

F. No. 1-23/2014 WL
Government of India
Ministry of Environment, Forest and Climate Change
Wildlife Division

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New Delhi-110003

Dated: 04 January 2018

The Chief Wildlife Warden
All States/UT Governments

Sub: Guidelines for notification of Critical Wildlife Habitats

Sir,

Section 2 (b) Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, provides for determination and notification of 'Critical Wildlife Habitats' within National Parks and Sanctuaries. In this context, the undersigned has been directed to enclose a copy of the guidelines for notification of Critical Wildlife Habitats within National Parks and Sanctuaries.

The State/UT Governments may take further action, as appropriate, in accordance with the provisions contained in the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Yours faithfully,


(S.P. Vashishth)

Deputy Inspector General of Forests (WL)
Tel: 011-24695355

Encl: As above.

Copy to:

1. Principal Secretary (Forests), all States/UT Governments.
2. The Joint Secretary, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi.

**Guidelines for determination and notification of Critical Wildlife Habitats
within National parks and Sanctuaries**

Preamble:

The purpose of these Guidelines is to detail the procedure for determining and notifying inviolate areas within National Parks and Wildlife Sanctuaries for wildlife conservation known as Critical Wildlife Habitats as required by the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006. These conform to the mandatory requirement of the Scheduled Tribes and other Traditional Forests Dwellers (Recognition of Forest Rights) Act, 2006.

1. Background:

1.1. As per the sec 2(b) of FRA, 2006, the Ministry of Environment and Forests (MoEF) has been identified as the agency to determine and notify Critical Wildlife Habitats (hereinafter referred to as CWH). The Ministry of Tribal Affairs (MoTA) is the nodal ministry for recognition and vesting of individual and community forest rights. Therefore, these guidelines have been framed to determine and notify CWH within National Parks and Wildlife Sanctuaries, to harmonize the provisions of the FRA, 2006 and the Wild Life (Protection) Act, 1972, and to address concerns of conservation of wildlife and its habitat, while safeguarding the forest rights of the Scheduled Tribes and other Traditional Forest Dwellers.

2. Objective:

2.1. The purpose of this guideline is to give effect to the provisions of the FRA, 2006, which envisage the creation of inviolate spaces(CWH) within National Parks and Wildlife Sanctuaries, so as to ensure the conservation of, and the prevention of damage to, wildlife and its habitat within the determined area.

2.2. The Wild Life (Protection) Act, 1972 provides for the conservation and management of National Parks and Wildlife Sanctuaries. The FRA, 2006 applies to National Parks and Sanctuaries, where forest rights are being recognized and vested in Scheduled Tribes and Other Traditional Forest Dwellers in such areas. These rights can only be modified or resettled as per the provisions of the FRA, 2006.

2.3. These objectives are to be achieved following a process, which is simple, implementable, acceptable, and can be completed within a reasonable time frame.

3. Relevant provisions of the FRA, 2006 for determination of the Critical Wildlife Habitat:

3.1. The relevant provisions in the FRA, 2006 relating to the determination of CWH and allied issues, in National Parks and Wildlife Sanctuaries, are contained in sections 2(b) and 4 (1) & (2).

3.2. Section 2(b) of the Act defines Critical Wildlife Habitats as follows: “ *‘Critical Wildlife Habitat’ means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purpose of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment, Forest and Climate Change after an open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-section (1) and (2) of section 4.*”.

3.3. Section 4(1) of the FRA, 2006 recognizes and vests forest rights in Scheduled Tribes and other traditional forest dwellers. The Forest Rights are listed in section 3 of the FRA, 2006, which, inter-alia, secure individual or community tenure or both.

3.4. Section 4(2) of the Act provides that the forest rights provided under section 3 of the FRA, 2006 can subsequently be modified or resettled outside the Critical Wildlife Habitats. However, no forest rights of Scheduled Tribes and other traditional forest dwellers can be modified or resettled from any CWH unless all the provisions of section 4(2)(a) to (f) of the FRA, 2006 are complied with, namely:

a) *The process of recognition and vesting of rights is completed as per section 6;*

b) It has been established by the State Government that the presence or the activities of the holders of forest rights will cause irreversible damage and threaten the existence of said species and their habitat;

c) The State Government has concluded that other reasonable options such as co-existence are not available;

d) A resettlement or alternatives package has been prepared and communicated which provides a secure livelihood to the affected individuals and communities;

e) The free informed consent of Gram Sabha has been obtained in writing to the proposed resettlement and the package;

f) Facilities and land allocation at the resettlement location are complete as per the promised package.

3.5. Notwithstanding the provisions of the Wild Life (Protection) Act, 1972, the FRA, 2006 provides that the procedure of admitting claims, and recognizing and vesting forest rights within National Parks and Wildlife Sanctuaries has to be undertaken by the Gram Sabha, the Sub-Divisional Level Committee and finally the District Level Committee under Section 6 of the FRA, 2006.

3.6. The procedure prescribed for determination of CWH by this Guideline has been formulated with the above legal framework in mind.

4. Definitions.-

4.1. In these Guideline, unless the context otherwise requires-

(a) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);

(b) "Protected Area" means a National Park or a Sanctuary as notified under the relevant provisions of Wild Life (Protection) Act, 1972 (53 of 1972);

(c) "Expert Committee" means the Committee set up by the State/Government of Union Territory Chief Wildlife Warden as authorized by Central Government in accordance with clause (b) of section 2 of the Act and as provided in rule 4 of these rules;

(d) Standing Committee of National Board of Wild Life means the Committee as prescribed in section 5B of the Wild Life (Protection) Act 1972 (53 of 1972), for advising the Central Government on wild life related matters;

(e) State Board for Wild Life means the Board constituted in accordance with the section 6 of Wild Life (Protection) Act 1972 (53 of 1972) to advise the State Governments on wild life matters.

4.2. The words and expression used herein and not defined, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

5. Constitution of Expert Committee:

5.1. In exercise of the powers conferred by clause (b) of section 2 of the Act, the State Chief Wildlife Warden of the Government, on behalf of the Central Government, shall, with the approval of the State/UT Government, notify Expert Committee(s), for the purpose of identification of Critical Wildlife Habitats in a National Park or Sanctuary and the Expert Committee shall consist the following composition:-

(1)	An officer of the State Forest Department not below the rank of a Chief Conservator of Forests having jurisdiction over the National Park/Sanctuary	Chairperson
(2)	Representative, Ministry of Tribal Affairs, Government of India	Member
(4)	One social scientist	Member
(5)	Two experts on life sciences (Ecology, Zoology, Botany, Wildlife Science etc)	Member(s)
(6)	Panchayat President/Sarpanch of each local Panchayat covering the area of the National Park/Sanctuary or a member of the Panchayat nominated by the Sarpanch	Member (s)
(7)	Officer in charge of National Park/Sanctuary not below rank of an Assistant Conservator of Forests in which area the said National Park/Sanctuary is situated	Member-Secretary

6. Identification of Critical Wildlife Habitats:-

6.1. The Expert Committee shall identify areas within the National Park or Sanctuary required to be kept inviolate for the purpose of wildlife conservation and the said Committee may conduct necessary field visits and undertake identification of Critical Wildlife Habitats, based on scientific and objective criteria relevant to the National Park or Sanctuary.

6.2. The Expert Committee shall adopt an open process of consultations with, the forest rights holders, in their local precincts, to solicit their views on the proposed notification of Critical Wildlife Habitats.

6.3. The record of the proceedings of the Committee shall be maintained for submission to the Ministry of Environment, Forest and Climate Change along with the proposal for notification of Critical Wildlife Habitats.

7. Consultation by the Expert Committee:-

7.1. After preliminary identification of area within National Parks or Sanctuary for notification as Critical Wildlife Habitat where resettlement or modification of forest rights is proposed based on clear scientific and objective criteria, the Chairman of the Expert Committee shall issue public notice on the intention to notify the Critical Wildlife Habitat.

7.2. The public notice shall be issued at least 15 days prior to conducting the open consultation with the stakeholders.

7.3. The public notice shall, contain least the following details:

- (i) area(s) identified within the National Park/Sanctuary with clear boundary description, to be notified as Critical Wildlife Habitat;
- (ii) scientific and Objective criteria adopted in identification of the Critical Wildlife Habitat;
- (iii) implication of the notification on the existing rights including modification or resettlement thereof, as proposed;
- (iv) all options on resettlement and rehabilitation schemes if any, proposed;
- (v) issues pertaining to human-wildlife conflict, if any and;

- (vi) the date, time and venue of the open consultation, which shall be within the precincts of the people living in the area proposed to be notified as Critical Wild Life Habitat.

7.4. The public notice shall be circulated to all concerned offices of the Department of Tribal Affairs; Local Bodies; District Collector, Sub-collector, Taluk officers and all the concerned Forest Offices (Chief Conservator of Forests; Conservator of Forests; Deputy Conservator of Forests/Divisional Forest Officer; Range Forest Officer; Section foresters; Beat Guard); besides giving adequate publicity by suitable means locally.

7.5. Arrangements for conveyance of the people living in the habitations located within the area proposed to be notified as Critical Wild Life Habitat shall be made by the Forest Office concerned.

7.6. The Expert Committee shall carry out extensive and open consultation with all the stakeholders, on the date(s) and place as specified in the public notice and the proposal shall be explained in local language in detail before seeking the views of the participants.

7.7. The proceedings of the open consultation shall be documented appropriately, including views and opinions expressed by the beneficiary communities. specifically recording objections, if any, and basis thereof, as narrated by the concerned.

8. Quorum: The Quorum for the meetings of the Expert Committee shall be 75 percent of the Members.

9. Process of submission of proposals for notification of Critical Wildlife Habitats-9.1. Based on the scientific determination of Critical Wildlife Habitats and open consultations with the forest rights holders, the Expert Committee shall submit a proposal for the Critical Wildlife Habitat to the Chief Wildlife Warden and the proposal shall be accompanied by a map, preferably on 1:50,000 scale and a digital map (shape file), of the National Park or Sanctuary concerned and the area finally identified and proposed as Critical Wildlife Habitats.

9.2. The proposal shall also be supported by the documentation referred in 6.3 and 7.7.

9.3. On receipt of the proposal of the Expert Committee, the Chief Wildlife Warden shall scrutinize it and arrange to place the proposal for advice of the State Board for Wildlife to the State/ Union Territory Government.

9.4. The State/ Union Territory Government, shall forward the proposal, along with the recommendation of the State Board for Wildlife, to the Ministry of Environment, Forest and Climate Change.

9.5. The Ministry of Environment, Forest and Climate Change shall, on receipt of the proposal along with the State Government's recommendation thereon, place it before the Standing Committee of National Board for Wildlife for its consideration.

9.5. In accordance with clause (b) of section 2 of the Act, a nominee of the Ministry of Tribal Affairs shall be invited during deliberation of the said proposal by the Standing Committee of National Board for Wildlife.

9.6. After consideration of the recommendation of the Standing Committee of National Board for Wildlife, the notification of the critical wildlife habitats shall be published in the official Gazette.

10. Clarifications and General Principles:

10.1. For a CWH to be really inviolate, it will be essential that an objective assessment of the current pressures and future demands on forest resource for a variety of uses is made. Present and future levels of human-wildlife conflict will also need to be factored in and discussed with the local communities to evaluate the long term viability of residing and earning livelihood within the area of the CWH.

10.2. A CWH may extend to the entire area comprising a National Park or Wildlife Sanctuary, or only a part of it, as is scientifically and objectively determined by the Expert Committee.
