

File No. IA3-22/19/2023-IA.III [E226246]
Government of India
Ministry of Environment, Forest and Climate Change
(IA Division)

Indira Paryavaran Bhawan
Jor Bagh Road, Aliganj,
New Delhi - 110003

Dated: 3rd November, 2023

OFFICE MEMORANDUM

Subject: Clarification on the time period within which the Environmental Clearance (EC) has to be transferred after transfer/ acquisition/ demerger/ change in name etc., of the Company- reg.

As per the provisions of para 11 of the Environmental Impact Assessment Notification, 2006 and subsequent amendments, a prior Environmental Clearance (EC) granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor, or by the transferee with a written "no objection" by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior EC was initially granted, and for the same validity period. No reference to the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned is necessary in such cases.

2. The validity of EC for all projects/ activities, other than mining projects, means the period from which a prior EC is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub-paragraph (iii) of paragraph 8, to the start of production operations by the project or activity or completion of all construction operations in case of construction projects relating to item 8 of the Schedule, to which the application for prior environmental clearance refers.

3. In case of the mining projects (item 1a of the Schedule), the validity shall be calculated from the date of execution of the mining lease. The prior EC granted for mining projects shall be valid for the project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of thirty years, whichever is earlier: Provided that the period of validity may be extended by another twenty years, beyond thirty years, as per the provisions of the EIA Notification 2006.

4. It has now been brought to notice that there is ambiguity with regard to the term validity of the prior EC within which the EC has to be transferred. The matter has been examined in the Ministry and it is clarified that the "Validity of Environmental Clearance" involves two phases of the project, which are validity of Construction or Installation Phase and validity of Operational Phase.

5. The validity of construction or installation phase means duration from the date of grant of prior EC by the Regulatory Authority for projects other than mining (item 1(a) of the Schedule) for:-

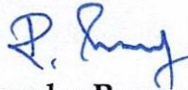
- a) Completion of all construction activities, in case of construction projects (item 8 of the Schedule), to which the application for prior-EC, refers to and, shall be limited only to such activities as may be the responsibility of the project proponent as a developer. Or;
- b) Completion of installation of plant and machinery including commencement of production/operation in all other cases (other than item 8 of the Schedule), to which the application for prior-EC, refers to.

6. The validity of Operational phase of projects, except mining (item 1a of the Schedule), shall be perpetual for the remaining life of the project in respect of the completed part of the project. In case of partial completion of a production/operation/activity/ construction, the CTO obtained shall be taken into account to ascertain the level of completion, for which the EC shall be considered to be valid for perpetuity.

7. In this regard, it is hereby clarified that subsequent to transfer/acquisition/demerger/change in name etc., of a project/unit having a valid EC, from one legal entity to another, all the accumulated environmental obligations as per the valid EC applicable at the time of such transfer shall be deemed to have been transferred to the new entity from the date of such transfer/ acquisition/demerger/change in name etc. Accordingly, as per the provisions of EIA Notification 2006 and its amendments, the transferor /transferee shall apply for transfer of EC in the laid down proforma on PARIVESH along with all the requisite documents within twelve months of such transfer/ acquisition/ demerger / change in name etc., of the Company.

8. Provided, that where the application for transfer has been filed online in the laid down proforma, after a period of twelve months but within twenty-four months from the date of change in transfer/acquisition/demerger/change in name etc., of the Company, the delay shall be condoned at the level of the Minister in charge of Environment, Forest and Climate Change, Govt. of India or Chairman, State Level Expert Appraisal Committee, as the case may be.

9. Application for transfer of EC after a period of twenty-four months from the date of transfer/ acquisition/ demerger / change in name etc., of the Company, shall be considered as a non-compliance of EC condition and action shall be initiated on the project proponent as per the existing rules.
10. The project proponents, who have not yet applied till date for transfer of EC as per the provisions of EIA Notification 2006, even after one year from the date of change in ownership and/or change in name of the Company, shall apply for the same within a period of 6 months from the date of issue of this Office Memorandum, and the same shall not be considered as non-compliance of EC condition.
11. Further, in addition to the documents required to be submitted as per the provisions of the EIA Notification 2006 for EC transfer, the applicant shall also submit the proof of submission of application to the concerned SPCB/PCCs for transfer of CTE/CTO.
12. This is issued with the approval of the Competent Authority.


(Sundar Ramanathan)
Scientist 'E'

To

1. Chairman/Member Secretary, CPCB.
2. Chairperson/Member Secretaries of all the State/UT, PCBs/PCCs
3. Chairperson/Member Secretaries of all the EACs.
4. Chairperson/Member Secretaries of all the SEIAAs/ SEACs.
5. All Officers of IA Division

Copy to:

1. PS to Hon'ble MEF&CC
2. PS to Hon'ble MoS (EF&CC)
3. Sr PPS to Secretary (EF&CC)
4. Sr PPS to DGF&SS (EF&CC)
5. Sr PPS to AS(TK)/Sr PPS to JS(SKB)
6. Website, MoEF&CC/Guard File