

F. No. J-11013/36/2014-IA-I  
Government of India  
Ministry of Environment, Forest & Climate Change  
(IA Division)

Indira Paryavaran Bhawan  
Jor Bagh Road  
New Delhi- 110003.

Dated: 4<sup>th</sup> April 2016

Office Memorandum

**Subject: Exemption from Public Consultation for the projects/activities located within the Industrial Estate/Parks-reg.**

In Original Application (O.A.) No. 157 (THC) / 2013 (Society for Environmental Protection Vs. Union of India & Ors) before Hon'ble National Green Tribunal (Western Zone), Pune, in its order dated 14<sup>th</sup> March 2016 has ordered that " ... We have seen from the provisions of Environment Clearance Regulations, 2006, the Schedule appended to the Rules enumerates several projects and activities which require prior clearance and there is a tabular form showing the size of the industry and the threat or damage it is likely to cause to the environment. Therefore, we do not find there should be any difficulty in modifying or superseding O.M. dated 10<sup>th</sup> December, 2014 because all that MoEF&CC is required to do is to specify which of the industries depending upon the nature of industrial activity require prior permission etc; such of the unit which could be exempted ...".

2. The concept of Public Hearing was introduced for the first time in the Environment Impact Assessment vide Notification S.O. 60 (E) dated 27.01.1994 and subsequently formalized vide Notification S.O. 318 (E) dated 10.04.1997 making amendment in the Environment Impact Assessment Notification, 1994. Whereas, the Industrial Estates were added in the Schedule to the EIA Notification mandating the requirement of environmental clearance vide notification S.O. 801 (E) dated 7.07.2004. In between, the above two notifications, another notification No. S.O. 737 (E) dated 1<sup>st</sup> August, 2001 introducing the concept of exemption from public hearing for certain category of projects and activities in the process of environmental clearance was published. The said notification reads as "However, Public Hearing is not required in respect of (i) small scale industrial undertakings located in (a) notified / designated industrial areas / industrial estates or (b) areas earmarked for industries under the jurisdiction of industrial development authorities; (ii) widening and strengthening of Highways; (iii) mining projects (major minerals) with lease area up to twenty-five hectares, (iv) units located in Export Processing Zones, Special Economic Zones and (v) modernization of existing irrigation projects." The provisions of this notification were reflected as Para 7 of the new EIA Notification, 2006 with some more additions.

3. The Hon'ble NGT, Western Zone, Pune based on the interpretation of the provision of Para 7 (i) III. Stage (3) (i) (b) of the EIA Notification, 2006 given by the Ministry vide O.M. No. J-11013/ 36 / 2014- IA-I dated 16<sup>th</sup> May 2014 ordered on 8<sup>th</sup> August 2014 in above O.A. that exemption from public consultation will be available to only those industrial units which are coming up in industrial estates which have got environmental clearance under EIA Notification, 2006. The O.M. dated 16<sup>th</sup> May 2014

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issued by the Ministry, was reviewed in the Ministry in the light that the EIA Notification 2006 on this subject provides for exemption from public consultation for the industries coming up in industrial areas, means that those industrial areas must be in existence on the day of EIA Notification, 2006, as is the case of other category of projects and activities which have got this exemption under Para -7 of the EIA Notification, 2006. The Ministry clarified the status as per the provisions vide O.M. No. J-11013/ 36 / 2014- IA-I dated 10<sup>th</sup> December 2014. The above O.M. dated 10<sup>th</sup> December 2014 was also challenged before the Hon'ble High Court of Madras, in W.P. No. 3514 of 2015; Hon'ble Court ordered on 10.09.2015 that "... we are thus of the view that the impugned notification / Office Memorandum cannot be faulted and if there is any individual grievance qua any particular nature existing, it is always open to the petitioner to move the NGT with requisite material. The writ petition accordingly stands dismissed with aforesaid observations."

4. The above O.A. (157 (THC) / 2013) was instituted against EC given to a Thermal Power Plant of 6 x 276 MW over an area 546.55 ha of land in which public hearing was exempted as the said TPP was in industrial area.

5. The industrial estate in EIA Notification, 2006 in Schedule at item 7 (c) provides that industrial estates with an area greater than 500 ha and housing at least one Category B industry will be Category A, and industrial estate of area greater than 500 ha. and not housing any industry belonging to Category A and B is Category B. Industrial estate of area below 500 ha and not housing any industry of Category A or B does not require prior environmental clearance under EIA Notification, 2006. If the area is less than 500 ha but contains building and construction projects greater than 20000 sq. mt. and development area more than 50 ha. it will be treated as activity listed at S.No. 8 (a) or 8 (b) in the Schedule as the case may be.

6. It is evident from the Notification of 2001 as mentioned above and provisions at item 7 (c) of EIA Notification, 2006 regarding size of the industrial estates, the intent of the Notification has been to grant exemption from public consultation for small industrial units located in industrial estates of 500 to 1000 ha. area. The industrial units or activities itself located on an area of 500 ha in industrial estate or regions of 10000 ha. has not been in the intent to be granted exemption from public consultation. So a Thermal Power Plant, Cement Plant, or Integrated Steel Plant even if located in notified Industrial Regions / Zones cannot be granted exemption from the public consultation, as that is not the intent of the EIA Notification, 2006.

7. It is accordingly clarified that the category of projects and activities mentioned in the Annexure of this O.M. will require Public consultation in the process of Environment Impact Assessment and environmental clearance irrespective of its location in or outside a notified industrial area / estate / region.

8. The O.M. No. J-11013/ 36 / 2014- IA-I dated 16<sup>th</sup> May 2014 and dated 10<sup>th</sup> December 2014 will stand modified to the extent of this O.M.

This issues with the approval of the Competent Authority.

  
(Dr. Satish C. Garkoti)  
Scientist 'F'

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Projects or Activities where Public consultation will be required as a part of the Environment Impact Assessment Process even if they are located in notified industrial areas / regions / zones / EPZ

S.N. in Schedule of EIA Notification, 2006	Project or Activity
1 (d)	Thermal Power Plants
1(e)	Nuclear power projects and processing of nuclear fuel
2 (a)	Coal washeries
2(b)	Mineral beneficiation
3 (a)	Metallurgical industries(ferrous & non ferrous)
3 (b)	Cement plants
4 (a)	Petroleum refining industry
4 (b)	Coke oven plants
4 (c)	Asbestos milling and asbestos based products
4 (f)	Skin / hide processing including tanning industry
5 (g)	Distilleries
5 (i)	Pulp paper paper industry
5 (j)	Sugar Industry

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