

# **Process of Approval under the Forest (Conservation) Act, 1980**

**Regulated use of forest  
land for non-forest  
purpose**

# Forest (Conservation) Act, 1980

- An Act to provide for conservation of forests
- Enacted with an aim to check indiscriminate deforestations and diversion of forest land
- Provision for: Prior approval of Central Government necessary for de-reservation of reserved forests and use of forest land for non-forest purpose
- Forest (Conservation) Rules 2022: Provides for procedure for obtaining approval and compensation for loss of forest

# Forest (Conservation) Act, 1980

## Reasons for Enactment

States Governments are subject to local pulls and pressures and hence cases of diversion of forest lands were often not dealt with in the larger national interest and context

## Preamble of Act

To provide for conservation of forest land and for matters connected therewith or ancillary or incidental thereto.

## Key Provisions

Provides for prior approval from the Central Government for:

- De-reservation of Forests
- Use of Forest Land for Non-Forest purpose
- Assigning of Forest Land to Any Private Person or Any Authority/ Corporation/ Agency Not Owned, Managed or Controlled by Govt.
- Clearing of Naturally Grown Trees for the Purpose of Reafforestation

# Forest (Conservation) Act, 1980

## Section 2 (i) : Dereservation of forest land

1. No State Government can de-reserve the forest land without the prior approval of the Central Government
2. Supreme Court order dated 13.11.2000 restraining de-reservation of forest land
3. Use of the provisions of the Section so far for.....
  - Conversion of forest villages into revenue villages
  - Regularization of encroachment
  - De-listing of forest land (PLPA land)

# Forest (Conservation) Act, 1980

## Section 2 (ii) : Use of forest land for non-forest purpose

1. No State Government can allow use of forest land for non-forestry purpose without the prior approval of the Central Government.
2. The section embodies the spirit of the Act.
3. Supreme Court time to time passed many orders clarifying the provisions of Section and their applicability.
4. Use of the provisions of the Section so far for.....
  - Diversion of forest land for various infrastructural projects such as road, railways, transmission lines, mining, river valley and irrigation projects, thermal projects, etc.
  - Accounts for approximately 70% diversion of forest land during last 42 years

# Forest (Conservation) Act, 1980

## Section 2 (iii) : Assignment of forest land on lease to private persons

1. No State Government can lease forest land to private persons without prior approval of Central Government
2. Inserted vide amendment of act in 1988 to check raising of commercial plantations
3. Redundant section - Never applied for the purpose, it was inserted
4. Recently provisions invoked for assignment of mining leases in the forest land without breaking of forest land
5. Whether prior approval or not – questionable
6. Use of the provisions of the Section so far for.....
  - Only for assignment of forest land on lease to private persons
  - Does not involves actual breaking of forest land.

# Forest (Conservation) Act, 1980

## **Section 2 (iv) : Clearing of naturally grown trees for the purpose of reforestation**

1. Inserted vide amendment of act in 1988 to check raising of commercial plantations
2. Approval of all Working Plans is conveyed under the provision of this Section

**Section 3 :** Advisory Committee to advise the Central Government on the proposals received under Section – 2 of the Act

**Section 3 A and 3 B :** Penal Provisions

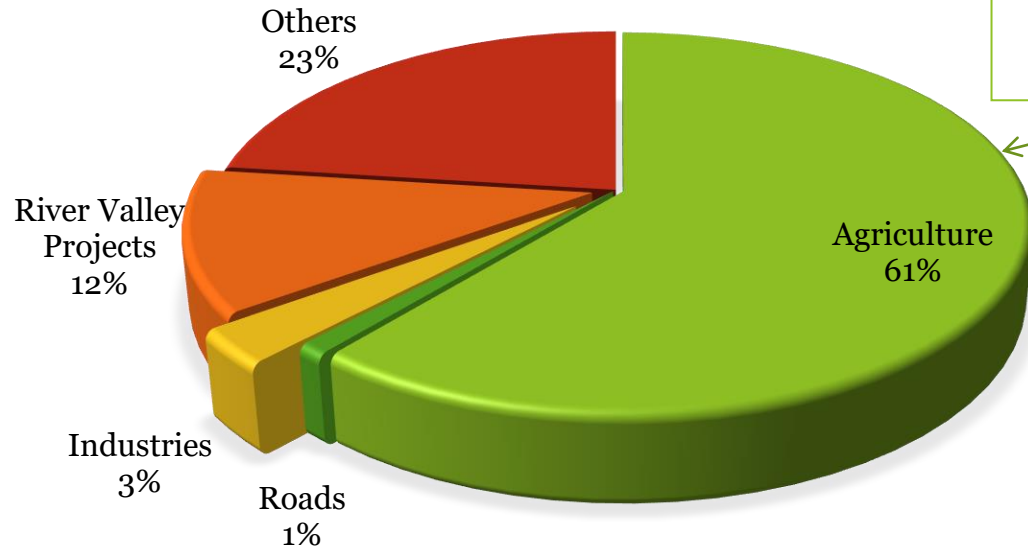
**Section 4 :** Power to make rules

**Section 5 :** Repeal and savings

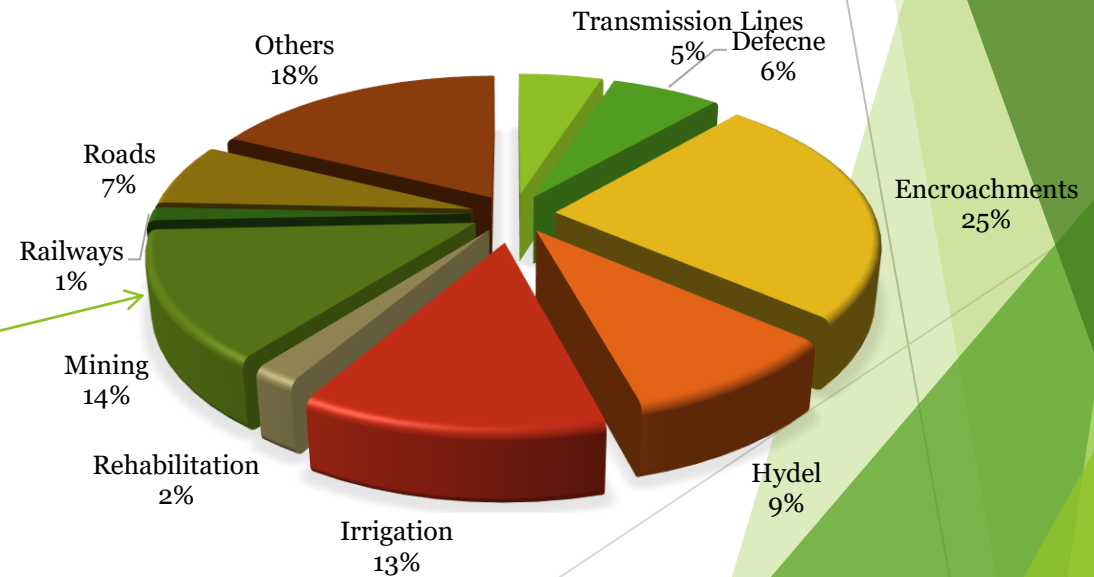


# Implication of FC Act 1980

25 Years – Before FC Act  
4.135 Mha of Forest diverted w/o  
Mitigation Measures



40 Years – After FC Act  
9.87 lakh Ha of forest diverted with  
appropriate Mitigation Measures



Rate of diversion reduced from 160,000 ha/year before 1980 to about 20,000 ha/year after 1980 (+ mitigation measures)



# Diversion and Compensatory afforestation So far...

- Diversion since 1980: 9.87 lakh ha
- Compensatory afforestation since 1980:  
>10.6 lakh ha

# Applicability of the Act



**At present - applicable in following cases:**

***(as clarified by Apex Court, in their judgement dt. 12.12.1996)***

- (a) land notified as 'forest' under IFA, 1927 or under any state/local law
- (b) land not covered in para (a) above, but recorded as 'forest' in Govt. records
- (c) Land not covered under above paras, and conforms to "Dictionary meaning of forest" and lands identified as forest by the Expert Committee constituted by the State Government and taken on record

# Subordinate Legislation and Amendment of the Act



**1980: Forest (Conservation) Act, 1980**

**1981: Forest (Conservation) Rules, 1981**

**1988: Forest (Conservation) Amendment Act, 1988**

**2003: Forest (Conservation) Rules, 2003**

**2004: Amendment to Forest (Conservation) Rules, 2003**

**2014: Amendment to Forest (Conservation) Rules, 2003**

**2014: Second Amendment to Forest (Conservation) Rules, 2003**

**2017: Amendment to Forest (Conservation) Rules, 2003**

**2021: Forest (Conservation) Amendment Bill, 2022- Proposed**

**2021: Forest (Conservation) Rules, 2022- Notified on 28.06.2022**

# Handbook of Forest (Conservation) Act, 1980 – outline

## **Part-I Acts and Rules**

- Forest (Conservation) Act, 1980 with amendments made in 1988
- Forest (Conservation) Rules, 2003 with amendments made in 2014 and 2016
- Supreme Court Orders and Clarification

## **Part-II General approval and Guidelines**

- General Approvals
- Transfer/Re-diversion
- Net Present Value
- Compensatory Afforestation
- Surveys and Investigation
- Mining
- Wind Energy Projects
- Infrastructure Projects
- Protected Areas

# Organization Set up for implementation

## At Central Government level

- Forest Conservation Division – MoEF
- Regional Office (Headquarters) - MoEF
- 19 Regional Offices located at –Bangalore, Bhopal, Bhubaneswar, Chandigarh, Lucknow, Shillong, Dehradun, Ranchi, Nagpur, Jaipur, Jammu, Vijayawada, Hyderabad, Kolkata, Guwahati, Gandhinagar and Chennai

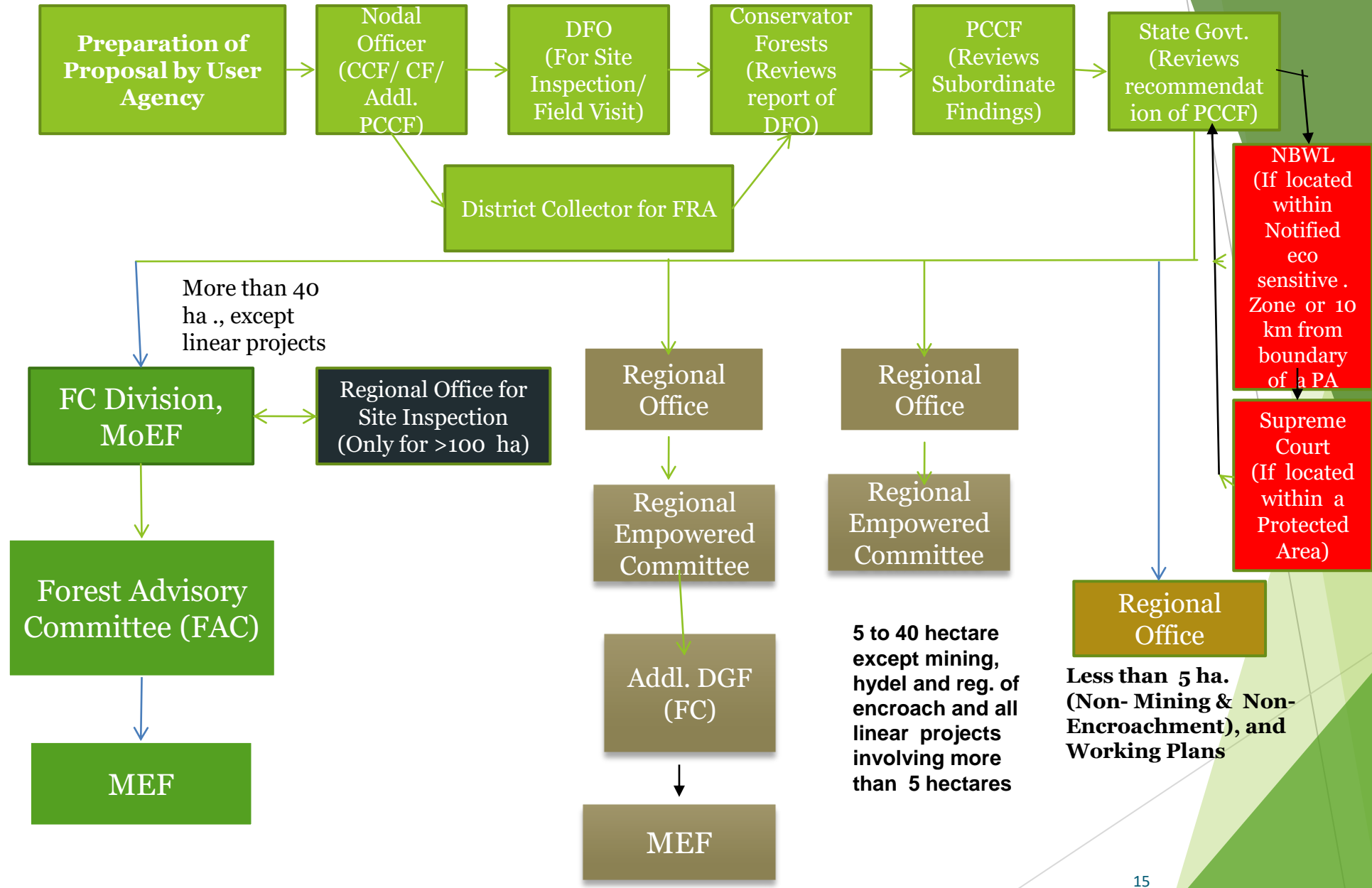
## At State/UT level

- Principal Secretary (Forests), State Government/UT Administration Secretariat
- Nodal Officer (Forest Conservation Act) – State Forest Department, o/o PCCF
- Concerned CF/CCF
- Concerned DCF

# Functions of Regional Offices

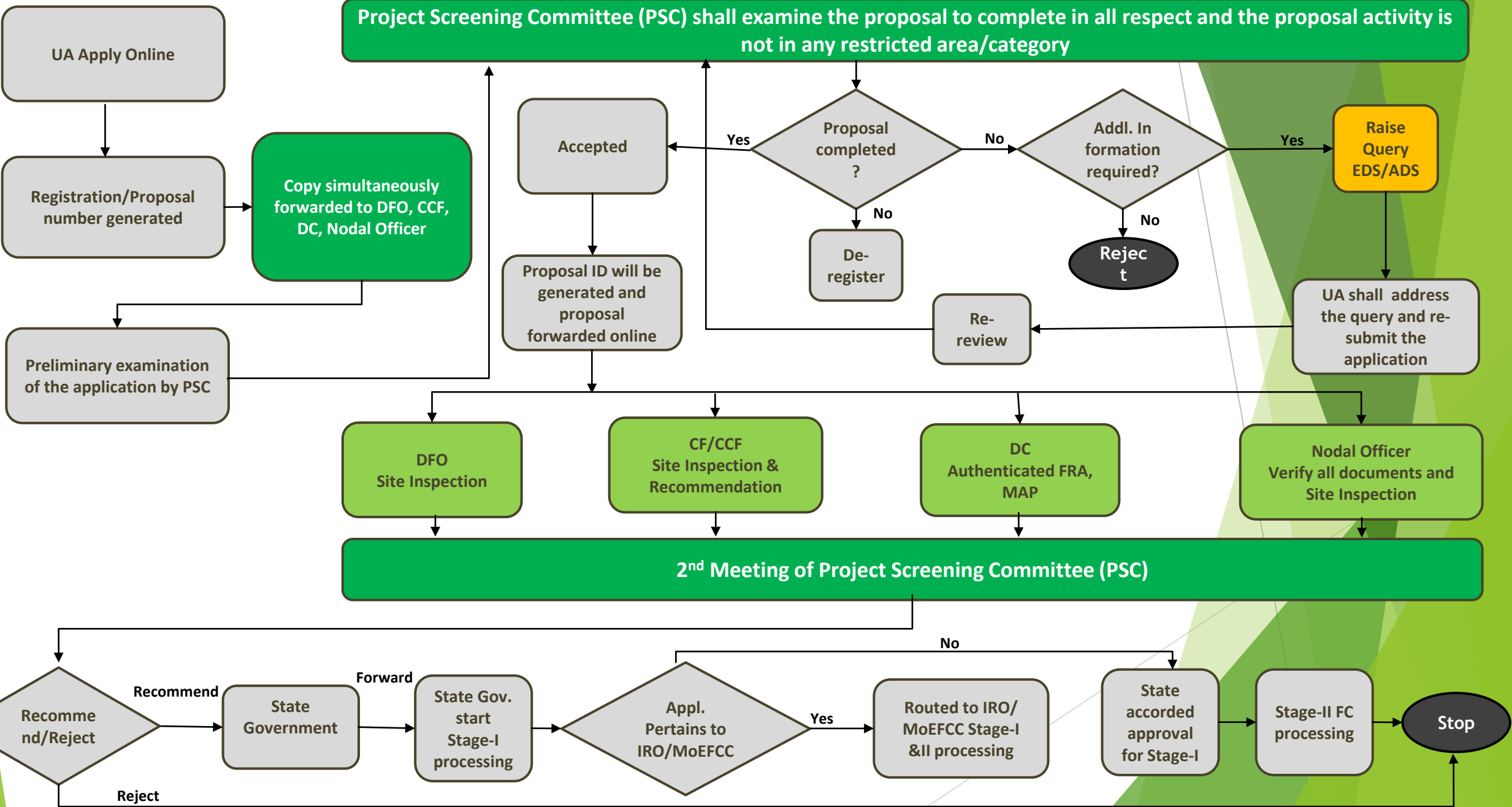
- Processing of proposals under FCA seeking diversion of forest land up to (As per new Rules):
  - i. 40 ha
  - ii. 5 ha mining
  - iii. All linear projects
  - iv. Except encroachment, violations, and dereservation
- Approval of Working Plans/ Working Schemes;
- Inspection of forest land proposed to be diverted in case of proposals involving diversion of more than 100 hectares of forest land in each case,
- follow up action on the implementation of conditions and safeguards laid down by the Ministry while granting clearance to development projects under the Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1986 .
- monitor & evaluate ongoing forestry projects and schemes with specific emphasis on conservation of forests

# Proposed Delegation as per FC Rules, 2003



**Mining , hydel and encroach. upto 40 ha.**

# FC Process Flow as per Forest (Conservation) Rules, 2022





## Time- Lines for Processing of Stage-I FC Proposals at State Level

Level	5 ha.	5 to 40 ha	40 to 100 ha	More than 100 ha
Nodal Officer	10	10	10	10
DCF	30	30	45	60
District Collector for FRA				
CF	10	10	30	30
Nodal Officer/ PCCF	10	20	25	30
State Govt.	30	30	30	30
Transit Period	20	20	20	20
<b>Total</b>	<b>110</b>	<b>120</b>	<b>150</b>	<b>180</b>

## Time- Lines for Processing of Stage-I FC Proposals in MoEF

Activity	5 ha	5 to 40 ha	40 to 100 ha	More than 100 ha
Pre-inspection by MoEF/ RO to examine completeness	5	5	10	10
Site inspection by R. O.	-	-	-	45
FAC	-	-	30	30
SAG	-	30	-	-
REC	-	-	-	-
Approval by competent authority (CA)	20	30	30	30
Communication of approval of CA	5	5	5	5
Transit Period	-	5	-	10
<b>Total</b>	<b>30</b>	<b>75</b>	<b>75</b>	<b>120</b>

# Types of approval granted under the FC Act

- ▶ Stage-I approval or 'In-Principle Approval
- ▶ Stage-II approval or 'Final Approval'
- ▶ Final diversion order by the State
- ▶ Approval for Re-diversion
- ▶ Approval for change in land use
- ▶ Approval for change in the conditions of prior approvals
- ▶ Transfer of approval from one agency to another

# Checklist for proposals

- ▶ Depends upon the category of project
- ▶ Category specific documents viz. Mining Plan, Catchment Area Treatment Plan, Wildlife Management Plan, Soil and Moisture Conservation Plan,
- ▶ Proposals needs to be evaluated based on the non-forestry use to ensure optimum requirement of forest land proposed for diversion
- ▶ Important checklists namely site-specificity of the project, exploration of alternatives, compensatory afforestation, details of safety zone, tree enumerations, location of Protected Areas, etc.

# Compensatory Afforestation

- ▶ Important component and invariably accompanied with all proposals
- ▶ Primarily to be raised over equivalent non-forest land following land for land and tree for tree principle
- ▶ However, certain relaxations has been provided to raise CA over degraded forest land in the following:
  - a) Project of Central PSUs
  - b) Project located in States having area more than 33% of their total Geographical area subject to submission of Chief Secretary's Certificate
  - c) Transmission line projects
- ▶ Revenue forest land for the purpose of CA are considered at par with NFL however, they are also be provided double in extent to the forest land being diverted
- ▶ Forest rich States having Forest cover more than 2/3 (in hill areas) and 1/3 in plain can raise CA on another States/UTs having forest cover less than 20% of their GA

# Components of Compensatory Afforestation

- ▶ Details of suitable land (NFL or DFL)
- ▶ Site suitability certificate
- ▶ CA scheme for undertaking afforestation over land identified for CA
- ▶ CA scheme is to be prepared @ 1000 trees/ha for NFL and in case 1000 trees/ha cannot be planted over NFL, plan for afforestation of balance trees over degraded forest land should be accompanied with the CA scheme
- ▶ Certificate of State Government of non-availability of suitable NFL for raising CA wherever applicable
- ▶ KML file derived from the Differential GPS surveys of the area identified for raising CA.

# Systemic Reforms for resolution of issues raised by various Ministries/States/Agencies

## A. Generic Reforms

- ▶ Guidelines have been issued on [8.06.2022](#) clarifying that **establishing Zoo** by the Forest Department and Zoo Authority in forest areas **is a forestry activity**.
- ▶ In cases where preparation of Wildlife Management Plan (WLMP) or Soil Moisture Conservation (SMC) Plan is delayed, the State Government have been allowed to charge lump sump amount of **2% of total project cost and 0.5 % of total project cost for WLMP and SMC works**, respectively for the purpose of obtaining Stage-II approval. Guidelines issued on [7.06.2022](#).
- ▶ An Inter-Ministerial Coordination Committee (IMCC) has been constituted on [19.04.2022](#) under the chairmanship of DGF&SS to resolve the various pending issues of forest, environment and wildlly clearances. Meeting of the Committee held on 2<sup>nd</sup> Tuesday of every month.
- ▶ Clarification on requirement of environment clearance, forest clearance and wildlife clearance for the project **located in the Eco-Sensitive Zone and other such Protected Areas** were issued on [17.05.2022](#).

## Generic Reforms Contd....

- ▶ Allowed State PSE to raise **Compensatory afforestation over degraded forest land for Captive mines** - Time consumed in identifying land for compensatory afforestation will be reduced considerably – [Guidelines issued on 11.04.2022 & 19.04.2022.](#)
- ▶ **Rates of Net present Value have been revised** - Rates of NPV have been revised by the Ministry by 1.51 times the existing rates of NPV in compliance of Hon'ble Supreme Court order dated 28.03.2008 – [Guidelines issued on 6.01.2022.](#)
- ▶ Online Processing of proposals has been advised by **doing away with the practice of processing proposals after receiving physical copy** - Advisory issued to all IROs on [22.12.2021.](#)
- ▶ **Considering Eco-tourism as a forestry activity** – Eco-tourism in forest areas without permanent structures has been kept outside the purview of FC Act, 1980- [Guidelines issued on 25.10.2021.](#)



## Generic Reforms Contd...

- ▶ **Restraining IRO from raising multiple queries** - All IROs have been advised to ensure holistic examination of the proposal and to raise consolidated queries in one go and not to raise the multiple queries – [Guidelines issued on 1.09.2021.](#)
- ▶ **Allowing IRO to deal with linear projects linked with mining** - Linear infrastructure projects linked to mining conceived after commencement of mining operations have been allowed to be dealt at IRO level only to further streamline the process of forest clearance- [Guidelines issued on 23.08.2021](#)
- ▶ Ministry has directed all its IROs **to constitute FRCM to review the status of proposals pending at various levels in the States.** FRCM is conducting meeting twice a month. IROs have also been advised to conduct meeting of FRCM twice a month to expedite the processing and disposal of proposals.
- ▶ **Creation of land bank for compensatory afforestation** – Ministry has advised all States/UTs to identify land banks for raising CA and to expedite the process a Committee each headed by Head, IRO has been constituted to review the progress on [2.04.2019.](#)

# Reforms Contd...

## B. Specific to Ministries

- ▶ **Ministry of Railways** - Clarification has been issued on [10.03.2022](#) allowing construction of Railways in RoWs acquired by the Railways
- ▶ **Ministry of Road, Transport & Highways** - States/UTs Governments have been allowed for upgradation of roads falling RoW of NHAI/MoRT&H lands without attracting the provisions of the Forest (Conservation) Act, 1980 – [Clarification issued on 26.10.2021](#)
- ▶ Submission of proposals for laying of OFC within RoW of roads were allowed without NoC from PWD/NHAI – **Guidelines issued on 7.03.2022**
- ▶ **Ministry of Textiles** – [Guidelines issued on 16.08.2021](#) allowing tusser cultivation in forest areas
- ▶ **Ministry of Petroleum & Natural Gas** – Technologies like Extended Reach Drilling have been agreed in ‘in-principle’ to be exempted from the purview of FC Act, 1980.
- ▶ Seismic Surveys involving drilling of 80 shot holes of 6.5 inch diameter per sq km exempted from the purview of FC Act, 1980 – Guidelines issued on [30.09.2019](#)

# Reforms specific to Ministries Contd....

## Ministry of Coal and M/o Mines

- ▶ Proposals pertaining to Category 'C' mining leases which are under process at various levels in the State as well as Centre Government **will be considered as transfer cases and dealt by MoEF&CC**. Guidelines issued on [27.04.2022](#).
- ▶ **Allowing commencement of mining operations in non-forest land after grant of Stage-I approval under the FC Act, 1980** - Mining leases involving forest as well as non-forest land have been allowed to commence mining operation in non-forest land after Stage-I approval – [Guidelines issued on 10.12.2021](#).
- ▶ Allowed **laying of slurry pipelines of 2 m x 2 m dimensions within the RoW of road already diverted** – [Guidelines issued on 21.10.2021](#).
- ▶ **Provision of Forest (Conservation) Act, 1980 aligned with the MMDR Amendment Act, 2021** – Authorized States/UTs to transfer approval granted under the Forest (Conservation) Act, 1980 from erstwhile user agency to successful bidder after the expiry of validity of mining lease in terms of MMDR Act, 1957- [Guidelines issued on 7.07.2021](#).
- ▶ Allowed **charging of NPV corresponding of actual impact area of bore hole** instead of 2 % as was being charged earlier – [Guidelines issued on 17.11.2020](#).
- ▶ Prospecting in forest areas involving drilling of **25 boreholes of 4 inch diameters per 10 sq km** is exempted from purview of FC Act, 1980 – Guidelines issued on 28.03.2019.

# Important Supreme Court orders

- ▶ Judgement dated 12.12.1996 (Clarifying the scope of applicability of FC Act)
- ▶ Order dated 13.11.2000 (restraining de-reservation of forests)
- ▶ 2002 (Restraining regularization of encroachment)
- ▶ 30.10.2002 (Levying NPV in lieu of diversion of forest land)
- ▶ 19.05.2005 (Creation of Ad-hoc CAMPA)
- ▶ 4.08.2006 (Restraining mining within 1 KM distance from the PAs and 10 KM Eco-sensitive Zone)
- ▶ 28.03.2008 - Fixation of rates of NPV on the basis of Eco-Class
- ▶ 6.07.2011 - Lafarge Judgment regarding avoiding fait accompli situations
- ▶ 27.02.2012 - Deepak Kumar Judgment on sand mining
- ▶ 2.09.2014 - Common Cause judgement
- ▶ 26.01.2019 - Allowing change in the legal status of forest land for rehabilitation proposals
- ▶ 3.06.2022 - Eco sensitive Zones around PAs

Thanks

