

IMPACTS OF EIA DRAFT 2020

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INTRODUCTION

“We won’t have a society we destroy the environment.”

- *Margaret Mead*

EIA is a try to identify the environmental, social, and economic impacts of the project before the decision- making – UNEP³⁶⁴. In India, it was first started in the year 1978-79 for the river valley project. The Bhopal gas tragedy took place in the year 1984 at UCIL³⁶⁵ pesticide plant in Bhopal, Madhya Pradesh, India. After this Bhopal gas tragedy, India came with the “Environmental Protection Act, 1986” which was later enforced in the year 1994, and till now there are few changes made in the EIA amendments in the year 1996 and 2006 and now in 2020. EIA can be characterized as the examination to anticipate the impact of a proposed movement/venture on the environment. A dynamic instrument, EIA looks at different choices for an undertaking and tries to distinguish the one which speaks to the best blend of monetary and environmental expenses and advantages.

Process of EIA:

1. EIA Cycles & Procedures Screening: First phase of EIA, which decides if the proposed venture requires an EIA and if it requires EIA, at that point the degree of appraisal required. Screening measures for deciding the degree of audit required are generally all-around characterized. Screening measures depend on:

- Scales of investment.
- Type of advancement.
- Location of advancement.

³⁶⁴ UNEP - United Nations Environment Programme.

³⁶⁵ UCIL – Union Carbide India Limited.

2. Scoping: This stage distinguishes key issues and effects that ought to be additionally explored. This stage likewise characterizes the limit and the time furthest reaches of the investigation. It is finished by a specialist in counsel with the venture advocate and direction by the office.

Quantifiable effects are to be evaluated based on size, predominance recurrence, and term and non-quantifiable effect (stylish or recreational worth). Noteworthiness is normally decided through financial measures. After the regions, where the task could have a critical effect, are recognized, the Gauge status of these ought to be checked, and afterward the feasible changes in these because of the development and activity of the proposed undertaking ought to be anticipated.

3. Baseline Data: Effect expectation is a method of 'planning' the ecological results of the huge parts of the tasks and its other options. The natural effect can never be anticipated with total conviction, and this is even more motivation to think about every conceivable factor and avoid potential risk for diminishing the level of vulnerability. The accompanying effects of the undertakings ought to be surveyed:

AIR: Changes in the surrounding level and the ground level focus because of outflows from point, line, and territory source. Consequences for soils, materials, vegetations, and human wellbeing.

NOISE: Changes in the surrounding level because of commotion created from gear and development of vehicles. Consequences for fauna and human wellbeing.

WATER: Accessibility to contending clients, Changes in the quality, Dregs transport, Entrance of saline water

LAND: Changes in the land-use and seepage design, Changes in land quality including impacts of waste removal, Changes in shoreline/riverbank, and their soundness.

BIOLOGICAL: Deforestation and shrinkage of creature natural surroundings, Effect on widely varied vegetation because of contaminants/contaminations, Effect on uncommon and jeopardized species, endemic species and transitory way of creatures including winged animals, Effect on reproducing and settling grounds

SOCIO-ECONOMIC: Effect on the neighborhood network including segment changes, Effect on monetary status, Effect on human wellbeing, Effect of expanded traffic.

Appraisal of Choices, Outline of Moderation Measure, and Natural Effect Evaluation Report.

For all ventures, imaginable options ought to be recognized and natural traits thought about. Options for venture area and procedure advancements Option of 'no undertaking' ought to likewise be thought of. In light of the best natural choice for ideal monetary advantages to the network everywhere, choices ought to be positioned.

Alleviation plan for the chose choice must be drawn and is enhanced with the Natural Administration Plan (EMP) to direct towards Ecological Improvement. EMP³⁶⁶ is basic for observing the freedom conditions, and from now on subtleties of checking ought to be incorporated.

6. Thus the EIA Report prepared should provide the decision-maker with the information on different environmental scenarios like: With the venture. Without the venture. With venture options. Vulnerabilities ought to likewise be reflected in the EIA report. Formal proceeding after the EIA report is made open must be educated and counseled on the proposed advancement. Synopsis of the EIA report must be given to the individuals influenced because of the proposed venture: Bonafide nearby occupant. Neighborhood affiliations. Ecological gatherings are dynamic in the region. Some other individuals are situated at the venture site/destinations of uprooting.

7. Dynamic Counsel between the venture advocate (helped by a specialist) and the effect appraisal authority (helped by a specialist gathering if vital). The choice of ecological leeway is shown up through various advances including assessment of EIA and EMP.

8. Monitoring. The Clearance Conditions: Checking ought to be finished during both the development and activity period of a venture. This guarantees the responsibilities made is ordered and if the expectation made in the EIA report is right. Restorative moves ought to be made if the effect surpasses the anticipated levels.

The current change in EIA 2020:

- The public consultation period in the year 2006 was 45 days, but now in the year 2020, it decreases into 40 days.

³⁶⁶ EMP – Environmental Management Plan.

- Monitoring period in the year 2006 the authorities to monitor projects for compliance with environmental norms every 6 months, but in the year 2020 the monitoring frequency has been relaxed to once a year.
- Environmental clearance

➤ In the year 2006	➤ In the year 2020
➤ Power was decentralized wherein under the new notification the onus of providing environmental clearance for the project was shared between the central and the state government.	➤ The onus of providing environmental clearance for the project was divided between the central and the state government as before.
➤ Project in schedule 1 was divide into two categories, i.e., category the A project (national level appraisal) and category B projects (state-level appraisal). National and state-level EIA Authority were responsible for it respectively.	➤ Projects are divided into three categories- A, B1, and B2, based on the potential social and environmental impacts and the spatial extent of these impacts.

- Environmental clearance process

➤ In the year 2006	➤ In the year 2020
<ul style="list-style-type: none"> ➤ Screening. ➤ Scoping. ➤ Public hearing. ➤ Appraisal. <p>Category A project would have to mandatorily undergo environmental clearance and there is no screening process or it.</p>	<p>For category A and B1 project:</p> <ul style="list-style-type: none"> ➤ Scoping. ➤ Preparing the draft “EIA” report. ➤ Public consultation. ➤ Preparation of final EIA report. ➤ Appraisal. <p>Category B2 project which are:</p> <ol style="list-style-type: none"> 1. Preparation of environmental management plan.

<p>Category B projects would have to undergo screening, to determine whether they belong to category B1 or category B2.</p> <p>Category B2 is exempted from EIA.</p>	<p>2. Verification if its completeness by the Authority appointed.</p> <p>3. Grant/rejection of clearance.</p> <p>Category B2 which doesn't require appraisal would only have to follow the last two steps.</p>
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- Provision for appeal against prior environment clearance in the year 2006 was “Not Applicable”, but in the year 2020 “ An appeal can be made to National Green Tribunal against prior environment clearance”.

Restriction for Public Awareness:

The three websites which were speaking against the contentious draft Environmental Impact Assessment (EIA) and send more than thousands of mail sent to Shri Prakash javadekar mail id the mail was about the "giving voice against the notification draft on EIA 2020" all the three websites are blocked by National Internet Exchange of India (NIXI) the three website's which is blocked Let India Breathe (LIB), FridaysForFuture (FFF) and There Is No Earth B. Notice was issued under section 79(3)(B)³⁶⁷ of IT Act and punishment was given under section 18³⁶⁸ of the Unlawful Activities Act. But all the three websites which are blocked are not getting any clear communication about why the website is blocked. If they ask for more details, they are saying that get in touch with the Delhi police. Such activity is phenomenal. Legally this completely violative of all rule of natural justice. After three days they are some news that the three websites are unblocked but the three websites are not currently it's not working.

³⁶⁷ Section 79(3) (b) of IT Act - upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource, controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

³⁶⁸ Section 18 of Unlawful Activities Act - Punishment for conspiracy, etc.—Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

Impacts of the EIA draft notification 2020:

First of all, the unbearable fact about the new draft EIA notification is that it will restrict the guideline of open support or public participation in environment clearances. The draft EIA notification attempts to destroy the center thought that an evaluation ought to be done before a venture begins. One of the arrangements of the new draft is that extends that have come up illicitly or illegally, that is, ventures without environmental clearances can be sanctioned. Similarly, the Draft notification set forth numerous of different alterations in the EIA notification touching on a categorization of tasks and their tiers of acquiring clearance or leeway, an exception for specific business from the formal review, treatment of abusing ventures, Compliance necessities, etc. A portion of the proposed changes which have made a matter of worry among different earthy people and open everywhere areas underneath in a detailed manner:

Confinement on Public Involvement:

The Prior warning that gave a time of thirty days for people, in general, to present their reactions or expressions to the administration on the EIA Report on any venture that needs to acquire environmental clearance has now been diminished to twenty days where thirty days is itself not sufficient enough for the people in general. For any fair nation, the commitment of the residents of the nation performs a completely essential position in planning any policy. This can be a concerning issue where the people, in general, won't get adequate opportunity to peruse and give their recommendations, perspectives, or objections or protests for any undertaking which can have conceivable hurtful impacts or feasible dangerous results on their encompassing and condition. By diminishing the days in which the general people's proposals can be looked for, the procedure of Public hearing will lose its noteworthiness out and out.

Post-facto freedom for disregarding ventures:

Presently, this proposed change is opposing to the standard of the "Prudent Principle" of Environmental Law. Any venture that disregards and works the task without getting the earth freedom would now be able to get natural leeway by submitting remediation plan and normal and network asset increase plan relating to the 1.5/multiple times the environmental harm surveyed and monetary advantage determined because of infringement and by taking care of some measure of punishment as recommended in the notice. This implies a disregarding undertaking would now

be able to proceed with its activity by simply presenting a remediation plan and installment of some punishment to the legislature. In March 2017, a notice was given in such manner following which the violators were conceded a one-time alternative or chance by giving a six-month window to regularize the tasks that they began without getting the freedom by taking care of the punishment to the Government. This will presently be made as a changeless alternative to the violators to manage the tasks.

An inquiry that emerges here is will punish and accommodation of an arrangement would turn around the harm that the disregarding task may have caused to the earth and society? In the half-year window given by the 2017 warning, one of the Companies to select the choice was LG Polymers. In an oath put together by LG Polymers in 2019 to the administration, it had acknowledged that it was working without acquiring any natural freedom. The hazardous Vizag gas spill in LG Polymers Visakhapatnam Unit which incurred significant damage of around 12 individuals and nauseated 100 of them was working without condition leeway. This is one of the occasions where the legislature ought to rethink offering clearances to condition violators remembering the business which is presented to such threat.

In a request passed by the Supreme Court on first April 2020 in Alembic Pharmaceuticals Ltd. Versus Rohit Prajapati and Others, it held that the Ex post facto clearances are in opposition to the law. A "naturally objective viewpoint" must be embraced towards advancement and given the "social and ecological effects of the modern movement, condition consistency must not be viewed as a hindrance to improvement yet as a measure towards accomplishing supportable turn of events and intergenerational value. Condition law can't face the thought of an ex post facto freedom. This would be in opposition to both the prudent rule just as the requirement for economical turn of events.

Observing of environmental freedom: Compliance report

As a piece of the Postcondition leeway checking process, the undertaking advocate needed to submit half-yearly consistent reports regarding the specified earlier environmental freedom terms and conditions. In the new notice, the accommodation must be done just a single time in a year for example 30th June on the online gateway. The administrative authority can ask the report at any continuous stretches as it might consider fit. By lessening the consistence to just once per year, the

observing of the undertakings will be supplanted by an insignificant detailing consistency by the venture advocates. Any conceivable harm by the venture to the earth which could be surveyed at a prior stage won't be conceivable at this point.

Exceptions to specific exercises from the formal review:

Open interview on EIA reports will be absolved for certain exercises like the modernization of water system extends, all tasks concerning national protection and security, or including other key contemplations as controlled by the Central Government, all the seaward undertakings situated past the 12 Nautical Miles to give some examples. Further, no data identifying with ventures concerning national protection and security or including other key contemplations which will be controlled by the Central Government will be put in the open space. This implies there would be less straightforwardness or mystery during the time spent EIA procedure of these tasks and open interest will be limited or won't exist.

Effect on untamed life and natural surroundings:

Despite the fact that the ventures falling under the domain of the EIA (and something else) impact sly affect natural life and their environments, the EIA procedure has missed the mark regarding tending to these worries, a bombing that proceeds in the draft notice. This inability to factor in untamed life contemplations is one we can sick manage, given the remarkable eradication rates and breakdown of nature.

I. Truly, Expert Appraisal Committees have not had the area mastery to manage impacts on untamed life, and in this way, this viewpoint keeps on being disregarded in the EIA procedure. In any event, for ventures bordering Protected Areas, in backwoods, and other common, high biodiversity scenes, there is no examination/evaluation from the perspective of natural life preservation.

II. One basic region where such oversight is required is for railroad ventures. Railroad ventures impact sly affect untamed life and common scenes; visit untamed life mortality is noted because of a crash with trains, including creatures like tigers, elephants, panthers, and the direct framework related to rail routes sections regular scenes. For example, a sum of 65 elephants kicked the bucket

in railroad mishaps among 2016 and June 2019, as indicated by figures postponed by the Railways Ministry in Lok Sabha (July 2019). The lacunae should be routed to reinforce the EIA procedure.

III. The rundown of tasks renamed as 'B2', and subsequently absolved from a full evaluation and formal proceeding, incorporates development or broadening of existing National Highways, State Highways, turnpikes, multi-modular passages, and some Ring Roads, and all aeronautical ropeway ventures situated in told biologically delicate zones. By and large, the land for proposed ventures includes biologically delicate locales, timberlands, wetlands, fields, floodplains, and deserts. These are delicate environments, where development can make irreversible harm natural life territory and biological systems working.

IV. The draft notice proposes to regularize any infringement that may happen, rather than making a tough move against the venture defender and closing down the undertaking that is in infringement. No special case has been spelled out for infringement inside Protected Areas or their Eco-Sensitive Zones.

V. EIA 2020 draft notice incorporates just those zones as advised by the MoEFCC³⁶⁹ as Eco-delicate zones and territories. These bars save woods, and other biologically delicate territories, for example, high height environments, wetlands, deserts, floodplains, peatlands, and mangroves, natural surroundings of touchy verdure, and watershed zones. This facilitates clearances for ventures to be attempted in these naturally huge zones, jeopardizing untamed life.

VI. EIA 2020 draft notice licenses exercises, for example, "leveling of the land with no tree felling" before EC³⁷⁰ is conceded. This can irreversibly harm undermined and significant environments like meadows, wetlands, mangroves, and deserts. These living spaces likewise give the last fortifications to jeopardize and Schedule-I species like the Great Indian Bustard, Fishing Cat, Indian wolf, Lesser Florian, Otters, and a large group of transient waterfowl, and different types of life.

VII. EIA 2020 draft notification doesn't explain whether such exercises that don't qualify as 'development work' can be completed in ventures proposed inside Protected Areas. This is an escape clause that might be misused by venture defenders to begin development exercises inside

³⁶⁹ MoEFCC – The Environment, Forest and Climate Change.

³⁷⁰ EC – Environmental clearance.

Protected Areas before awarding of EC, making irreversible harm a portion of the nation's best secured common territories and untamed life. The draft additionally doesn't expressly limit development inside ensured regions...

The changes made in the EIA now are a threat to the environment and the wildlife and the other living things are nothing but the process of making ease of doing business. Ease of doing business is of utmost very important in our nation at the current situation but it should not come or it will not be accepted at the cost of the environment and wildlife and life of peoples.

Article 51 A (g)³⁷¹ of the Indian Constitution states that "it shall be the fundamental duty of every citizen to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures". It is surprising how the environment minister failed to remember that EIA law must have or considered these values in it as it is our duty to protect and improve the natural environment.

CONCLUSION

Considering the above concerns, we demand the MoEFCC pull back and hold the EIA 2020 Draft Notification. The need of great importance is to reinforce the EIA 2006 warning that must guarantee that it maintains the standards of natural law that incorporate the prudent rule, the polluter pays guidelines and access to equity and managerial straightforwardness. Because the two fundamental standards – "prudent guideline" and "Maintainable Development" which frames the premise of natural laws will genuinely encroach if the proposed changes in the draft are brought into impact. The simplicity of working together, confident India is clearly of most extreme significance in the current circumstance however this ought not to come at the expense of our condition and lives of individuals. The EIA law ought not to be viewed as an impediment yet ought to rather be considered as an essential check by the business so they are carrying on the activities without making hurt the characteristic natural surroundings and the general public.

³⁷¹ Article 51 A (g) - to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.