



Frequently Asked Questions

FOREST CONSERVATION ACT, 1980 &
FOREST CONSERVATION RULES, 2003

Principal Chief Conservator of Forests & HoFF, Odisha
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Bhubaneswar, Odisha



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MESSAGE

Conservation of Forests and the socio_economic development of people are equally important for any State proposals requiring diversion of forest land for developmental activities are being dealt as per provisions of the Forest (Conservation) Act, 1980 and rules and guidelines of the Ministry of Environment, Forests & Climate Change, Govt of India. The User Agencies, officials of Forest Department and other line Departments are required to be acquainted with the provisions of rules and regulations.

This booklet on Frequently Asked Questions (FAQs) developed by Nodal wing of the PCCF's office under the guidance of the PCCF & HoFF, under 5T Initiatives of the FE&CC Department will be a useful reference document for user agencies & administrative departments.

Pro-active steps by different departments in meticulously following the rules and instructions regarding forest diversion under Forest (Conservation) Act, 1980, will facilitate expeditious processing by the State Govt. and approvals by MoEF&CC, GoI.

(Dr. Mona Sharma)

ଶିଶିର କୁମାର ରଥ
Sisir Kumar Ratho



ପ୍ରଧାନ ମୁଖ୍ୟ ବନ ସଂରକ୍ଷକ
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Principal Chief Conservator of Forests
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FOREWORD

The Forest (Conservation) Act, 1980 is a Central Act, but the implementation of the Act lies largely with the State Government. The Act is dynamic in nature, as it is governed by the guidelines, clarifications as well as various directives of the Courts. In view of this, user agencies are not able to keep abreast with the latest updates while preparing the Forest Diversion Proposals.

In order to address this issue and also explain in simple terms, the basic tenants of the Forest (Conservation) Act, the State Forest Headquarters has brought out the Frequent Asked Questions (FAQ), which will be easy to understand by user agencies as well as government officers in the State.

It is hoped that the FAQ booklet will be able to clarify a lot of critical issues involved in submission of proposals, processing of cases of forest diversion in the State.

(Sisir Kumar Ratho)

PREFACE



The diversion of the forest land for the non-forestry purposes is guided by several acts, rules and guidelines like The Forest (Conservation) Act, 1980 and Forest Conservation Rules 2003, guidelines of MOEF&CC, Forest Rights Act, 2006, Wildlife Protect Act, 1972, Environmental (Protection) Act, 1986, MMDR Act, 2015 etc. and its subsequent amendments. In the state of Odisha, about 523 projects involving forest land of 58165.96 ha has been diverted upto March 31st 2021. The forest areas are diverted mainly for Mining, Irrigation, Industry, Roads, Railways, Defence, Transmission etc. Also, there is diversion of forest land at the level of DFO under Forest Rights Act, 2006. In Odisha, 1850 ha of forest land has been diverted for Anganwadi Centres, Roads, Transmission, Water Harvesting Structures, Schools, Irrigation, Community Centres, Hospitals etc. In addition, State Government have granted general approval for critical public utility projects in case of 20 proposals involving diversion of forest land over 82.89 ha. The permission has also been granted for exploratory drilling works in 20 projects. Thus, forest diversion is a complicated subject, involving multiple stakeholders with different provisions and perceptions. Many a times, lack of understanding of the provisions lead to inordinate delay in submission of the proposal.

The Nodal Wing of the Forest Department is continuously striving to bring transparency in the entire process of forest diversion. The present booklet is one small step in the 5T transformational agenda of the State Government. Hope the book would help to provide necessary guidance, clarifications to the spectrum of user agencies, Forest Department Personnel, and others.

The FAQs prepared in this booklet are on the basis of the extant rules, guidelines that are in vogue and they are subjected to change with the change of rule position. For any legal angle, the concerned act, rules may be referred to.


(Uma Nanduri)

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01 | GENERAL QUERIES ON DIVERSION PROPOSAL

1. What is non-forestry purpose?

Ans: Non- forestry purpose means the breaking up or clearing of any forest land or portion thereof.

2. What is the difference between Forest Area under administrative control of Forest Department, Forest area under administrative control of Revenue Department, DLC land and Deemed Forest Land?

Ans: (i) The Forest areas under control of Forest Department- RF, PRF, PF, DPF, VF and Unclassed Forests.

(ii) Forest lands under the administrative control of Revenue Dept.- Gramya Jungle, Patra Jungle, Bada Jungle, Jhati Jungle, DLC land, Deemed Forest, etc.

(iii) DLC Land- Non-forest kissam of Govt. as well as Private land like Pahad, Parbat, Patharbani, Patita etc. as per ROR having natural vegetation, plantation or even barren land mentioned in the DLC report in the affidavit filed before the Hon'ble Supreme Court of India in Writ Petition(Civil) No.202/1995 in the matter of T.N.Godavarman Thirumulpad versus Union of India and Others is termed as DLC land (Deemed Forest).

(iv) Deemed Forest- The land as per dictionary meaning of 'Forest' as per the verdict dated 12.12.1996 of the Hon'ble Apex Court in Writ Petition (Civil) No.202/1995 also termed as Deemed Forest Land.

(v) Both DLC land and Deemed Forest land are under administrative control of Revenue Department.

3. What is the extent of area to be taken into account in case of revenue lands, whether recorded area as per land schedule (ROR) or area as per DGPS survey?

Ans: For the purpose of extent of area calculation of revenue lands, area recorded in the ROR is to be taken into account.

4. What area is to be taken in case of notified forest blocks?

Ans: Map area has to be taken as per DGPS survey in case of notified forest blocks as detailed land schedule is not maintained. In some cases where area as per ROR is available, same should be taken into account.

5. A project consists of non-forest land having forest growth. Does it require prior permission of Central Govt.?

Ans: Yes, if it falls in the dictionary meaning of forest and accordingly would require prior permission of the Central Govt.

6. A project involves forest as well as non-forest land. Can a project proponent start work in a non-forest land while his application for use of forest land is under process?

Ans: No, except in case of Linear Projects.

02 | COMPENSATORY AFFORESTATION

1. How does a User Agency compensate for using forest land for non-forest purpose? Whether it is 'land by land' or 'trees by trees'?

Ans: A user agency who proposes to use forest land for non-forestry purpose is required to compensate it by providing non-forest land equivalent to the forest land or twice the extent of revenue forest land not under control and management of Forest Department. In case of certain category of projects, it is compensated by providing twice of degraded forest land. This criterion is called compensation for loss of "land by land". It is mandatory to plant @1000 plants per hectare of the proposed forest land for diversion over the identified non-forest land /revenue forest land /degraded forest land. This criterion is called compensation for loss of "trees by trees."

2. What is land bank concept for Compensatory Afforestation (CA) Land?

Ans: There is scarcity of suitable non-forest land for using it for compensatory afforestation. This leads to delay in processing of diversion proposals. In order to ease out the difficulties faced by User Agencies in identifying the suitable non-forest Govt land, the concept of "land bank" has been brought in. In the initial phase, State Government has decided to create Land Bank comprising non-forest Govt land and degraded revenue forest land suitable for compensatory afforestation. A User Agency can avail this facility of allotment of land for CA by the concerned District Collector after payment of certain premium to the State Government as per the extant Government Rules and procedures.

3. What is degraded forest land? When can one use it for the purpose of compensatory afforestation?

Ans: Degraded Forest lands are forest having canopy density of less than 0.4. This degraded forest land shall be twice the forest land being proposed for diversion. Central Government / CPSUs projects, laying of transmission lines, laying of telephone /optical fibre lines etc. as listed in para 2.5 of the Handbook of FCA1980 & FC Rules 2003 available in PARIVESH PORTAL of MOEF&CC are allowed to raise CA over degraded forest land.

4. Whether non-forest land having vegetation is accepted for CA purpose?

Ans: Yes, non-forest land having vegetation can be accepted for CA purpose, but in case required number of plant (1000 tree/Ha) cannot be accommodated, then degraded forest land as per Working Plan prescriptions having crown density less than 0.4 shall be identified for planting the balance plants. Here the concept of loss of 'trees by trees' has to be adopted and fulfilled.

5. Whether PF Notification of CA land is a pre-requisite for obtaining Stage-II final approval?

Ans: Yes, PF Notification of CA land is a pre-requisite for obtaining Stage-II final approval.

6. What are the species preferred for Compensatory Afforestation?

Ans: Mixed plantation with indigenous species with atleast 50% fodder, fruit bearing, and Bamboo is required to be done for CA.

7. What is the provision for CA in case forest land has been broken before 25th October 1980?

Ans: Provision of CA is applicable for forest land broken before 25th October 1980 in case of mining activities. The principle to be followed is that the User Agency has to pay the compensatory levies once and the CA land has to be given for the land diverted.

03 | NET PRESENT VALUE

1. What is NPV?

Ans: Net Present Value (NPV) of a forest land diverted is a scientific method of calculating the environmental cost and other losses caused due to diversion of forest land for non-forestry purpose. NPV represents the net value of various eco-system services and other environmental services in monetary terms which the forest would have provided if it would not have been diverted.

2. When did the concept of NPV originate?

Ans: The concept of collection of NPV from the user agency is as per the order of Hon'ble Supreme Court dtd. 29.10.2002, in writ Petition (Civil) No 202 of 1995.

3. Which projects are liable to pay NPV?

Ans: NPV is recoverable in all cases where diversion is approved on or after 29th October 2002 and also in the cases for which in-principle approval was granted before 29th October 2002 and final approval after that.

4. What were the initial rates of NPV decided?

Ans: As per order of Hon'ble Supreme Court, NPV is to be recovered @ Rs 5.80 lakh to Rs. 9.20 lakh per ha for the forest land diverted for non-forestry purpose. The rate is based on density of the forest. The rate of NPV payable by the User Agency w.e.f. 30.10.2002 is mentioned below.

Density	Rate per Ha
Below 0.1	5,80,000
0.1 to 0.4	7,50,000
0.4 & above	9,20,000

5. What was the validity of the initial rate of NPV?

Ans: The initial rate of NPV is valid from 30.10.2002 to 28.03.2008. Afterwards, the rate of NPV was revised. The UA, who has paid NPV in initial rate before 28.03.2008 need not pay NPV in revised rate. The UA who had paid NPV in initial rate after 28.03.2008 has to pay the differential cost of NPV as demanded in the revised rate.

6. When was the rate of NPV revised?

Ans: Hon'ble Supreme Court in its order dt 28.03.2008 revised rate of NPV on the basis of recommendations of Mrs. Kanchan Chopra committee.

7. What is the basis of revised calculation of NPV in 2008?

Ans: Eco Value Class and density of the forest has been taken into account for the calculation of NPV. There are 6 types of Eco-Classes for calculation of NPV.

Eco-class I	Tropical Wet Evergreen Forest, Tropical Semi Evergreen Forest and Tropical Moist Deciduous Forest
Eco-class II	Littoral and Swamp Forest
Eco-class III	Tropical Dry Deciduous Forest
Eco-class IV	Tropical Thorn Forest and Tropical Dry Evergreen Forest
Eco-class V	Sub-tropical Broad-Leaved Hill Forest, Sub-tropical Pine Forest and Sub-tropical dry Evergreen Forest
Eco-class VI	Montane Temperate Forest, Himalayan Moist Temperate Forest, Himalayan Dry Temperate Forest, Sub Alpine Forest, Moist Alpine Scrub and Dry Alpine Scrub

8. What is the present rate of NPV the user Agency has to pay for getting forest clearance?

Ans: The revised rate of NPV payable by the user agency w.e.f. 28th March 2008 is mentioned below:

Eco-Value class	VDF(Density 0.7 & above)	DF(Density 0.4 to 0.7)	OF(Density below 0.4)
Class-I	10,43,000	9,39,000	7,30,000
Class-II	10,43,000	9,39,000	7,30,000
Class-III	8,87,000	8,03,000	6,26,000
Class-IV	6,26,000	5,63,000	4,38,000
Class-V	9,39,000	8,45,000	6,57,000
Class-VI	9,91,000	8,97,000	6,99,000

9. What is the rate of NPV in cases where the forest land to be diverted is falling in National Parks and Sanctuaries?

Ans: If the forest area to be diverted is falling in National Parks, if permitted under exceptional circumstances, 10 times NPV is to be realised. If the forest land is falling in Sanctuaries, 5 times NPV has to be realised.

10. What are the categories of projects exempted from payment of NPV?

Ans: The following categories of projects are exempted from payment of NPV.

Sl.No	Category	Type of Exemption
1	School, Hospital, Children's playground (non-commercial), Community centres in Rural areas, over-head tank, village tank, laying underground drinking water pipeline upto 4" dia, Electricity distribution upto 22 KV	Full exemption upto 1 Ha Condition: No tree felling, Area is outside NP/Sanctuary, Should be part of Plan/Non-plan scheme of Govt.
2	Relocation of village from NP/Sanctuary to alternate forest land, Regularisation of Pre-80 encroachment	Full exemption. Condition: No tree felling, Area is outside NP/Sanctuary
3	Laying of underground optical fibre cable	Full exemption Condition: No tree felling, Area is outside NP/Sanctuary

11. Which categories of projects are partially exempted from payment of NPV?

Ans: Following categories of projects are partially exempted from payment of NPV:

Sl.No	Category	Type of Partial Exemption
1	Other under-ground works except mining	50% of Normal NPV
2	Petroleum Mining lease	2% of Normal NPV
3	Wind Energy	50% at the minimum NPV irrespective of Eco-class
4	Small Hydro-Electric Projects (upto 25 MW)	50% of Normal NPV

12. Does a project proponent need to pay full NPV even if it operates underground Mines?

Ans: Payment of NPV in case of underground mine depends on quantum of surface strain generated at surface due to underground mining. Following table shows the rates of NPV for underground mining.

Underground mining	Surface strain predicted by 3-D subsidence prediction model	NPV
	Up to 5mm / m	NIL
	5mm to 10mm/m	10% of normal rates of NPV
	10mm/m to 15 mm/m	25% of normal rates of NPV
	15mm/m to 20 mm/m	50% of normal rates of NPV
	more than 20 mm/m	Normal rates of NPV

13. What is the basis of calculation of NPV in case of prospecting/ exploration proposals?

Ans: NPV in respect of prospecting/exploration shall be charged on borehole basis in the forest area. For each borehole, an area of approximately 0.1 ha is to be taken for NPV calculation. Any variation from 0.1 ha per borehole shall be informed by the UA at the time of submission of proposal.

14. Is NPV applicable for diversion of forest land under Section 3(2) of FRA, 2006?

Ans: No, NPV is not applicable for diversion of forest land under Section 3(2) of FRA,2006.

04 | PROCEDURE FOR FILING OF APPLICATION ON PARIVESH PORTAL

1. When does a project require forest clearance?

Ans: A project requires forest clearance from the Central government if it involves diversion of forest land for any non-forest purpose as defined under the Act.

2. Where can a User Agency file application for grant of forest clearance?

Ans: User Agency who wants to use forest land for non-forest purposes, can file application to Nodal Officer of the respective State or Union Territories (UT) for grant of forest clearance. The application can be filed online on PARIVESH portal of MoEF&CC after completing registration on the portal.

3. What is the procedure for filing of application in PARIVESH portal?

Ans: Steps for filing of application on PARIVESH portal are as follows:

1. For filing of application, the User Agency should visit the Parivesh Portal (<https://parivesh.nic.in>).
2. Click on the New Registration Tab (for new users) under Project Proponent
3. Two forms will appear on the screen- one for the new User Agency and another for filling the Applicant details.
4. New User Agency can register his/ her agency by filling the User agency details and Applicant details in the "New Registration".

5. Both the forms need to be filled for registration and if both the User agency and Applicant are same, similar details can be filled in both forms.
6. The User Agency can submit the completed forms by clicking on the “SUBMIT” button.
7. Once the forms are submitted, activation mail and the password will be sent to the registered email id of the User Agency.
8. After successful registration, new user will get the registration confirmation mail on registered email-id as well as a notification by SMS on the registered mobile number of User Agency and Applicant. The user needs to click on the activation link in the mail for activation of their PARIVESH account.

4. Is there any format for filing application for forest clearance?

Ans: Format for filing application for diversion of forest land is detailed in Appendix to the Forest Conservation Rules-2003. There are three forms (Form-A, B & C) which can be used as follows:

- Form-A: For taking prior approval of Central Government for using fresh forest land
- Form-B: For renewal of forest leases granted earlier under FC Act-1980
- Form-C: Proposals involving prospecting of minerals in the forest land

Each of the forms contain five parts (Part-I to Part-V) which are to be filled up by various authorities.

5. What are the mandatory fields for filling the application?

Ans: The mandatory fields in User Agency form are:

- User Agency (Head Office)
- State
- District
- Address
- Pin code
- Email Address
- Mobile
- Legal Status of User Agency
- Whether any proposal submitted by User Agency

The mandatory fields in Applicant Details form are:

- First Name
- Last Name
- Gender
- Designation
- Address
- State of the Branch/Head Office
- District of the Branch/Head Office
- Tehsil of the Branch/Head Office
- Pin code
- Email Address
- Mobile
- Security Question
- Security Answer
- Enter text string of the image

Please do not include special characters (i.e., @, #, \$, %, &, -, _ /, <, > etc) in text fields. Kindly complete the registration within 15 minutes.

6. Are all the mandatory fields required to be filled while submitting the proposal online on PARIVESH?

Ans: All the mandatory field should be filled otherwise system will not allow final submission of the proposal.

7. What is the process for login in the PARIVESH portal after filing of application?

Ans: The process for login is as follows:

- Click on Login under Project Proponent
- In the User Type drop down, choose “Applicant” or “User Agency”
- Enter User id and Password details
- Enter security text and click submit button

8. What are the checklist of items required for registration?

Ans: The checklist of the items are:

1. KML files of the area proposed for diversion
2. KML file of CA areas
3. Justification for locating the project on forest area
4. Alternatives explored
5. Authority letter from government agency
6. Compliance of past conditions if approval for some part is granted earlier.
7. DSS analysis about CA area and location
8. Detail about lease area in case of mines
9. Land use plan
10. FRA certificate

9. How can User track their proposal?

Ans: User can track their proposal by clicking on “Track Your Proposal” given on the home page of PARIVESH Portal. For tracking the proposal there is no need to login. Only saved and locked proposal can be tracked.

10. Is it possible to modify the proposal after acceptance?

Ans: No, the User Agency cannot change the proposal in Part I. The changes can only be made in Part II and Part III. If the User Agency wants to make any changes, they must withdraw the earlier application from PARIVESH portal and file a fresh/ revised proposal.

11. How concerned department will inform User Agency’s if any essential/ additional information is sought from them?

Ans: User Agency will receive an email alert if any additional information is sought by the department. The same could be viewed by the User Agency by clicking on Additional Details sought option available under ‘Dashboard’ tab.

12. Is it possible to see the contact details of Ministry by a Private Entrepreneur?

Ans: Yes, List of all the details is available on the website.

13. Can a Private Entrepreneur/User Agency track the progress of their proposal?

Ans: Yes, they can track the progress of their proposals as well as the decisions taken in respect of the proposal.

14. Is it mandatory to change the password from default given password?

Ans: Yes, it is mandatory to change the password on first login after receiving the default password.

15. Is it possible to see the list of all the proposals submitted by the User Agency?

Ans: Yes, the list of projects applied by User Agency is available on the dashboard of website.

16. What are the specifications of Documents to be uploaded?

Ans: Documents to be uploaded should be in PDF format. The document should be properly scanned and readable with minimum resolutions and prescribed size (as mentioned in the form). The file name should be short and in small letters and should not have any special characters like “.” (dot), “!” @ # \$ % ^ & * () etc.

17. What is the procedure for changing the login ID, Mobile No., etc. of the Applicant?

Ans: Applicant login ID, mobile number and other details can be updated through User Agency Login.

18. What is the procedure for changing the login ID, Mobile No., etc. of User Agency?

Ans: For updation of the login ID, Mobile number etc. in User Agency login, please send an official mail to Joint Secretary (MoEF&CC).

19. What is to be done in case of hanging of the PARIVESH portal during filing of the application?

Ans: The applicant should logout/ close the portal and again login to the portal for filing the application. The applicant should save the information in the portal after making necessary entries.

05 | TRANSFER OF FOREST CLEARANCE

1. When transfer of forest clearance is required?

Ans: Transfer of forest clearance is required in the following cases:

- (i) Change of purpose of use of forest land
- (ii) Change of land use pattern
- (iii) Change of User Agency

2. Can Forest Clearance granted to a User Agency be transferred to another User Agency?

Ans: Yes, the same can be transferred with the approval of MOEF &CC, for which an application has to be filed as per Para 5.1.

3. A Company with its project located partly in forest land undergoes change in its name. Does it require prior permission of Central Govt. before such name change?

Ans: Yes, User Agency needs to file application to MOEF &CC for change of name, without any change in shareholder pattern, as per Para 5.2 of the Handbook on FC Act-1980.

4. What is the fee for transfer of forest clearance from one user agency to other?

Ans: The Central Government charges a transfer fee @10% of NPV or Rs.1,00,000 whichever is less.

5. What is the procedure of rediversion of forest land for another purpose?

Ans: In the case of rediversion of forest land from one purpose to another purpose, a fresh proposal is to be submitted to MOEF&CC for approval.

6. What is the procedure to be adopted for change in the land use pattern by the same applicant?

Ans: The allottee has to submit an application to MOEF&CC in letter form for approval.

06 | SURVEY AND INVESTIGATION

1. Does a prospecting operation for any mineral in forest area require forest clearance?

Ans: Yes. It requires Forest Clearance. However, for drilling up to 25 boreholes of maximum 4" dia per 10 sq. km for prospecting, exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act For drilling below 25 boreholes of maximum 4" dia per 10 sq.km, permission has to be taken from the competent authority of State Government

2. Is there any separate format to apply for permission to take prospecting of minerals in forest area?

Ans: Application for diversion of forest land for prospecting of minerals shall be made in Form-C of the Forest (Conservation) Rules,2003.

3. A mining lease holder who has taken forest clearance under Sec 2(iii) of FCA, for the entire area earlier, now wants to conduct exploration work within its mining leasehold area to prove the mineral up to G-1 level of exploration. Does it require separate permission for exploration work?

Ans: Yes, it requires separate permission for exploration work. Section 2(iii) does not allow any breaking of land or removal of trees.

4. How many numbers of bore holes are exempted from FC Act while prospecting of minerals?

Ans: Drilling up to 25 boreholes of maximum 4" dia per 10 sq. km for prospecting, exploration or reconnaissance

operations, without felling of trees, shall not attract the provisions of the Act.

5. What is the provision for compensatory afforestation in case of prospecting operation in forest land?

Ans: The user agency shall prepare a plan to plant 110 tall trees per borehole/02 tall trees per shot hole area as the case may be. The cost of preparation of plan and plantation shall be borne by the user agency. State government shall ensure that the plants are planted on abandoned bore-hole area or degraded forest land, as per prescription of working plan.

07 | MINING PROJECTS

1. **Can the forest clearance granted to a coal block which got cancelled by Hon'ble Supreme Court, be transferred to the new successful bidder?**

Ans: In respect of 204 coal blocks whose allocation was cancelled by the Hon'ble Supreme Court, two types of situations are possible:

- (i) Final approval for diversion of forest land has already been issued, and
- (ii) Application for in-principle approval of diversion of forest land under FCA was in process at either the State or the Central Government, on the day of cancellation of the allocation.

In cases under category (i) above transfer of FC to the new user agency will be done by MoEF&CC on submission by the Ministry of Coal, details of the new user agency along with an undertaking from the new user agency that they shall abide by all the conditions on which the forest land was leased to the original user agency and any other condition which may be stipulated by the Central Government/State Government in future.

In cases under category (ii) above the applications will be processed as if they have been submitted by the new user agency.

2. **Mines whose lease period got expired in terms of MMDR Amendment Act-2015 are now auctioned. Does the new owner require to apply afresh for forest clearance to execute the lease deed?**

Ans: No, all the approvals will be transferred to new user agency, subject to payment of 1 lakh, payment of all

compensatory levies by the new user agency if the same are not paid by erstwhile user agency during earlier approval. They have to furnish compliance of Stage II conditions and apply to DFO for making FC coterminous to the mining lease period.

- 3. A User Agency had taken forest clearance for a mining project. After exhaustion of minerals, User Agency now wants to use the reclaimed land for the purpose of power generation by installing Solar Power Plant. Can he use this reclaimed land for solar power generation?**

Ans: No, Once the mineral is exhausted, the lessee has to surrender the land after following due procedure as per MMDR Act, 1957.

- 4. Can a Mining Lease Deed be executed after taking approval under Sec-2(iii) of FC Act-1980?**

Ans: Yes, Mining Lease Deed can be executed after taking approval under Sec-2(iii) of the FC Act.

- 5. A mining lease deed has been executed after taking Sec-2(iii) approval. Can mining operation be started in non-forest land of the mining lease?**

Ans: No. Permission under section 2(iii) of FCA 1980 does not permit breaking of any forest land.

- 6. What is the validity period of forest clearance for a coal mine?**

Ans: Validity period of forest clearance is coterminous with the mining lease period of coal mine as granted under MMDR Act with an approved mining plan

- 7. How much safety zone is required to be kept around mining lease boundary?**

Ans: All mining projects, including cluster-mines, are required to have a 7.5-meter-wide peripheral safety zone within

the Mining Lease area. The area of safety zone will be a part of diversion proposal.

8. Can a lease holder conduct mining operations within safety zone?

Ans: No, the action will defeat the purpose of safety zone. However, in any exceptional case if it became imperative to use such land for mining purpose the same is required to be analyzed by Forest Advisory Committee and approval can be accorded after proper justification under the provisions of FCA 1980.

9. How much safety distance is required to be kept along public road & natural stream. Does it form part of safety zone?

Ans: The width of 10m and 50 m strip on either side of public road and natural stream respectively located inside the mining lease shall be protected but will not be considered as a part of safety zone for calculation of exemption from CA requirement.

10. Can a user agency apply together for diversion and re-diversion of forest land under Section 2(ii) of the FC Act?

Ans: Yes, User agency can apply for diversion of forest land together with re-diversion of the forest land diverted earlier under Section 2 (ii) of the FC Act.

08 | IRRIGATION & HYDRO-ELECTRIC PROJECTS

1. Whether forest clearance can be granted in phases for irrigation /hydro-electric projects?

Ans: Yes, forest clearance can be granted in phases for irrigation /hydro-electric projects.

2. Why Catchment Area Treatment (CAT) Plan is necessary along with diversion proposal of Irrigation & hydro-electric projects and not with other projects?

Ans: The CAT Plan is an important and essential plan for enhancing and maintaining the ecological health of the catchment area of the proposed irrigation/hydroelectric project through site-specific biological and engineering measures for conservation of soil & moisture and management of water regime. Among other provisions, the measures should focus on arresting soil erosion, improving effective drainage in the area, and rejuvenation of the degraded ecosystem in the catchment. The main objective of CATP is to prevent siltation of the reservoir.

3. What are the categories of projects for CATP is required?

Ans: CATP is required for all the hydroelectric projects except small hydel projects (maximum up to 10 mw capacity), which are either canal head or run-of the river projects and do not involve impounding of water/submergence of forest land.

4. Who shall approve the CAT Plan?

Ans: CAT Plan shall be approved by the Principal CCF & HoFF or any other officer authorized by him for the purpose.

09 | LINEAR PROJECTS

1. What type of proposals come under linear projects?

Ans: Diversion Proposals for Roads, Railways, Transmission Lines, Conveyor belt, Oil and Natural Gas Pipelines, Slurry Pipelines, Irrigation Canals come under the category of Linear Projects.

2. Why Aerial Bunched Cable (ABC) or underground cables are preferred over overhead lines in forest area?

Ans: Aerial Bunched Cable (ABC) or underground cable is preferred in place of overhead cable in forest area to avoid electrocution of wild animals like elephants.

3. State Electricity Dept. wants to lay 33 KV distribution line which passes through forest for 1 km length. What should be the minimum Right of Way (RoW) and minimum clearance below each conductor in the forest area?

Ans: Details of Right of Way (ROW) and minimum clearance for various capacity of transmission voltage is mentioned in Clause-10.1 of Handbook on Forest Conservation Act guidelines dated 28.03.2019. The copy of same is available on parivesh.nic.in. In case of 33 KV transmission line, minimum right of way should be 15 m and minimum clearance between conductor and tree should be 2.8 m. These are decided by CEA regulation or above maximum trunk height of elephant, whichever is higher.

4. What should be the standard trench width & trench depth for laying underground insulated cable in forest area?

Ans: The norms/ standards for laying underground insulated cables through forest areas shall be as below:

Lines Voltage	Trench Width	Trench Depth
33 KV	600 mm	1200 mm
11 KV	300 mm	900 mm

However, for laying double circuit (D/C) underground cables through forest areas, trench width shall be twice the aforementioned width stipulated for the single circuit cable.

5. Can work in forest land for a linear project commence before grant of final forest clearance?

Ans: Yes, it can commence after payment of compensatory levies as per Stage I approval. The Working Permission is granted by the concerned DFO for one year. Subsequently, FRA Compliance and transfer, mutation and declaration of PF of CA land, has to be done for Stage II clearance.

6. Can a User Agency start work in non-forest land of a linear project after filing of application for forest diversion but before grant of forest clearance?

Ans: In case of linear projects involving both forest as well as non-forest land, work on non-forest land may be executed subject to submission of details of all stretches involving forest lands along with alternate alignments identified to bypass the forest land. User Agency needs to undertake that in case diversion of forest land is denied, project shall be executed along alternate alignment and work on non-forest land shall not be cited as a reason for grant of approval of diversion of forest land under the Forest (Conservation) Act, 1980.

The above facilitation is not applicable to the roads falling in the Protected Areas and the Eco-sensitive zones around the Protected Areas where impact on wildlife is to be considered.

7. Does the non-forest land used for strip plantation along the length of highways attracts FC Act?

Ans: It attracts FC Act if the strip is recorded/notified as forest in any government record or looks like a forest as per dictionary meaning of forest.

8. A kutcha road exists in a forest which was made before 25th Oct'1980. Now this road required to be made pucca to help villagers who resides in the deep forest area. Will it require prior permission of Central Govt. under FC Act?

Ans: The upgradation of roads, constructed in forest areas prior to 25th October 1980, from 'Kutcha to Pucca' is permissible without attracting the provisions of FC Act, 1980. Black topping and bituminous work of forest roads (management works) which have been brought under Pradhan Mantri Gramin Sadak Yojana (PMGSY) is permitted subject to certain conditions. The permission is to be granted by State Government.

9. An optic fibre cable is to be laid along the existing Right of Way (RoW) of a road. Does it require prior approval of Central Govt.?

Ans: General approval is accorded for the laying of underground optic fibre cable, along the roads within existing RoWs (trench size not more than two meters in depth and one meter in width) not falling in National Parks and Wildlife Sanctuaries without felling of trees. Approval, in addition to general conditions mentioned in para 4.1 of the Handbook of FC, is subject to certain conditions:

- No tree felling is involved for the proposed work.
- After completion of the project, the area under RoW should be reclaimed suitably.
- UA agrees to make good any loss to Forest/ Environment
- The UA will seek permission from the local FD for carrying out any maintenance.
- In case, the proposed area falls in the RoW of the road passing through National Parks and Wildlife Sanctuaries, General Approval is subject to requisite permissions from the State Board for Wildlife shall be obtained.
- In case, the proposed area falls in the RoW of the road passing through Tiger Reserves, General Approval is subject to requisite permissions from the National Board for Wildlife/NTCA shall be obtained.
- If the project involves tree felling, 10 trees for tree marked for felling shall be planted at the cost of user agency. The permission in the above cases is given by the State Government

10 | WILDLIFE CLEARANCE

1. Can Forest land be used for rehabilitation of persons relocated from a protected area?

Ans: Yes, forest land can be used for rehabilitation of persons relocated from a protected area. Legal status of diverted forest land shall be changed to revenue kissam of land.

2. Whether mining activity can be allowed within or near Protected areas?

Ans: No, mining activity is not allowed within protected area or upto 1Km from its boundary.

3. What are the areas coming under 'Protected Area'?

Ans: National Parks, Sanctuaries, Tiger Reserves, Conservation Reserves, Community Reserves, etc., notified under Wildlife Protection Act, 1972.

4. What is the provision for taking non-forestry activities within protected area?

Ans: The process of application for wildlife clearance under WPA 1972 is same as forest clearance for non-forestry use of any forest area is followed under FCA 1980. Besides this, the approval from SBWL and NBWL is mandatory. In pursuance of order dated 13.11.2000 in Writ Petition (C) No. 337 of 1995 of the Hon'ble Supreme Court, there shall be no de-reservation / de-notification of forests, National Parks and Sanctuaries without approval of the Hon'ble Supreme Court. Further, in pursuance of the orders of the Hon'ble Supreme Court all mining operations in National Parks and Sanctuaries shall continue to remain suspended, and no mining activity is permissible within 1 km of the boundary of a PA.

5. Is there any special precaution to be taken for transmission line passing through National Parks/Wildlife Sanctuary/Wildlife Corridors?

Ans: In case of transmission lines passing through National Parks, Wildlife Sanctuaries and Wildlife Corridors, insulated conductors shall only be used to prevent electrocution of animals. In case of transmission lines passing through elephant reserves/corridors, additional clearances of at least 6 m shall be provided over and above minimum clearance [as stipulated under Central Electricity Authority (Measures relating to safety & Electricity Supply) Regulations, 2010] above the ground from the lowest conductor of the transmission lines". (Para 12.12.1).

6. What is procedure to obtain approval under NBWL?

Ans: User Agency is required to file application in PARIVESH portal for wildlife clearance under Wildlife (Protection) Act.

7. What is eco-sensitive zone in case of protected area?

Ans: An area upto 10 km from the boundary of protected area is a default ESZ, if the same is not finally notified. In other cases, if the same is finally notified, the limit of the extent varies as decided in the notification which can be from few meters to certain KM from the boundary of the PA.

8. Whether Wildlife Clearance is required for activities inside ESZ?

Ans: Yes, Circumstances under which clearance on wildlife point of view is required inside ESZ is detailed below:

- I. When Forest kissam of land inside ESZ required for any project for non-forest use, prior Forest Clearance is mandatory. In such case, prior Wildlife Clearance is also mandatory.

- II. If Environment Clearance for any activity is required as per EIA notification 2006 inside ESZ, then Wildlife Clearance for such activity is mandatory.
- III. Besides these, certain activities which are prohibited inside ESZ as per notification of that particular PA, for such project activities, prior Wildlife Clearance is also mandatory.

11 | FOREST RIGHTS ACT

1. What protections are given to STs & OTFDs during diversion of forest land for non-forest purposes?

Ans: The complete process of recognition and vesting of forest rights under the FRA-2006 is required to be carried out for the entire forest land proposed for diversion. A Certificate from the Collector should be issued in this regard.

2. Who is the competent authority for grant of FRA Certificate?

Ans: District Collector is the competent authority for grant of FRA Certificate.

3. What is the timeline for granting FRA Certificate by the District Collector?

Ans: Upto 40 Ha:- 30 days, 40-100 ha:- 45 days, > 100 ha:- 60 days

4. Whether compliance under FRA-2006 is pre-requisite for obtaining Stage-I in-principle approval?

Ans: FRA compliance is not a pre-requisite for grant of Stage-I Clearance. However, it is required before grant of Stage-II Clearance.

5. What are the projects that can be approved for forest diversion under FRA, 2006?

Ans: 13 essential projects can be approved under FRA. The projects managed by the Government and Panchayats can only be approved under this Act. The detailed list is given in the Chapter 12.3.

6. What is the procedure to be followed for diversion of forest land under Sec 3(2) of FRA, 2006?

- Ans:**
1. The UA has to obtain the Gram Sabha Resolution
 2. The UA has to apply to the concerned Range Officer in Form A along with Gram Sabha Resolution.
 3. DFO would approve the proposal on the basis of site inspection report of the Range Officer.
 4. If the DFO do not agree with the proposal, he will forward the proposal to DLC headed by the District Collector for the final decision.

12 | COMPETENT AUTHORITY (IRO/MOEF&CC)

1. What are the proposals that will be approved by Regional Office of MOEF &CC?

- Ans:**
1. All Linear projects irrespective of the forest area involved, with the approval of REC
 2. All proposals upto 5 ha forest area involved except mining, encroachment, and hydel projects by IRO
 3. All proposals from 5-40 ha are to be recommended by REC and approved by IRO.

2. What are the proposals that will be approved by MOEF &CC, New Delhi?

- Ans:**
1. All Mining projects
 2. All Hydel Projects
 3. All Encroachment cases
 4. All proposals above 40 ha area except Linear Projects.

3. What are the powers of DFO to approve a proposal under FRA, 2006?

Ans: Under Section 3(2) of Forest Rights Act, 2006 the DFO can approve the diversion of forest land having an area **less than one hectare** in each case with involvement of felling of trees not exceeding **seventy-five trees** per hectare subject to the proposal is recommended by Gram Sabha for the following facilities managed by the Government namely: -

- (a) Schools;
- (b) Dispensary or hospital;

- (c) Anganwadis;
- (d) Fair price shops;
- (e) Electric and telecommunication lines;
- (f) Tanks and other minor water bodies;
- (g) Drinking water supply and water pipelines
- (h) Water or rainwater harvesting structures;
- (i) Minor irrigation canals;
- (j) Non-conventional source of energy;
- (k) Skill up-gradation or vocational training centers;
- (l) Roads; and
- (m) Community centers

For the above cases Forest Conservation Act, 1980 will not be applicable, but if the forest area comes within the territory of PA, then permission from NBWL is necessary.

4. What are the powers of State Government for approval of projects?

Ans: General approval for diversion of forest area for the development of following critical public utility and welfare projects provided that the forest area involved is not within a National Park and/or a Wildlife Sanctuary:

- (a) Schools/Educational Institutes;
- (b) Dispensary/ hospital;
- (c) Electric and telecommunication lines;
- (d) Drinking water;
- (e) Water/rainwater harvesting structures;
- (f) Minor irrigation canals;

- (g) Non-conventional source of energy;
- (h) Skill up-gradation/vocational training centers;
- (i) Power sub stations;
- (j) Communication posts;
- (k) Construction/widening of roads including approach road to roadside establishments;
- (l) Upgradation/strengthening/widening of existing bridges by BRO;
- (m) Police establishments like police stations/outposts/ border outposts/towers in sensitive areas (identified by Ministry of Home Affairs);
- (n) Government approved community toilets partly or fully in forest lands involving not more than one hectare subject to approval by GP in rural areas and urban bodies in urban areas, and
- (o) Water mills

This approval, is subject to following conditions:

- (a) Area not more than one hectare, in each case.
- (b) The area shall not involve felling of more than 50 trees per hectare.

13 | MISCELLANEOUS

- 1. An entrepreneur wants to construct hotel in a deep forest to promote tourism. Does he require forest clearance?**

Ans: Yes, since hotel construction is a non-forest activity, it would require prior approval from Central Govt. Generally, such requests are not accepted as the project is not a site specific.

- 2. What are the penal provisions for non-compliance of conditions mentioned in the final FC approval?**

Ans: Penal provisions are mentioned under Para 1.21 of Handbook.

- 3. Is there any special exemption existing for taking public infrastructure works in forest area of LWE affected Districts?**

Ans: All such proposals upto 40 ha are dealt at IROs on priority and specific timelines have been given for the approval of projects expeditiously.

- 4. An entrepreneur wants to establish a Zoo in the forest for promoting tourism. Will he be required to take prior forest clearance under FCA?**

Ans: Since construction of Zoo over forest land has both forestry and non-forestry components, it requires prior approval of GoI subject to approval of plan by Central Zoo Authority.

- 5. Whether rearing of tussar inside the forest area requires prior approval of Central Govt.?**

Ans: No. It does not require prior approval of Central Govt.

6. What is Cost-Benefit Analysis in case of a forest diversion proposal?

Ans: It is the comparison of ecological and environmental losses and economic distress caused to the people who are displaced vis-à-vis economic & social gain generated by using forest land for non-forest purposes in a project

Annexure-III of the Guidelines dated 28.03.2019 published on Forest Conservation Act-1980 stipulates various parameters to be taken while calculating Cost-Benefit Analysis of a forest diversion proposal.

ABBREVIATIONS

FCA	Forest (Conservation) Act
FRA	Forest Rights Act
MMDR Act	Mines and Minerals (Development and Regulation) Act
MoEF & CC	Ministry of Environment, Forest & Climate Change
IRO	Integrated Regional Office
FAC	Forest Advisory Committee
REC	Regional Empowered Committee
UA	User Agency
CPSU	Central Public Sector Undertaking
SPSU	State Public Sector Undertaking
FD	Forest Department
PCCF & HoFF	Principal Chief Conservator of Forests & Head of Forest Force
NO	Nodal Officer
RCCF	Regional Chief Conservator of Forests
CF	Conservator of Forests
DFO	Divisional Forest Officer
FRO	Forest Range Officer
RF	Reserved Forest
PRF	Proposed Reserved Forest

PF	Protected Forest
DPF	Demarcated Protected Forest
VF	Village Forest
DLC	District Level Committee
RoR	Record of Rights
RoW	Right of Way
CEA	Central Electricity Authority
NBWL	National Board for Wildlife
SBWL	State Board for Wildlife
NTCA	National Tiger Conservation Authority
PA	Protected Area
ESZ	Eco-Sensitive Zone
DGPS	Differential Global Positioning System
DSS	Decision Support System
KML	Keyhole Markup Language
CA	Compensatory Afforestation
NPV	Net Present Value
CATP	Catchment Area Treatment Plan
LWE	Left Wing Extremism
ABC	Aerial Bunched Cable
CBA	Cost Benefit Analysis

REFERENCES

Sl. No.	Chapter Name	Question No.	Reference
1	GENERAL QUERIES ON DIVERSION PROPOSAL	1	Section 2 Explanation of FC Act, 1980
		2	Para 1.1 and 1.2 of Handbook, 2019
		5	Para 1.1 of Handbook, 2019
		6	Para 1.14 of Handbook, 2019
2	COMPENSATORY AFFORESTATION	1	Para 2.1 of Handbook, 2019
		2	Para 2.7 of Handbook, 2019
		3	Para 2.4 (vi) of Handbook, 2019
		4	Para 2.4 (v) of Handbook, 2019
		5	Para 2.4 (ix) of Handbook, 2019
		6	Para 2.4 (ix) of Handbook, 2019
		7	Para 2.4 (iv) of Handbook, 2019
3	NET PRESENT VALUE	1	Para 3.1 of Handbook, 2019
		2	Para 3.1 of Handbook, 2019
		3	Para 3.2 of Handbook, 2019

Sl. No.	Chapter Name	Question No.	Reference
		4&5	MoEF & CC guideline 5-1/98- FC (Pt II) Dated 17/18.09.2003
		6, 7 & 9	Para 3.4 of Handbook, 2019
		10, 11, 12 & 13	Para 3.5 of Handbook, 2019
		14	Section 4 (7) of Forest Right Act, 2006
4	TRANSFER OF FOREST CLEARANCE	4	Para 5.1 (d) of Handbook, 2019
		5&6	Para 5.6 of Handbook, 2019
5	SURVEY AND INVESTIGATION	1	Para 6.8 (iv) of Handbook, 2019
		3&4	Para 6.8 (iv) of Handbook, 2019
		5	MoEF & CC guideline 5-3/2007- FC Dated 17.11.2020
6	MINING PROJECTS	1	MoEF & CC guideline FC- 11/112/2020- FC (Pt) Dated 07.07.2021
		2	MoEF & CC guideline FC- 11/112/2020- FC (Pt) Dated 07.07.2021
		4	Para 7.3 (i) of Handbook, 2019
		5	Para 7.3 (iv) e & f of Handbook, 2019
		6	Para 7.6 of Handbook, 2019
		7,8&9	Para 7.9 of Handbook, 2019

Sl. No.	Chapter Name	Question No.	Reference
		10	Para 5.6 of Handbook, 2019
7	IRRIGATION & HYDRO-ELECTRIC PROJECT	1	Para 9.1 of Handbook, 2019
		2,3&4	Para 9.2 of Handbook, 2019
8	LINEAR PROJCTS	1,5	Para 11.2 of Handbook, 2019
		2	Para 10.1 of Handbook, 2019
		4	Para 10.2 of Handbook, 2019
		6	Para 10.3 of Handbook, 2019
		7	Para 1.1 of Handbook, 2019
		8	MoEF & CC guideline FC-11/117/2019- FCDated 09.11.2020
9	WILDLIFE CLEARANCE	1	Para 12.8 & 12.9 of Handbook, 2019
		2	Para 12.2 of Handbook, 2019
		3	Para 12.1 of Handbook, 2019
		4	Para 12.3 & 12.2 of Handbook, 2019
		7	Section 3(2)(v) of Environment Protection Act, 1986
		8	Para 12.11 of Handbook, 2019

Sl. No.	Chapter Name	Question No.	Reference
10	FOREST RIGHTS ACT	1,2	Rule 6 (3) (e) of FC Rules,2003 (Amended up to 2017)
		3	Rule 6 (3) (f) of MoEF & CC Gazette Notification GSR185(E) Dated 14.03.2014
		4	MoEF & CC guideline 11-43/2013- FC Dated 26.02.2019
		6	MoTA guideline 23011/15/2008-SG.II Dated 18.05.2009
11	COMPETENT AUTHORITY (IRO/MOEF&CC)	1	Rule 6 (4) (a) of FC Rules,2003 (Amended up to 2017)
		2	Rule 6 (4) (b) of FC Rules,2003 (Amended up to 2017)
		4	Para 4.3 & 4.3.1 of Handbook, 2019
12	MISCELLANEOUS	3	MoEF & CC guideline 11-09/1998 FC(Pt)-Part(1) Dated 10.05.2021
		4	Para 12.6 of Handbook, 2019
		5	MoEF & CC guideline FC-11/76/2020- FC Dated 16.08.2021

