

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi the , 2008

Regulatory Framework for Wetlands Conservation

WHEREAS the wetlands, which are vital parts of the hydrological cycle, are highly productive, support exceptionally large biological diversity and provide a wide range of ecosystem services, such as food and fibre; waste assimilation; water purification; flood mitigation; erosion control; groundwater recharge; microclimate regulation; enhance aesthetics of the landscape; support many significant recreational, social and cultural activities, besides being a part of our cultural heritage;

AND WHEREAS many wetlands are seriously threatened by reclamation through drainage and landfill, pollution (discharge of domestic and industrial effluents, disposal of solid wastes), hydrological alterations (water withdrawal and inflow changes), and over-exploitation of their natural resources resulting in loss of biodiversity and disruption in goods and services provided by wetlands;

AND WHEREAS India is a signatory to the Ramsar Convention for management of wetland, for conserving their biodiversity and wise use extending its scope to a wide variety of habitats, including rivers and lakes, coastal lagoons, mangroves, peatlands, coral reefs, and numerous human-made wetland, such as fish and shrimp ponds, farm ponds, irrigated agricultural land, salt pans reservoirs, gravel pits, sewage farms, and canals;

AND WHEREAS the Ministry of Environment and Forests has identified a number of wetlands for conservation and management under the National Wetland Conservation Programme and some financial assistance is being provided to State Governments for various conservation activities through approval of the Management Action Plans;

AND WHEREAS the National Environment Policy (NEP) recognizes the numerous ecological services provided by wetlands and emphasizes on the need for setting up of a legally enforceable regulatory mechanism for the identified wetlands;

Now, therefore, in exercise of the powers conferred by Section 25 read along with sub-section (1) and clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules for conservation and management of wetlands, namely:-

1. Short Title and Commencement:

- (i) These Rules may be called the Wetlands (Conservation and Management) Rules, 2008.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions: In these Rules unless the context otherwise requires:

- (a) "Act" means the Environment (Protection) Act, 1986 (29 of 1986);
- (b) "Wetland" means an area of marsh, fen, peat land or water, whether natural or artificial, permanent or temporary with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed six meters;

Explanation: For the purpose of this section wetland does not include main river channels; paddy fields; coastal wetlands such as mangroves, marine algal beds and coral reefs; and other entities covered under the notification on Coastal Regulation Zone under the Environment (Protection) Act, 1986;

- (c) "National Parks" means an area declared, whether under section 35 or section 38 or deemed, under sub-section (3) of section 66 of Wildlife (Protection) Act, 1972 to be declared, as a National Park;
- (d) "Wildlife Sanctuary" means an area declared, whether under sec. [26(A)5] or sec 38, or deemed, under sub section (3) of Sec.66 of Wildlife (Protection) Act, 1972 to be declared, as a Wildlife Sanctuary;
- (e) "Dredging" means an excavation activity or operation usually carried out at least partly underwater, in shallow sea or fresh water areas with the purpose of gathering up bottom sediments and disposing them off at a different location, mostly to keep waterways navigable.
- (f) "Regulatory Authority" means the Ministry of Environment & Forests at the Central level and State Environment Impact Assessment Authority constituted at the State level, as the case may be in accordance with notification no. 1067 dated 14/09/2006 under Environment (Protection) Act, 1986.
- (g) Committee means the Central Wetlands Conservation Committee (CWCC) at the Centre Government level, State Wetlands Conservation Committee (SWCC) at the State/UT Government level and the District Wetland Conservation Committee (DWCC) at the District level respectively;
- (h) "Person" shall include any company or association or body of individuals, whether incorporated or not;
- (i) "Chairperson" means the chairperson of the CWCC or as the case may be, of the SWCC or of the DWCC;

- (j) “Member-Secretary” means the Member-Secretary of the CWCC or as the case may be, of the SWCC and DWCC;
- (k) “Government” means the Central Government or the State/UT Government as the case may be;
- (l) “Member” means a member of the CWCC or as the case may be, of the SWCC and includes the Chairperson;
- (m) “Local bodies” mean Panchayats and Municipalities, by whatever name called, within the meaning of clause 1) of article 243B and clause (1) of article 243 of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self- government constituted under any other provision of the Constitution or any Central Act or State Act;
- (n) “Professional body”- means professional organization, or a professional association or professional society, usually non-profit, that exists to further a particular profession, to protect both the public interest and the interests of professionals maintaining and enforcing standards of training and ethics in their profession and may also act like a cartel.
- (o) “Comprehensive Document” – A document depicting completely or broadly all the components related to management/regulation of wetlands.
- (p) “Rule” unless otherwise specified, means a Rule of these Rules.
- (q) “Notification” means a notification published in the Official Gazette;
- (r) “Public Consultation” refers to the process by which the concerns of local affected persons and others who have plausible stake in the ecological and economic aspects of the site proposed to be designated under regulatory frame work are taken into account.

3. Application

These Rules shall be applicable to all wetlands identified and notified in accordance with the procedure detailed therein.

4. Restriction on Activities within Wetlands

- 1) Prohibited Activities
 - Conversion of wetland to non-wetland use.
 - Reclamation of wetlands
 - Solid waste dumping and discharge of untreated effluents.

- Any other activity to be specified in writing, which according to the Committee constituted in accordance with section 9,10 and 11 of these Rules, may have adverse impact on the ecosystem of the wetland.

2) Regulated activities

- Withdrawal of water/impoundment /diversion/interruption of sources
- Harvesting (including grazing) of living/non-living resources (may be permitted to the level that the basic nature and character of the biotic community is not adversely affected.)
- Treated effluent discharges – industrial / domestic/agro-chemical.
- Plying of motorized boats
- Dredging (need for dredging may be considered, on merit on case to case basis, only in cases of wetlands impacted by siltation)
- Constructions of permanent nature within 50 m of periphery except boat jetties.
- Activity which interferes with the normal run-off and related ecological processes – upto 200 m (*Facilities required for temporary use such as pontoon bridges and approach roads, will be exempted.*)
- Any other activity to be specified in writing which according to the Committee constituted in accordance with section 9,10 and 11 of these Rules, may have adverse impact on the ecosystem of the wetland.

Any of the regulated activities mentioned in 4(2) shall be undertaken only after a proposal for the activities is cleared by the concerned Regulatory Authority after going through the environment impact assessment procedure.

Notwithstanding the provisions above under Rule 4 (1) & (2), any intervention intended for the restoration and/or enhancement of the functions and values of the wetland, in deviation of the prescriptions of the management action plan shall be allowed only with the prior permission of the EAC (for Category 'A'), SEIAA (for category 'B') and DWCC(for category 'C') is obtained.

Further notwithstanding the provisions above under Rules 4 (1) & (2), the power to convert a wetland under Category 'A' to non-wetland use shall vest with the Central Government, conversion of wetland under category 'B' shall vest with the State Government after seeking prior approval of the Central Government and for conversion of wetland under category 'C' shall vest with the District Magistrate after seeking prior approval of the State Government.

No wetland will be converted to non-wetland use unless it is in public interest and detailed reasons are mentioned.

Provided further any change in category of land use shall be in accordance with the Town and Country Planning Acts, of the respective States/UTs.

6. Penal provisions:

Whoever fails to comply with or contravenes any of the provisions of these Rules or order issued thereunder, shall be liable for action under the provisions of the Environment (Protection) Act, 1986

7. Categories of wetlands for Regulation

Based on the relative significance of the functions performed by wetlands for overall well being of the people; and for determining the extent and level of regulation, wetlands shall be identified and categorised as given below.

i) Category 'A'

Wetlands shall be categorised under this category based upon all or any one of the following criteria:

- a) Wetlands listed under the Ramsar Convention
- b) Wetlands recognized as or lying within a world heritage site or a national heritage site
- c) Transboundary wetlands
- d) Inter-state wetlands which do not fall under category B or C;
- e) Wetlands with an area equivalent to or more than 1000 ha in arid regions, 5000 ha in semi-arid regions, 10,000 ha in sub-humid and 1,00,000 ha in humid tropic regions; and
- f) Wetland which is a major source of drinking water for 'Class A' cities.

ii) Category 'B'

Wetlands shall be identified & categorised under this category based upon all or any of the following criteria:

- a) Wetlands recognized as, or lying within, a state heritage site;
- b) Wetlands with an area of 25 ha but below 1000 ha in arid regions, 100 ha but below 5000 ha in semi-arid regions, 500 ha but below 10,000 ha in sub-humid; and 2,500 ha but below 1, 00,000 in humid tropic regions;
- c) High altitude wetland at 2,500 metres or more above mean sea level; and
- d) Wetland which is a major source of drinking water for 'Class B' towns.

iii) **Category 'C'**

Wetlands shall be identified & categorised under this category based upon all or any of the following criteria:

- a) Wetlands other than those covered under category A and B;
- b) Wetland with an area less than 25 ha in arid regions, less than 100 ha in semi-arid region, less than 500 ha in sub-humid and less than 2,500 ha in humid tropic regions;
- c) Wetland which is a major source of drinking water for local communities involving at least 100 households; and
- d) Wetland which is socially and/or culturally important to the local communities.

Explanation: A wetland proposed for identification should be free from 'Conflict of Interest'.

8. Categories of Proponents for Initiation of the Proposal

The categories of proponents initiating the proposal for identification of a particular wetland shall be as follows:

- (a) A Central/State or Local Public Organization
- (b) A recognized University/Research Institution
- (c) A recognized Community Based Organization (CBO)
- (d) A registered Industrial Association

9. The Constitution and Composition of Central/State/District Regulatory Authorities will be as follows:

- At the Central Government level, an Expert Appraisal Committee (EAC) constituted under the provisions of sub-section (3) of section (3) of the Environment (Protection) Act, 1986 vide Notification No.1067 dated 14.09.2006 will function as Regulatory Authority.
- The regulatory functions at State/UT level will be discharged by the State Environment Impact Assessment Authority (SEIAA) constituted under the provisions of sub-section (3) of section (3) of the Environment (Protection) Act, 1986 vide Notification No.1067 dated 14.09.2006 will function as Regulatory Authority.
- At the District level, the regulatory functions will be discharged by the District Wetland Conservation Committee (DWCC).

For assessing that the identified wetlands are conserved and to monitor and review the progress of implementation of these regulations, the constitution of the Committees at various levels will be as follows:

- 1) The Central Government shall, constitute a Committee to be called as Central Wetlands Conservation Committee (CWCC).
- 2) The Committee shall consist of the following members, namely:
 - a) a Chairperson, who shall be an eminent person having adequate knowledge and experience in wetland and lake conservation and other related issues, to be nominated by the Central Government;
 - b) The Chairperson shall nominate one of the members as the Vice-Chairperson who shall preside over the Committee meetings in the absence of the Chairperson.
 - c) a Member-Secretary, who shall be a representative of the Ministry of Environment and Forests, dealing with Wetland Conservation Programme in the Ministry; and nominated by the Secretary (E&F);
 - d) total number of members will not exceed seventeen including Chairman, Member Secretary and Professionals or Experts in various wetland related disciplines which include Aquatic Biology, Ecology, Hydrology, Limnology, Forestry, Soil Chemistry, Watershed Management (including ground water management), Sociology, Economics, Law and Public Administration.
 - e) The terms of conditions including payment of honorarium, etc., of the Chairperson, Member Secretary and other members shall be as per norms of the Government of India, issued from time to time for such Committees.

10. Constitution and Composition of State Wetlands Conservation Committee (SWCC)

- 1) The State Government shall, constitute a Committee to be called State Wetlands Conservation Committee (SWCC).
- 2) The Committee shall consist of the following members, namely:
 - (a) a Chairperson, who shall be an outstanding and experienced environmental policy expert or expert in environmental management or public administration, having national or international recognition, to be nominated by the State Government;
 - (b) The Chairperson shall nominate one of the members as the vice-chairperson who shall preside over the Committee meetings in the absence of the Chairperson;
 - (c) a Member-Secretary, who shall be a representative of the Department in the State, dealing with wetland related issues;

- (d) Total number of members shall not exceed twelve including the Chairman, Member Secretary and professionals or experts in various wetland related disciplines which include Aquatic Biology, Ecology, Hydrology, Limnology, Forestry, Soil Chemistry, Watershed Management (including ground water management), Sociology, Economics, Law and Public Administration.
- (e) The terms of conditions including payment of honorarium, etc., of the Chairperson, Member Secretary and other members shall be as per norms of the State Governments concerned, issued from time to time for such Committees.

11. Constitution and Composition of District Wetlands Conservation Committee (DWCC)

The State Government shall, constitute Committees at district level to be called District Wetlands Conservation Committee (DWCC).

- (a) It shall be chaired by the District Magistrate and shall be assisted by four experts in wetland related disciplines which include Hydrology, Forestry and Wildlife, Limnology, Sociology and other disciplines as mentioned under Section 9 (2)(c).
- (b) The Chairperson shall nominate one of the members as the vice-chairperson who shall preside over the committee meetings in the absence of the Chairperson
- (c) The Member-Secretary shall be a representative of the department in the district and nominated by District Magistrate.
- (d) Total number of members will not exceed nine including the Chairman, Member Secretary, experts and the three representatives, one from Zila Parishad, and one each by rotation from the village/block samities.
- (e) The terms of conditions including payment of honorarium, etc., for Vice-Chairperson, Member Secretary and other members shall be as per norms of the State Government, as issued from time to time.

12. Functions and Powers of the Committees

The Committee shall have the powers to:

- a) to recommend proposal for identification of wetlands;
- b) to finalize demarcation of the boundaries and zone of influence of the wetlands after determining the pre-existing rights, method of involvement of local communities in decision making, and responsibilities of local communities for conservation of the wetland ecosystems;
- c) to get the five year perspective Management Action Plan prepared for the identified wetlands and recommend to government for approval or otherwise

- d) to oversee activities as specified in the Management Action Plans of the particular wetland.
- e) to oversee implementation of the provisions of these Rules
- f) to promote research and disseminate findings of such research among stakeholders under clause (vi), (viii), (ix), (x), (xii) of sub section (2) of section (3) of E(P) Act., 1986
- g) to raise awareness about the utility of the wetlands in general and the designated wetlands in particular;
- h) to issue guidelines for the purpose of conservation and wise use of wetland;
- i) to advise Central Government, State Government and local bodies, as the case may be, on regulation of wetlands which are major source of drinking water for 'Class A', Class 'B' cities and local bodies, respectively.

13. Approval procedure for category 'A' wetlands

- 1) Proposal for identification of a wetland under these Rules shall be submitted at the Central Govt. Level to the CWCC containing information on:
 - 1) a broad geographic delineation of the wetland, and its zone of influence along with a map (not necessarily to the scale),
 - 2) the size of the wetland,
 - 3) threats to the wetland;
 - 4) activities needing regulation;
 - 5) account of pre-existing rights and privileges, consistent or not consistent with the ecological health of the wetland;
 - 6) the proposed regulatory measures
- 2) The Committee shall review the proposal in the next meeting convened within a period of **forty five days** from the date of receipt of the proposal.
- 3) The Committee may either reject the proposal which closes the case; or it may grant approval.
- 4) In the case of its finding merit in the proposal, the draft notification will be prepared by the Committee.
- 5) The wetland would be notified by the Central Government on the recommendation of the committee.
- 6) In case of approval, the Committee may request for preparation of a comprehensive document by a professional body in the light of the detailed TOR prescribed by the Committee
- 7) A professional body will prepare the Draft Comprehensive Document (DCD) as per the TOR.
- 8) Based on the DCD, an initial public consultation shall be held by the State Pollution Control Board.

- 9) The professional body will prepare the revised second DCD in the light of the outcomes of the initial public consultation.
- 10) The revised DCD will be reviewed by the Committee and approve the same as Management Action Plan (MAP) for the wetland.

14. Approval procedure for category 'B' and 'C' wetlands

- 1) The process for identification of category 'B' and 'C' wetlands and approval to the MAPs shall be as indicated in Section 13, except that the Committee in the case of the category 'B' wetlands will be SWCC and in the case of category 'C' will be DWCC.
- 2) The final notification for identification of wetlands shall be issued by the State Govt./UT Administration.

16. Terms of References for CWCC

- 1) The maximum tenure of the chairperson and experts members shall be for two terms of three years each.
- 2) The Committee shall be re-constituted after every three years.

17. Terms of References for SWCC

- 1) The maximum tenure of a Member shall be for two terms of three years each.
- 2) The Committee shall be re-constituted after every three years.

18. Terms of References for DWCC

- 1) The chairperson shall be assisted by locally available experts in one or more areas of conservation and other related disciplines.
- 2) The conservation and sustainable use of wetland resources at village level will be the responsibility of the village Panchayat.
- 3) The maximum tenure of a Member shall be for two terms of three years each.
- 4) The Committee shall be re-constituted after every three years.

19. Effect of overlapping Legal Provisions

- 1) A given wetland shall be regulated by one identified agency only.

- 2) Wetlands lying within the protected area of National Parks and Wildlife Sanctuaries shall be regulated under the Wildlife Protection Act, 1972.
- 3) Wetlands lying within the notified forest areas shall be regulated by the Indian Forest Act, 1927 and the Forest Conservation Act, 1980; and the relevant provisions of the Environment (Protection) Act, 1986 after the issuance of this notification under the Section 3(3).
- 4) The Wetlands outside protected or notified forest areas shall be regulated by the relevant provisions of the Environment (Protection) Act, 1986 after the issuance of this notification under the Section 3(3).
- 5) While the shortfalls, if any, under the Indian Forest Act, 1927; Wildlife Protection Act, 1972; and the Forest Conservation Act, 1980 may be plugged by invoking provisions of Environment (Protection) Act, 1986, the converse shall not be invoked. i.e. a wetland in protected or notified forests area shall be regulated both by Indian Forest Act, 1927; Wildlife Protection Act, 1972; and the Forest Conservation Act, 1980 as the case may be, and Environment (Protection) Act, 1986; however a wetland outside protected or notified forest area shall be regulated only under Environment (Protection) Act, 1986.

20. Enforcement of regulated activities

The precise enforcement agency shall be identified with reference to the activities to be regulated and the enforcement agencies shall vary from wetland to wetland as given below:

- (a) The identified activities for management and wise use of wetlands within forest and protected areas shall be enforced by the forest officers concerned.
- (b) The identified activities for management and wise use of wetlands outside the forest shall be enforced by the Department/ Institutions/Agencies dealing with the particular activity in the region which may include:
 - i) Local urban and rural body for the activities regarding conversion of wetlands to non-wetlands use, and reclamation and dredging;
 - ii) Department of Revenue for the activities like withdrawal or impoundment or diversion of water; and harvesting and grazing of living or non-living resources;
 - iii) State Pollution Control Board for activities such as. solid waste dumping, and effluent discharges;

- iv) Agency maintaining the wetland for eco-tourism for plying of motorized boats;

21. Obligation of Enforcement Agency

- 1) It shall be incumbent on the part of the Enforcement Agency to submit an Annual Report of enforcement functions performed in respect of the regulated wetlands to the concerned Committee and to EAC/SEIAA/DWCC.

22. Appeals against Regulatory Authority

The appeals against the decisions of the EAC/SEIAA/DWCC shall lie with the Environmental Tribunals.

23. Public Consultation

- 1) Public consultation shall be undertaken before a Management Action Plan for an identified wetland is prepared and/or finalised.
- 2) The public consultation shall ordinarily have two components comprising of:
 - (a) A public hearing at the site or in its close proximity-district wise, to be carried out in the manner prescribed in for ascertaining concerns of local affected persons;
 - (b) Obtain responses in writing from other concerned persons having a plausible stake in the environmental and economic aspects of the proposal.

24. Extent of Powers of Monitoring Committee

- 1) The powers of the Committee shall depend upon the extent and nature of activities to be regulated as per Notification of Regulatory frame work for wetlands.
- 2) The general framework of powers, however, shall be derived from the Environment Protection Act, 1986.

25. Monitoring Mechanism

- 1) MoEF shall institutionalize the process of environmental compliance taking into account the technical capacities and monitoring infrastructure and ensuring safeguards against the possible conflict of interests or collision with the monitoring entities.

- 2) The responsibility for monitoring shall vest with the CWCC, SWCC, DWCC and voluntary agencies.
- 3) Both the Central and the State Governments shall take measures including capacity development initiatives to enable Panchayati Raj institutions, urban local bodies and community-based organizations to undertake monitoring of compliance with conditions in respect of regulated activities.
- 4) The local and urban rural bodies shall be encouraged to annually report their environmental performance to their apex level executive bodies.

26. Process for Regulatory frame work of Wetlands

- 1) Committee makes list of potentially regulated wetlands.
- 2) The process shall begin with the submission of preliminary document by the proponents to CWCC, SWCC and DWCC.
- 3) The document shall be reviewed by concerned regulatory committees, viz., CWCC, SWCC and DWCC. These authorities shall also undertake preparation of detailed TOR for the document.
- 4) The professional body prepare the detailed document for the CWCC and send it to SWCC for their views.

27. Annual report

It shall be incumbent on the part of the Committee to submit an annual report of the functions performed in respect of the regulated wetlands to the concerned government.

28. Power to make rules

- 1) The powers of the Committee shall depend upon the extent and nature of activities to be regulated as per Notification of Regulatory frame work for wetlands.
- 2) The general framework of powers, however, shall be derived from the Environment Protection Act, 1986.
- 3) The provisions of the National Environment Policy, 2006 shall provide guidance on the powers of the said Regulatory Committees.
