

Prayas (Energy Group) submission
IN THE MATTER OF:
Draft mining plan guidelines for coal and lignite blocks

Prayas (Energy Group)

01st July 2024

The Ministry of Coal published the draft 'Mining plan guidelines for coal and lignite blocks 2024', and invited comments on the same.

The draft is a step in the right direction, and includes positive measures such as inclusions of formats of reporting, considerations towards accountability, safety, and just transformation. But with the increase in number of mines and entities involved in mining, clear and robust guidelines are crucial towards optimization of mining, reducing ambiguities in process, providing a level playing field and safeguarding the interest of stakeholders and communities. Towards this, Prayas (Energy Group) has the following suggestions:

1. No separate consideration for approval of CIL mining plans:

With commercial mining, there has been an influx of private entities in the mining space. But, despite this, CIL is by far the biggest mining company in India and owns a vast majority of mines in the country. As per para 1.4 (c) of these guidelines (and the O.M referred to therein), *'the present system of approval of the Mining Plan by the Board of Coal India Limited or subsidiary of Coal India Limited, as the case may be, will remain unchanged'*.

However, mining plans contain crucial measures towards technical and operational aspects of mining and closure, including the impact on communities and extraction of a public resource, namely coal. If these plans for CIL are prepared by CMPDIL (a subsidiary of CIL) and only require approvals by the board of the company, then it becomes a company's unilateral decision (though its ownership may be mainly public). This may not appropriately reflect the concerns of and impact on other stakeholders.

This treatment also means that a vast majority of mines may not be held accountable to the framework discussed in these guidelines, since most mines in the country are currently owned by CIL. With the opening up of the sector, this differential treatment sets a poor precedent by not having a level playing field, hinders transparency, and dilutes the responsibilities of the Coal Controller Organisation (CCO).

Thus, we suggest that:

- CIL's mining plan, and revisions thereof, should require approval by the authorised competent authority, as applicable to all other entities involved in the mining of coal and lignite.

2. Gram Sabha consultation towards the preparation/revision of the mining plan:

The mining and mine closure plans include several decisions that impact the communities in the mining area significantly. In addition to matters regarding closures, the community is also affected by operational decisions like when and where mining will take place, in accordance to the stage-

wise mining plan. While the draft guidelines attempt to address community concerns during mine closure to some degree, it is desirable to strengthen these measures and also involve community participation during mine planning.

Primarily, the Gram Sabha of villages within the lease area of the project should be considered an active stakeholder in the project and consulted before approval of the mining plan, the mining closure plans and any revisions undertaken to the plans. This will ensure that community concerns and interests are considered and reflected in the preparation of the stage-wise mining plans for the 1st, 3rd, 5th, and 10th year, the year of achieving rated capacity of the mine, the final year (i.e. at the end of mine life) and post-closure period. In addition to this, the Gram Sabhas should also be consulted in the preparation of the progressive and final mine closure plans. This will enable more accurate estimations of closure costs and reduce revisions in the calculation of the escrow amount, ensuring some certainty for the project proponent while addressing community concerns.

Further, since any revisions to the mining plan can prove to be disruptive to the communities within the lease area, their approval of any revision to the mining plan and mine closure plans should be subject to consultation with the Gram Sabha of villages within the lease area of the project. Certification of the compliance report, by Qualified Person/Accredited Mining Plan preparing Agency should be contingent on detailed reporting of consultation and engagement with the Gram Sabha of villages within the lease area of the project.

The completion of final mine closure, as discussed in para 3.6 (a), should also be contingent on approval by Gram Sabha of the affected villages. The third party audit required in the guidelines should base their approval based on the inputs of the Gram Sabha.

To ensure accountability in the rollout of this measure, the reimbursement of the escrow amount, as discussed in para 3.5.5 (i) (ii) and (iii), should be contingent on certification by the Gram Sabha of villages in the lease area of the project, in addition to the certification by the mine owner/leasee and the CCO.

Finally, the draft guidelines discuss the creation of a corpus towards just transformation. Para 3.5.5 (iv) of the draft document states that *"this amount may be utilized by project proponent for socio transition after the closure of the mine in consultation with district administration, local authority, and stakeholders"*. The guidelines must explicitly require consultation and engagement with the affected communities and civil societies active in the region. Thus, the Gram Sabha of villages in the lease area of the project and local civil society organisations must also be included in the preparation of any post-mine closure transition/transformation plan.

Thus, we suggest that:

- Consultation with the Gram Sabha of villages in the lease area of the project should be requisite before the final approval of the stage-wise mining plan, mine closure plan (progressive and final), any revisions to either, and any post-closure monitoring reports.
- Certification of the compliance report, by Qualified Person/Accredited Mining Plan preparing Agency should be contingent on detailed reporting of consultation and engagement with the Gram Sabha of villages within the lease area of the project.

- Third-party audit towards final mine closure should include the inputs of the Gram Sabha of affected villages.
- Reimbursement of the escrow amount, during mine operations and after mine closure, should be contingent on certification by the Gram Sabha of villages in the lease area of the project. Para 3.5.5 (i),(ii), and (iii) of the draft guidelines should be revised to reflect the same.
- Any plans towards just transformation after mine closure, as discussed in para 3.5.5 (iv) should be based on engagement with and approval of the affected communities. The Gram Sabha of villages in the lease area of the project and local civil society organisations should be necessarily consulted, in addition to district administration, local authority, and other stakeholders.

3. Increased accountability towards escrow amount:

As per para 3.5.4, failure to deposit the annual escrow amount (in accordance with para 3.5.1, 3.5.2, and 3.5.3) may result in the Government withdrawing mining permission. The escrow amount is intended to be a financial assurance towards mine closure activities. The failure to deposit the same in a timely and regular manner voids this assurance, and could have significant impacts on the environment and communities within the project lease area.

Further, para 3.5.4, which states that '*If the mine owners fail to deposit the required annual amount...,the Government may withdraw the mining permission*', is ambiguous as it does not lay out the criteria for withdrawing permission. With increasing players participating in mining activities, it is critical to have clear frameworks of accountability. Ambiguous guidelines could lead to litigations and inefficiencies in the sector.

The guidelines should thus include clear and strict measures towards ensuring regular deposits to the escrow account. An example of how this could be done is given below. The first failure to deposit funds in the escrow account should result in the MoC issuing the project proponent with a warning, and the next failure should require the project proponent to justify the failure. Failure to deposit the escrow amount three times or more should result in the withdrawal of the mining license, and debarring the entity from obtaining any mining licenses in future or operating as an MDO. Such a framing would give the operator sufficient notice and opportunity to present their case, in case of genuine difficulties, but also ensure that provisioning for mine closure is taken seriously. Towards ensuring transparency and accountability, any withdrawal of mining license should be reported on the CCO website.

Additionally, as discussed in section 2 of this submission, any reimbursement of the escrow amount should be based on consultation with the Gram Sabha of villages in the lease area of the project.

The draft guidelines include measures to ensure timely follow through of measures discussed in the mine closure plan. Para 3.6 (a) states '*...Failure of restoration within the specified period may result in forfeiture of the Escrow Account*'. Para 4.12 of the draft guidelines states '*If the Coal Controller has reasonable grounds for believing that the protective, reclamation and rehabilitation measures as envisaged in the approved mine closure plan in respect of which financial assurance*

given has not been or will not be carried out in accordance with mine closure plan, either fully or partially, the Coal controller shall give the mine owner a written notice of intention to issue the orders for forfeiting the sum assured at least thirty days prior to the date of the order to be issued after giving an opportunity to be heard'. While these measures hold the project proponent accountable for lack of timely follow through on mine closure plans, they do not address the impact of such inaction on communities and ecology. Since the amount set aside in the escrow account was intended as financial assurance for the affected villages and for suitable restoration, any forfeited escrow amount should be redirected to the Gram Panchayats of affected villages to address the interests and aspirations of local communities.

Thus, we suggest that:

- Failure to deposit funds in the escrow account should be dealt with in a clear and strict manner, but with due process. An illustrative mechanism for this has been outlined above.
- All withdrawals of mining licenses for any reason should be reported on the CCO website in the interest of transparency and accountability.
- Reimbursement of escrow amount, during the life of the mine and after closure, should be contingent on approval by the Gram Sabha of villages in the lease area of the project.
- Any forfeited escrow amount should be redirected to the Gram Panchayats of affected villages, to address the needs of the local community.

4. Ensure transparency and accountability by strengthening the CCO:

As apparent from the draft guidelines, the CCO is tasked with several key functions in the mining of coal and lignite – such as the processing, scrutiny, and approval of the mining plan, ascertaining and reimbursing the escrow amount, and withdrawing approvals in case of violations and deviations from the approved mining plan. Strengthening the role of this nodal agency is thus pivotal towards ensuring transparency and accountability in mining operations.

- i. As per para 3.4 of the draft guidelines, the progressive mine closure status is to subject to third-party monitoring. However, there is no discussion of how the findings of the third-party monitoring are to be acted upon. Towards ensuring regular and timely course correction, the CCO should be required to validate the five-yearly compliance report submitted by the project proponent against monitoring reports (to be submitted by authorised agencies), and ensure that the mining is in accordance with the mining plan. Further, the CCO should ensure that the concerns raised through third-party monitoring are addressed by the project proponent in a timebound manner.
- ii. Para 3.5.5 (ii) discusses the development of a dedicated portal for the submission of claims and reimbursement of escrow amount. Such a measure will aid in streamlining processes and reducing procedural bottlenecks. The CCO should ensure that there is a clear timeline for the rollout of such measures.
- iii. As discussed in section 1 of this submission, the mining plan of CIL mines should also require approval by the CCO, to ensure uniform, accountable, and unambiguous treatment of all entities involved in the mining of coal and lignite.

- iv. With commercial coal mining, and the increased number of players in the sector, it is crucial to ensure that all entities are held accountable for their operations, particularly since these have significant impacts for the country's economy as a whole and on local communities. Towards ensuring this, and increasing transparency, the CCO should ensure regular public reporting of information submitted to it. The following is an indicative list of data, information and reports which should be made regularly available on the CCO website, for each mine project, in accessible formats:
- Mining plans and any revisions and modifications to the mining plan (sensitive information, such as that captured in section 2.1 of the mining plan, maybe excluded)
 - Mine closure plans (final and progressive) and any revisions and modifications to the same
 - Annual and stage-wise progress reports submitted by the project proponent in keeping with the plans
 - Compliance and monitoring reports submitted by third-party agencies
 - Details of reimbursement of escrow funds
 - Details of forfeiture of escrow funds
 - Details of withdrawal of mining license

Such information is crucial towards ensuring effective and accountable functioning of the coal sector. Making it available in the public domain will enable consumers and communities to hold the project proponents responsible, and encourage efficient and prudent functioning of the sector.

Given this expanded mandate for the CCO, it would be desirable to strengthen the institution suitably.

Thus, we suggest that:

- Reports based on third-party monitoring should be prepared by authorised agencies and submitted to the CCO. The CCO should ensure the findings of such reports are addressed by project proponents in a time bound manner.
- The CCO should ensure that streamlining measures, such as the development of a dedicated portal for claims and reimbursement of escrow amount, happen as per a clear timeline.
- CIL's mining plans should also be subject to CCO's approval (as discussed in Section 1)
- CCO should promote transparency and accountability in the sector by making crucial data, information and reports regularly available on its website, in an accessible format. This should include data and reports regarding mining plan, mine closure plans, escrow amounts, and withdrawal of mining licenses.
- CCO should be suitably strengthened in order to be able to fulfil the expanded mandate.

5. Flexibility in production of coal in line with demand:

The role of coal is central to several sectors; however, it shares an almost symbiotic relationship with the power sector. While its role as a central player in the power sector is set to continue for

a while, the nature of its role is likely to shift. With increasing penetration of renewables, coal-based generation is more likely to play the role of a swing supplier, and therefore demand for coal is more likely to change across seasons. This is further discussed in the report '[Flexibilisation of the coal-based generation value chain: A pre-requisite to reduce the friction in energy transition](#)'.

Given this, mining plans and coal supply contracts should be reconsidered to allow for flexibility in production of coal, as dictated by seasonal and annual demand. Para 2.9 (c) of the draft guidelines allows for flexibility in the calendar plan for the increase in annual coal production, subject to a ceiling of the approved PRC. However, as per the first proviso of para 2.9 (d) extraction of less coal on a year-on-year basis is subject to revision of the mining plan and approval of the nominated authority. There is merit in ensuring that the mining plan, and contracts, allow for varying amounts of coal production across seasons and over the years, in line with changing demand of the fuel. Introduction of an effective coal trading platform will further allow coal miners to optimise their production to meet the demand and maximise their profits. This will ensure efficient production, prudent operations, and may even result in extended life of the mine.

Thus, we suggest that:

- The mining plan should allow for flexible amounts of coal production across seasons and years, in line with demand of the fuel. Currently, mining guidelines only provide for flexibility in increase of coal production.
- Introduce a transparent and competitive coal trading platform to further optimise coal production and supply in a dynamic, changing environment.

6. Regarding hand over of assets to the State Government:

The draft guidelines recognise the challenges of mine closure, including the impacts on people and communities. Para 3.2.2 of the draft documents states, '*All social amenities and infrastructure created (like hospitals, schools, community centres, etc.) should be handed over to the State Government*'. It is important to note that it is not sufficient to transfer just the amenities and infrastructure to the State Government, but also the services provided by them. Therefore, the state governments need to be active partners in this process. To enable this, the Ministry should share this aspect of the mine closure guidelines with the governments of coal-bearing states to apprise them about this. In addition, the project proponent should inform the concerned state government (through its district authorities) well in advance (say, at least two years before) of transferring any particular set of amenities associated with a mining project and engage with it consistently to enable a smooth transfer of the assets to ensure continued availability of services and amenities to local communities.

Thus, we suggest that

- Once these guidelines are finalised, the MoC should inform the state governments of coal-bearing states about the relevant provisions of the mine closure plan guidelines and apprise them of the need to takeover mine-related assets at their end-of-life.
- Mine owners should be required to initiate transfer of social amenities and infrastructure at least 2 years before mine closure. The 5-year mining plan for the last stage of

operations should include details of executing the transfer of social amenities and infrastructure including, informing the State Government well in advance and the process to hand them over to the state authorities.

7. Consideration of 50% increase in sanctioned PRC as a revision of mining plan:

As per para 2.9 (b) (iii), 'Increase in production up to fifty percent of the sanctioned peak rated capacity and also the relevant changes required for the production enhancement including the stage plans etc' constitutes a minor change. However, a 50% increase in PRC is significant, and the resultant changes in stage plans can have extensive impacts on the mining plan, affected communities and environment.

[MoEFCC's Office Memorandum F.No IA3-22/10/2022-IA.III\[E177258\]](#), dated 7th May 2022, allowed mines to increase production capacity to 50% within the same mine lease area, without requiring revised EIA/EMP or public consultation for the expansion of the Environmental Clearance. However, as clarified in the same OM, this was a special dispensation provided for a period of six months from the date of issue of the O.M and was not to be treated as precedent.

Thus, we suggest that:

- Given the extent of impact a 50% increase in PRC is likely to have on technical, operational and social aspects of the mining lease area, it should not be classified as a minor modification, and must instead be considered a revision of the mining plan and scrutinised as such.

We request that this submission be accepted on record and considered favourably.

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