

CHECKLIST FOR ENVIRONMENTAL PUBLIC HEARINGS and PUBLIC CONSULTATION UNDER EIA NOTIFICATION, 2006

The Environment Impact Assessment (EIA) notification, 2006 issued by the Ministry of Environment and Forests (MoEF) specifies four stages for the grant of environment clearance to development and industrial projects and activities listed under Category A (central level clearance) and Category B (state level clearance) in the Schedule of the notification. These are: Screening, Scoping, **Public Consultation** and Appraisal.

Some projects are exempted from this procedure either because of **exceptions** made within the notification or B category projects which will be termed as B2¹, where neither an EIA nor a public hearing is required.

For all other projects, listed in the Schedule of the notification, the EIA Notification mandates that the public consultation process be carried out.

The Public Consultation stage comprises two processes:

1. Public Hearing at the site or in its close proximity- district wise, for ascertaining concerns of local affected persons;
2. Written responses from other concerned persons having a **plausible stake** in the environmental aspects of the project or activity. The definition of plausible stake is not given.

The public hearing process:

- The project proponent will request the Member Secretary of the State Pollution Control Board (SPCB) or Union Territory Pollution Control Board (UTPCB) to arrange for the public hearing within 45 days of the receipt of the application.
- Separate public hearings are required for each district in which the project is located. If more than one state is involved, each SPCB shall be approached separately for conduct of public hearing/s in that state.
- The PCB shall issue notice of the public hearing within 7 days of the receipt of the draft EIA report from the project proponent in one major national daily and one regional vernacular daily. This advertisement needs to inform the public about the places or offices from where the draft EIA and its summary can be accessed.
- This notice should appear 30 days before the date of the public hearing

The EIA notification 2006 states, *"the public hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District-wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Board"*

Projects exempted from Public Consultation are:

- a) modernization of irrigation projects (item 1(c) (ii) of the Schedule).
- b) all projects or activities located within industrial estates or parks approved by the concerned authorities, and which are not disallowed in such approvals. (item 7(c) of the Schedule)
- c) expansion of Roads and Highways which do not involve any further acquisition of land. (item 7 (f) of the Schedule)
- d) all Building /Construction projects/ Area Development projects and Townships(item 8).
- e) all Category 'B2' projects and activities. (B2 projects are identified during the screening of category B projects)
- f) all projects or activities concerning national defense and security or involving other strategic considerations as determined by the Central Government

¹ These are category B projects which after a screening process have been further categorized as B2. Such projects neither require an EIA nor public consultation.

Access to the EIA report

The notification makes 'accessible' the EIA report of the project at various venues. But the term 'access' can be interpreted in various ways. The officer may interpret it as only allowing people to read it and not allow them to have a copy. However you can demand that "access" can be interpreted as being given copies of the documents and not just being allowed to refer to it in the offices.

The notification states, "The SPCB or UTPCB concerned shall also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III A) **for inspection** in select offices or public libraries or panchayats etc."

Once you come across such an advertisement and decide to engage with the public hearing process, there are some points to keep in mind before, during and after the public hearing takes place:

Before the Hearing:

- 1) Procure the draft EIA report³ and the summary of the draft EIA (in English and local language).
- 2) The public hearing notice will specify in which places the documents (hard and soft copies of draft EIA report and its summary) are to be made available mandatorily. These are:

- District Magistrate office
- Zilla Parishad or Municipal Corporation
- District Industries Office
- Concerned Regional office of the MoEF⁴

Both hard and soft copies of the report can be accessed from these offices. Procure copies from all the above mentioned offices. If reports are not available in any one of the offices mentioned, get this admitted by the concerned officer in writing.

If the reports are accessible ensure that the date from when these reports are made accessible is recorded in some written form and acknowledged by the concerned officer.

- 3) The summary of the draft EIA, and Terms of Reference (TOR) for EIA should also be available on the website of the Ministry of Environment and Forests (<http://envfor.nic.in>). The full EIA report is also to be made available for reference at the Ministry's office in Delhi. (Paryavaran Bhawan, C.G.O complex, New Delhi - 110003)

- 4) Check for the baseline data. If the EIA has only one season data, demand a comprehensive EIA, which should have 12 month to 18-month information. Check the introduction, TOR of the EIA and Form I/IA that the project proponent has filled up. This form contains information about the project. Verify if the data given by them is accurate and consistent.

- 5) After you get a copy of the EIA, try translating it into local language and distribute it. The authorities are supposed to also have a version of the summary of the draft EIA in the local language.

- 6) The exact location of the project will be available in the draft EIA. Please obtain this information on the exact location and make an immediate site investigation. Compare the information in the draft EIA regarding vegetation cover and type, population in the project area, villages/ houses in the project area, livelihoods of the people there, etc with the information you collect from your site visit and conversations with the people living/ working in these areas. Officials from revenue, forest, irrigation, agriculture, fisheries and other departments will also

Thermal Power Plant in Chhatisgarh



³ As per the 1994 notification (and amendment of 2002), the full EIA report was to be made available to the public, now only a draft version is available.

⁴ The MoEF has six regional offices located in Chandigarh, Bhopal, Bangalore, Shillong, Lucknow and Bhubaneswar

have valuable information. Researchers who have studied the area from ecological, wildlife, social and anthropological points of view will also have useful information.

7) As per the EIA notification, 2006 only concerns of locally affected persons are to be heard at the public hearing. So, try and explain to the locally affected people all aspects of the project and its impact.

8) Formulate your observations in a critique of the draft EIA report.

9) Fix a mock public hearing at least 7 days in advance, so that you plan what questions are going to be raised and by whom.

10) Communicate the message of the public hearing to as many people as possible and most of all to the people living closest to the project site and who are going to be directly affected by the project.

11) Check if the venue of the Public Hearing is convenient to Project Affected Persons. If not, demand a change of the venue.

12) Check if the project is cutting across more than one district or state. It will be useful to contact the affected people and civil society organizations in these areas too. This is both to confirm if public hearings are being organized in all the concerned districts and states and also to raise concerns collectively.

11) Check on which date the Public Hearing Notice was issued. Was there sufficient notice (minimum 30 days) given for written suggestions and objections? Is the date of the hearing at least 30 days after when the notice was issued? This is mandatory.

12) Civil society organizations / individuals can send their written comments and responses on the draft EIA and Public hearing, even if they cannot actively participate in the public hearing.

During the Hearing:

1) Keep a watch during the hearing, to ensure that the proceedings are being officially minuted, as they should be.

2) The EIA notification states that only the District Magistrate (same as District Collector) or his/her authorized representative not below the rank of the Assistant District Magistrate shall supervise the public hearing. They will be assisted by the representative of the SPCB or Union Territory PCB. Ensure that no one else is presiding or supervising the proceedings. This is against the procedure prescribed.

3) The public hearing shall be initiated by the representative of the project proponent making a presentation on the project and the summary of the draft EIA report. Ensure that this presentation deals primarily with the environmental and social impacts of the project.

4) The notification clearly states that every person present at the venue shall be granted the opportunity to seek information and clarifications from the project proponent.

5) If people other than local or affected persons are not allowed to speak, even if they demand to do so, try and get the authorities to record in the minutes the reasons for the same.

6) The proceedings should be video filmed by the authorities. This is mandatory. But arrange for your own recording of the PH too.

7) Any oral objections that are raised during the hearing could also be given in writing to the DC/DM who is the chairperson of the Public Hearing panel. Make sure that the objections raised are included in the minutes that are read out at the end of the public hearing.

8) According to the notification, the minutes need to be finalized at the time of the public hearing and read out to all those present at the hearing before being accepted. The contents of the minutes should be explained in the vernacular language.

After the Hearing:

1) Try and procure the official minutes of the public hearing. The proceedings of the public hearing need to be “conspicuously” (noticeably, clearly) displayed at the office of the Panchayats within whose jurisdiction the project is located. It also needs to be “conspicuously” displayed at the concerned Zilla Parishad, District Magistrate office and the SPCB or Union Territory PCB.

2) Check for accuracy and adequacy of the reporting and check if it is the same as what was read out at the time of the public hearing. If it fails to give a true picture of the proceedings that took place, write to all the officials concerned and to the MOEF, stating what the problems with the official minutes are.

3) Check if the minutes include all the issues raised by the public and the comments / commitments made by the representative of the project proponent/applicant in English and vernacular language and annexed to the public hearing proceedings. Also check if the minutes include a full list of the people who attended the public hearing.

4) Check that the video tape or CD of the recording of the public hearing is also annexed with the minutes/proceedings.

5) The proceedings of the public hearing need to be forwarded to the regulatory authority (MoEF or State Level Impact Assessment Agency for A and B category projects respectively within 45 days).

6) Write to the specific Expert Appraisal Committee⁵ (for A category projects) or State Level Expert Appraisal Committee (for B Category projects). The constitution of the Expert Appraisal Committee is available at the website of the MOEF (<http://envfor.nic.in>). It is useful to communicate with them individually and also send a letter to the Chairperson of the Committee.

7) Track the status of the project. The status of environmental clearance is to be made available on the website of the MOEF (<http://envfor.nic.in>). This information can also be obtained from the MOEF regional office.

Keywords to remember:

Before the hearing:

1. Public Hearing notice
2. Offices for EIA report
3. MoEF
4. EIA critique
5. Translation and distribution
6. Public hearing venue
7. Mock public hearing
8. Date of public hearing notice
9. Written comments

During the hearing:

10. Minutes of hearing
11. Panel on dias
12. Presentation on project impacts
13. Video filming
14. Public reading of minutes

After the hearing:

15. Display of minutes
16. Accuracy of minutes
17. Letters to expert committees / authorities
18. Track status of clearance

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⁵ The MoEF has EACs for different sectors including River Valley, Mining, Industry, New Construction Projects, Thermal and Nuclear Projects. There are committees functioning for all these projects except Nuclear projects.