



KAMARAJ IAS ACADEMY
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Environment Impact Assessment

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Why in News: The year 2022-23 saw the highest number of changes introduced in the Environment Impact Assessment (EIA) notification

A Brief about EIA

Environment Impact Assessment or EIA can be defined as the study to predict the effect of a proposed activity/project on the environment.

A decision making tool, EIA compares various alternatives for a project and seeks to identify the one which represents the best combination of economic and environmental costs and benefits.

Evolution of EIA

EIA is one of the successful policy innovations of the 20th Century for environmental conservation. EIA as a mandatory regulatory procedure originated in the early 1970s, with the implementation of the National Environment Policy Act (NEPA) 1969 in the US

The Indian experience with Environmental Impact Assessment began over 20 years back. It started in 1976-77 when the Planning Commission asked the Department of Science and Technology to examine the river-valley projects from an environmental angle.

This was subsequently extended to cover those projects, which required the approval of the Public Investment Board. Till 1994, environmental clearance from the Central Government was an administrative decision and lacked legislative support.

On 27 January 1994, the Union Ministry of Environment and Forests (MEF), Government of India, under the Environmental (Protection) Act 1986, promulgated an EIA notification making Environmental Clearance (EC) mandatory for expansion or modernisation of any activity or for setting up new projects listed in Schedule 1 of the notification. Since then there have been 12 amendments made in the EIA notification of 1994.

The MoEF recently notified new EIA legislation in September 2006. The notification makes it mandatory for various projects such as mining, thermal power plants, river valley, infrastructure (road, highway, ports, harbours and airports) and industries including very small electroplating or foundry units to get environment clearance.

However, unlike the EIA Notification of 1994, the new legislation has put the onus of clearing projects on the state government depending on the size/capacity of the project.

Certain activities permissible under the Coastal Regulation Zone Act, 1991 also require similar clearance. Additionally, donor agencies operating in India like the World Bank and the ADB have a different set of requirements for giving environmental clearance to projects that are funded by them.

The EIA process

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The stages of an EIA process will depend upon the requirements of the country or donor. However, most EIA processes have a common structure and the application of the main stages is a basic standard of good practice.

The environment impact assessment consists of eight steps with each step equally important in determining the overall performance of the project.

Typically, the EIA process begins with screening to ensure time and resources are directed at the proposals that matter environmentally and ends with some form of follow up on the implementation of the decisions and actions taken as a result of an EIA report. The eight steps of the EIA process are presented in brief below:

Screening: First stage of EIA, which determines whether the proposed project, requires an EIA and if it does, then the level of assessment required.

Scoping: This stage identifies the key issues and impacts that should be further investigated. This stage also defines the boundary and time limit of the study.

Impact analysis: This stage of EIA identifies and predicts the likely environmental and social impact of the proposed project and evaluates the significance.

Mitigation: This step in EIA recommends the actions to reduce and avoid the potential adverse environmental consequences of development activities.

Reporting: This stage presents the result of EIA in a form of a report to the decision-making body and other interested parties.

Review of EIA: It examines the adequacy and effectiveness of the EIA report and provides the information necessary for decision-making.

Decision-making: It decides whether the project is rejected, approved or needs further change.

Post monitoring: This stage comes into play once the project is commissioned. It checks to ensure that the impacts of the project do not exceed the legal standards and implementation of the mitigation measures are in the manner as described in the EIA report.

Recent changes made in EIA

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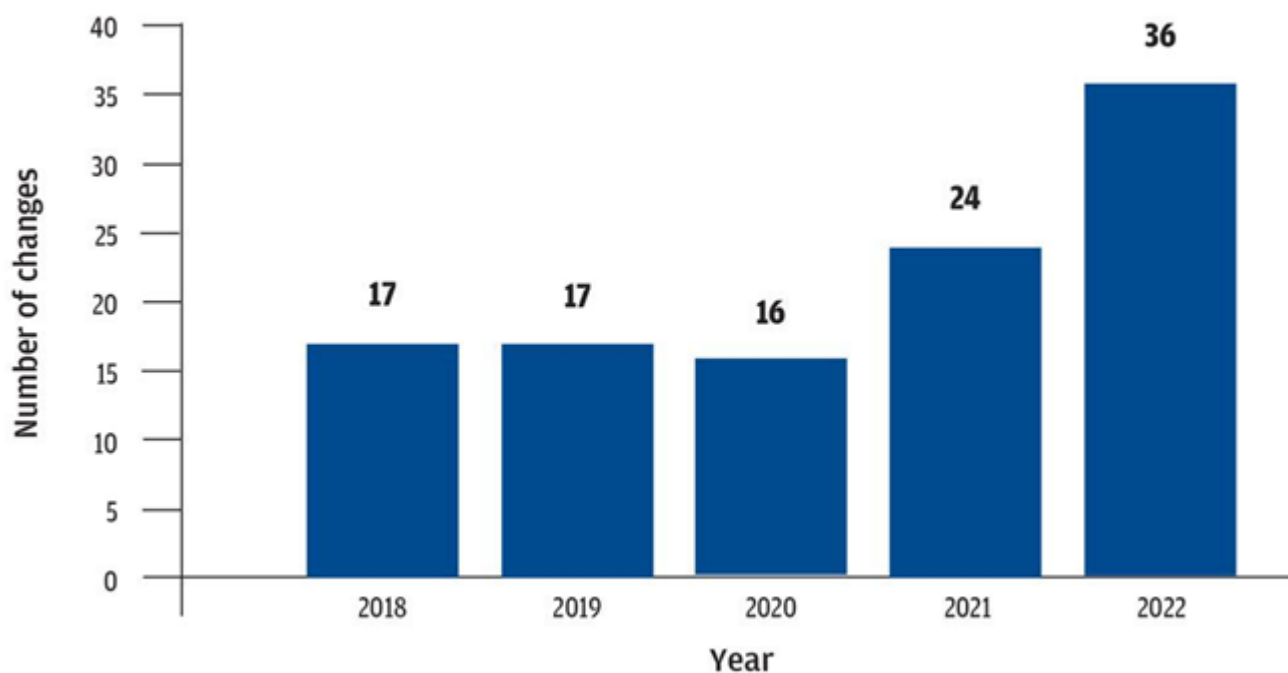
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TRACK CHANGE

Number of changes introduced in the Environment Impact Assessment Notification, 2006, in past five years



Source: CSE analysis

Records of the Union Ministry of Environment, Forest and Climate Change (MoEFCC) show that in the last five years, some 110 changes have been introduced in the 2006 EIA notification vide office memorandums.

The year 2022-23 saw the highest number of changes introduced in the 2006 notification in the last five years. Not all the office memorandums introduced were direct changes in the notification but clarification of the existing provisions or of some other office memorandum.

Nonetheless, the practice of introduction of changes in the EIA notification vide office memorandums at this pace should be a matter of public discourse. Some of the major changes in the 2006 EIA notification introduced vide Office Memorandums over the years are:

1 Rating system for state environment impact assessment authority (SEIAA):

On January 17, 2022, the Centre rolled out a star-rating system for state environment impact assessment authorities (SEIAAs) to make them more efficient, transparent and accountable.

The rating system, to be updated every month, is based on seven parameters that are geared towards pressurising SEIAAs to fast-track clearances, even if it means without due diligence. For example, as per one of the parameters, if the average time of assessing application is under 80 days, the concerned SEIAA gets the maximum (two points), but if the average time is 120 days or more, the SEIAA gets a zero.

Another parameter under the ranking system penalises SEIAAs if they ask the project proponents for essential details (this is the information needed to understand the environmental cost of the project). If an SEIAA asks for essential details more than once in less than 10 per cent of the applications, it gets the maximum (1 point). If it asks essential details more than once in 30 per cent of the cases or more, it gets a zero.

2 The faulty compliance module:

MoEFCC released a notification on June 14, 2022, detailing a compliance module for projects granted environmental clearance under the 2006 EIA notification.

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The module streamlines the compliance and monitoring process and avoids any delays in submission of the compliance reports to regulatory authorities.

This notification is a step forward in streamlining the process and avoiding any gaps in the timely submission of compliance reports. However, it is not clear if these reports and supporting documents will be accessible to the public. Proponents upload this information on MoEFCC's Parivesh portal, using their unique credentials and, therefore, it may not be available in the public domain.

Second, the compliance module does ensure that the proof of compliance is available for perusal of the authorities. Checks and balances are needed to ensure that the proponent submits complete and quality information.

Third, the ministry needs to ensure that this online submission of compliance reports does not end up as another revenue generation model for consultants hired for the work. Rather, the data collated from these reports should actually be used to take strict actions against violators.

Lastly, there needs to be a publicly accessible platform where environmental and social impacts of projects are collated in a standardised format to understand the cumulative impact of industrial activity in the region.

3Undermining the public hearing process:

The 2006 EIA notification has defined the sectors that have to undergo the process of public hearing for project appraisal. The process involves public consultation wherein comments on the draft EIA report uploaded on the ministry's website are considered by the proponent.

The second component of it is "public hearing", wherein advertisement is given in the local newspapers to hold a gathering, presided over by the district magistrate/district collector/deputy commissioner, to hear the concerns of the stakeholders, especially the local residents, on the project.

The ministry, vide an office memorandum in October 2021, allowed for 20 per cent expansion in production in mining of minor minerals (iron, manganese, bauxite and limestone) on the basis of only public consultation.

The public hearing process was again diluted in case of legacy mining cases that were granted environmental clearance under the 1994 EIA notification. These projects now only have to conduct public consultation, not follow the entire process of public hearing, as per the 2006 EIA notification.

The public consultation does not mandate the proponent to intimate the stakeholders about the upcoming project or its expansion or modification via any popular medium. The EIA/environmental management plan report is simply uploaded on the public portals to be accessed by the public.

4Extra details sought are viewed as a burden:

The Central and state authorities designated to give environmental clearance to the projects can seek extra and additional details from the project proponent if needed, as per the provisions of the 2006 EIA notification.

However, in an office memorandum in June 2021, MoEFCC said that review of pendency at divisional level showed that there was non-uniformity in the Extra Details Sought (EDS) and Additional Details Sought (ADS) from the proponent, and directed the authorities to refrain from asking EDS and ADS that are not relevant to the project appraisal. The direction undermined the legitimacy of the experts that the ministry nominates for project appraisal.

Change in coal source without amendment: The source of coal for combustion in a coal thermal power plant is required for estimating the emissions from transport of the coal from mine to the coal thermal power plant. In November 2020, the ministry allowed all coal thermal power plants to change coal source without accounting for any possible increase in emissions from its long distance transport.

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The direction by the government was to increase India's reliance on domestic coal over imported coal. The power plants are also now allowed to change one domestic coal source to another without any concerns about the environmental implication of long distance coal transport.

In another direction, the ministry allowed for road transport of coal until the railway lines are laid in the area. This takes away the urgency of laying the railway network for less intensive emissions from coal transport.

Violation cases get recognition under the 2006 EIA notification: In December 2017, MoEFCC made provision to grant "post-facto" clearance to the projects that are in violation of the 2006 EIA notification.

Later, in July 2021, MoEFCC issued a standard operating procedure to regulate the projects under violations. However, the procedure not only gives legitimacy to the ongoing violations but also has provision to accommodate future violations, thus effectively compromising the "zero-tolerance for violation" stance.

The Way Ahead

Several of the changes introduced vide office memorandums are problematic since they disturb the precarious balance between ecology and development. Since these decisions are harmful to the environment, they need scrutiny of Parliament. Therefore, the government should uplift of the status of EIA from a notification to a rule under the Environment Protection Act to restore the sanctity of the environmental impact assessment regime.