

To,

The Ministry of Environment, Forests and Climate Change

Send emails to [eia2020-moefcc@gov.in](mailto:eia2020-moefcc@gov.in) before 30<sup>th</sup> Jun 2020

**Summary of Citizens' response on EIA 2020 Draft S.O. 1199(E) published on 23<sup>rd</sup> March 2020**

**India ranks 177 out of 180 in the Environmental Performance Index in 2018. It is a cause of worry that we have slipped 36 places in just a matter of 2 years since 2016.**

There have been more than 39 amendments and 250 office memorandums diluting the EIA 2006 Notification. Whenever a direction is passed under Section 5, it should be for the purpose of protecting the environment. Any proposed change including the above-mentioned amendments and office memorandums should have at least two basic norms:

- a) The MoEFCC should engage a committee to study the impact of the proposed change and
- b) Give a plausible explanation and background study for before changing the EIA provisions.

There is no explanation on the background of the change in the threshold of industries from Cat A to B1 or B2 OR when general conditions have been exempted. Both these proposed amendments have clearly diluted the provisions available in EIA 2006.

For the purpose of this document, industries have been divided into red, orange, and green categories, as per the appropriate definitions accorded to them by the Central Pollution Control Board.

We, as citizens submit our request to ensure **Article 21**, **Article 48 A** and **Article 51 (a)(g)** of the Indian Constitution are complied with and demand absolute protection of the diverse ecosystems of our nation. Apart from objecting to 22 dilution points of EIA 2020, we propose over 30 points that need to be included to ensure EIA 2006 is strengthened for a better environmental health of our nation.

**We completely oppose the below dilution points in the EIA draft published as on 23<sup>rd</sup> Mar 2020.**

Sl. No.	EIA Draft 2020 Dilution	Citizens' Response
1.	EIA and EMP have been separated based on industry categories.	We say NO TO dilution of the EIA process based on project types. EIA and EMP should not be separated based on industry category as it is part of the EIA process in its entirety
2.	Conflict of interest of expert committee members is not taken into consideration while appointing.	Ensure the constitution of EAC is made transparent. Conflict of interest to be explicitly disclosed
3.	<b>S4(3)</b> Pre-construction permit is blanket permission taking away social parameters from consideration.  As an example, fencing of acquired project land which also serves as village thoroughfare, grazing lands etc.	Make public consultation compulsory for all pre-construction work. The exemption from public hearing should be for extreme cases, which are duly substantiated.

4.	Public Consultation is suggested to take only material environment concerns expressed during the process	<p>Ensure Public consultation is inclusive of socio-economic expressions of reservation and dissent.</p> <p>India's population has increased by 19% from 116 crores in 2006 to 138 crores in 2020 and socio-economic problems have increased significantly. The high levels of pollution in many Indian cities is an example of a major health concern which affects people's livelihoods and life.</p>
5.	<p><b>More than 25</b> red and orange category industries (with high toxic/negative environmental impact) can NOW be started without public consultation and EAC approval.</p> <p>This list includes mining, oil exploration, river valley projects, thermal power, production of chemicals and acids, cement plants, and many more.</p>	<p>The process for environment clearance for red and orange category industries MUST require public consultation and EAC approval.</p> <p>Category B2 should not include any industries in the red and orange category. Shifting the classification of industries in orange and red category to Category B2 is retrograde in law and is not in consonance with EPA 1986. (Niti Shankar Deshpande Vs UoI – it is the duty of the Government to strengthen the law not to weaken it).</p>
6.	<p><b>S (17):</b> Allows for ex post facto clearances which is illegal as per Supreme Court order in the case related to three industrial units (<b>Alembic Pharmaceuticals Ltd. v. Rohit Prajapati &amp; Ors</b>) – involved in the manufacture of pharmaceuticals and bulk drugs at the industrial area of Ankleshwar in Gujarat that operated for several years without valid environment clearances.</p>	<p>We say NO TO ex post facto environmental clearances which is illegal as per SC Order.</p>
7.	<p><b>Item (42)</b> in Schedule: Hospitals generate biomedical waste and create a biohazard during a pandemic.</p> <p>The proposed amendment has hospitals below 1,50,000 sq m outside the purview of EIA even inside ESA.</p>	<p>Mandatory public consultation in the process of environment clearance for hospitals, irrespective of proposed constructed area or size.</p>
8.	<p><b>Item 1(a)</b> in Schedule: Amendment allows mining below 5 hectares without EAC approval.</p> <p>This is illegal as per the judgment of SC in Deepak Kumar Vs State of Haryana. MoEF has been asked to pass directions for mandatory EAC approval irrespective of the mining lease area by 31<sup>st</sup> Dec 2018. This has not been complied with.</p>	<p>EIA 2020 draft is going against SC and NGT orders in this case.</p> <p>We say NO TO less than 5 Hectares mining without public consultation and EAC approval.</p>

9.	<p><b>Item 38:</b> The following can be done without public consultation:</p> <p>a) all linear project expansion including those that need land acquisition in forests, revenue and private lands</p> <p>b) expansion of the width of national highways up to 70 metres</p> <p>c) road and highway expansion projects in ecologically sensitive areas or areas that are 1000 metres above mean sea level</p> <p>d) Defence projects in border states</p>	<p>Re-install the process of public consultation for each of these. No Public hearing must be an extreme condition that is substantiated.</p> <p>To facilitate ecological &amp; water security, check erosion and landslides, make public consultation mandatory for road and highway expansion in areas that are 500 meters above mean sea level.</p> <p>Make conservation of primary, native forests the primary goal in decision making.</p>
10.	<p><b>Item (3)</b> in schedule: River valley projects less than 25 MW have been moved to Category B2.</p>	<p>All river valley projects, independent of capacity, to be included in Category A.</p> <p>Mandate that, prior to the approval of such river valley projects, a cumulative EIA by an independent duly accredited body be done. Such cumulative EIA must consider the impact of the proposed and existing projects on the river for a distance of 20 kms upstream and downstream of the proposed project site (subject to the national border).</p> <p>Such projects have a serious impact on coastal fishing due to impairment of tidal exchanges and hence any cumulative EIA should also assess such coastal impacts.</p> <p>According to UNDP, fisheries are an important source of food security and livelihood for more than <b>14.5 million</b> people in India.</p>
11.	<p>All offshore drilling, trawling, deep sea mining and offshore wind energy has been exempted from Public Consultation beyond 12 Nautical miles</p>	<p>The exclusive economic zone (EEZ) of India is up to 200 Nautical miles. We say NO TO any oil drilling, deep-sea exploration, and trawling without public consultation. Offshore wind energy needs EIA as a compulsory pre-requisite.</p> <p>Disturbances to the ocean ecosystems and/or accidents like oil spills can have wide-ranging impacts on the lives of India's large coastal population of <b>60 million</b> including fishermen and farmers, most of whom are poor.</p>
12.	<p><b>S16(1)</b> Expansion Criteria: Any Cat A, B1 industries that are already large in capacity can expand up to 50% of their current capacity without public consultation.</p> <p>Expansion does not require Environment Clearance: All expansion proposals of</p>	<p>We say NO TO expansion in the capacity of all red and orange category industries without the public consultation process.</p> <p>Ensure all explanation projects have prior</p>

	<p>existing projects having earlier Prior Environment Clearance get ToR issued within 7 days without referring to the EAC.</p>	<p>EC. LG Polymers in Vizag is a recent example of capacity increase without EAC approval.</p>
<p>13.</p>	<p>Dilution of <b>S3(30)</b> : General conditions have been significantly diluted to reduce the distance from the boundaries of protected areas, eco sensitive areas, borders and critically polluted areas</p>	<p><b>Retain General Conditions in its original form.</b></p> <p>This is the most destructive amendment proposed in the EIA 2020 as it opens up large areas for potential red and orange industries.</p> <p>No Public hearing must be an extreme condition that is substantiated.</p> <p>We say NO TO reduction in General Conditions from 10 km to 5 km for all industries from the boundary of PA, ESA, and within ESZ. Retain 10Km as per EIA 2006.</p> <p>This will have severe impacts on ecology and in turn adversely affect the provision of ecosystem services like disaster control and water security which are far more major concerns today than industrial activity. Recent floods and landslides in Kerala and Karnataka are examples.</p> <p>We say NO TO any industry within Eco-Sensitive Zones. The activities permitted or restricted or banned within Eco-Sensitive Zones to be strictly adhered to.</p>
<p>14.</p>	<p><b>S16(1)</b> has changed the definition of modernization to include aspects that are not in consonance with the accepted definition of process or plant modernization.</p> <p>It is to be noted that the amendment providing for capacity expansion up to 50% not requiring public consultation is retrograde in law ( Niti Shankar Deshpande Vs Uoi).</p> <p>This is all the more relevant as population density is increasing rapidly in all our towns and cities and an enterprise considered small now will not be safe 5 years thereafter.</p>	<p>Retain the original definition.</p> <p>We say NO TO modernization and expansion of capacity, irrespective of the percentage of expansion, without the EIA process of Scoping, EMP, Public Consultation, and EAC approval.</p> <p>The increase in population density warrants tightening the threshold across all categories.</p>
<p>15.</p>	<p><b>Item(43)</b> of Schedule allows &gt;1,50,000 sq. mtrs. of built-up area of elevated roads and flyovers are NOW allowed without Public Consultation inside <b>National Parks and Wildlife Sanctuaries</b></p>	<p>We say NO TO any concrete structures that are detrimental to the health of forest ecosystems inside a reserved forest, National Parks and Wildlife Sanctuaries without Public Consultation and EAC. This is a non-forest activity and is against Section 2 of the Forest Conservation Act 1980.</p> <p>Such elevated roads are ecologically unsound as they lead to high damage to forests during</p>

		<p>construction phases and lead to severe air, noise, and environmental pollution due to heavy traffic. The wider highways will impact arboreal and nocturnal mammals that depend on contiguous canopies for gene pool exchange. Hence these landscapes shall be devoid of roads that are wider than 15 m.</p> <p>Apart from this, the large resource requirement to build these infrastructures would also mean blasting nearby fragile hills for construction material.</p>
16.	<b>S19</b> has diluted the validity period of Mining from <b>30 years to 50 Years</b> .	Decrease validity period of all Category A mines to 20 Years and all other mines to 5 Years. Ensure cumulative impact assessment across the years of operation as criteria for renewal of EC.
17.	<b>S19</b> has diluted the validity period of river valley projects from <b>10 Years to 15 Years</b> .	Decrease validity period for river valley projects to 5 years.
18.	<b>S 19</b> has diluted all projects EC to be valid for 10 years instead of 5 years	We say NO TO EC Validity of all red and orange category projects beyond 5 Years.
19.	<b>S26</b> is a section included to explicitly bypass the EIA process for large Solar Parks, Industrial Estates and Defence projects	We say NO TO red and orange category industries which have been mentioned in <b>S26</b> without Public Consultation, Prior EP and EC.
20.	Addition of <b>S26(4)</b> that exempts customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village from following EIA process.	<p><b>Delete S 26(4)</b></p> <p>Despite the perception that sand mining for personal or community use has a low environmental impact, it is the cumulative impact that matters. In addition, practical monitoring of such extraction is impossible.</p>
21.	<b>S22</b> No role for citizens to take part in the cognisance of violations	<p>Citizens <b>MUST BE</b> a part of the process of identification of violation.</p> <p>EIA 2020 must include a process for registering a complaint by a citizen of India and reporting on the progress and outcome of the investigation in a time-bound manner. Such a process must include the name/s of responsible officers of Government or quasi-Government bodies and the addresses and phone numbers of these agencies.</p>

22.	<p><b>S22(9)</b> provides for pecuniary compensation for violation that has no correlation with the environmental and social losses incurred in violation of a Cat A or Cat B project. This contravenes S15 of the Environmental Protection Act.</p>	All environmental violations SHALL have criminal liability as per S15 of EPA.
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**We propose below areas to strengthen the EIA2006.**

Sl. No.	EIA Draft 2020 Add Conditions for Strengthening: Citizens' ASK
1.	<p><b>Strengthen General Condition S3(30) by adding the following conditions to protect Environment:</b></p> <ol style="list-style-type: none"> <li>1. Landslide prone, seismic prone areas as per the zonation maps published by GSI shall not allow red and orange category industries.</li> <li>2. Hill Districts of Western Ghats</li> <li>3. Hill districts of Himalayas</li> <li>4. Hill district of Aravallis</li> <li>5. Reserved Forest, Community Forests, Sacred Groves</li> <li>6. Wild Animal corridors – Large mammals like Elephant, Tiger and arboreal and endangered species like LTM, Slender Loris</li> <li>7. Wetlands like paddy lands, myristica swamps, lakes, ponds, and other waterbodies</li> <li>8. River Catchments – Example Kodagu, Wayanad, Idukki, Shivamogga</li> <li>9. The high watermark of river</li> <li>10. River estuaries and delta regions</li> <li>11. Watershed areas of arid zones.</li> <li>12. UNESCO World Heritage Sites including biodiversity hotspots</li> <li>13. Ramsar Sites</li> <li>14. Critical ecosystems like Shola Grasslands and grasslands of Central India plateau</li> <li>15. Mangroves and other coastal ecosystems like turtle hatching sites</li> </ol>
2.	Publish the current gaps in protecting environment as per EIA 2006 (excluding all the subsequent OMs)

3.	Conduct Cumulative assessment for ALL industrial, mining, and service sector activity that operate in clusters such as industrial parks, technology parks, export processing zones, and so on. Such an assessment should be made an annual process for the industrial clusters in the country as well as for critically polluted areas.
4.	Conduct Cumulative Environment Impact Assessment (CEIA) for all river valley projects in the country on an annual basis. A fresh CEIA is necessary prior to the consideration of a new river valley project.
5.	EIA is funded by the project proponent and executed by their appointed consultant. This is a conflict of interest in the EIA process. EIA should henceforth be funded and executed by an independent arm of the Central Government that is only answerable to the citizens of the country.
6.	<p>Under Section 12 (on Scoping), mandate a notice period for public consultation time of 120 days. This is to enable</p> <ul style="list-style-type: none"> <li>a) Stakeholders to file necessary RTIs and receive responses (60 days)</li> <li>b) Prepare for the consultation ( 60 days)</li> </ul>
7.	Marine life is equally important to protect the biodiversity of our country. Trawling industry shall come under the purview of EIA and cumulative EIA. To safeguard livelihoods of traditional fishermen, ensure there is public consultation process and carrying capacity study conducted by an independent, duly recognised and competent authority answerable only to the citizens of the country.
8.	Make carrying capacity study at district level a prerequisite for starting any industry and for approving through EAC.
9.	Create and ensure environmental parameters as the primary pre-condition for capacity expansion and modernisation under Section 16.
10.	Ensure that a river catchment policy is prepared before allowing any new industries along that river. Such a policy must be prepared for every river in the country by an independent, duly recognised and competent authority answerable only to the citizens of the country.
11.	Hill districts shall have separate guidelines for building codes and EAC process shall be followed for any building or township beyond 20,000 sqm. Such EAC process should include seismological studies done in the area in the last 30 years if such construction is proposed in the Himalayan region. If not such study has been done, a suitable study needs to be done an independent, duly recognised and competent authority answerable only to the citizens of the country and the report considered in the final decision making.
12.	In line with the UNEP guidelines for EIA, public consultation should be held at every stage of the EIA process including the TOR stage.

13.	Add pecuniary liability as a percentage of the total project cost for not publishing documents in the Parivesh website within 7 Days of applying for the project. .kml files SHALL be uploaded for all maps to ensure public is aware of the exact location and extend of the project.
14.	Defence Projects CANNOT come up in the criteria within General conditions like Protected Area, ESZ, ESA etc.
15.	Ensure all operations are STOPPED if there is no valid EC. LG Polymers continued operation after the expiry of EC. Add a criterion for liability and compensation if operations are carried out during the approval process.
16.	Add proof of retirement for units as a strict criterion prior to applying for fresh expansions. Example is Neyveli blast.
17.	Add a condition for <b>cumulative impact assessment</b> of a cluster of Small and Medium industries operating along a river. Such CEIA should be done every 5 years, with specific comparison to the earlier reports of environment quality, deterioration, corrective measures taken and detailed plans for the next five years.
18.	Include <b>Social impact assessment</b> as a mandatory step in EIA process
19.	Add State and District disaster management authority as part of EAC.
20.	All industries including mining to stipulate EIA process for decommissioning.
21.	Reports/minutes of meeting etc to be uploaded within 2 working days of finalisation on the MoEFCC website
22.	Include Closure plan and timeframe for projects including mining and other red category industries.
23.	Add penal provisions for operating without EC and EIA. Section 15 of the Environment Protection Act mandates penal provisions for non-compliance. Hence, only levying pecuniary punishment contravenes this section
24.	There are 43 critically polluted industrial clusters in the country. It is now evident that, subsequent to EIA 2006, the level of pollution has only increased in these clusters. Hence, any subsequent EIA notification should <b>strengthen</b> the legislation not to weaken it. Rationale for diluting thresholds from EIA 2006 need to be explained in detail, with clear logic for its efficacy in improving the country's environment and compliance by industry.
25.	Baseline data is now prepared by consultants who are hired by project proponents. In all cases, the data provided does not reveal the truth on the ground and tends to show compliance with standards and legislation. Hence, this must be a report that <b>MUST</b> be prepared by a neutral agency not connected with the project proponent. Such a report <b>MUST</b> be peer-reviewed by two



	independent bodies that are from academia and their comments on the report must be treated on par with the agency that drafted the report.
26.	Baseline data must necessarily include monsoon data.
27.	Risk assessment SHALL be added in EIA. This shall be publicly made available prior to the public hearing providing information related to the kind of chemical pollutants that could be leaching through water and air. The public shall be allowed to make informed decisions.
28.	No change in the contents of the EIA submitted for public hearing shall be possible before publishing the final EIA.
29.	Climate Change considerations must be duly incorporated into the EIA draft.
30.	Utilize underutilized pool of expertise within Government institutions such as CPCB, SPCB, BSI, ZSI, GSI WII, FRI, NIAW, SACON, IIFM, CGWB and such state agencies for post-project monitoring.

June 2020