

Resolution SMA-42 of 29 December 1994

The Secretary of the Environment, in consideration of Consema's proposal regarding the processing of Environmental Impact Studies, hereby resolves:

Article 1. The procedures for the analysis of Environmental Impact Studies (EIA/RIMA) within the scope of this secretariat and reported in the appendix to this Resolution are hereby approved.

Article 2. This Resolution shall enter into force on the date of its publication.

Article 3. All provisions to the contrary are hereby revoked.

Appendix. Procedures for EIA/RIMA Analysis:

Part I. Initial Procedures

1. In the cases provided for in Article 2 of CONAMA Resolution No. 1/86, interested parties shall request environmental licenses subject to the guidelines contained in the Preliminary Environmental Report (RAP), as per the orientation schedule established by the SMA.

1.1. In the event that a project is subject to CETESB licensing in view of the provisions contained in the regulations approved by Decree No. 8.468/76 for pollution source reasons, the request shall be addressed to CETESB, which shall direct it to the SMA with the pertinent preliminary considerations deemed necessary.

1.2. In all other instances, requests shall be made directly to the SMA.

2. Upon publication of a request for a license, any interested party may make a written statement, through a request addressed to the SMA, within 30 days of the publication date.

3. The SMA, through DAIA, shall analyze the RAP and the written statements received and may:

a) Deny the request due to legal or technical impediments;

b) Demand or waive submission of the EIA/RIMA.

3.1. In any event, the decision shall be duly substantiated and published, with its motives, informing the petitions received.

3.2. If submission of the EIA/RIMA is requested, a Public Hearing may be ordered under current law, within 45 days of the date of publication of the decision.

4. The interested party shall then submit to the SMA the Work Plan for preparation of the EIA and RIMA, which shall specify the methodology and content of the studies needed to evaluate the relevant environmental impact of the Project, and shall also take into consideration the written statements described in item 2, as well as those from the Public Hearing, if held.

4.1. The work Plan shall be submitted within 180 days of the date of publication of the decision to require submission of the EIA/RIMA.

4.2. In the event that the period established in the preceding sub-item is exceeded, the interested party shall update the information in the RAP, unless it can demonstrate that the information is current.

5. Based on the Work Plan analysis, the RAP and other procedural information, DAIA shall define the Reference Period (TR), establish a deadline for preparing the EIA and Rima, and publish its decision.

5.1. DAIA shall hear the Consema before defining the TR, whenever the latter calls for analysis of this Period due to the magnitude and complexity of the project's environmental impact.

Part II. Review of the EIA and RIMA

6. The interested party shall submit the EIA and RIMA to the SMA within the periods established pursuant to item 5.

6.1. Upon receipt of the EIA and RIMA, DAIA shall announce, via the local media, the beginning of a 45-day period to request a Public Hearing, under the terms of Conama Resolution No. 9/87 and Consema Decision No. 50/92.

6.2. The Public Hearing shall take place in the state capital if the impact is felt in two or more municipalities and if so requested pursuant to CONAMA Resolution No. 09/87.

7. The review of the EIA and RIMA shall take into consideration the written contributions of the interested parties, submitted pursuant to item 2 of this Resolution or submitted during the Public Hearing, as well as any additional requirements.

8. Upon completion of the review, DAIA shall issue a report regarding the technical quality of the EIA and RIMA, stating whether the project's environmental viability was demonstrated and suggesting conditions for the various licensing stages.

Part III. Project Analysis

9. Upon publication of the DAIA report abstract, the CONSEMA Executive Secretariat shall send the RIMA and DAIA report to one of the CONSEMA technical divisions, which shall analyze the project, and hear the interested party, SMA technicians involved in the matter, and other interested community participants.

10. Upon completion of the analysis, the technical division shall issue its decision approving or rejecting the project, sending it to the CONSEMA decision-making body through its Executive Secretariat.

11. CONSEMA shall, under its full authority, examine the decision of the Technical Division, approve it as submitted, modify it or reject it, at its own discretion.

Part IV. Licensing

12. Upon approval of the project by CONSEMA, the SMA shall issue a Preliminary License (LP) establishing its validity period.

13. DAIA shall issue a technical report attesting to fulfillment of the requirements stipulated during the project approval, and shall send a copy to the CONSEMA Executive Secretariat.

13.1. In light of this technical report, the SMA shall issue an Installation License, which shall establish its validity period.

14. The CONSEMA Executive Secretariat shall inform the Board of having received the report mentioned in item 13 during the first meeting after such report was received, and shall supply a copy to all Board Members who so request.

15. The procedures established in items 13 and 14 shall be adopted to grant the Operating License.

15.1. The Operating License shall specify the validity period.

16. In cases where licensing is the responsibility of CETESB, it shall meet all requirements contained in items 13 and 15, including the specification of license validity periods.