

ENFORCEMENT RULES OF SOIL AND WATER CONSERVATION ACT

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Per Order of Council of Agriculture, Executive Yuan

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[Translation]

Chapter I General Provisions

Article 1 (Basis)

These Rules are enacted pursuant to Article 37 of the Soil and Water Conservation Act (hereinafter called "Act").

Article 2 (Afforestation with Legally Prescribed Tree Species)

The phrase "afforested with legally prescribed tree species" as mentioned in Subparagraph 7, Paragraph 1, Article 3 of the Act refers to afforestation and nurture based on the types of tree, method, and density designated by the central or municipal competent forestry authority.

Article 3 (Designation of Supervision and Management)

The central or municipal competent authority designating the relevant competent end business authority, a public business institution, or public entity to supervise and manage the handling and maintenance of soil and water conservation, shall announce the scope of such designated supervision and management, and any modification of such scope, in a public notice.

The designation made by the central competent authority pursuant to the preceding paragraph shall be advised to the municipal or county/city competent authority. Designation made by the municipal competent authority pursuant to the preceding paragraph shall be reported to the central competent authority for the record.

Article 4 (Type and Scale of Certification of Technician)

The scale of handling and maintenance of soil and water conservation designated by the central competent authority pursuant to Article 6 of the Act, or above, is as follows:

1. Treatment, management or usage under Subparagraphs 1, 6 to 8, Paragraph 1, Article 8 of the Act: the cost of handling and maintenance of soil and water conservation totals above NT 20 million dollars.
2. Development and use of farmland, forest land, fishing land, and meadowland:
 - (1) Repair and building of farm roads on slopeland or in a forest zone: the roadbed is at least 4m wide and 500m long, or the total area of the roadbed is at least 2,000m², save in maintenance and road surface treatment projects.
 - (2) Excavation, soil preparation, or slope treatment on slopeland or in a forest zone: the area is at least two hectares.
3. Prospecting of mineral deposits, mining, well digging, or establishment of relevant ancillary facilities: Prospecting of mineral deposits, mining, well digging, or establishment of relevant ancillary facilities on slopeland or in a forest zone in accordance with the Mining Act.
4. Quarrying: The volume of earth and stones being quarried on slopeland or in a forest zone is at least 5,000m³.
5. Repair and building of railroads, highways, other roads or ditches:
 - (1) Repair and building of railroads or highways on slopeland or in a forest zone,save in maintenance and road surface treatment projects.
 - (2) Repair and building of roads other than farm roads on slopeland or in a forest zone: the roadbed is at least 4m wide and 500m long, or the total area of the roadbed is at least 2,000m², save in maintenance and road surface treatment projects.
 - (3) Repair and building of ditches on slopeland or in a forest zone: the total volume being excavated and filled is at least 5,000m³.
6. Development, management or usage on slopeland or in a forest zone:
 - (1) Development of land for construction: the area of construction is at least 500m².
 - (2) Development of golf courses, and establishment of parks, cemeteries, pleasure grounds, sports grounds or military training grounds, or waste treatment yards.

- (3) Piling of Soils: at least 5,000m³ in volume.
 - (4) Farmer's house, agricultural facilities and recreant area: the total volume being excavated and filled is at least 5,000m³.
 - (5) Other activities of excavation and soil preparation: the total volume being excavated and filled is at least 5,000m³.
7. Other handling and maintenance of soil and water conservation as required to maintain soil and water resources and the quality thereof or to control disasters due to the development and use of land: the area of excavation and soil preparation is at least 2,000m², or the total area being excavated and filled is at least 5,000m³.

The municipal or county/city competent authority may, subject to the special features or requirements of the environment of the relevant area under its control, draft stricter conditions than those described in the preceding paragraph, submit the draft to the central competent authority for approval, and enforce the approved conditions upon such approval.

Article 5 (Deleted)

Article 6 (Deleted)

Chapter II Handling and Maintenance of General Soil and Water Conservation

Article 7 (Delimitation of Slope Land Suitable for Farming or Animal Husbandry Purpose)

Slope land suitable for farming or animal husbandry purpose mentioned in Articles 10 and 15 of the Act denotes land suitable for farming or animal husbandry as defined by the standard of land classification according to the limits on its allowed scope of use under the Slope Land Conservation and Utilization Act.

Article 8 (Deleted)

Article 9 (Deleted)

Article 10 (Deleted)

Article 11 (Deleted)

Article 12 (Deleted)

Article 13 (Deleted)

Article 14 (Deleted)

Article 15 (Deleted)

Article 16 (Deleted)

Article 17 (Deleted)

Article 18 (Deleted)

Article 19 (Deleted)

Chapter III Handling and Maintenance of Specific Soil and Water Conservation

Article 20 (Contents of Long-Term Soil and Water Conservation Plan)

The contents of a long-term soil and water conservation plan for a designated soil and water conservation area mentioned in Article 19 of the Act are as follows:

1. Type delimited and purpose of delimitation.
2. Location, scope and area delimited.
3. Plan depicting the current landuse (on a scale not less than 1/10,000).
4. Basic information on the environmental condition, including the geology, soil, ecology, meteorology, and hydrology of the environment, land ownership, and the managing authority.
5. Layout depicting the overall soil and water conservation planning (on a scale not less than 1/10,000).
6. Plan depicting the order in which soil and water conservation is to be handled and maintained in different areas by stages (on the same scale as mentioned in the preceding subparagraph, and marked in different colors by the stages of handling).

7. Content, enforcement unit, method of enforcement, estimated budget with respect to the handling plan for different stages and areas.
8. Restrictions.
9. Location, scope, content and reason for the requirement for specific or general workmanship in handling.
10. Funds and source thereof.

Article 21 (Procure of Protection Belt Establishment)

The management authority of designated soil and water conservation areas establishing a protection belt in accordance with Paragraph 1, Article 20 of the Act shall conduct surveys, lay conspicuous boundary markers or plant boundary trees, and submit the following information to the central competent authority either directly or through the municipal competent authority, for approval.

1. Basis of establishment.
2. Purpose of establishment.
3. Scope and area of protection belt, including a location plan and scope map, on a scale not less than 1/10,000.
4. Lot number, area, and owner of each lot of land mentioned in the preceding subparagraph; name and domicile of legal occupant of public land; status of use of land; and restrictions.
5. Date of implementation.

Article 22 (Inclusion of Protection Belt in Reservoir Project)

In the event of the building of a reservoir pursuant to Article 29 of the Act, the protection belt of the reservoir must be included as an important item of the building project and handled concurrently with the project.

Article 23 (Delimitation of Protection Belt, and Amendment)

Where the protection belt delimited in a designated soil and water conservation area is slopeland, the management authority of designated soil and water conservation areas

shall, after applying on its own initiative to the central or municipal competent authority for amendment and identification of such land as land suitable for afforestation or land subject to strengthened conservation, request the competent land administration authority in writing to amend and list said land as forestry land or national protection land pursuant to regulations.

The management authority of designated soil and water conservation areas mentioned in the preceding paragraph may increase its reward to obligors of soil and water conservation for completing afforestation.

The management authority of designated soil and water conservation areas shall notify the result of the amendment mentioned in Paragraph 1 to the land operator, occupant or owner, or in the event of public land, to the land management authority as well.

Article 24 (Listing of Forest above Protection Belt of Reservoir as Protection Forest)

Pursuant to Paragraph 3, Article 20 of the Act, the management authority of designated soil and water conservation areas shall apply to the central or municipal competent authority in writing for amendment and identification of any forest area above a protection belt as land suitable for afforestation, and then request the competent forestry authority to list such land as protection forest pursuant to the Forest Act.

The management authority of designated soil and water conservation areas shall directly refer the matter to the management authority responsible for forest operation in the event the land mentioned in the preceding paragraph is state-owned forestry area, forest land for experimentation, or protection forest land.

Article 25 (Listing of Land within Protection Belt as Protection Forest)

In addition to what is provided in the preceding article, the management authority of designated soil and water conservation areas shall request the central competent forestry authority either directly or through the municipal competent authority, in writing, to list land within a protection belt that belongs to a forest area pursuant to Paragraph 2, Article 21 of the Act, as protection forest pursuant to the Forest Act.

CHAPTER IV Supervision and Management

Article 26 (Definition of Over Landuse)

The term of over landuses on slopland mentioned in Article 22 of the Act denotes activities of cultivation, operation or use for agricultural, fishery or animal husbandry

purpose, on land identified by the Slopeland Conservation and Utilization Act as land suitable for afforestation or land subject to strengthened conservation.

Article 27 (Afforestation of, or Maintenance of Natural Trees on, Land Suitable for Agricultural or Animal Husbandry Purpose)

The soil and water conservation of slopeland identified by the Slopeland Conservation and Utilization Act as land suitable for agricultural or animal husbandry purpose may be handled and maintained by way of afforestation or maintenance of natural trees.

Article 28 (Cure within Time Limit)

The competent authority prescribing a time limit for cure pursuant to Articles 22 to 24, and Article 33 of the Act shall specify the area, matters to be cured, and time limit for the completion of cure, in writing in a notice and serve such notice on the obligor of soil and water conservation.

Article 29 (Emergency Plan against Calamity)

Upon the occurrence of any of the circumstances described in the subparagraphs of Paragraph 1, Article 35 during the work period of soil and water conservation, the municipal or county/city competent authority handling and maintaining soil and water conservation on an emergency basis pursuant to Article 26 of the Act shall request the obligor of soil and water conservation to take the necessary emergency action against calamity within a prescribed time limit, with a copy to the competent end business authority. The obligor of soil and water conservation shall suspend work where necessary and, pursuant to the regulations of the competent authority, present an emergency plan against calamity within the prescribed time limit to the competent authority for approval, and implement such plan upon said approval. Work may not resume under the original soil and water conservation plan until after the implementation of the plan above passes the inspection of the competent authority in conjunction with the competent end business authority. The competent authority may extend the original work period at its discretion.

The obligor of soil and water conservation shall file for modification of its soil and water conservation plan pursuant to Article 18 in line with the implementation of the emergency plan against calamity mentioned in the preceding paragraph.

Article 30 (Content of Emergency Plan against Calamity)

The contents of the emergency plan against calamity mentioned in the preceding

paragraph are as follows:

1. Name, domicile and residence of the obligor of soil and water conservation, or in the event of a legal entity or organization, the name of such legal entity or organization, its office or place of business, and the name, domicile or residence of its representative or manager.
2. Location and scope of development or use.
3. Description of the current condition of the particular calamity (or violation).
4. Content and location map (basic plan on a scale not less than 1/10,000 in forest land, and not less than 1/5,000 in other land) of precautionary measures and works.
5. Completion time.

Article 31 (Compulsory demolition or elimination)

The competent authority imposing compulsory demolition or elimination of a work object in accordance with Article 23 or Paragraph 2, Article 33 of the Act may designate the content of the work object to be demolished or eliminated by the obligor of soil and water conservation on its own and also the time for completion. The competent authority will demolish or eliminate in a compulsory manner any work object that is not demolished or eliminated by the above time for completion.

The competent authority enforcing compulsory demolition or elimination pursuant to the preceding paragraph shall, pursuant to Paragraph 2, Article 23, and Paragraph 3, Article 24 of the Act, request the obligor of soil and water conservation to pay within a prescribed time limit the costs required for such enforcement, or deduct such costs from the soil and water conservation bond paid by said obligor of soil and water conservation.

Article 32 (Date of Initial Punishment)

The date of initial punishment mentioned in Paragraph 2, Article 23 of the Act means the date the municipal or county/city competent authority imposes the first fine and serves the notice on the obligor of soil and water conservation.

Article 33 (Necessary Takeover of Performance)

Takeover of performance pursuant to Paragraph 3, Article 24 of the Act is deemed necessary under any of the following circumstances, :

1. Where under Paragraph 1, Article 22 of the Act slopeland is used beyond its limits; or, when farming, forestry, fishing, or animal husbandry activities are being conducted, land is not used pursuant to Article 10 of the Act or soil and water conservation is not handled and maintained in accordance with the technical regulations for soil and water conservation, if no cure is made within the time limit prescribed by the competent authority in conjunction with the relevant authorities or if the handling and maintenance of soil and water conservation does not conform to the technical regulations for soil and water conservation, to the extent that any of the circumstances described in the subparagraphs of Paragraph 1, Article 35 arises.
2. Where either Paragraph 1 or 2, Article 23 of the Act is violated, and no cure is made within the time limit prescribed by the competent authority in conjunction with the competent end business authority or the implementation still does not conform to the technical regulations for soil and water conservation; or where an order for suspension of work, compulsory demolition or elimination of work object is not complied with, as a result of which the competent authority deems it necessary to take over the performance.

Article 34 (Procedure for Takeover of Performance)

The municipal or county/city competent authority taking over performance in accordance with Paragraph 3, Article 24 of the Act shall notify the obligor of soil and water conservation of the items to be performed on its behalf and the funds for the performance, and announce such takeover of performance in a public notice of the particular competent authority.

Article 35 (Conditions and Procedure for Emergency Action)

The competent authority shall take emergency action pursuant to Articles 25 to 27 of the Act under any of the following circumstances. The competent authority shall notify the obligor of soil and water conservation of the emergency action being carried out, and announce such action in a public notice of the particular competent authority:

1. Where the riverbed or waterway is silted up with sediment and residue;
2. Where conservation of water resources above or under ground is impaired;
3. Where water, soil or other environment is polluted;
4. Where land collapses, landslide or soil loss occurs;

5. Where the safety of farmland, buildings, roads and bridges is impaired;
6. Where flood control, drainage, irrigation, or the protection of other water resources or water conservancy facilities is impeded;
7. Where restrictions on designated soil and water conservation areas are violated, as a result of which the function or purpose of soil and water conservation is likely to be directly impacted;
8. Where public safety is otherwise impeded.

The preceding article shall apply *mutatis mutandis* if the competent authority carries out emergency action in accordance with the preceding paragraph.

Article 36 (Exercise of Police Powers or Request for Assistance from Military and Police)

The emergency action and crackdown in which the competent authority at any level is entitled by Article 27 of the Act to exercise police powers or seek assistance from the military and police in the area under the control of the particular competent authority, are as follows:

1. Emergency action described in any of the subparagraphs of Paragraph 1, Article 35.
2. Crackdown on the development activities banned by Paragraph 2, Article 19 of the Act.
3. Elimination of a ground object pursuant to Paragraph 2, Article 22 of the Act.
4. Suspension of work, compulsory demolition, revocation of permit, or suspension of use of completed work, pursuant to Paragraph 1, Article 23 of the Act.
5. Suspension of work, confiscation of facilities or machinery, or compulsory demolition or elimination of work objects pursuant to Paragraph 2, Article 23 of the Act.
6. Takeover of performance pursuant to Paragraph 3, Article 24 of the Act.
7. Appropriation of materials, supplies, labor and land, and removal of obstacles, pursuant to Paragraph 1, Article 26 of the Act.

8. Otherwise reporting, prohibition or crackdown pursuant to Article 38.

Article 37 (Identification Worn During Exercise of Police Powers)

All personnel dispatched by the competent authority at any level to exercise police powers pursuant to Article 27 of the Act must wear identification.

Article 38 (Reporting and Crackdown on Violating Soil and Water Conservation Act)

The municipal or county/city competent authority shall dispatch personnel to inspect the handling and maintenance of soil and water conservation on a frequent basis and, where the Act is violated, immediately make a report, prohibit or crack down on the violation.

The reporting, prohibition and crackdown shall be implemented by the management authority responsible for forest operation in the event the land subject to the handling and maintenance of soil and water conservation as mentioned in the preceding paragraph is state-owned forestry area, forest land for experimentation, or protection forest land.

The supervision and inspection under the preceding two paragraphs must be strengthened in the season of typhoons or torrential rain.

Article 39 (Reward and Subsidization)

The competent authority will, at its discretion, reward, or provide subsidy pursuant to Article 31 of the Act to, an obligor of soil and water conservation handling and maintaining soil and water conservation with remarkable result.

The competent authority will reward or grant a monetary prize to the authority or the personnel thereof having handled and maintained soil and water conservation, or engaged in reporting, prohibition or crackdown, with remarkable result, or an informer having informed against a violation of the relevant provisions of the Act or the use of slopeland against regulations if the party being informed against is punished and placed on the record.

The competent authority shall punish any authority or any personnel thereof having obviously neglected their duties in handling and maintaining soil and water conservation or in reporting, prohibition or crackdown.

Chapter V Supplementary Provisions

Article 40 (Deleted)

Article 41 (Deleted)

Article 42 (Date of Promulgation and Enforcement)

These Rules are enforced as of the date of their promulgation.