

Measures for the Management of Profit-making Transformation of Desertification Land

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Measures for the Management of Profit-making Transformation of Desertification Land
(Order No 11 of State Forestry Administration, Promulgated on July 1, 2004)

Article 1 The present Measures are formulated for the purposes of regulating the profit-making transformation management activities and protecting the legitimate rights and interests of the entities and individuals engaging in profit-making transformation pursuant to the Law of the People's Republic of China on Desert Prevention and Transformation (hereinafter referred to as the LDPT).

Article 2 The present Measures shall apply to the profit-making transformation activities within the scope as clarified in the planning on national desert prevention and transformation.

The term "profit-making transformation activity" refers to the activity that an entity and individual without ownership of or use right to desertification land, for the purpose of making profit, take various measures to transform it after obtaining the use right thereof.

Article 3 The forestry administrative departments of the local people's governments at the county level or above shall be responsible for the management of applications, inspection and check prior to acceptance of profit-making transformation activities.

Article 4 An entity or individual engaging in the profit-making transformation of any state-owned desertification land shall sign a transformation agreement with the administrative department, which is authorized to manage the desertification land, or with the holder of use right, so as to obtain the right to use the desertification land.

An entity or individual engaging in the profit-making transformation of any collective-owned desertification land, which hasn't been contracted to households, shall sign a transformation agreement with the collective economic organization so as to obtain the right to use the desertification land.

An entity or individual engaging in the profit-making transformation of any collective-owned desertification land, which has been contracted to household(s), shall sign a transformation agreement with the contractor(s) so as to obtain the right to use the desertification land.

Article 5 If the land involved in a profit-making transformation activity is located within an administrative area at the county level, the forestry administrative department of the local people's government shall be responsible for accepting the corresponding application. If it is located within the administrative areas of different counties (cities), municipalities divided into districts, or autonomous prefectures, their common superior forestry administrative department of the local people's government shall be responsible for accepting the corresponding application.

Article 6 An entity or individual engaging in profit-making transformation activities shall offer the relevant materials as required by Paragraph 2 of Article 26 of the LDPT, apply with the forestry administrative department for transformation and fill out the transformation forms. A transformation agreement shall mainly cover the name of the transforming entity or individual, rights and obligations of both parties to the agreement, four boundaries and area of the to-be-transformed desertification land, time limit for transformation and liabilities for breach of agreement.

Article 7 The "other matters needed to be indicated" as mentioned in Article (6) of the LDPT shall include the status quo of the to-be-transformed desertification land, trend of utilization of the land after transformation, budget of transformation investment and sources of funds.

Article 8 The forestry administrative department shall, within 7 working days after it receives an transformation application and the relevant documents, conduct preliminary examination over the application materials. If the transformation application and the relevant documents meet the requirements in Articles 6 and 7 of the LDPT, it shall accept them. If they don't meet the pertinent requirements, it shall give a written notice to the applicant, making an explanation or requiring it (him) to supplement the relevant materials.

Article 9 If the forestry administrative department decides to accept an application, it shall organize experts to undertake technical appraisal on the transformation program, and may, in light of the actual needs, organize some personnel to verify the desertification land involved in the transformation application, and the contents of the relevant documents by conducting check and investigation on the spot.

The number of checking and verifying personnel shall not be less than 2.

Article 10 The forestry administrative department shall, within 30 working days after it decides to accept an application, make an announcement to the general public if the applicant meets the requirements in the LDPT and the present Measures, and shall give a written notice to the applicant. The announcement shall mainly state the following:

- (1) The name of the applying entity or individual;
- (2) The range, four boundaries and area of the to-be-transformed desertification land;
- (3) The information about the ownership of the to-be-transformed desertification land or land use right, and about the issuance of relevant ownership certificates; and
- (4) The main content of the transformation program.

Article 11 Under any of the following circumstances, the forestry administrative department shall make no announcement and shall give a written notice to the applicant:

- (1) The transformation location is inconsistent with the national and local desert prevention and transformation plans;
- (2) The right to use the to-be-transformed land hasn't been obtained;
- (3) Without guarantee of funds; or
- (4) The transformation program fails to pass the technical appraisal conducted by the experts.

Article 12 An entity or individual engaging in profit-making transformation shall comply with the announced transformation program.

Article 13 If it is necessary for the entity or individual to modify the transformation program, it (he) shall file a written application to the forestry administrative department, which made the original announcement.

Article 14 A written application for modifying the transformation program shall cover the following:

- (1) The original written announcement;
- (2) The original transformation program; and
- (3) The concrete modifications and reasons.

The technical indicators as stipulated in the modified transformation program shall be better than those in the original transformation program.

Article 15 The forestry administrative department shall, within 15 working days after it receives a modification application, decides to approve or disapprove it, and shall give a written notice to the

applicant.

Without approval of the original approval forestry administrative department, no entity or individual may change the announced transformation program.

Article 16 An entity or individual engaging in profit-making transformation may ask the forestry administrative department to offer guidance. Upon the request of entity or individual engaging in profit-making transformation, the forestry administrative department shall give it (him) guidance in the following aspects:

- (1) Consulting the policies, laws and regulations regarding desert prevention and transformation;
- (2) Making a transformation program;
- (3) Developing an annual operation design; and
- (4) Providing pertinent technical training.

Article 17 After an entity or individual engaging in profit-making transformation has completed the tasks as stipulated in the transformation program, it shall apply with the forestry administrative department, which made the announcement, for check and acceptance, and shall fill out the application form for check and acceptance of profit-making transformation.

Article 18 The forestry administrative department shall, within 30 working days after it receives an application, organize the check and acceptance according to the technical indicators determined in the transformation program.

If the land after transformation passes the check, the forestry administrative department shall issue the applicant a document to certify the transformation as qualified. If it fails to pass the check, the entity or individual engaging in profit-making transformation shall continue to transform the land.

With regard to the forest, trees and forestland that have passed the check, the entity or individual engaging in profit-making transformation shall apply for registering the ownership of the forest, trees and forestland upon the strength of the document certifying them as qualified.

Article 19 An entity or individual engaging in profit-making transformation may, in pursuance of the LDPT, enjoy the policy preferential treatments, such as monetary subsidies, fiscal discount, and tax reduction and exemption.

Article 20 Any entity or individual, who fails to comply with the transformation program, or fails to continue to transform the desertification land as required after failure to pass the check of forestry administrative department, shall be punished by the forestry administrative department in accordance with Article 41 of the LDPT.

Article 21 Any of the personnel of the forestry administrative department abuses his power, neglects his duties or seeks private interests shall be given an administrative sanction. If any crime is constituted, he shall be subject to the criminal liabilities.

Article 22 In accordance with Paragraph 2 of Article 26 of the LDPT, if an administrative department other than the forestry administrative department is designated by the local people's government at the county level or above to be responsible for accepting the applications and check and acceptance relating to profit-making transformation activities, it may follow the present Measures by analogy.

Article 23 The formats of the transformation application form and the profit-making transformation check and acceptance form shall be formulated by the State Administration of Forestry. The forms shall be printed and distributed by the forestry administrative departments of all provinces, autonomous regions, and municipalities directly under the Central Government.

Article 24 The Present Measures shall be implemented as of September 1, 2004.