

कार्यालय प्रधान मुख्य वन संरक्षक राजस्थान, जयपुर

क्रमांक: एफ 14(High Level Committee )14 / वसु / प्रमुवसं / 8245 दिनांक 31.10.2014

अति० प्रधान मुख्य वन संरक्षक  
सूचना प्रौद्योगिकी,  
अरावली भवन, जयपुर ।

विषय:—High Level Committee (HLC) to review five major  
Acts administered by Ministry of Environment,  
Forests & Climate Change- Comments Solicited-reg.

संदर्भ:—शासन सचिव, वन विभाग, राजस्थान, जयपुर का  
पत्रांक एफ 4 (9) फॉरेस्ट / 2014 दि. 27.10.14

महोदय,

उपरोक्त विषयान्तर्गत एनवायरमेंट (प्रोटेक्शन) एक्ट, 1986,  
एयर (प्रिवेन्शन एण्ड कंट्रोल ऑफ पॉल्युशन) एक्ट, 1981, वाटर (प्रिवेन्शन  
एण्ड कंट्रोल ऑफ पॉल्युशन) एक्ट, 1974, वन संरक्षण अधिनियम, 1980  
सेक्शन 2 व वन्यजीव (संरक्षण) अधिनियम, 1972 में प्रस्तावित संशोधन एवं  
संदर्भित पत्र की प्रति संलग्न प्रेषित कर निवेदन है कि उक्त प्रस्तावित  
संशोधनों को विभागीय वेबसाईट में अपलोड करते हुए 10 दिवस में संबंधित  
विभागों तथा जन सामान्य से सुझाव आमंत्रित करने का कष्ट करें तथा साथ  
ही एक प्रेस नोट भी जन सामान्य से उक्त संशोधनों के संबंध में  
टिप्पणी / सुझाव चाहने बाबत संलग्न प्रेषित है।

संलग्न:—उक्तानुसार।

भवदीय

अति० प्रधान मुख्य वन संरक्षक,  
वन सुरक्षा, वनभवन, जयपुर

## कार्यालय प्रधान मुख्य वन संरक्षक राजस्थान, जयपुर

क्रमांक: एफ 14(High Level Committee )14 / वसु / प्रमुवसं / दिनांक

### प्रेस विज्ञप्ति

सर्वसाधारण को सूचित किया जाता है कि पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार द्वारा अधिनियंत्रित निम्नांकित 5 अधिनियमों यथा :- (1) एनवायरमेंट (प्रोटेक्शन) एक्ट, 1986 (2) एयर (प्रिवेन्शन एण्ड कंट्रोल ऑफ पॉल्युशन) एक्ट 1981 (3) वाटर (प्रिवेन्शन एण्ड कंट्रोल ऑफ पॉल्युशन) एक्ट 1974 (4) वन संरक्षण अधिनियम, 1980 सेक्शन 2 (5) वन्यजीव (संरक्षण) अधिनियम, 1972 में संशोधन के प्रस्ताव चाहे जाने पर राज्य सरकार द्वारा प्रस्तावित संशोधन जारी किये गये हैं जो कि वन विभाग की वेबसाईट पर उपलब्ध है । अतः उक्त संशोधनों के क्रम में अपनी टिप्पणी / सुझाव अति० प्रधान मुख्य वन संरक्षक, वन सुरक्षा, वनभवन, जयपुर को e-mail address:- apccf.prot.forest@ rajasthan.gov.in पर 15 दिवस में प्रेषित करें।

अति० प्रधान मुख्य वन संरक्षक,  
वन सुरक्षा, वनभवन, जयपुर



**MOST URGENT**

**GOVERNMENT OF RAJASTHAN  
DEPARTMENT OF FORESTS**

No. F.4(9)Forest/2014

Jaipur, dated : October 27, 2014

To,

Principal Chief Conservator of Forests (HoFF)  
Rajasthan, Jaipur.

Sub: High Level Committee (HLC) to review five major Acts administered by Ministry of Environment, Forests & Climate Change – Comments solicited –reg.

Ref: D.O. No. F(1)2014/PL dated September 4, 2014 from Shri Bishwanath Sinha, Joint Secretary, Ministry of Environment, Forests and Climate Change, Govt. of India, New Delhi..

FREE

✓ Sir,

In reference to above subject, I am directed to enclose a copy of the proposed amendments as drafted out for the following five acts:-

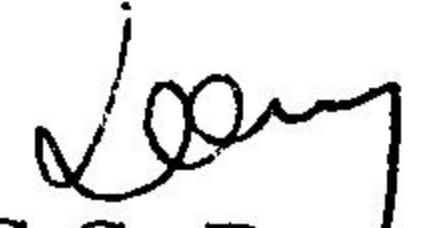
- ✓  
3/X  
(FF)
1. Environment (Protection) Act, 1986.
  2. Forest (Conservation) Act, 1980.
  3. Wildlife (Protection) Act, 1972.
  4. The Water (Prevention and Control of Pollution) Act, 1974.
  5. The Air (Prevention and Control of Pollution) Act, 1981.

9/14

The Chief Secretary has directed that these suggested amendments may be put on the website of the Department for inviting comments in 15 days as well as a press note given by the department saying suggestions are invited on the draft amendments, so that people may give there suggestions. May kindly process the suggestions received from the people and thereafter a meeting at the level of Chief Secretary will be held where all concerned departments and at least 3 NGOs working in these areas have to be called for wider consultation. The draft amendments of the Environmental Acts may also be placed together with Forest Acts at the Forest Department website for suggestions. The press note issued by the Forest Department should also mention about the suggestions required in respect of the Environmental Acts. Environment Secretary is being requested to co-ordinate in this regard by putting a Nodal Officer and for analyzing the comments received on the Environmental Acts. Please suggest the name of NGOs who can be called for the meeting.

19/14

Yours faithfully,

  
(C.S. Rathasamy)  
Secretary, Forest

3625

30.10.14



**PROPOSED AMENDMENTS IN ENVIRONMENTAL (PROTECTION) ACT 1986, AIR (PREVENTION AND CONTROL OF POLLUTION) ACT 1981,  
WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974**

S. No.	Section /Provision	Problem	Proposal
1	The Ministry of Environment and Forest (MOEF) Notification dated 09.09.2013 issued under the Environment (Protection) Act, 1986, regarding requirement of Environmental Clearance (EC) for mines of minor minerals less than 5 ha. Area.	The mining department has expressed its problem regarding delay in sanction of Short Term Permit (STP) / Leases to small mines as the process of obtaining EC is time consuming for small mines having area less than 5 ha.	The State of Rajasthan had amended its Minor Mineral Concession Rules (MMCR) and added a new chapter 4A – “Systematic, Scientific and Environment friendly mining” on 19.06.2012, according to the draft rules recommended by the committee constituted by the Ministry of Mines, GOI and the chapter Environment Management Plan was prepared and Environment Management Fund was created. The State of Rajasthan also submitted a compliance report before the Hon’ble Supreme Court on 11.09.2012. The order of the Hon’ble Supreme Court is still awaited. The MOEF may consider amendment in its Notification dated 09.09.2013 regarding mines having area less than 5 ha to be exempted from the condition of obtaining prior Environmental Clearance keeping in view the Order of Hon’ble Supreme Court.
2	The Environment Impact Assessment ( EIA) Notification dated 14.09.2006 issued under the E.P. Act, 1986 by MOEF, provides requirement of prior EC for new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule annexed to the Notification. Mining of minerals falls in Sector I(a) of the Schedule.	The mining department has expressed its problem regarding requirement of EC for new/additional mineral in an existing mine as the process of obtaining EC is time consuming	The MOEF in its rule making power can simplify the process of obtaining EC. A mining project which has previously obtained EC for specified minerals and particular mining capacity and wishes to add a new mineral to the existing activity may be exempted from taking EC for the new mineral provided the total capacity of the mine remains the same.
3	The Environment Impact Assessment ( EIA) Notification dated 14.09.2006 issued under the E.P. Act, 1986 by MOEF, provides requirement of prior EC for new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule annexed to the Notification. Mining of minerals falls in Sector I(a) of the Schedule.	The mining department has proposed that Mining Projects seeking amalgamation of three/two mines should be exempted from taking EC.	The MOEF in its rule making power may make appropriate amendment in the Notification. Mining Projects seeking amalgamation of three/two mines may be exempted from taking EC provided all such mines under amalgamation have already taken EC under EIA Notification 2006 for a specified mineral, area and capacity and there is no increase in additional mineral, area or total capacity of all such mines amalgamated together.



4	<p>The section 41 of the Water (Prevention and Control of Pollution) Act, 1974 and the section 37 of the Air (Prevention and Control of Pollution) Act, 1981, provide for severe mandatory terms of imprisonment which should not be less than one year and six months but which could extend to six years, for establishing or operating any industry operation or process or treatment and disposal system, without the consent of the State Board or for discharging trade effluent or emissions of air pollutants into the atmosphere beyond the prescribed limits or for making breach of conditions subject to which consent, was granted by the State Board.</p> <p>The section 15 of the Environment (Protection) Act, 1986, also provide for punishment with imprisonment for a term which could extend to five years for contravention of any of the provisions of this Act or the rules or orders or directions issued there under.</p>	<p>While the procedure prescribed for launching prosecution for various offences is very tedious and dilutes the impact, it also does not differentiate between the degree and gravity of the offence.</p> <p>The lack of authority to impose fines currently impedes the effectiveness of the State Pollution Control Board's (SPCB) enforcement efforts.</p>	<p>a) Rather than treating all violations as criminal leading to mere prosecution, provision should be made for imposition of graduated heavy fine (Rs.5,000/- to Rs.1,00,000/-, if such contravention continues then the fine can be increased up to Rs.10 lac ) by officials of SPCB or by officials nominated by the Government of India.</p> <p>(b)However, direct life threatening environmental violations should be made cognizable offences, in which administrative authorities in the Government are empowered to file FIR, investigate and arrest an accused involved in cognizable crime without a court's warrant.</p> <p>(c)The fine recovered through compounding of offence/imposed for violation of provisions of Water Act/ Air Act/Environment Protection Act or recovered under "polluter pays" principle should be made recoverable under specific provisions in the respective laws itself instead of making it recoverable as arrears of land revenue under Public Demand Recovery Act.</p>
---	--	--	--



# PROPOSALS FOR AMENDMENTS IN THE WILDLIFE (PROTECTION) ACT, 1972

S No.	SECTION	PROBLEMS	PROPOSED AMENDMENT
1	Section 6- Constitution of State Board for Wild Life —	<p>There is no provision of a Standing Committee of the State Board for Wildlife at present. There is a need for such a committee to expedite disposal of wildlife issues and clearance of developmental projects on the lines of provision of Standing Committee for National Board of Wildlife under section 5B which reads as under-</p> <p><b>5B. Standing Committee of the National Board —</b></p> <p>(1) The National Board may, in its discretion, constitute a Standing Committee for the purpose of exercising such powers and performing such duties as may be delegated to the Committee by</p> <p>the National Board.</p> <p>(2) The Standing Committee shall consist of the Vice-Chairperson, the Member-Secretary, and not more than ten members to be nominated by the Vice-Chairperson from amongst the members of the National Board.</p> <p>(3) The National Board may constitute committees, sub-committees or study groups, as may be necessary, from time to time in proper discharge of the functions assigned to it.</p>	<p>A provision is required to be included for constitution of the Standing Committee of SBWL on the lines of the NBWL as Section 6 A.</p> <p><b>PROPOSED AMENDMENT:</b></p> <p><b>“6A -Standing Committee of the State Board.-</b></p> <p>(1) The State Board may, in its discretion, constitute a Standing Committee for the purpose of exercising such powers and performing such duties as may be delegated to the Committee by</p> <p>the State Board.</p> <p>(2) The Standing Committee shall consist of the Vice-Chairperson, the Member-Secretary, and not more than ten members to be nominated by the Vice-Chairperson from amongst the members of the State Board.</p> <p>(3) The State Board may constitute committees, sub-committees or study groups, as may be necessary, from time to time in proper discharge of the functions assigned to it”.</p>
2	Section 20- Bar of accrual of rights. — After the issue of a notification under Sec.18, no right shall be acquired in, or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.	<p>Due this provision in the Act, there is restriction for sale/ purchase of land inside the protected areas. As a result the sale and purchase and the registration of deeds under Land Revenue Act of Khatedari lands. even though their khatedari rights have been granted to continue by the Collector on completion of enquiry under section 22,23,24 and 25 of WL(P) Act 1972, is not possible. Several public agitations are staged throughout the state regarding permission for sale of land assets inside the protected areas. The Banks also do not extend loaning facility since the land assets of a khatedar cannot be pledged as collateral. The matter is often raised by the public representatives also. Thus this bar on accrual of rights vitiates the cordial atmosphere needed for ensuring health of the ecology and wildlife and public turns against P.A. Authorities.</p>	<p>There is a need to review this provision of the Act. It seems sufficient to put a bar on change in Land Use rather than on the change in ownership status to ensure the conservation of ecology of a protected area which is the basic aim of WL(P) Act,1972.</p> <p>Therefore, Section 20 of the Act needs to be amended as follows-</p> <p><b>PROPOSED CHANGE:</b></p> <p><b>“20. Bar of change in land use. — After the issue of a notification under Sec.18, no change in land use shall be affected in, or over the land situated within the limits of the area specified in such notification, except by permission of the State Government for providing basic amenities for bona fide use.”</b></p>



3	<p><b>Section 38 V (5):</b> (v) the informed consent of the Gram Sabhas concerned, and of the persons affected, to the resettlement programme has been obtained;</p>	<p>There is a provision of <b>voluntary relocation</b> in the Act and therefore the progress of village relocation from the CTH area is solely dependent on this aspect. Normally, acquiring consent of the all the families residing in a village is very difficult. Moreover, many families live outside but still put on hold the property inside the CTH. This hampers the relocation of villages from the Protected Areas and the process is dragged over many years since some of the families refuse to relocate even though most of the inhabitants of the village have gone out after relocation.</p>	<p>To facilitate relocation of the villages at the desired pace, it is proposed that a provision may be included in the Act that acquiring consent of 80% of the families by the District Village Relocation Committee in a village may be deemed to be the consent of the whole village.</p> <p><b>PROPOSED AMENDMENT:</b> 38V 5( v) the informed consent of the families to resettlement programme has been obtained. Consent of the 80 % of the families affected shall be deemed as consent of the whole village;</p>
4	<p><b>Section 62:</b> <b>Declaration of certain wild animal to be vermin.</b> - [The Central Government may by notification, declare any wild animal other than those specified in Sch. I and part II of Sch II to be vermin for any area and for such period as may be specified therein and so long as such notification is in force, such wild animal shall be deemed to have been included in Sch. V.</p>	<p>The increase in the population of Rojda i.e. Nilgai in the State of Rajasthan is resulting in incidences of large scale damage of crops by the Nilgai (Blue bull). Moreover severe traffic hazard is also faced by fast moving vehicles on highways.. The farmers are agitating at many places to put a curb on the rising Blue Bull population. Public representatives have raised this issues in the State Assembly and asked for resolving this burning issue.</p>	<p>In past proposals were submitted to the Central Govt. to transfer this wild animal from schedule III to schedule V to facilitate killing and disposing this animal at the local people. The proposals have been denied.</p> <p>It is proposed to empower the State Governments for shifting such animals as Blue Bull from Schedule 3 of the act to Schedule 5 i.e. vermin by suitably amending Section 62 of WL(P) Act, 1972. Since the State Board for Wildlife is empowered under the act to advise the State Government regarding any matter relating to any schedule under section 8(c), the State Government may be empowered under section 62 to declare this wild animal as a Vermin in specified areas and over a specified period of time with the approval of State Board of Wildlife.</p> <p><b>PROPOSED AMENDMENT-</b> Section 62:-[The State Government] may by notification, declare any wild animal other than those specified in Sch. I and part II of Sch II to be vermin for any area and for such period as may be specified therein with the approval of the State Board.</p>



## Amendments required in Procedure and Guidelines issued under section 2 of Forest (Conservation) Act, 1980

S.No.	Provision / Problems	Amendments / suggestions
1	Reducing two-stage approval system to one time clearance by Govt. of India:	Currently, a 2-stage of approval system is being followed in cases of forest clearance, namely, in principle approval and final approval. This system needs to be replaced by a system under which the Central Government should give one time clearance to all projects in one go, and leave the issues of compliance of conditions to the State Govt. As soon as full compliance of the conditions of clearances takes place the State Govt. would issue the final order, and inform Govt. of India. This would help in expediting the implementation of these vital projects.
2	Enhancing the delegation of powers to the State Government under general approval:	Govt. of India has delegated the powers to the State for Govt. projects involving forest area up to 1 ha. vide letter 11-9/98-FC dated 13-02-2014 u/s 2 of Forest (Conservation) Act 1980 in the category of general approval. Infrastructure government projects mainly includes schools, dispensaries, electrics and telecommunication lines, drinking water projects, minor irrigation canals. water harvesting structures, power sub-stations, communication posts, construction and widening of roads etc. The delegation of powers to the states for an area up to 1 ha. should be enhanced to 10 ha. In addition to this, the petrol pumps/Gas Stations should also be included in the activities under general approval. Land for CA and funds should made available for above proposals.
3	To ensure provisions of basic facilities for eco-religious tourists to check untoward incidents/accidents during journey	Many religious places in India are located in forest areas. Many facilities/amenities such as drinking water, roads, medical assistance, sheds etc. are required to be provided to people who visit these places. Therefore, eco-religious projects should be included in the general approval category under section 2 of the FCA 1980. This will, on the one hand ensure provision of basic facilities to tourists and pilgrims; and, on the other hand, will help in checking untoward incidents/accidents during journeys.
4	Exemption for linear projects from Forest Rights Act 2006 (FRA) Certificate:	Linear projects like roads and transmission lines generally involve more than 50-100 Gram Panchayats. The current procedure requires NOC to be obtained from each Gram Panchayat and certificate from Collector of the District under Forest Rights Act, 2006 (FRA). To avoid delays in implementation of linear projects, they should be exempted from FRA certificate.
5	To expedite diversion proposals of Rajasthan	Presently regional office Lucknow is dealing with the diversion proposals of Rajasthan, which is talking considerable time because of the distance involved in it. Hence Regional Office of Ministry of Environment & Forests, Govt. of India should be opened at Jaipur to expedite diversion proposals of Rajasthan.
6	To expedite diversion proposals at MoEF & CC, Gol	Presently MoEF & CC has given the guidelines for online approval of forest clearance under Online submission and Monitoring of Forest Clearance proposals (OSMFCP). If the forest clearance is not issued in the prescribed time limit for Gol, then it should be treated as deemed clearance under FCA by them.



PROPOSALS FOR AMENDMENTS IN GUIDELINES/ ORDERS ISSUED BY GOI/ SUPREME COURT

PROPOSALS FOR AMENDMENTS IN GUIDELINES/ ORDERS ISSUED BY GOI/ SUPREME COURT		
S No.	DIRECTIONS / ORDER	PROBLEMS
1	Govt. of India has issued directions vide letter no. F6 -10/ 2011 WL dated 19.12.2012 that any activity proposed within the boundaries of National Parks/ Sanctuaries shall require the recommendation of the Standing Committee of National Board of Wildlife and the approval of Hon'ble Supreme court.  CEC has also opined that for the work of construction/widening/ up-gradation/ repair works of the roads falling inside the National Parks and Wildlife sanctuaries, prior permission of Hon'ble Supreme court will be required.	1. There are a number of roads existing inside the protected areas in the state. These roads needs timely and sometimes immediate repair and maintenance works. Due to existing process of clearance from NBWL and SC, the repair work is delayed to a great extent consequently resulting in enhanced damages and inconvenience to local public. To avoid unnecessary increased expenses and provide immediate relief to local people, PWD and other Government departments have submitted requests that the State Govt. may be empowered to sanction such repair and maintenance works inside PA s . 2. The irrigation projects existing inside the PA needs immediate repair and maintenance works otherwise the damage to the structure increases and also there is possibility of overturning/ dismantling of the pucca structure causing floods in the lower reaches.. 3. There are a number of government and other buildings existing inside the PA which require repair and maintenance from time to time. It is quite unnecessary that such works require clearance of NBWL and SC. 4. The repair and maintenance works of existing buildings of major power projects/ nuclear power projects may also be exempted for obtaining clearance from NBWL and SC.
2	Guidelines for participation of private sector through involvement of NGOs and Forest Department in afforestation / rehabilitation of degraded forests.	It is proposed that existing directions may be suitably modified to the extent that the State Govt. may be empowered to sanction following works inside the protected areas:  1. Repair and maintenance of roads inside protected areas. 2. Repair and maintenance of Embankments of irrigation projects/ Water storage structures. 3. Repair and maintenance of intake wells and associated existing pipelines. 4. Repair and maintenance of Existing govt. buildings/ other permanent structures with restriction on any form of extension. 5. Repair and maintenance of existing buildings in Power projects/ nuclear fuel complexes.  For active involvement under PPP mode the provision for sharing the produce by the industrial house / private sector and the NGOs should be made in the guidelines.