

No. J-11013/41/2006-IA.II(I)
Government of India
Ministry of Environment & Forests

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Office Memorandum

Subject: Consideration of proposals for TORs/Environment Clearance/ CRZ Clearance involving violation of the Environment (Protection) Act, 1986 / Environment Impact Assessment (EIA) Notification, 2006 / Coastal Regulation Zone (CRZ) Notification, 2011 - reg.

The Environment Impact Assessment Notification (EIA), 2006 and its amendments thereafter require all new projects or activities and / or expansion and modernization of existing projects or activities listed in the schedule to the said Notification with capacity beyond threshold limits prescribed thereunder, to obtain prior Environment Clearance under the provisions thereof. Similarly, CRZ Notification, 2011 imposes certain restrictions on the setting up and expansion of industries, operations or processes and the like in the CRZ.

2. Instances have come to the notice of this Ministry where without obtaining the required clearance under the aforesaid Environment Impact Assessment Notification, 2006 and / or CRZ Notification, 2011, the construction / physical / operation activities relating to the projects have been started at the sites. Such activities amount to violations under the Environment (Protection) Act, 1986 / EIA Notification, 2006 / CRZ Notification, 2011 (henceforth referred to as violations).

3. The cases for granting Environment Clearance / CRZ Clearance for such projects are at present being dealt with in terms of OM of even number dated 16.11.2010. Now, it has been decided in that in supersession of this OM, the procedure henceforth stated in this OM will be followed while dealing with such cases.

4. The violations could come to the notice of the Ministry at various stages of processing of the proposals, i.e.:

- i. Processing the case in the Ministry before referring the same to the Expert Appraisal Committee (EAC) for TOR / Environment Clearance / CRZ Clearance;
- ii. During the deliberations in the EAC meeting and recorded as such in the minutes of the meeting; and;
- iii. Processing the case in the Ministry after the receipt of recommendations of the EAC but before granting TOR / Environment Clearance/CRZ Clearance.

5. As soon as any case of violation comes / is brought to the notice of the Ministry / EAC, the Ministry / EAC will proceed to verify the veracity of the complaint through the concerned Regional Office of MoEF / State Government / CZMA. Of course, such a verification will not be required in case

the project proponent does not contest the allegation of violation. Once the Ministry / EAC is satisfied that it is a violation case, before proceeding any further in the matter, the following will need to be ensured in the matter:

- i. The matter relating to the violation will need to be put up by the Project Proponent to the Board of Directors of its Company or to the Managing Committee / CEO of the Society, Trust, partnership / individually owned concern for consideration of its environment related policy / plan of action as also a written commitment in the form of a formal resolution to be submitted to MoEF to ensure that violations will not be repeated. For this purpose, a time limit of 60 days will be given to the project proponent. In the meantime, the project will be delisted. In the eventuality of not having any response from the project proponent within the prescribed limit of 60 days, it will be presumed that it is no longer interested in pursuing the project further and the project file will be closed, whereafter the procedure will have to be initiated *de novo* by such project proponents.
 - ii. The State Government concerned will need to initiate credible action on the violation by invoking powers under Section 19 of the Environment (Protection) Act, 1986 for taking necessary legal action under Section 15 of the Act for the period for which the violation has taken place and evidence provided to MoEF of the credible action taken.
 - iii. The details of the project proponent and a copy of the commitment, etc., mentioned at (i) above will be put on the website of MoEF for information of all stakeholders.
6. Once action as per para 5 above has been taken, the concerned case will be dealt with and processed as per the prescribed procedure for dealing with cases for grant of TORs / Environment Clearance / CRZ Clearance and appropriate recommendation made by the EAC/decision taken by the Ministry as per the merit of the case.
7. It may be clarified that the consideration of proposals for giving TORs/ Environment clearance / CRZ clearance for violation cases will not be a matter of right for the project proponent. In cases of serious violations, the Ministry reserves the right to outrightly reject such proposals and not consider the same at all.
8. The aforesaid procedure, as stated in para 4 to 7 above will apply *mutatis mutandis* to the cases handled at the State level by the State Environment Impact Assessment Authorities (SEIAAs)/ State Level Expert Appraisal Committees (SEACs).
9. This issues with the approval of the competent authority.


(Dr. P.B. Rastogi)
Director

To:

1. All the Officers of IA Division.
2. Chairpersons/Member Secretaries of all the SEIAAs/SEACs.
3. Chairman, CPCB, N. Delhi.
4. Chairpersons / Member Secretaries of all SPCBs / UTPCCs.

Copy to:

1. PS to MEF.
2. PPS to Secretary (E&F).
3. PPS to JS (AT).
4. Website of the MoEF .
5. Guard File.