

Ease of Doing Business

Creating an enabling climate

- Regulations
 - Only where necessary , in a light touch way that is proportionate to the risk
 - Simple and framed with clarity
 - Uniform across states
 - Create a climate of universal compliance across the value chain
 - Contemporary in the global context giving boost to competitiveness
 - Implementation must be consistent and transparent
- Whilst emphasis should be on encouraging a virtuous cycle of compliance and improvement , deliberate or consistent flouting of regulations must attract stiff and visible penalties
- Third party certified compliance combined with single window procedure to speed up processes and improve ease of doing business

The three stages of control

- Permission to build – Pre Project approvals
 - Change in land use, Environment, Consent to Establish , Fire NOC, Building / Factory Plan Approvals etc.
- Permission to commence operation
 - Consent to Operate, Fire Approval, Occupancy Certificate, Electrical Clearances, Factory Licence and Licences for Boiler / Fuel Storage etc.
- Controls on ongoing operations
 - Multiple Inspector Raj, Multiple Filings, Yearly renewal of Approvals
 - Laws that need amending for competitiveness

What would make sense in the Indian context

- 100 % Compliance with 100% speed
 - Like financial auditors certify financial statements, a specialized cadre of Compliance auditors must certify Compliance statements
 - These compliance documents must be filed in the Single window clearance system in each state
 - Basis audit compliance statements all permission to build and operate should be automatically granted
 - An exception list will also exist – here too states must draft laws to allow no more than one comprehensive objection that too within 30 days of submission
 - Borrowing from our corporate laws –a penal system for non compliance must be put in place to discourage offenders
 - Laws must be reviewed and simplified so that misinterpretation can be avoided and compliance made possible
 - A panel of experts must study and recommend
 - Till such time that the audit system is put in place , permission must be granted on basis of self certification

Licensing the auditors

- A autonomous body under DIPP should be charged with the responsibility of creating a framework for audit requirements
 - Decide specific audit specializations required
 - Minimum qualifications required
 - Develop Qualification Packs
 - Develop syllabus , training methodology and pupil ship requirement
 - Certification exams
 - Code of conduct

Suggested change in Regulations

Quick pace for Pre Project approvals

Subject	Existing regulations	Existing Approving Authority	Suggested change in approval process	Exceptions Projects : current system should continue
Environmental Clearance	Environment Protection Act – 1986	Ministry of Environment and Forest	Industrial Sheds up to 1,50,000 Sqm. are exempted, to extend for Warehouse also	Hazardous Industries / Built up area greater than 1,50,000 Sqm.
Consent to Establish	Air Act 1981- sec21 Water act 1984	State Govt – Pollution Control Board	Automatic approval -Certified by auditors / self certification	Hazardous Industries / Built up area greater than 1,50,000 Sqm.
Fire NOC	State Fire Rules and by laws	State Fire Department	Automatic Approval -Certified by auditors / self certification	Specified fire prone industries
Building Plan Approval	Town and Country Planning Act , section 49	State Bodies	Automatic Approval – if certified by auditors / self certification	Category A industries and where built up area is greater than 1,50,000 Sqm.
Factory Inspectorate Approval	Factories Act 1948	Chief Inspector of Factories	Automatic Approval – if certified by auditors / self certification	Category A industries

Pre Project approvals

Subject	Existing regulations	Existing Approving Authority	Suggested change in approval process	Exceptions Projects : current system should continue
Power Feasibility approval	Power Availability Certificate	State Electricity Board	Existing system – reply within 10 working days	NA
Water feasibility approval	Water Availability	Ground Water / Local Municipal Board	Allow for Ground water harvesting up to self certified ground water capacity	Dry / water sensitive regions
Building Height approval	Aircraft Act 1934 Sec-9A	Airport Authority	Self certification basis 'permissible height' Google Map application	Specified industries – slaughter houses within a pre stated radius of an airport
Tree Cutting Approval	Indian Forest Act/ Forest(conservation act) , Preservation of Trees	State Forest Department	Mandatory green cover should compensate	Area Greater than 100 acres
Permission for excavation beyond certain depth	Mines and Mineral act 1957, State revenue recovery act	Collectors office /Urban bodies	Scrapped	Mining sector

Pre Project approvals

Subject	Existing regulations	Existing Approving Authority	Suggested change in approval process	Exceptions Projects : current system should continue
Drawings approval for Storage of petroleum products	Petroleum Act, 1934 Petroleum Rules, 1976	Chief Controller of Explosives	Automatic Approval – if certified by auditors / self certification	Category A Projects / Explosives Storage
Labour Licence	Contract Labour Act, 1978	Labour Commissioner	Automatic Approval – if certified by auditors / self certification . If registered contractors used then Principal Employer should be the contractor .	NA
Labour Cess	Building and Other Construction Workers Act, 1996	Labour Commissioner	Automatic Registration / Cess collection in the beginning of the project	NA

Permission to commence Operation

Subject	Existing regulations	Existing Approving Authority	Suggested change in approval process	Exceptions Projects : current system should continue
Consent to Operate	Air Act 1981- sec21 Water act 1984	State Govt – Pollution Control Board	Automatic approval -Certified by auditors / self certification	Hazardous Industries / Built up area greater than 1,50,000 Sqm.
Fire Approval	State Fire Rules and by laws	State Fire Department	Automatic Approval -Certified by auditors / self certification	Specified fire prone industries
Occupancy Certificate	Town and Country Planning Act , section 49	State Bodies	Automatic Approval – if certified by auditors / self certification	Category A industries and where built up area is greater than 1,50,000 Sqm.
Factory Licence	Factories Act 1948	Chief Inspector of Factories	Automatic Approval – if certified by auditors / self certification	Category A industries
Permanent Power Connection	Electricity Act, 2003	Chief Electrical Inspectorate to Government/ Electricity Board	Automatic Approval -Certified by auditors / self certification	NA

Permission to commence Operation

Subject	Existing regulations	Existing Approving Authority	Suggested change in approval process	Exceptions Projects : current system should continue
Boiler Registration	Boilers Act, 1923 Boiler Regulation, 1950	Boiler Inspector	Automatic Approval -Certified by auditors	NA
Licence for Storage of petroleum products	Petroleum Act, 1934 Petroleum Rules, 1976	Chief Controller of Explosives	Automatic Approval – if certified by auditors	Category A Projects / Explosives Storage
Lift Licence	State Laws for Lift Operation	Lift Inspector	Automatic Approval – if certified by auditors	NA

Ongoing operations Control

Subject	Existing regulations	Existing issues	Suggested changes
Compliance of laws on day to day basis	Factories Act, Shops and Establishment Act, Payment of wages act , Fire and explosives act, EPF Act , ESI Act	Multiple submissions , multiple inspectors, Sanctioning regime over reliant on criminal prosecution , the role of 'occupier'	Single window submission of stat returns, Rationalization of inspectors , flexible set of sanctioning tools consistent with risk , Occupier to be a person with direct oversight or maximum one level above, decriminalise the non-compliance – keeping the monetary penalty. Any non-compliance arising out of any ambiguity should not result in penal liability.
Flexibility in employment	Several	Law allows very little flexibility in employment	Given rapid changes in economic climate , law must permit “ fixed time contracts” , extend usage of “ contact labour” . May provide for a minimum of 3 months notice or salary in lieu of notice to buffer the impact. Need also to relook at the principal employers clause.
Investment in Infrastructure / inter state issues	Several	Frequent changes in incentives , lack of interstate coordination in areas like non conventional energy	National level guidelines on key imperatives .

Thank You