

Ministry of Environment and Forests (MoEF)  
**Notification on Regulatory Framework for Wetlands Conservation**

*Comments submitted by:*

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**Important Points**

Wetlands have for long remained undefined and there has not been any special enactments for their conservation although they are providing crucial ecosystem services and are sensitive ecosystems with high biodiversity values. In this background we welcome the Ministry of Environment and Forests (MoEF) effort in drafting the notification on Regulatory Framework for Wetland Conservation in exercise of powers conferred by the Environment (Protection) Act (EPA), 1986. The framework's potential to integrate and coordinate various sectoral activities in wetlands, that usually operate in uncoordinated manner is laudable. Wetlands are also finally being recognised as distinct eco-systems with significant services to offer. The National Environment Policy, 2006, stressed the importance of wetlands as ground water resources that need legally enforceable regulations. In the context we welcome the coordinated manner in which policy guidelines of the NEP are sought to be implemented through the new wetland (conservation and management) rules.

We also wish to point out certain shortcomings in the draft Regulatory Framework for Wetlands Conservation. We hope they are addressed or clarified when the wetland rules are officially finally notified.

- Millions of poor people in the country are traditionally dependent on wetlands for their primary livelihood. Wetland services play a significant role in the well-being of the dependents and larger regional economies. The draft Regulatory Framework for Wetlands Conservation does not recognize the traditional rights over the wetlands for livelihoods even as it seeks to regulate such activities (sect 4(2)). Communities and their representatives are already concerned that such regulation can become prohibitive.
- The Sixth Conference of Parties of Ramsar Convention has called upon the Contracting Parties “*to make specific efforts to encourage active and informed participation of local and indigenous people at Ramsar listed sites and other wetlands and their catchments, and their direct involvement, through appropriate mechanisms, in wetland management*” (Recommendation 6.3 of Ramsar COP6 1996). No such efforts are made in this draft Regulatory Framework for Wetlands Conservation to ensure the involvement of the communities and local stakeholder groups in the management of the wetlands. So it is suggested to ensure the representation of the elected representatives and representatives of traditional stakeholder communities to the Central, State and District Wetland Conservation Committees.

- The draft Regulatory Framework for Wetlands Conservation centralizes powers to the Expert Appraisal Committee (EAC) and Central Wetlands Conservation Committee (CWCC), at least for the Category ‘A’ wetlands. Rather than such centralized institutions, a decentralized system of empowered institutions would be more effective and efficient. While the EAC can ‘regulate’ category A wetlands, SWCCs can effectively discharge the duties currently assigned to CWCC. The responsibilities of CWCC should be limited to provide advisory support to the overall wetland conservation efforts.
- The explanation of Section 7 states “ *A wetland proposed for identification should be free from ‘Conflict of Interest’*” This looks like a potential backdoor entry for vested interests. Clearly industry and real estate have conflicting interests with the stated objectives and proposed restrictions. If a wetland satisfies all the criteria for Notification, how can a ‘conflict of interest’ keep it outside the purview of this Act? This explanation has to be removed.
- Being a signatory to the Ramsar convention, India is committed to have a National Wetland Policy. It would have been ideal if the wetland regulatory framework was drafted based on a National Wetland Policy.

### **Section-Wise Comments**

The following are **additional** section-wise comments, after an analysis of the new rules that were read along with relevant provisions of the EPA, and the Coastal Regulation Zone, 1991 (CRZ) and the draft Coastal Zone Management (CZM), 2008, notifications.

#### **Purpose**

The importance of wetlands in livelihoods of poor people and the effect of degradation of wetland ecosystem services on poverty and vulnerability should be highlighted in the purpose section.

#### **Section 2: Definitions**

##### ***(b) Wetland –***

Most of the important wetlands and reservoirs are deeper than 6 metres. The 6 meter depth delimitation in Ramsar definition is pertaining only to the marine wetlands. The application of this delimitation across all wetlands may be avoided.

##### ***Wetland Explanation-***

In the explanation, paddy fields seem to be excluded. But many wetlands have vast areas of paddy fields interspersed amidst, and these paddy fields provide important wetland functions such as hydrologic and biodiversity support (eg: tank beds of Karnataka and Tamilnadu, Vembanad-Kol Ramsar site and Kuttanad in Kerala). Paddy fields which are integral part of the wetlands should be brought under the purview of this Act.

##### ***(e) Dredging-***

The sense with which dredging is used is limited. Dredging, besides for navigation, can also occur for commercial purposes such as sub-fossil extraction for white clam (lime shell) collection by cement enterprises in Vembanad-Kol

### **Section 3: Application (Identification & Notification)-**

On a general note we would like to mention that a long drawn process of identification and notification of wetlands could prove counterproductive. Instead, every wetland qualifying as such as per- the definition should be brought under this Act, without any special notification. The notification process can be a requisite only for the declaration of category 'A' and 'B' wetlands

### **Section 4: Restriction on Activities within Wetlands**

#### ***4(1): Prohibited Activities-***

Non-wetland uses is sought to be prohibited. However a more precise definition of 'non-wetland' use is required.

#### ***4 (2): Regulated Activities-***

- It need to be clarification about whether the regulated activity “*Withdrawal of water/impoundment /diversion/interruption of sources*” pertain to the entire catchment of wetlands?

For instance as the source of most wetlands are rivers, what could be the regulatory scope vis-à-vis upstream developments such check dams, diversion for irrigation etc? Further if water withdrawal, impoundment etc become regulated activities, such regulation can also have negative consequences for agriculture, aqua-culture etc and other traditional livelihoods.

- *Harvesting (living & non-living)-*

Regulating primary livelihood activities of traditional communities will have adverse impacts and will result in the escalation of poverty and vulnerability. These activities should be defined and excluded from the regulation. Any unhealthy and detrimental practices followed by these communities could be regulated or even prohibited based upon the Management Action Plans (MAP).

- *Dredging-*

Dredging for commercial purposes (e.g. sand mining, sub-fossil extraction) needs to be a regulated activity.

- *Construction-*

The fifty meter stipulation is impractical in many wetlands, especially for those in densely populated areas where houses are built literally on the embankments. So 'individual housing constructions' should be excluded from the purview of the Act and the size of the construction may be delimited. However the fifty meter stipulation can be useful in regulating future constructions for commercial purposes.

### **Section 7: Categories of wetlands for regulation-**

The explanation at the end of this section states “*A wetland proposed for identification should be free from 'Conflict of Interest'*” This looks like a potential backdoor entry for vested interests. Clearly industry and real estate business have conflicting interests with the stated objectives and proposed restrictions. If a wetland

satisfies all the criteria mentioned before, how can a ‘conflict of interest’ keep it outside the purview of this Act? This explanation has to be removed.

**7(i): Category ‘A’**

- It is provided that Category ‘A’ wetland includes all Ramsar sites. However not all Ramsar sites lend themselves easily to this category because of the exclusions in the wetland definition given in Section 2 b (eg: Point Calimere, Ashtamudy, Vembanad-Kol). Regardless of the exemptions in the wetland definition, all Ramsar sites should be brought under the purview of this act.
- Irrespective of the size, wetlands that perform critical ecological / biodiversity functions (eg: harbouring critical population of endangered species) need to be included under category ‘A’.

**Section 8: Categories of Proponents for Initiation of Proposal:**

The State Government, Local Self Governments and Non-Government Organizations also should be included in the list of proponents for initiating the proposal for identification of the wetlands.

**Section 13 & 14: Approval Procedure for Category ‘A’, ‘B’ and ‘C’ Wetlands-**

- It needs to be ensured that the TORs for the Professional Body include consultations with local bodies and community stakeholders.
- Trans-boundary wetlands can be notified and monitored in a coordinated manner by respective WCCs.

**Section 20: Enforcement of regulated Activities-**

An institutional structure to coordinate regulated activities is not provided. Wherever feasible, the Local Self Governments (LSG) covering the wetland area should be considered as the enforcement agency. If the MAP requires complex integration of multiple agencies, we suggest that integrating mechanisms and the Enforcement Agency be specified in the MAP.

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