

**SOIL AND WATER CONSERVATION PLAN  
REVIEW, APPROVAL AND SUPERVISION REGULATIONS**

*Promulgated per Order of August 31, 2004 No. Nong-Shou-Shui-Bao-Zi 0931842790*

Amendments to Articles 3, 8-1, 10 and 11 Promulgated Per Council of Agriculture, Executive Yuan Order Dated  
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**Chapter I General Provisions**

**Article 1 (Legal Basis)**

These Regulations are enacted in accordance with Paragraph 2, Article 14-1 of the Soil and Water Conservation Act (hereinafter “Act”).

**Article 2 (Name of Documentation)**

For purposes of these Regulations, the term “Soil And Water Conservation Application Documents” denotes soil and water conservation plan, simplified soil and water conservation statement and soil and water conservation proposal.

**Article 3 (Categories and Scales Concerning Simplified Soil and Water Conservation Statement)**

The categories and scales concerning a simplified soil and water conservation statement that may be submitted in lieu of a soil and water conservation plan with respect to any of the acts described in Paragraph 1, Article 12 of the Act that are performed on slopeland or in a forest zone, are as follows:

1. Repairing or constructing of farm roads as required for the development and use of agriculture, forestation, fishery, and pasturage : the road of foundation is less than 4m wide and less than 500m long;
2. Slope preparation as required for the development and use of agriculture, forestation, fishery, and, pasturage : less than 2 hectares;
3. Repairing and constructing of roads other than railroads, highways and farm roads: the roadbed is less than 4m wide and less than 500m long;
4. Improvement or maintenance of existing roads;

5. Development of land for construction: area of construction is less than 500m<sup>2</sup>;
6. Piling of soil and gravel: less than 5,000m<sup>3</sup>; and
7. Other excavation and soil preparation: the sum of the area excavated and the area filled is less than 5,000m<sup>3</sup>.

#### **Article 4 (Exemption from Soil and Water Conservation)**

An obligor of soil and water conservation under the following of the following circumstances is exempted from preparing and submitting to the competent authorities for review and approval a soil and water conservation plan or simplified soil and water conservation statement:

1. Excavation of planting holes, cultivation and weeding etc., as necessary for agricultural operation;
2. Repairing or building of roads in farmland or farming path with the roadbed being less than 2.5m wide and less than 100m long, as necessary for farm or other agricultural operation; or
3. Other implementation and maintenance of soil and water conservation in accordance with the technical regulations for soil and water conservation, as necessary for agricultural operation.

Work described in Subparagraphs 2 and 3 of the preceding paragraph may not be executed without an application made to, and concurrence obtained from, the soil and water conservation authorities under the local or central competent authorities, and is subject to supervision and guidance.

#### **Article 5 (Division of Work Regarding Review and Approval)**

Work regarding the review and approval of a soil and water conservation plan and simplified soil and water conservation statement is divided as follows:

1. In the case of a municipality or county/city administrative region, review and approval will be conducted by the municipal or county/city competent authorities;

2. In the case of an administrative region straddling across two or more municipalities and counties/cities, review will be conducted by the competent authorities of the municipality or county/city more covered by the soil and water conservation plan, in conjunction with other relevant competent authorities, and approval will be conducted by such municipalities and counties/cities separately;
3. In the case of a military training ground, major infrastructure project approved by the Executive Yuan or project initiated by the central competent authorities, review and approval will be conducted by the central competent authorities; where the project is initiated by other central authorities, review and approval may be conducted by the central competent authorities or any central competent end business authorities commissioned.

The preceding paragraph shall apply *mutatis mutandis* to the issue of soil and water conservation work permit and certificate of completion of soil and water conservation.

The central competent authorities or soil and water conservation authorities under the central competent authorities may conduct approval of a simplified soil and water conservation statement prepared in accordance with Subparagraphs 1 and 2, Article 3, and notify the municipal or county/city competent authorities concerned, if such statement is under the special guidance program of the central competent authorities.

#### **Article 6 (Application for Soil and Water Conservation Plan and Simplified Soil and Water Conservation Statement)**

An obligor of soil and water conservation shall prepare six sets and as many as copies as the competent authorities requires, of soil and water conservation plan or simplified soil and water conservation statement, in the form prescribed by the central competent authorities, and submit the following documents to the competent authorities through the competent end business authorities for review and approval:

1. Application documents associated with the development or use by the end business;
2. A copy of environmental impact statement or environmental impact assessment report and evaluation conclusion; inapplicable if unnecessary; and
3. A copy of soil and water conservation proposal, as approved; inapplicable if unnecessary.

The documents listed in Subparagraph 2 of the preceding paragraph may be tentatively waived if the soil and water conservation plan is by law subject to environmental impact assessment. In such event, the competent authorities will first conduct review and, upon the submission of such documents by the obligor of soil and water conservation, approve the soil and water conservation plan. The time limit for such review is not subject to the restrictions set forth in Article 14.

The preceding two paragraphs are applicable *mutatis mutandis* to the procedure of review of a soil and water conservation plan or simplified soil and water conservation statement prepared in accordance with Article 14 of the Act.

### **Article 7 (Soil and Water Conservation Plan and Simplified Soil and Water Conservation Statement Review Procedure)**

The procedure of review of a soil and water conservation plan and simplified soil and water conservation statement is as follows:

1. An obligor of soil and water conservation shall submit an application to each competent end business authorities accompanied by a soil and water conservation plan or simplified soil and water conservation statement prepared by such obligor, along with documents of application for a development or use permit in connection with the end business.
2. The competent end business authorities shall, upon accepting the above-mentioned application, forward the soil and water conservation plan or simplified soil and water conservation statement to the competent authorities for review and approval.
3. The competent authorities shall, upon confirming the absence of any of the circumstances listed in Subparagraphs 1 to 5, Article 10, and Subparagraph 4, Article 11, and also upon confirming the need to pay an examination fee, with respect to the soil and water conservation plan or simplified soil and water conservation statement, request the obligor of soil and water conservation to pay said examination within the prescribed time limit.
4. The competent authorities shall, upon reviewing and approving a soil and water conservation plan or simplified soil and water conservation statement, present the following documents to the competent end business authorities with a copy to the obligor of soil and water conservation:

- (1) Four copies of the soil and water conservation plan or simplified soil and water conservation statement as approved; and
  - (2) A copy of soil and water conservation bond payment notice; inapplicable if unnecessary.
5. The competent end business authorities shall, upon permitting development or use, forward two copies of the soil and water conservation plan or simplified soil and water conservation statement as approved and one copy of other documents to the obligor of soil and water conservation, with a copy to the competent authorities.

### **Article 8 (Soil and Water Conservation Proposal Application and Review Procedure)**

An obligor of soil and water conservation shall prepare six sets and as many copies as the competent authorities requires, of soil and water conservation proposal in the form prescribed by the central competent authorities, and submit such sets and copies along with documents of application for development or use of the end business, to the competent authorities through the competent end business authorities for review and approval.

The preceding article is applicable *mutatis mutandis* to the procedure of review of soil and water conservation proposal. The competent authorities shall, upon approving said proposal, forward four copies of the proposal as approved to the competent end business authorities, with a copy to the obligor of soil and water conservation.

#### **Article 8-1**

An obligor of soil and water conservation shall file for amendment of the soil and water conservation proposal if any of the following occurs after such proposal is preliminarily approved by the competent authorities:

1. The development location is changed;
2. The area is changed; or
3. The placement is changed.

If the above change is the result of conclusion reached upon environmental impact assessment or upon the review of the regional plan committee, the obligor of soil and water

conservation may enumerate and compare the differences in tabular form and submit such table along with the soil and water conservation plan to the competent authorities through the competent end business authorities for review and approval, without being required to file for amendment of the soil and water conservation proposal.

#### **Article 9 (Soil and Water Conservation Proposal Review Authorities)**

Soil and water conservation proposals will be reviewed and approved by the competent authorities of the same level as the authorities devising regional planning.

#### **Article 10 (Dismissal)**

The competent authorities shall refuse to entertain soil and water conservation application documents and so notify the obligor of soil and water conservation with a copy to the competent end business authorities, under any of the following circumstances:

1. The documents are not forwarded by the competent end business authorities;
2. Not all documents required are submitted;
3. The documents are not prepared in the prescribed form;
4. The documents are not certified by a technician as required or the certifying technician's category does not conform to requirements;
5. The examination fee is not paid within the prescribed time limit;
6. The land under the application for development is subject to a competent authorities ruling, for violation of the Act, suspending any application for development, which suspension has not expired; or
7. The land under the application for development is subject to a competent authorities notice, for violation of the Act, requiring that soil and water conservation be implemented within a prescribed time limit, which implementation is not effected within such time limit or does not conform to the technical regulations for soil and water conservation.

Under any of the circumstances from Subparagraphs 1 to 5 of the preceding paragraph, the

competent authorities shall first request the obligor of soil and water conservation to amendment within a prescribed time limit.

#### **Article 11 (Substantive Dismissal)**

The competent authorities shall refuse to grant approval or preliminary approval for soil and water conservation application documents and shall so notify the obligor of soil and water conservation with a copy to the competent end business authorities, under any of the following circumstances:

1. Above mentioned documents do not conform to the technical regulations for soil and water conservation but are not rectified within the time limit prescribed by the competent authorities or still fail to so conform after rectification;
2. The portion of the environmental impact statement or environmental impact evaluation assessment report and evaluation conclusion involving soil and water conservation has not been appropriately handled;
3. No development shall be allowed, according to the environmental impact assessment conclusion; or
4. Development is banned in accordance with Paragraph 2, Article 19 of the Act; or
5. Development is otherwise banned or restricted by law.

#### **Article 12 (Copy on Relevant Authorities)**

The competent authorities shall copy the following on the relevant authorities:

1. Approval of soil and water conservation plan and simplified soil and water conservation statement;
2. Issue of soil and water conservation work permit and certificate of completion of soil and water conservation;
3. Preliminary approval of soil and water conservation proposal; and
4. Concurrence of the exemption, pursuant to Subparagraphs 2 and 3, Paragraph 1, Article

4, from preparing a soil and water conservation plan or simplified soil and water conservation statement.

### **Article 13 (Certification by Professional Technician)**

The certification mentioned in Articles 6 and 6-1 of the Act shall be accompanied by a photocopy of the technician's license, certificate, technicians' association membership card etc. Where the project is to be implemented by the government authorities at any level, a public business institution or a public entity on its own, a photocopy of the technician's license must be submitted.

## **Chapter II Review and Approval of Soil and Water Conservation Plan**

### **Article 14 (Period of Review)**

Approval or preliminary approval of soil and water conservation application documents shall be completed within 30 days of the date of payment of an examination fee by the obligor of soil and water conservation. Extension of such period may be granted where necessary, and will be notified to the obligor of soil and water conservation. Only one extension is allowed, not to exceed a maximum of 30 days.

Review of a plan that needs to be modified after initial review pursuant to the review opinion shall be completed with 30 days of the date of receipt of the modified documents.

The restrictions set forth in the preceding two paragraphs on the period of review do not apply to the review under the first paragraph if such review calls for a deliberation of the environmental impact assessment and land use.

### **Article 15 (Personal Explanation)**

The competent end business authorities, obligor of soil and water conservation and technician in charge may be invited to furnish explanation in person for purposes of the review of soil and water conservation application documents.

### **Article 16 (Notice of Modification)**

The competent authorities reviewing the soil and water conservation application documents shall notify the obligor of soil and water conservation of items to be modified and the time



limit for such modification, if said authorities deems modification of the above documents necessary.

#### **Article 17 (Combined Review)**

The competent authorities may combine its review, and grant approval or preliminary approval separately, of the soil and water conservation application documents it receives, with two or more applications which it discovers after its receipt of the above-mentioned documents, for development, operation or use of adjacent land.

#### **Article 18 (Commission of Review)**

The competent authorities may commission a relevant authorities, institution or organization (hereinafter “Commissioned Unit”) to handle the review of soil and water conservation application documents.

The above-mentioned soil and water conservation application documents to be reviewed by a Commissioned Unit shall not be delivered to the Commissioned Unit for review until after the payment of an examination fee by the obligor of soil and water conservation. The Commissioned Unit shall forward its review opinion and conclusion in writing to the competent authorities for handling.

The competent authorities shall enter into a commissioning contract with the Commissioned Unit for the commissioning of review.

### **Chapter III Modification of Soil and Water Conservation Plan**

#### **Article 19 (Modification of Soil and Water Conservation Plan)**

An obligor of soil and water conservation shall execute work in accordance with the soil and water conservation plan or simplified soil and water conservation statement as approved. Such obligor shall revise the design and submit an application to the competent authorities through the competent end business authorities for review, upon discovering any of the following prior to the commencement of work or in the course of work:

1. The location and scope of development is changed;
2. The area of development is increased or decreased, unless the increase or decrease of

road is within 10% of the original plan;

3. The quantity in terms of measuring unit of each soil and water conservation facility increases or decreases by more than 20%;
4. The topography or geology does not conform to the original design;
5. The location of any soil and water conservation facility is changed; or
6. The structure of any soil and water conservation facility is modified.

Subject to the concurrence of the competent authorities, this article will not apply to the circumstances described in Subparagraphs 4 and 5 of the preceding paragraph if the technician undertaking the supervision of work confirms such circumstances do not give rise to safety concern.

**Article 20 (Immediate Suspension of Work upon Amendment of Soil and Water Conservation Plan)**

Work covered by an amendment of the soil and water conservation plan or simplified soil and water conservation statement shall be suspended immediately, safety measures shall also be properly adopted in respect of such work. Said work shall not resume until after the amended plan or statement is approved by the competent authorities, provided subject to the concurrence of the competent authorities the above work may not be necessarily suspended if the suspension is expected to cause a material impact on the project.

**Article 21 (Reporting of Amendment)**

The following circumstances shall be reported to the competent authorities for the record:

1. Change of the obligor of soil and water conservation;
2. Change of the certifying technician; and
3. Discontinuation of the project for three months or more.

The above report shall be accompanied by the written approval of the change as issued by the competent end business authorities in the event of the circumstance in Subparagraph 1, by the

relevant documents listed in Article 13 in the event of the circumstance in Subparagraph 2, and by a surrender of the soil and water conservation work permit in the event of the circumstance in Subparagraph 3, of the preceding paragraph.

The competent authorities shall copy its record in the first paragraph on the competent end business authorities and relevant authorities.

Application shall be filed for a new soil and water conservation work permit for resumption of work which has been suspended pursuant to Subparagraph 3 of the first paragraph.

## **Chapter IV Report of Commencement of Work**

### **Article 22 (Application for Soil and Water Conservation Work Permit)**

An obligor of soil and water conservation shall submit an application, accompanied by the following documents, to the competent authorities for a soil and water conservation work permit, within a year of the date of the issue by the competent end business authorities of a development or use permit. No work may commence until the above soil and water conservation work permit is issued:

1. The development or use permit document issued by the competent end business authorities;
2. Approved the soil and water conservation plan;
3. Documentary evidence of the payment of soil and water conservation bond; unnecessary if inapplicable; and
4. A photocopy of the license, certificate and technicians' association membership card of the technician undertaking the supervision of work, and of the work supervision contract; unnecessary if inapplicable.

The competent authorities shall simultaneously approve the work schedule or the work schedule of each phase and also return the documents listed in Subparagraphs 1 and 2 of the preceding paragraph, upon issuing a soil and water conservation work permit.

A soil and water conservation work permit may be issued in the form of a written approval for a simplified soil and water conservation statement where such statement is allowed to be

submitted in lieu of a soil and water conservation plan, however the obligor of soil and water conservation shall still report the commencement of work to the competent authorities for the record.

### **Article 23 (Soil and Water Conservation Plan Commencement Requirements)**

An obligor of soil and water conservation shall, prior to the commencement of work, erect boundary markers for the ambit of development, specifying the ambit of excavation and ground treatment with red boundary markers and erecting work signs on the jobsite conspicuously, and make a report to the competent authorities.

The above work signs shall be demolished by the obligor of soil and water conservation itself within a month of its receipt of a certificate of completion of soil and water conservation.

### **Article 24 (Work in Phases)**

A soil and water conservation plan involving work in phases shall set out the content of work in each phase, and a soil and water conservation work permit shall be applied for and procured for each phase.

## **Chapter V Supervision of Work**

### **Article 25 (Responsibility for Supervision)**

A technician undertaking the supervision of work shall, throughout the work period of soil and water conservation, conduct supervision and inspect work quality in accordance with the approved contents and, based on the work progress, produce supervision logs and monthly supervision reports for the record.

A technician undertaking the supervision of work shall immediately report the relevant facts to the local competent authorities as well as the soil and water conservation plan approving authorities pursuant to Article 17 of the Technicians Act upon discovering, in the course of supervision, the likelihood of danger due to an unauthorized change of the approved plan by the obligor of soil and water conservation or flaws in the approved plan.

### **Article 26 (Work Inspection)**

The competent authorities may conduct inspection and make records during the work period

of soil and water conservation.

Where supervision by a relevant professional soil and water conservation technician is required, the competent authorities shall invite the obligor of soil and water conservation and technician undertaking the supervision of work to prepare the supervision logs and appear in person for explanation. The technician undertaking the supervision of work shall nominate in writing another technician who satisfies the requirements of the Act as his agent if he is unable to present in person.

The competent authorities may, subject to its need, commission a relevant authorities, institution or organization to conduct the inspection mentioned in the first paragraph.

A notice shall be given prescribing a time limit for cure if the inspection mentioned in the first paragraph fails to conform to the technical regulations for soil and water conservation.

**Article 27 (Requesting the Competent Authorities of the Technicians Act in Writing to Handle)**

The competent authorities may request the competent authorities of the Technicians Act in writing to handle any of the following circumstances occurring to a technician undertaking the supervision of work:

1. Failure to comply with Article 25;
2. Failure to prepare supervision logs or failure for no reason to present in person, thrice or more, upon an inspection by the competent authorities; or
3. Untrue logs were found by the competent authorities during inspection.

**Article 28 (Circumstances Warranting Work Suspension)**

The competent authorities shall order that work be suspended under any of the following circumstances:

1. No cure is made within the time limit prescribed by the competent authorities, or the cure made still fails to conform to the technical regulations for soil and water conservation;
2. The project is not supervised by a relevant professional soil and water conservation

technician pursuant to Articles 6 and 6-1 of the Act, or the technician undertaking the supervision of work notifies the competent authorities in writing suspension of supervision;

3. Work that is suspended immediately by virtue of an amendment of the soil and water conservation plan or simplified soil and water conservation statement is not suspended;
4. Danger is likely due to an unauthorized change of the approved plan or flaws in the approved plan;
5. Work is directly executed absent a soil and water conservation work permit; or
6. Work of a certain phase is directly executed absent a soil and water conservation work permit for such phase.

#### **Article 29 (Circumstances Permitting Work Suspension)**

The competent authorities may order that work be suspended under any of the following circumstances:

1. The technician undertaking the supervision of work fails to produce supervision logs in accordance with the requirements;
2. The technician undertaking the supervision of work fails for no reason to appear in person or fails to nominate in writing another technician that satisfies the requirements of the Act as his agent, upon a work inspection by the competent authorities; or
3. Any of the supervision logs is untrue.

#### **Article 30 (Requirements for Recovery of Work)\**

An obligor of soil and water conservation subject to an order by the competent authorities of work suspension under the preceding two articles shall not resume work until it has completed amendment within the time limit prescribed by the competent authorities and the cure has passed inspection.

#### **Article 31 (Abolition of Approved Soil and Water Conservation Plan)**

The competent authorities may abolish an approved soil and water conservation plan or simplified soil and water conservation statement under any of the following circumstances:

1. No soil and water conservation work permit is applied for and procured within a year of the date of issue of a development or use permit by the competent end business authorities;
2. No development or use permit is issued by the competent end business authorities within the three years immediately subsequent to the approval of the soil and water conservation plan or simplified soil and water conservation statement;
3. Where work is not executed in accordance with the soil and water conservation plan or simplified soil and water conservation statement as approved, no amendment is made within the time limit prescribed by the competent authorities or the amendment made still fails to conform to the technical regulations for soil and water conservation, to a material extent;
4. Work is not completed within the approved or extended period;
5. The development or use permit is revoked by the competent end business authorities;
6. The project is discontinued for two years or more; or
7. Work is not suspended as ordered by the competent authorities pursuant to Articles 28 and 29.

### **Article 32 (Reporting, Inspection, Approval, and Certification of Completion)**

An obligor of soil and water conservation shall fill in a completion report and submit it along with drawings and pictures of the completed work to the competent authorities to report the completion of work, upon the completion of soil and water conservation. Such report must be made for each phase where the work is executed in phases.

A completion approval statement by the technician undertaking the supervision of work shall be additionally submitted with respect to work that is required by Articles 6 and 6-1 of the Act to be certified and supervised by a technician.

### **Article 33 (Inspection of Completion)**

The competent authorities shall conduct inspection in conjunction with the competent end business authorities within 30 days of the date of report of work completion by the obligor of soil and water conservation. A notice shall be given prescribing a time limit for cure where the inspection is failed. The competent authorities shall issue a certificate of completion of soil and water conservation and return the soil and water conservation bond paid, where the inspection is passed.

No certificate of completion of soil and water conservation is required for the passing of work completion of the inspection by the competent authorities, where a simplified soil and water conservation statement has been submitted in lieu of a soil and water conservation plan.

#### **Article 34 (Late Completion)**

An application for extension shall be submitted, with facts and reasons stated, seven days prior to the expiration of the approved work period, if soil and water conservation cannot be completed within such period for cause.

Only two extensions of the above-mentioned period are allowed, each not to exceed six months, unless the period for development granted by the competent end business authorities is longer, in which event the requirement of the competent end business authorities shall prevail.

### **Chapter VI Supplementary Provisions**

#### **Article 35 (Soil and Water Conservation Valuation)**

The valuation standard for the handling and maintenance of soil and water conservation will be determined by the central competent authorities, provided where the project is to be implemented by the government authorities at any level, a public business institution or a public entity on its own, the valuation standard established by such authorities, institution or entity, if any, shall prevail.

#### **Article 36 (Forms)**

The forms of documents required under these Regulations will be published by the central competent authorities in a public notice.



**Article 37 (Promulgation and Enforcement)**

These Regulations will be enforced as of the date of promulgation.