-EMP report would require to be placed in a P.H. conducted afresh as a result of changes/modifications made to the EIA-EMP Report indicates change in impacts.