

To,  
The Secretary,  
Ministry of Environment, Forest and Climate Change.  
Indira Paryavaran Bhavan.  
Jorbagh Road, New Delhi-110003  
Emails: [b.sikka@gov.in](mailto:b.sikka@gov.in), [ram.jindal@nic.in](mailto:ram.jindal@nic.in), [c.singh@nic.in](mailto:c.singh@nic.in)

Sir,

**Sub: Comments on Wetlands (Conservation and Management) Rules, 2016 Ministry of Environment and Forests (MoEF) Notification (the Gazette of India dt. 31st March, 2016)**

We recognise the need for making amendments to the Wetlands (Conservation and Management) Rules, 2010, [henceforth, Wetland rules- 2010], to make it robust, flawless and working for the conservation and management of the wetlands in the country. But the arguments for superseding the existing Wetland rules-2010 is rather weak or not substantiated. Moreover, the new draft (Wetlands (Conservation and Management) Rules, 2016), henceforth, Wetland rules- 2016 , are very brief, ambiguous and not suggesting any particular measures for the conservation of wetlands in the country.

Wetland rules- 2010 which was notified after several deliberations with experts and civil society (which began in 2008), recognises the wetlands as distinct ecosystems with significant services to offer and further it acknowledges that country's wetlands are threatened by various anthropogenic activities. The Wetland rules-2010 had the potential to integrate and coordinate various sectoral activities those operate in uncoordinated manner in wetlands. It also lists out activities to be prohibited (Sect. 4(1) and activities which require prior permission (Sect. 4(2)) from the wetland authority.

Somehow the Central Wetland Authority could not function or the rules could not be properly implemented. The major drawbacks of the Wetland rules- 2010 were that: i) instead of recognising the traditional rights over the wetlands for livelihood support functions, it regulates such activities (sect 4 sub sect. 2(ii)); ii) it fails to integrate wetland conservation with sectoral development plans for poverty alleviation and livelihood improvement; and iii) does not promote wise use.

The decision to supercede the Wetland rules comes at a time when many states have initiated steps to implement the rules and has already set up State Wetland Authorities (e.g. Kerala).

Instead of ameliorating the existing Wetland rules- 2010, the ministry has decided to replace it with a rather fragile Wetlands (Conservation and Management) Rules, 2016.

The rules and legislations are often interpreted as the nation's policies and commitments to a particular cause. So the legislations should be drafted with ultimate care, reflecting these commitments. The proposed Wetland rules- 2016 is not making any firm suggestions or assigning any direct responsibilities to the Union Government for the conservation and governance of the country's wetlands. The proposed rules entrusts the sole responsibility of wetland conservation with the respective state government. Being a signatory to the Ramsar Convention, the Union Govt. should take active roles for conservation and to ensure wise use of wetlands to accomplish the constitutional responsibility (Sect. 48A) entrusted to it.

Definition of wetlands (Sect. 2 (i): Apart from defining the wetlands, Wetland rules- 2010 (Sect. 3) lists out the kinds of 'Protected wetlands' based on their ecological and social significances. The proposed rules do not list out or prioritise any wetland categories for conservation, other than appending a list of Ramsar sites. Similar to the Wetland rules- 2010, the proposed rules also excludes rivers and paddy fields.

Terminology: The proposed draft rules uses several ecological jargons such as ‘ecological character’ ‘ecosystem components’, processes and services etc. many of which are subjective and ambiguous even among ecologists. With all the ecological jargons and kind of activities (powers?!) entrusted to the proposed authority, it sounds more like a research proposal rather than a legislation. It is not advisable to use such ambiguous technical terms and language in a serious legislation unless it can be clearly defined and can withstand in the court of law.

Sect. 4 (Restrictions of activities in wetlands) is very vague, ambiguous and subjective. It bundles together some suggestions for conservation, wise use and restrictions. It is not sure whether the conservation and management should be restricted within the listed principles or the listed principles should be restricted (?!). The proposed rules are not suggesting any firm actions to protect, conserve and restore country’s wetlands. By stating “shall be conserved and managed” (Sect. 4) and “following activities shall be prohibited in wetlands” (Sect. 4 (2)), keep wetlands open for exploitation and pollution until the state governments notifies that a particular wetland should be conserved and the law is enforced by concerned agencies. Instead, the Section 4 should be modified and elaborated [in line with the Chapter III of Environment (Protection) Act - 1986 (Prevention, Control and abatement of Pollution)] preventing conversions, reclamations and non-wetland use of wetlands. This section also should elaborate measures for the conservation and restoration of wetlands. [The Draft Wetland rules 2008 and to an extent Wetland rules 2010 also had several such measures].

Though the structure of proposed wetland authorities (Sect. 5(4)) chaired by respective state Chief Ministers are very top heavy with the membership of almost a dozen Departmental Secretaries, the new rules are not providing any power to the authorities for the effective conservation and management of wetlands. The role of proposed authorities are restricted to conduct inventorying the wetlands, preparing management plans and coordinating with ‘line departments’ for the implementation of the Management plans. The process of ‘inventorying to preparation of management plans’ could be a Sisiphean exercise demanding plenty of resources, trained manpower and expertise. Though majority Ramsar sites were designated more than a decade back, except for Chilka, no management plans could be prepared for any Ramsar sites till today.

6th Conference 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 Wetland rule 2016 to ensure the involvement of the communities and local stakeholder groups or even the elected representatives (of Parliament, Assembly & Panchayats) in the management of the wetlands.

The Rules (for conservation) are legal statements about what actions are “required, prohibited, or permitted and the sanctions authorized if the rules are not followed”. Unfortunately the draft Wetland rules- 2016 are not accomplishing any of these criteria. **This draft rules are inept and process is Sisiphean. We fear that, it can jeopardize country’s wetland conservation if implemented. So we request you not to proceed with this draft Wetland rules- 2016 and to take steps to ameliorate the existing Wetland rules- 2010 instead.**

The team Involved in this discussion:

Dr. Priyadarsanan Dharma Rajan  
Jojo T.D.  
Ashish George Mathew

Email: [priyan@atree.org](mailto:priyan@atree.org)  
Mob: 9449057364