

F.No. J-11013/41/2006-IA-II (I) (part)

Government of India
Ministry of Environment, Forests and Climate Change
IA Division
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Indira Paryavaran Bhawan,
Jor Bagh Raod,
New Delhi-110 003

Dated the 22nd August, 2014

OFFICE MEMORANDUM

Subject: Validity of Terms of Reference (TORs) prescribed under EIA Notification, 2006 for undertaking detailed EIA and EMP studies for developmental projects requiring environmental clearance and other related issues-clarification regarding.

The Ministry of Environment and Forests vide Office Memorandum No. J-11013/41/2006-IA.II(I) dated 22.03.2010 prescribed a time limit for validity of Terms of Reference (TORs) for a period of two years for submission of EIA and EMP reports after public consultation and also that this period would be extendable to third year, based on proper justification and recommendation of the EAC/SEAC, as the case may be. Thus an outer limit of three years for the validity of TORs has been prescribed for any developmental project, except River Valley and HEP Projects, where the outer limit validity of TOR is four years, as prescribed vide O.M. No Z-11012/1/2013-IA.I (Pt.) dated 12.12.2013. The aforesaid OM dated 22.03.2010 also clarifies that the primary data in the EIA/ EMP report submitted after public consultation should not be more than three years old.

2. Based on experience gained in implementation of aforesaid OMs, issues like linkage of validity of TORs with public hearing, the issue of further extension of validity of TORs, etc. has emerged. The matter has been examined in detail and the following has been decided in order to provide more clarity on the subject:

- (i) The TORs prescribed for a project or activity will be valid for a period of two years for submission of EIA and EMP report, except for River Valley and HEP projects, where the validity of TORs will be for three years. The TORs will specifically mention the date of expiry of validity and state that TORs will lapse after that date.
- (ii) This period of validity could be extended by the Regulatory Authority concerned by a maximum period of one year provided an application is made by the applicant to the Regulatory Authority, atleast three months before the expiry of validity period, together with an updated Form-I, based on proper justification and also recommendation of the EAC/SEAC.

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- (iii) Some cases have come to the notice of this Ministry where no application for extending the validity of TORs, as stated at (i) above, was made by the project proponent and instead the project proponent submitted complete proposal with EIA / EMP reports within the period for which it could have obtained extension of TORs as stated at (ii) above, for grant of environment clearance. Strictly speaking, all such proposals, not being in line with the existing instructions, should not be considered by the Regulatory Authority. However, requests have been received for considering such proposals citing the reasons that EIA / EMP reports have been submitted within the prescribed outer time limit for validity of TORs, efforts put-in for preparing these reports, etc. It has been decided that while such proposals received till the date of issuance of this O.M. may be considered by the Regulatory Authority, any such proposal after the issuance of this O.M., shall not be considered by the Regulatory Authority. The State Pollution Control Boards (SPCBs) shall ensure that the public hearing (PH) is conducted within the timeline of 45 days as prescribed in the EIA Notification, 2006. The SPCBs shall also ensure that PH is held within the validity period of the TORs, and that no PH is held after the validity period of TORs is over. The PH conducted after the expiry of the TORs shall not be accepted by the Regulatory Authority for appraisal. The PH should be held well before the expiry of validity of TORs so that EIA / EMP reports are submitted by proponent within the validity period of TORs.
- (iv) Extension of Validity of TORs beyond the outer limit of three years for all projects or activities and four years for River Valley and HEP projects shall not be considered by the Regulatory Authority. In such cases, the project proponent will have to start the process *de novo* and obtain fresh TORs in case the proponent is still interested in pursuing the clearance for the project. Re-use of old baseline data (provided it is not more than 3 years old) for the purpose of preparation of fresh EIA and EMP report will be considered subject to due diligence by the EAC/SEAC which may make appropriate recommendations including the need for revalidation. Baseline data older than 3 years will not be used for preparation of EIA / EMP report. In any case, the PH shall have to be conducted afresh in such cases.
- (v) Instances have also come to the notice of this Ministry wherein, though the EIA / EMP report is submitted by the proponent within the validity period of TORs, the case remains pending for want of additional information from the proponent, State Government, etc., as sought by the EAC / Ministry. This Ministry has already decided vide OM No.J-11013/5/2009-IA-II (Part) dated 30.10.2012 that such cases will be delisted in case such information is not received within six months. In some cases the proponents have

been requesting for re-listing of their projects after the requisite information has been submitted after considerable lapse of time. For such cases, it has been decided that they could be considered provided the date of public hearing is not more than 3 years old and the data used in preparation of EIA / EMP report is not more than 3 years old. In case these conditions are not met, the proponent will have to start the process *de novo* after obtaining fresh TORs.

5. This issues with the approval of the competent authority.


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

Copy to:

1. All the officers of IA Division
2. Chairperson/ Member Secretaries of all the SEIAAs/SEACs
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4. Chairman, CPCB
5. Chairpersons/ Member Secretaries of all SPCBs/ UTPCCs

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