

# खनिज प्रशासन व्यवस्था

## Mineral Administration

The Mines & Mineral (D & R) Act - 1957

The Mineral Concession Rules - 1960

The UP Minor Mineral (C) Rules - 1963

The Granite (C & D) Rules - 1999

The UP Mineral (PIM T & S) Rules - 2002

The Forest C Act - 1980

The Forest C Rules - 2003

& Guidelines -

The Environment P Act - 1986

The Explosive Act - 1984

With

मूल्य रुपये 500/-

Government Orders of Uttar Pradesh & Uttranchal

# 2005-06

प्रकाशक :

भारद्वाज वितरण

गोखले विहार मार्ग, लखनऊ-226 001

संकलक

कै. एम. शुक्ल



## CHAPTER-3

### Compensatory Afforestation

**3.1 Compensatory Afforestation-** (i) Compensatory afforestation in **one of the most important conditions** stipulated by the Central Government while approving proposals for de-reservation or diversion of forest land for non-forest uses. **It is essential that with all such proposals, a comprehensive scheme for compensatory afforestation is formulated and submitted to the Central Government.**

(ii) The comprehensive scheme shall include the details of non-forest/degraded forest area identified for compensatory afforestation, map of areas to be taken up for compensatory afforestation, year-wise phased forestry operations, details of species to be planted and a suitability certificate from afforestation/management point of view alongwith the cost structure of various operations.

(iii) Sometimes the compensatory afforestation schemes are being submitted at such a cost structure, which is at variance with the cost norms for the same area. The compensatory afforestation schemes no doubt has to be site specific and thus per hectare rate will vary according to species, type of forest and site. In this regard, it has been decided that henceforth the compensatory afforestation schemes which are being submitted alongwith the proposals for forestry clearance, must have technical and administrative approvals from the competent authority and should be in conformity with cost norms based on species, type of forest and site.

(ii) The comprehensive scheme shall include the details of non-forest/degraded forest area identified for compensatory afforestation, map of areas to be taken up for compensatory afforestation, year-wise phased forestry operations.

**3.2 Land for Compensatory Afforestation-** (i) Compensatory afforestation shall be done over equivalent area of non-forest land.

**Clarification:-** As a matter of pragmatism, the revenue lands/zudpi jungle/chhote/bade jhar ka jungle/jungle-jhari land/ civil-soyam lands and all other such categories of lands, on which the provisions of Forest (Conservation) Act, 1980 are applicable, shall be considered for the purpose of compensatory afforestation provided such lands on which compensatory afforestation is proposed shall be notified as RF under the Indian Forest Act, 1927.

(ii) As far as possible, the non-forest land for compensatory afforestation should be identified contiguous to or in the proximity of Reserved Forest or Protected Forest to enable the Forest Department to effectively manage the newly planted area.

(iii) In the event that non-forest land for compensatory afforestation is not available in the same district, non-forest land for compensatory afforestation may be identified anywhere else in the State/UT as near as possible to the site of diversion, so as to minimise adverse impact on the micro-ecology of the area.

(iv) Where non-forest lands are not available or non-forest land is available in less extent to the forest area being diverted, compensatory afforestation may be carried out over degraded forest twice in extent to the area being diverted or to the difference between forest land being diverted and available non-forest land, as the case may be.

(v) The non-availability of suitable non-forest land for compensatory afforestation in the entire state/UT would be accepted by the Central Government only on the Certificate from the Chief Secretary to the State/UT Government to that effect.

(vi) **As an exception to 3.2(i) above, compensatory afforestation may be raised over degraded forest land twice in extent of the forest area being diverted/dereserved in respect of following types of proposals:**

(a) For extraction of minor minerals from the river beds. (However, if forest area to be diverted is above 500 hectares, compensatory afforestation over equivalent area of degraded forest shall be required to be done instead of twice the area being diverted subject to a minimum of 1000 hectare compensatory afforestation)

(b) For construction of link roads, small water works, minor irrigation works, school building, dispensaries, hospital, tiny rural industrial sheds of the Government or any other similar work excluding mining and encroachment cases, which directly benefit the people of the area- in hill districts and in other districts having forest area exceeding 50% of the total geographical area, provided diversion of forest area does not exceed 20 hectares.

(c) For laying of transmission lines upto 220 KV.

(d) For mulberry plantation undertaken for silk-worm rearing without any felling or existing trees.

(e) For diversion of linear or 'strip' plantation declared as protected forest along the road/rail/canal sides for widening or expansion or road/rail/canal.

(f) For laying of telephone/optical fibre lines.



(vii) **The field firing ranges**, which area used temporarily by the defence establishments for arms practice, comprises of safety zone encompassing the field firing range and danger area/impact zone. Keeping in view that the impact area is only a small portion of the entire firing range and as an exception to 3.2(i) above, compensatory afforestation may be raised over equivalent degraded forest land of the forest area being diverted for impact zone of the field firing rang.

(viii) No compensatory afforestation shall be insisted upon in respect of the following :-

- (a) For cleaning of naturally grown trees in forest land or in portion thereof for the purpose of using it for reforestation.
- (b) Proposals involving diversion of forest land up to **one hectare**. (However, in such cases, plantation of ten times the number of trees likely to be felled will have to be carried out by way of compensatory afforestation or any number of trees specified in the order)
- (c) For underground mining in forest land below 3 metres. (However, in respect of forest area required for surface right, compensatory afforestation shall be required as per relevant provisions).
- (d) Cases of renewal of mining lease, for the forest area already broken/used for mining, dumping or use by den, construction of roads, ropeways, buildings, etc. For the balance area, compensatory afforestation shall be required to be done as stipulated, provided that no compensatory afforestation had been stipulated and done in respect of this area at the time of grant/ renewal of lease earlier.

(ix) **Special provisions for Central Government/Central Government Undertaking Projects.**

- (a) Compensatory afforestation may be raised on degraded forest land twice in extent of forest area being diverted. Certificate of Chief Secretary regarding non-availability of non-forest land for compensatory afforestation will not be insisted.
- (b) The user agency will deposit the amount for compensatory afforestation with the concerned State Govt. receiving the demand and the actual transfer/use of forest land will be effected only after the receipt of the demanded amount.
- (c) The State Governments will identify 'blank forest' or degraded forest lands for compensatory afforestation. The State Governments of Madhya Pradesh and Rajasthan will identify such degraded forest land in their respective States for compensatory afforestation of Central projects in their respective States as indicated by the Chief Secretaries of these two States in the meeting of Committee of Secretaries held on 15-11-1996.
- (d) The pool of degraded forest land in Madhya Pradesh and Rajasthan will also be available for the Central Government projects of other States if the concerned State Government fail to identify the requisite land mentioned at (a) above, for compensatory afforestation in its own territory within one month of the submission of the proposal to the State Government.
- (e) While identifying the pool of degraded forest land, blank forest lands in reserved forests in considerable sizeable blocks should be identified as first priority as "plantation bank". An appropriate treatment with choice of species should be prepared by the beneficiary States. Only when such areas are not available, the choice of compensatory afforestation will fall on protected, unprotected forests and unclassified forests in declining order of priority.
- (f) The Nodal Officer (Forest Conservation), State Forest Department will identify the pool of such degraded forest lands in consultation with concerned Chief Conservator of Forests (C), Regional Offices of MOEF.

**Clarification :** The provisions of the above guideline would be applicable to only Central Sector projects and not on State Sector projects which are being undertaken by Central PSUs on turnkey basis. In such cases, Compensatory Afforestation on equivalent non-forest land/ a certificate of Chief Secretary regarding non-availability of equivalent non-forest land anywhere in the State shall be insisted upon.

**3.3 Elements of Schemes for Compensatory Afforestation-** (i) The Scheme for compensatory afforestation shall contain the following details :-

- (a) Details of equivalent non-forest or degraded forest land identified for raising compensatory afforestation.
- (b) Delineation of proposed area on suitable map.
- (c) Agency responsible for afforestation.
- (d) Details of work schedule proposed for compensatory afforestation.



- (e) Cost structure of plantation, provision of funds and the mechanism to ensure that the funds will be utilized or raising afforestation.
- (f) Details of proposed monitoring mechanism.

**lands identified for Compensatory Afforestation to be Transferred to the Forest Department** - The Nodal Officer (Forest Conservation), State Forest Department will identify the pool of such degraded forest lands in consultation with concerned Chief Conservator of Forests (C), Regional Offices of the MOEF.

Equivalent non-forest land identified for the purpose are to be transferred to the ownership of the State Forest Department and **declared as reserved/protected forests, so that the plantation raised can be maintained permanently**. The transfer must take prior to the commencement of the project.

The compensatory afforestation should clearly be an additional plantation activity and not a diversion of part of the annual plantation Programme.

In each case where the afforestation targets is over 500 hectares in plains, and 200 hectares in hills, a Monitoring Committee shall be established with a nominee of the Central Government to oversee that the stipulations, including those pertaining to compensatory plantation are carried out.

**Special Fund-** (i) The State /UT government should create a special fund to which the individual user agency will make its deposits for Compensatory Afforestation. The Forest Department, or any other technically competent agency, which is assigned the job of compensatory afforestation, should fully utilise this amount for implementation of the afforestation scheme approved by the Government of India, and keep separate and meticulous account thereof.

In order that a uniform procedure is followed by all departments, the Controller General of Accounts, Department of Expenditure, Ministry of Finance vide letter No. T-14018/14/90-Codes/485 dated 23.06. 1992 has informed that the aforesaid deposit may be booked under the head 'J-Reserve Fund (b) Reserve Funds not bearing interest - 235 - General and Other Reserve Funds -200 -Other Funds - Special Fund for Compensatory Afforestation'.

**Clarification :** The Supreme Court has passed orders on 30-10-2002 in I.A. No.556 in Writ Petition (Civil) No.202 of 1995, regarding creation of a body for management of compensatory afforestation fund. Annexure-II B may be referred to. In compliance with the orders, creation of a body namely, "Compensatory Afforestation Management & Planning Agency (CAMPA)" is under consideration. As soon as this body comes into existence, all the funds received by the State/UT Governments towards Compensatory Afforestation, Additional Compensatory Afforestation, Penal Compensatory Afforestation, Net Present Value of forest land, Catchment Area Treatment Plan funds, Wildlife Management Plan etc. for the conditions stipulated by the Central Governments, shall be transferred to the CAMPA. Further, Compensatory Afforestation Funds which have not yet been realised as well as the unspent funds already realised by the State shall be transferred to the said body within six months of its constitution by the respective States and the user-agencies.

Further, Supreme Court in its order dated 01.08.2003 in I.A. No. 826 & 859 in I.A. No. 566 in Writ Petition (Civil) No.202 of 1995 reiterated that no approval shall be granted without imposing the condition indicated in this Court's order dated 30.10.2002 relating to the payment of **net present value** of the forest land. Annexure-II C may be referred to.

**Note:- Compensatory Afforestation Fund Management and Planning Authority (CAMPA) has been notified in Official Gazette on 23<sup>rd</sup> April, 2004 (Refer Appendix).**

Guidelines for collection of Net Present Value (NPV) of forest land in compliance to the orders of the Supreme Court have been issued vide letter No. 5-1/98-FC (Pt.II) dated 18.09.2003 & 22.09.2003 (Appendix). In this regard, a clarification has also been issued by the Ministry of Environment and Forests vide letter No. 5-1/98-FC (Pt.II) dated : 25.05.2004 (Appendix).