

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

6th Floor, Vayu Block,
Indira Paryavaran Bhawan
Jor Bagh Road,
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

