

MAHARASHTRA POLLUTION CONTROL BOARD

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Kalpataru Point, 3rd & 4th floor,
Sion, Matunga Scheme Road No. 8,
Opp. Cine Planet Cinema,
Near Sion Circle, Sion (E),
Mumbai : 400 022.

No.MPCB/RO(HQ)/B: 4299

Date: 07/08/2011.

CIRCULAR

110914F10207.

Sub: Effective implementation of EIA Notification in its letter and spirit.

Ref: 1) EIA Notification, 2006 as amended from time to time.
2) Minutes of the 153rd meeting of the Board.

Ministry of Environment & Forests, Govt. of India has issued the EIA Notification, 2006 in supersession of earlier EIA Notification of 1994. It has been observed that while implementation of the then EIA Notification, 1994, a lot of complaints had been received in respect of mechanical implementation of the said EIA Notification, which had further given rise to a number of Public Interest Litigations and also Appeals before the National Appellate Authority constituted by the Central Government.

In the procedure for conduct of Public Hearing given under the EIA Notification, 2006, it has been specifically mentioned that the applicant shall make a request through a simple letter to the Member Secretary of the State Pollution Control Board to arrange the Public Hearing within the prescribed statutory period. As per the Appendix IV, the applicant shall arrange to forward copies of the draft EIA Report with the generic structure given in Appendix III including the summary of Environment Impact Assessment Report in English and in the official language of the State/local language to the Authorities or offices within whose jurisdiction the project will be located including District Magistrate/District Collector/Deputy Commissioner/S, Zilla Parishad or Municipal Corporation or Panchyat/s Union, District Industries, Urban local bodies/Development Authorities and concern Regional Office of the MoEF, GOI.

In fact, the Member Secretary of the concern State Pollution Control Board shall finalize the date, time and exact venue for the conduct of Public Hearing within 7 days of the receipt of draft EIA Report from the Project Proponent. However, it appears that nobody is sending draft EIA Report and above documents to the Member Secretary and the date is also finalized along with venue, which is not in confirmative with the procedure laid down under the Appendix IV.

Therefore, in order to avoid the inconsistency in the procedure to be followed in conducting Public Hearing in respect of not conducting Public Hearing within stipulated time, not finalizing proper venue for the conduct of Public Hearing and also not giving proper opportunity to the affected public at large in the said locality and the present practice being followed without taking into consideration/confidence the Member Secretary/Board Office, it becomes necessary to prescribed a detail procedure for Conducting Public Hearing to follow the provisions in respect of procedure for conduct of Public Hearing as under:

1. The concern applicant shall submit a request letter to the Member Secretary, Maharashtra Pollution Control Board, 3rd Floor, Kalpataru Point, Sion-Matunga Scheme Road No.8, Sion, Mumbai – 400 022 with a request to arrange the Public Hearing within the prescribed Statutory Authority along with at least 10 hard copies and an equivalent no. of soft (electronic) copies of the draft EIA Report with the generic structure given Appendix III including the summary of EIA Report in English and Official State language i.e. Marathi, prepared strictly in accordance with the Terms of Reference communicated after scoping and also deposit the probable expenditure of public hearing by DD drawn in the favor of concern Regional/Sub-Regional Officer in whose jurisdiction the proposed site is located. The copies of the above documents in respect of Public Hearing shall also be made available by the project proponent at the time of making it available to the Member Secretary for fixation of probable date/s, time and venue in consultation with The District Magistrate so as to avoid any delay in conducting public hearing. The project proponent will be responsible to bear actual expenditure of public hearing as per the Polluter Pay Principle and the responsibility of the project proponent to bear the actual expenditure being incurred on establishment on his project. Therefore, if the probable expenditure deposited by the project proponent are short of the actual expenditure, the project proponent will have to deposit the additional expenditure incurred by the Board above the probable expenditure and till that time, Application for Consent to operate will not be processed, as decided by the Board on its 153rd meeting held on 29/03/2011. If the probable expenditure deposited with the Board is more than the actual expenditure incurred on the public hearing, the Board will refund the differential amount in excess of actual expenditure deposited by the project proponent towards the probable expenditure. The said soft copies will be placed on the Website of the MPCB by EIC. It was decided that the project proponent will have to deposit 25% of the probable expenditure for various reasons worked out by the Board as an Administrative Charges with the Board for conducting the Public Hearing. The probable expenditure for various reasons will be worked out in due course of time and separate circular will be issued with that effect.
2. The applicant shall also arrange to forward copies, one hard and one soft, of the above draft EIA Report along with the summary EIA Report to the Authorities or offices within whose jurisdiction the project will be located, namely
 - a) District Magistrate/District Collector/Deputy Commissioner/s,
 - b) Zilla Parishad or Municipal Corporation or Panchayat/s Union,
 - c) District Industries Office,
 - d) Urban Local Bodies (ULBs) PRIs, concerned/Development Authorities
 - e) Concerned Regional Office of the MoEF, GOI and
 - f) The concerned Regional Officer/Sub-Regional Officer, MPCB.
3. The Concern Regional Officer / Sub Regional Officer in consultation with the District Collectorate will submit the probable date/s and time convenient to the District Collectorate and probable Venu/s, where public hearing can be conducted, to the Regional Officer (HQ) for taking further approval of Member Secretary of the Board.

4. The RO (HQ) will obtain necessary approval for the date, time and exact venue for the conduct of Public Hearing from the Member Secretary and then will communicate in writing to the concern Regional Officer/Sub-Regional Officer along with the order to conduct Public Hearing.
5. The concern Regional Officer/Sub-Regional officer after completion of the Public Hearing finalize the minutes with the approval of District Collector and shall send 3 copies of the proceedings (In Marathi & English) for further necessary action to the HQ within stipulated time. The Regional officer (HQ) shall forward the said minutes to the Competent Authority as per the EIA Notification, 2006 within stipulated time by providing a copy thereof to the Project Proponent.
6. The Regional Officers / Sub Regional officers also make similar arrangements for giving publicity about the project within the state and make available the summary of the draft Environmental Impact Assessment report for inspection in select offices or public libraries or any other suitable location etc. They shall additionally make available a copy of the draft Environmental impact Assessment report to the five authorities mentioned above under point 2 (a-e) and The concerned Regional Officer/Sub-Regional Officer, MPCB.
7. The concerned Regional Officer/ Sub regional Officer shall advertise the same in one major National Daily and one Regional vernacular Daily / Official State language. A minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses. The advertisement shall also inform the public about the places of offices where the public could access the draft EIA report and the summary EIA report before public hearing.
8. The Project Proponent may also directly forward a copy of the approved Public Hearing proceedings to the regulatory authority concerned along with final EIA Report or supplementary report to the draft EIA Report prepared after the Public Hearing and public consultations incorporating the concerns express in the public hearing along with action plan and financial allocation, item wise, to address those concerns.
9. The Maharashtra Pollution Control Board will promptly display the summery of the draft EIA Report on its Website till public hearing is completed.
10. The concern Regional Officer / Sub Regional Officer at the time of processing of application for Consent to Operate shall submit the compliance of the conditions imposed in the Consent to Establish in respect of pollution prevention and other Environmental Improvement, so as to ensure the compliance of these conditions before grant of Consent to Operate.


(Milind Mhaiskar)
Member Secretary