

No. F.1/5/2016-SEZ
Government of India
Ministry of Commerce & Industry
Department of Commerce
SEZ Division

INSTRUCTION No-102

Udyog Bhawan, New Delhi,
Dated the 10th November, 2019

To
All Development Commissioners
Special Economic Zone

Subject: Compliance of Contiguity Condition of SEZ in terms of Rules 5 & 7.

Reference: (i) DoC's O.M. of even No. dated 14.07.2016.
(ii) DoC's letters of even No. dated 07.01.2019 & 10.10.2019.

Sir/Madam,

In continuation of this Department's O.M. dated 14.07.2016, letter dated 07.01.2019 and Instruction No.99 dated 10.10.2019 (copies enclosed), I am directed to say that the Competent Authority is of the view that DC must specifically certify the Contiguity Condition of the SEZ in explicit terms at the time of forwarding the proposals for setting up of new SEZ/Notification and partial de-notification thereof.

2. It must also be certified in DC's Inspection report that the Physical Inspection has been carried out in the presence of Revenue/Land Authority of the concerned State Government and the name with designation of the officials present during the Physical Inspection also be mentioned in DC's Inspection report.

3. This issues with the approval of the Competent Authority.

Yours faithfully,

Encl: As above


(Sumit Kumar Sachan)

Under Secretary to the Government of India

Tel: 2306 2496

Email: sumit.sachan@nic.in

OLC
issued
19/11/19

Udyog Bhawan, New Delhi
Dated, the 14th July, 2016

OFFICE MEMORANDUM

Subject: - Instruction regarding documents to be forwarded for full notification/additional area notification/partial de-notification/full de-notification/change of name of developer or co-developer and shifting of unit from one SEZ to another SEZ-reg.

The undersigned is directed to say that of late it has been noted in number of instances the documents forwarded by the office of DCs for full notification/additional area notification/partial de-notification/full de-notification/change of name of developer or co-developer and shifting of unit from one SEZ to another SEZ are not complete in all respect thereby leading to avoidable delay. A checklist for each of the aforesaid item of work is hereby circulated to ensure that complete documents are forwarded along with DC's recommendation to this Department.

CHECKLIST FOR FULL AREA NOTIFICATION

- (i) State Government's Recommendation.
- (ii) Inspection Report in prescribed format **(copy enclosed)**.
- (iii) Developer's Certificate countersigned by DC.
- (iv) Legal Possession Certificate from revenue authorities.
- (v) Non-encumbrance Certificate from revenue authorities.
- (vi) Land details of area to be notified duly certified by revenue authorities.
- (vii) Colored Map clearly indicating survey numbers and duly certified by revenue authorities.
- (viii) Copy of Registered Lease /sale Deed.

CHECKLIST FOR ADDITIONAL AREA NOTIFICATION

- (i) Certificate from concerned State Government or its authorized agency stating that the developer has irrevocable rights to develop the sad area as SEZ.
- (ii) Form-C4 for increase in area along with DC's recommendation.
- (iii) Inspection Report in prescribed format **(copy enclosed)**.
- (iv) Developer's Certificate countersigned by DC.
- (v) Legal Possession Certificate from revenue authorities.
- (vi) Non-encumbrance Certificate from revenue authorities.
- (vii) Land details of the area to be notified duly certified by revenue authorities.
- (viii) Colored Map clearly indicating survey numbers and duly certified by revenue authorities.
- (ix) Copy of Registered Lease /sale Deed.

CHECKLIST FOR PARTIAL DE-NOTIFICATION

- (i) Form-C5 for decrease in area along with DC's recommendation.

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(From page 2)

- (ii) DC certificate in prescribed format (**copy enclosed**).
- (iii) Developer's Certificate countersigned by DC.
- (iv) Land details of the area to be de-notified countersigned by DC.
- (v) Coloured Map of the SEZ clearly indicating area to be de-notified and left over area duly countersigned by DC.
- (vi) "No- Objection Certificate" from the state government w.r.t instructions issued by DoC vide its instruction No.D.12/45/2009-SEZ dated 13.09.2013 for partial de-notification shall be complied with (**copy enclosed**).
- (vii) 'No Dues Certificate' from specified officer.

CHECKLIST FOR FULL DE-NOTIFICATION

- (i) Form-C6 for full de-notification along with DC's recommendation.
- (ii) DC Certificate in prescribed format (**copy enclosed**).
- (iii) "No- Objection Certificate" from the state government w.r.t instructions issued by DoC vide its instruction No.D.12/45/2009-SEZ dated 13.09.2013 for full de-notification shall be complied with (**copy enclosed**).
- (iv) 'No Dues Certificate' from specified officer.

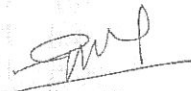
CHECKLIST FOR CHANGE OF NAME OF DEVELOPER/CO-DEVELOPER

- (i) Copy of Fresh Certificate of Incorporation, consequent on change of name issued by Registrar of Companies.
- (ii) The details of Board of Directors and their shareholding pattern before and after name change duly certified by Chartered Accountant.
- (iii) 'No Objection Certificate' from the developer, in case proposal is for change in name of co-developer.

CHECKLIST FOR SHIFTING OF UNIT FROM ONE SEZ TO ANOTHER

- (i) 'No Dues Certificate' from the existing developer/co-developer.
- (ii) Consent Letter/Offer of space from the developer/co-developer where unit wants to shift.

2. Such proposals should **not** henceforth be sent to the Department by post/courier. A responsible officer not below the level of DDC should deliver the proposals to this Department. In case the proposals do not fulfill the above requirement, the proposals shall not be accepted and shall be returned to the DDC for completion.


(Aditya Narayan)

Under Secretary to the Govt. of India

Tele: - 2306 2496

Email: aditya.n@nic.in

Encl: as above

To,
All Development Commissioners

No. D.12/45/2009-SEZ
Government of India
Ministry of Commerce & Industry
Department of Commerce
(SEZ Division)

Udyog Bhavan, New Delhi
Dated the 13th September, 2013

To

The Chief Secretaries of States /UTs

Subject: Implementation of the Special Economic Zones (Amendment) Rules, 2013 – clarifications regarding

Sir/Madam,

Please refer to the amendment to the provisions of the SEZ Rules, 2006 vide GSR 540(E) dated 12th August, 2013 issued by the Ministry of Commerce & Industry (Department of Commerce), Government of India, which may be viewed at <http://sezindia.nic.in/latest-updates.asp> [SEZ(Amendment) Rule 2013 Gazette copy]. I am directed to say that the intent and purpose behind the said amendments is to address the challenges being faced by SEZ Developers and Units on the one hand, while creating a more investor friendly environment on the other. The amendments are a part of the SEZ reforms which aim to better achieve the objectives of the SEZ Policy viz. growth of economic activity, attracting investment, boosting exports and generating additional employment. In order to facilitate better understanding of the amended Rules, the following clarifications are issued:

1. **Minimum land area requirements for setting up of SEZ:** In order to address the problem of aggregating large tracts of uncultivable land for setting up SEZs, while conforming to vacancy and contiguity norms, the minimum land area requirements for setting up of SEZ in various categories has been reduced by half. This is also aimed at permitting optimum utilization of land by the existing SEZs. The amendments permit the setting up of Multi-product SEZ with minimum land area requirements of 500 Ha. instead of 1000 Ha. Similarly, a sector specific SEZ can be set-up with a minimum land area requirements of 50 Ha. instead of 100 Ha.

The amendments for special category states etc have accordingly been reduced also.

2. In order to encourage agro-based industries in SEZs, a new sector - 'agro-based food processing' sector has been introduced. A sector specific SEZ in this sector would require a minimum land area requirement of 10 Ha.

3. **IT/ITES Sector:** The minimum land requirement criteria of 10 Ha. for setting up of IT/ITES SEZs as envisaged in SEZ Rules, 2006 has been dispensed with. There will be no minimum land area requirement for IT/ITES SEZs but they will have to conform with a minimum built up area requirement. Furthermore the amendments provide that the minimum built up area requirement of one lakh square meters will now be insisted upon for the seven major cities viz: Mumbai, Delhi (NCR), Chennai, Hyderabad, Bangalore, Pune and Kolkata. For the other set of Category B cities 50,000 square meters norm will be applicable and for the remaining cities / locations 25,000 square meters of minimum built up area will be insisted upon.

4. In order to give effect to the changes made in IT/ITES Sector, classification of cities based on their IT density has been made and inserted as Annexure IVA to the amended Rules.

5. Consequent to above amendments, there may be certain requests/proposals for seeking de-notification of parcels of land from the existing SEZs. In order to prevent any possible misuse of such de-notified parcels of land by the Developers, Department of Commerce will consider only such applications which fulfill the following criteria:

(i) All such proposals must have an unambiguous 'No Objection Certificate' from State Government concerned.

(ii) State governments may also ensure that such de-notified parcels would be utilised toward creation of infrastructure which would sub-serve the objective of the SEZ as originally envisaged

(iii) Such land parcels after denotification will conform to Land Use guidelines/master plans of the respective State Governments.

These conditions are in addition to conditions which the Board of Approval may impose including refund of duties/benefits which the Developer may have availed on the land to be de-notified, preservation of

contiguity of the remaining parcel of SEZ land, fulfilment of other conditions etc.

6. **Broad-banding:** Sectoral broad-banding provisions have been introduced for categories of sectors to encompass similar/related areas with each broad-banded sector treated as a single sector for the purposes of minimum land area criteria. The principle of broad-banding would be applied taking into account the fact that no additional environmental externalities be required for the additional units which would come up on account of such broad-banding. Some illustrative examples of such broad banded category comprising a sector would include:

- Textile, apparel, hosiery, fashion garments, wool and carpet
- Leather, leather handicrafts, leather garments and sports goods
- Auto components/parts, light engineering
- Biotechnology, Pharmaceuticals and chemicals
- IT, ITES, Electronic components and hardware manufacturing, non-conventional energy, BPO (including legal, medical and similar services), KPO and R&D

Related ancillary services of the sector and R&D services will be included and treated as an integral part of the sectoral broad-banding. Board of Approval (BoA) will have the discretion to allow additional categories to be broad-banded into a sector based on compatibility of area requirement etc.

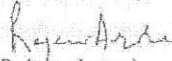
7. **Graded Scale for Minimum Land Criteria:** In order to allow greater flexibility and address the intermediate size land tracts falling between different categories, it has further been decided to introduce a Graded Scale for Minimum Land Criteria. Thus for each contiguous fifty hectare parcel of land in an existing SEZ or which is added to a notified SEZ, an additional sector would be allowed. This would permit flexibility to the Developer to allot land to the Units thereby encouraging optimal utilization of the SEZ land.

8. **Vacancy Norms clarified:** It has been provided that addition or inclusion of any land to an existing SEZ, where such land contains a port, manufacturing unit, or structures in which no commercial, industrial or economic activity is in progress, then such existing ports, manufacturing units, or structures will not be entitled to any duty benefits in respect of the pre-existing structures. However any additions or up-gradations to such existing ports, manufacturing units, or structures after their addition or inclusion in a SEZ would qualify for the fiscal incentives as applicable for a

new infrastructure in a SEZ. The authorised operations being carried on in such infrastructure would also be eligible for benefits as provided for under the SEZ Act and rules.

9. **Transfer of Assets by SEZ Units upon their exit:** Norms have been laid down in Rule 74A which allow a SEZ Unit to opt out of a SEZ by transferring its assets and liabilities to another entity by way of transfer of ownership including sale of subject to the conditions enumerated in the Rule. These include that the Unit has held a valid Letter of Approval as well as lease of land for at least a period of five years and has been in operation to at least two years. The transfer will be approved by the Unit Approval Committee keeping in mind the fulfillment of all eligibility conditions by the new entity to be a SEZ Unit. Furthermore the applicable duty liabilities, if any, as calculated under Rule 74, as well as export obligations of the transferee company, if any, shall stand transferred to the new entity who shall be under obligation to discharge the same on the same term and conditions as the transferee company.

Yours faithfully,


(Rajeev Arora)

Joint Secretary to the Government of India

Copy to:

1. All Development Commissioners of SEZs
2. DG (Export Promotion), Department of Revenue
3. DG, EPC for EOUs & SEZ Units
4. SEZ website

Copy for information to: PS to CIM/PS to MOS/PPS to CS/ PPS to AS(MP)

CERTIFICATE

(to be furnished by Development Commissioner for De-notification of entire area/part of Special Economic Zone along with Form C5 or C6 submitted by the Developer)

With regard to the request of M/s..... for de-notification of the entire area of.....Ha* OR an area ofHa*, of the Multi Product*/Sector Specific SEZ forat it is certified that:-

- (a) There are no unit in the SEZ* OR the existing units have been de-bonded following the procedure prescribed in Rule 74 of the SEZ Rules.*
- (b) The developer has not availed any tax/duty benefits, under the SEZ Act/Rules, in r/o the land being de-notified.* OR The developer had availed the following tax/duty benefits under the SEZ Act/Rules:-
 - (i)
 - (ii)
 - (iii)

All tax/duty benefit indicated above have been refunded by the developer to my satisfaction.*

- (c) The SEZ shall remain contiguous even after de-notification of the area of.....Ha and shall meet the minimum land requirement prescribed for the.....sector which isHa.#
- (d) The land details for de-notification and a coloured map of the SEZ showing the area being de-notified, duly countersigned by me, are attached.#
- (e) The request for de-notification was approved by BoA in its.....meeting held onand approval was conveyed by D/o Commerce vide letter no..... dated.....* OR The request can be approved on file as per the decision of the BoA, taken in the meeting held on 8th June, 2010 (item no. 40.16), as the area being de-notified is less than 10% of the existing area.*
- (f) All conditions subject to which the BoA has granted the approval for de-notification, of the above area of the SEZ, have been fulfilled to my satisfaction.
- (g) The State Government has given its 'No Objection' regarding de-notification of the above stated area of the SEZ.

Place:-

Date:-

Note:-

(Signature of the Development Commissioner)

* Please strike out whichever is not applicable.

Applicable only in the cases of part de-notification.

CERTIFICATE TO BE FURNISHED BY DEVELOPMENT COMMISSIONER FOR PARTIAL/FULL NOTIFICATION ALONG WITH INSPECTION REPORT

1.	Name of Developer	
2.	Date of Formal Approval	
3.	Sector	
4.	State	
5.	Location of the SEZ	
6.	Area in hectares (Present Area)	
7.	Additional Area (in hectares) proposed to be notified	
8.	Whether land is in possession	
9.	Whether physical Inspection conducted	
10.	Whether land is vacant	
11.	Whether land is contiguous	
12.	Documents attached:	
(i)	Proof of legal right and possession- documents attested by State Govt. of authorised agency say revenue/Land Authority of the State govt. /copy of Registered Lease deed.	
(ii)	Non-encumbrance certificate issued/certified by State Govt./Revenue/Land Authorities.	
(iii)	Map clearly showing the area of the SEZ certified by the concerned State Govt./Revenue/Land Authorities	
(iv)	List of block numbers/survey numbers/Khasra numbers along with area in hectares certified by the State Government/Revenue/Land authorities. (Notification will be issued on the basis of above details)	
13.	Is there any compulsory acquisition?	
14.	Is there any litigation over the land/If so, details	
15.	Is the DC satisfied that all the conditions as required under the SEZ Act/Rules are fully met for the notification?	

Signature of the Development Commissioner

317268/2019/SEZ

F.1/5/2016-SEZ
Government of India
Ministry of Commerce & Industry
Department of Commerce

Udyog Bhawan, New Delhi
Dated, the 7th January, 2019

To,

All Development Commissioners,
Special Economic Zones.

Subject: - Documents/details to be forwarded for setting up a new Special Economic Zone in terms of the SEZ Act, 2005 and the SEZ Rules, 2006 and subsequently its notification - reg.

Sir/Madam,

It has come to the notice of this department that proposals for setting up of new SEZ are being forwarded for consideration of the BoA without enclosing necessary documents required in the relevant SEZ Act/Rules.

2. It is, therefore, advised to forward such proposals duly completed in all respect for consideration of the BoA so that any delay in issuance of LoA/Notification could be avoided. The requirement of documents at different stages along with DC's recommendation is as under;

(A) Documents required to be attached with the proposal for setting up of a new SEZ for the consideration of the BoA;

a) In terms of the Rule 3 of the SEZ Rules, 2006:	
(i)	Form A (with Enclosures)
(ii)	DC's Inspection Report
(iii)	State Government's recommendation
(iv)	DC's Recommendation for National Security Clearance as per guidelines issued by the Ministry of Home Affairs
b) Minimum land area requirements in terms of the Rule 5 of the SEZ Rules, 2006	
c) In terms of the Rule 7 of the SEZ Rules, 2006:	
(v)	Certificate from the concerned State Government or its authorized agency stating that the Developer(s) have <ul style="list-style-type: none"> • Legal possession and • Irrevocable rights to develop the said area as SEZ and • that the said area is free from all encumbrances
(vi)	Where the Developer has leasehold right over the identified area, the lease shall be for a period not less than twenty years
(vii)	The identified area shall be Contiguous, Vacant and No public thoroughfare

(B) Documents required for issuance of Notification subsequently;

a) In terms of the Rule 8 of the SEZ Rules, 2006:	
(viii)	Acceptance of the conditions (by the developer) specified in the letter of approval (LoA) (including Developer's Certificate countersigned by Development Commissioner)

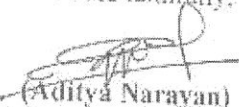
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b)	In terms of the Section 4 of the SEZ Act, 2005:
(ix)	Land details of area to be notified duly certified by revenue authorities
(x)	Colored Map clearly indicating survey numbers and duly certified by revenue authorities

3. Thus, any proposal for setting up a new SEZ should be forwarded only after ensuring all the required documents listed at para 2(A) above are attached to such proposal. Similarly, after the issue of LoA by the competent authority, request for issue of Notification should be forwarded only after ensuring that all the required documents listed at para 2(B) above are included in such request.

4. This has the approval of competent authority.

Yours faithfully,



(Aditya Narayan)

Under Secretary to the Government of India

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No. F.1/5/2016-SEZ
Government of India
Ministry of Commerce & Industry
Department of Commerce
SEZ Division

Udyog Bhawan, New Delhi,
Dated the 10th October, 2019

To
All Development Commissioners
Special Economic Zone

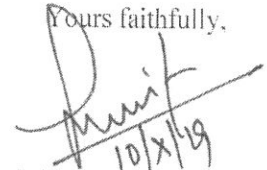
Subject: Compliance of Contiguity Condition of SEZ in terms of Rules 5 & 7.

Sir/Madam,

I am directed to refer to the subject cited above and to say that on the examination of the proposals of setting up of SEZ and Notification/De-notification of the SEZ, the competent authority is of the view that in such proposals, the compliance of contiguity condition of the SEZ must be carefully dealt with in terms of Rule 5 (read with Rule 7) of the SEZ Rules, 2006.

2. Further, it may also be noted that DC must certify the same based on the Inspection carried out by SEZ officials and supported by Revenue Department officials.
3. This issues with the approval of the Competent Authority.

Yours faithfully,



(Sumit Kumar Sachan)

Under Secretary to the Government of India
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Email: sumit.sachan@nic.in