

EQUATIONS Analysis of the Coastal Regulation Zone Notification 2011

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17 March 2011

The Coastal Regulation Zone Notification issued on 6th January 2011 under Section 3 (1) & Section (2) (v) of the Environment (Protection) Act 1986 and Rule 5 (3) (d) of the Environment (Protection) Rules 1986, supersedes the CRZ Notification issued on 19th February 1991.

The Coastal Regulation Zone Notification, 2011 (herein after referred as CRZ Notification 2011) has come into force with a view to ensure:

- Livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches.
- To promote development through sustainable manner based on scientific principles taking into account the dangers of natural hazards in the coastal areas, sea level rise due to global warming.
- To declare the coastal stretches of the country and the water area upto its territorial water limit.
- Restricts the setting up and expansion of any industry, operations or processes and manufacture or handling or storage or disposal of hazardous substances as specified in the Hazardous Substances

CRZ Notification 2011 is a specialised Notification regulating developmental activities by restricting the setting up and expansion of industries, operations or processes along the coast. However, it recognises the need to protect the interest of people on the coast and the protection of the coastal ecology we reiterate a Notification is weaker than an Act when it comes to protection of the coast.

Our analysis is to secure the protection of fragile coastal ecosystems and the rights and livelihoods of coastal communities. Our analysis is specifically related to tourism development issues vis-à-vis protection of coast.

Section	Positive	Negative	Unclear	Concerns/ Recommendations
Introduction	Impose restrictions on activities in the coastal zone including areas on the seaward side of the Low Tide Line			
	The definition includes the territorial water limits of 12 nautical miles including the sea bed			
	Definition also includes inland water bodies influences by tidal action- both the bed of the water bodies as well as lands adjacent to such water bodies			
	Bring transparency in the process of its implementation			
Explanation	Tidal influence water bodies means the water bodies influence by tidal effects from sea, in the bays, estuaries, rivers, creeks, backwaters,			Failed to include Islands in backwaters and artificial structures which changes the salinity level

	lagoons, ponds connected to the sea or creeks			
3. Prohibited activities	Prohibiting setting up of new and expansion of existing industries			
3(i)	Removing the list of non-polluting industries in the field on Information Technology and other service industries in the CRZ of Special Economic Zone (SEZ)			
3 (i) (c)	Facilities for generating power by non-conventional energy sources and setting up of desalination plants in the areas not classified as CRZ 1 based on an impact assessment study including social impacts			
3 (i) (d)		Development of green field Airport already permitted only at Navi Mumbai		Special consideration granted to Navi Mumbai will open the flood gates for large scale infrastructure development in the areas.
3 (i) (e)	Allowing reconstruction, repair works of dwelling units of local communities including fishers			
3 (iii)	Prohibiting setting up of new and expansion of fish processing units including warehousing exudes hatcheries and natural fish drying			
3 (v)	Setting up & expansion of units or mechanism for waste disposal and effluents	3(v) (c) – permitting treatment and disposal of waste and effluents arising from hotels, beach resorts located in non- CRZ – I areas		
3(vi)	Discharge of untreated water and effluents have been prohibited			
3(vii)	Land filling from waste dumping has been prohibited			
3(ix)	Prohibiting land reclamation for commercial purposes			

	such as shopping and housing complexes, hotels and entertainment activities			
3(x)	Mining of sand, rocks and sub-strata materials is prohibited			
3(xi)	Prohibits drawl of groundwater and construction within 200mts of HTL, allows local communities and only for their use and allows only manual extraction for drinking, horticulture agriculture and fisheries and where no other source of water is available			
3(xii)	Prohibition of constriction activities in CRZ- 1			
3(xiii)	Prohibits dressing or altering the sand dunes, hills, natural features including landscape changes for beautification, recreation			
4.Regulation of Permissible activities	Permissible activities are regulated			
4(i) (b)			For the projects which are listed under this notification and also attract EIA Notification 2006 for such projects clearance under EIA only shall be required subject to being recommended by CZMA	Any projects which attract EIA under EIA Notification 2006 should undergo EIA and public hearing. As recommended in the Swaminathan Committee Report, 2005 environmental and social impact assessment should be made compulsory for any developmental activity along with a public review process. Inclusion of Social Impact Assessment (SIA) is very important and so is the suggestion for EIA to account for social and economic costs that environmental degradation causes to local communities. Since the exiting EIA notification 2006

				amended till 2009 does not require all projects to undergo mandatory EIA and public hearings and does not address the issue of social impacts, therefore the EIA notification 2006 should be simultaneously amended to take into consideration any development in CRZ areas
4(i) (d)	Construction involving more than 20,000 Sq mts built-up areas in CRZ II considered with EIA Notification 2006			It is a welcome move that all construction projects, irrespective of the investment involved, are being proposed to be regulated.
4 (i) (e)		MoEF may under a specific or general order specify projects which require prior public hearing of project affected people		Construction projects under EIA Notification 2006, when classified as B1 project requires mandatory EIA studies and public hearings, in this case why should MoEF should order for public hearing when it is mandatory in all cases, Hence any project in CRZ areas should undergo EIA and public hearings and to simultaneously amend the EIA notification 2006, to include mandatory EIA studies and public hearing, for any development undertaken in CRZ areas.
4 (ii) (i)	Regulation of demolition or reconstruction of building of archaeological, historical, heritage ad public use			
4.2 (i)	The project proponents shall apply with the following documents seeking prior clearance under CRZ notification to the concerned State or the Union territory Coastal Zone Management Authority			All these applications and reports should be submitted to the LSGIs and made publicly available prior to the public hearing

4.2 (i) (c)		Comprehensive EIA with cumulative studies for projects in the stretches classified as low and medium eroding by MoEF based on scientific studies and in consultation with the State Governments and Union territory Administration		Important to include social impact assessment of the project. For all projects a comprehensive EIA report instead of a rapid EIA report should be mandatory for clearance under CRZ. These EIA reports for permitted activities should be prepared by consultants accredited by MoEF.
4.2(i) (i)	No objection Certificate from the concerned State Pollution Control Boards for the projects involving discharge of effluents, solid wastes, sewage			Apart from pollution control boards NOC should also be sought from LSGIs
4.2 (vi)	The clearance accorded to the projects valid for the period of five years from the date of issue of the clearance for commencement of construction and operation.			
4(v) (a)	Mandatory for the project proponent to submit half-yearly compliance reports in respect of the stipulated terms and conditions of the environmental clearance in hard and soft copies to the regulatory authority(s) concerned, on 1 st June and 31 st December of each calendar year and all such compliance reports submitted by the project proponent shall be published in public domain and its copies shall be given to any person on application to the concerned CZMA.			
4 (v) (b)	The compliance report be displayed on the website of the concerned regulatory authority.			
4 (vi)	To maintain transparency in the working of the			

	<p>CZMAs , responsibility of the CZMA to create a dedicated website and post the agenda, minutes, decisions taken, clearance letters, violations, action taken on the violations and court matters including the Orders of the Hon'ble Court as also the approved CZMPs of the respective State Government or Union territory</p>			
<p>5(v) Preparation of Coastal Zone Management Plans</p>	<p>Mapping of the hazard line shall be carried out in 1:25,000 scale for macro level planning and 1:10,000 scale or cadastral scale for micro level mapping and the hazard line shall be taken into consideration while preparing the land use plan of the coastal areas</p>			<p>This is a good move that the MoEF has included the HTL as the reference for demarcation of the hazard line.</p>
<p>6. (d) Enforcement of the CRZ Notification 2011</p>	<p>The dwelling units of the traditional coastal communities including fisherfolk, tribals as were permissible under the provisions of the CRZ notification, 1991, but which have not obtained formal approval from concerned authorities under the aforesaid notification shall be considered by the respective Union territory, CZMAs and the dwelling units shall be regularized subject to the following condition, namely- (i)these are not used for any commercial activity (ii) these are not sold or transferred to non-traditional coastal community.</p>			
<p>8 (i) (III) (iii)(A) (j) - Norms for regulation of activities permissible under this</p>	<p>Permitted in NDZ- construction of dispensaries, schools, public rain shelter, community toilets, bridges, roads, provision of facilities for water</p>			

notification	supply, drainage, sewerage, crematoria, cemeteries and electric sub-station which are required for the local inhabitants			
8 (i) (III) (iii) (A) (L)	Permitted facilities required for local fishing communities such as fish drying yards, auction halls, net mending yards, traditional boat building yards, ice plant, ice crushing units, fish curing facilities			
8 (i) (III) (iii) (A) (m)		development of green field airport already permitted only at Navi Mumbai		
8 (i) (III) (iii) (B) (i)- Area between 200mts to 500 mts		development of vacant plot in designated areas for construction of hotels or beach resorts for tourists or visitors		Tourism continues to be allowed in vacant plots between 200 & 500m in CRZ III area, This provision has been misused by allowing tourism establishments by converting common property resources and agricultural land. MOEF can grant such permission beyond 500 mts in CRZ III area or in CRZ II area with permission from MOEF, SCZMA and from local self governing institution
8(IV) In CRZ-IV areas	The activities impugning on the sea and tidal influenced water bodies will be regulated except for traditional fishing and related activities undertaken by local communities			
8 (IV) (c)	No restriction on the traditional fishing and allied activities undertaken by local communities			
8 (V) (1) - Areas requiring special consideration		8 (V) (iii) (b) – Slum Rehabilitation Schemes		Based on the recommendations in the M.S. Swaminathan Committee Report in July 2009 emphasising on better housing for slum dwellers in certain areas

				<p>in Mumbai, the 2011 Notification embarks on Slum Rehabilitation Schemes and Redevelopment of Dilapidated, Cessed and Unsafe Buildings” through joint ventures or public- private partnership subject to the condition that stakes of the State Government will not be less than 51%. Firstly the people should not be rehabilitated for development. It is the State’s duty to take care of the people, hence upliftment of the families in slum need to be consider with the use of government funds and by providing them all the facilities for better livelihood. It is the responsibility of the state to provide better facilities for their people and not to be done through private participation since private player do not do any development without self-profit motive.</p>
8(V) (1) (e)	<p>To protect and preserve the ‘green lung’ of the Greater Mumbai area, all open spaces, parks, gardens, playgrounds indicated in development plans within CRZ-II shall be categorized as CRZ-III, that is, ‘no development zone’- This provision will restrict establishments like tourism from opening up one new projects in open plots within CRZ II areas which may also be ecologically fragile areas.</p>			<p>1.</p>

Guidelines for Development of beach resorts or hotels in the designated areas of CRZ- III and CRZ- II for occupation of tourists or visitors with prior approval of the MoEF : Annexure III of the Notification

MoEF continues to not define the term “designated areas” thereby allowing for subjective interpretations. This would make possible the converting of coastal zones into Special Tourism Zones and bringing the administration of areas under development authorities. All these models have led to reversal of the process of decentralisation of power in contradiction to the 73rd and 74th Amendment of the Constitution. There is every possibility of governments, both central and state, to exploit this provision in their relentless drive for acquisition of land to facilitate new infrastructure and industrial development and facilitate the interest of the investors for the development of tourism in the country.

Section	Positive	Negative	Unclear	Concerns/ Recommendations
I (a)	The project proponent shall not undertake any construction within 200 metres in the landward side of High Tide Line and within the area between LTL and HTL			
I (b)	The proposed constructions shall be beyond the hazard line or 200mts from the High Tide Line whichever is more			The hazard line does not take into consideration the components of various eco systems for example the ecological boundary of sensitive areas. Moreover, to safeguard the coastal zones form unregulated activities like tourism, mining and infrastructure development, the provisions of CRZ I, II and III should be adhered to while permitting activities based on the hazard line thus mapped. It will provide better framework for prohibiting activities on the land ward side. Otherwise there remains a possibility of creation of loopholes thus allowing vested interests to grab coast for activities like tourism. It is also critical that MoEF give a time frame for periodic review of hazard line as the shore line will continue to change and involve LSGIs in demarcation of hazard line process

I (c)	Only permitted live fencing and barbed wire fencing with vegetative cover may be allowed around private properties subject to the condition that such fencing shall in no way hamper public access to the beach			This provision has been misused by tourism establishments to convert and privatise common property resources and agricultural land for tourism purposes.
I (d)	No flattening of sand dunes shall be carried out			
I (l)	Groundwater shall not be tapped within 200metre of the High Tide Line			
I (m)	Extraction of sand, levelling or digging of sandy stretches except for structural foundation of building, swimming pool prohibited within 500metres of the HTL			
I (o)	Necessary arrangements for the treatment of the effluents and solid wastes must be made and it must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent or solid waste shall be discharged on the beach			
I (p)	To allow public access to the beach, at least a gap of 20metres width shall be provided between any two hotels or beach resorts; and in no case shall gaps be less than 500metres apart			
II	Prohibition of construction of beach resorts or hotels in ecologically sensitive areas (such as marine parks, mangroves, coral reefs, breeding and spawning grounds of fish, wildlife habitats and such other area as may be notified by the Central or State Government Union territories)			

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