

Content

Title :	Sand and Gravel Excavation Act <b>Ch</b>
Date :	2008.01.09
Legislative :	1.Promulgated on Feb. 6, 2003 Under Presidential Order HTEY-09200019270 2.Amended on Jan. 9, 2008 Under Presidential Order HTEY-09700000851
Content :	<b>Chapter I General</b>  <b>Article 1</b>  To excavate sand and gravel resources rationally, protect natural environments, integrate administrative system, and prevent inappropriate sand and gravel excavation that may result in related hazards, this Act is then made accordingly for the purpose of achieving sustained national development. Provisions of other Acts shall apply when such are not included in this Act.  <b>Article 2</b>  The Government authority as referred hereunder shall be Ministry of Economic Affairs at Central Government, Municipal Government at Municipal City and County (City) Governments at County (City).  <b>Article 3</b>  To excavate sand and gravel, the excavation permit need to be obtained according to the regulations listed in this Act. However, if the following conditions occur, the acquisition of the excavation permit shall be exempted. 1. Small quantity sand and gravel excavation for household usage. 2. Sand and gravel obtained through land preparation and construction related works. 3. Sand and gravel obtained along with the mining operation in which sand and gravel are co-existed with the mineral deposit in the same mine of the owner of mine operation right. 4. Sand and gravel obtained for the purpose of urgent reconstruction of public works due to natural disaster. 5. Sand and gravel obtained for important construction work initiated by governmental departments. 6. Brick, tile or ceramic industries excavate sand and gravel for it own usage. The location, acreage, quantity and excavation duration of the sand and gravel excavation administrative regulations listed in above paragraphs 1 to 5 shall be determined by Central Government Authority.  <b>Article 4</b>  The terminology used in this Act are defined as follows: 1. Sand and gravel: Natural resources such as soil (including clay and silt) , sand, gravel and stone, etc which are not included in Article 3 of MiningAct along with other minerals. 2. Land sand and gravel: The sand and gravel deposited in land. 3. River and water sand and gravel: The sand and gravel deposited in river and lake and their vicinity area. 4. Costal and sea sand and gravel: The sand and gravel deposited along the costal line and outside of costal line. 5. Sand and gravel excavation area: The field that is approved for sand and gravel excavation by Government Authority. 6. Sand and gravel excavation field: The site that is used for sand and gravel excavation, storage, and its related operations such as handling, crushing, washing and beneficiation. 7. Sand and gravel excavation person: Person or entity who hold the sand and gravel excavation

permit.

8. Person who is responsible for sand and gravel excavation field: Person who actually managing the overall operation of sand and gravel excavation field.

9. Technical manager of the sand and gravel excavation field: The technical person who managing the technical and safety aspects of the sand and gravel field.

10. Total quantity control: The restrictive measures imposed to control the total quantity of sand and gravel excavation for a specific area.

## **Chapter II Sand and Gravel Excavation Permit**

### Section 1 Conditions for applying permit

#### Article 5

Citizen of the Republic of China may apply for sand and gravel excavation permit pursuant to this Act.

Government Authority apply or accept application for sand and gravel excavation permit shall comply

with the provisions listed in this Act and consider the specific local government regulations for sand and gravel excavation total quantity control.

The operating regulations for sand and gravel total quantity control shall be determined by the Central Government Authority.

#### Article 6

For river and water sand and gravel, its excavation duration is limited to three years and can not be extended when expired. For land and costal line and sea sand and gravel, its excavation duration is limited to 10 years and can be extended for the same duration after expiration.

#### Article 7

To apply sand and gravel excavation, the excavation area is limited to less than 20 acres for river and water sand and gravel, 100 acres for both costal and sea sand and gravel and land sand and gravel.

Within the sand and gravel excavation permitted area, the excavation shall be limited to the permitted depth from the excavation boundary vertically downward. The criteria for the depth of excavation shall be promulgated through Central Government Authority after consulting with related Government Authorities.

#### Article 7-1

For the needs of public construction and economic development, governing authority may select suitable location and delimit designated sand and gravel excavation area after on site inspection accompanied with water resources, fishing, soil and water conservation, environmental protection, land use and management, and other related authorities.

The delimitation of sand and gravel excavation designated area by Municipal Government at Municipal

City under the direct jurisdiction of the Central Government and County and City Government at County and City need to apply for permission from central governing agency.

The private land within the range of sand and gravel excavation designated area shall be expropriated ; for public land shall be appropriated through required regulations.

The governing authority that delimitate sand and gravel excavation designated area shall conduct development and excavation planning. After conducting environmental impact assessment, water and soil conservation audition and non-urban land converting classification or urban land converting procedures, the sand and gravel excavation designated area can then be declared to accept sand and gravel excavation permit application.

The application of sand and gravel excavation within sand and gravel excavation designated area shall follow original excavation plan designed by governing authority to prevent repeating procedures described in the above listed articles.

Sand and gravel excavation person shall be recognized as an obligor and development entity and conduct development entity converting under environmental impact assessment regulations.

In article 3, the private land owner can use expropriated compensation to become share holder

or partner of sand and gravel excavation person under the agreement of sand and gravel compensation person.

#### Article 7-2

The sand and gravel excavation designated area delimited by central governing authority, the central governing authority shall examine the application for excavation and issue the permit, and monitor and administrate the conduction of excavation. The sand and gravel excavation designated area delimited by Municipal Government at Municipal City under the direct jurisdiction of the Central Government and County and City Government at County and City shall be executed by Municipal Government at Municipal City under the direct jurisdiction of the Central Government and County and City Government at County and City.

The sand and gravel excavation designated area delimited by central governing authority, its application, monitoring, administration and penalty shall comply with Sand and Gravel Excavation Act.

#### Article 8

For the excavation of river sand and gravel, Municipal or County (city) governments shall conduct site investigation along with River Management Office after receiving the applications of sand and gravel excavation and river use, including application form and drawings. After obtaining the river use permit issued from River Management Office, Municipal or County (City) Governments shall process and transmit to the applicant.

For the works of river and reservoir dredging and maintaining waterway conducted by Water Resources Agency, the excavation of sand and gravel complying with Water Resources Act shall be exempted from the restrictions listed in the provision of this Act.

#### Article 9

To apply the land for sand and gravel excavation, for public land, the Land Management Office may lease the land or agree the use of land for sand and gravel excavation, and acquire rent or land use fee.

The rent or land use fee shall be determined by the Land Management Office that lease or agree the use of land for sand and gravel excavation. To excavate sand and gravel in the sea outside of dike shall be free of charge.

#### Section 2 Application and drawings

#### Article 10

To apply sand and gravel excavation permit, the following documents shall be prepared and submitted to Municipal or County (city) governments. If the required documents are not collected completely, the government authority has the right to reject the application.

1. Application form and sketch of applied area.
2. Receipt of application fee.
3. Sand and gravel excavation plan and drawings.
4. Letter of consent for sand and gravel excavation from land owner, user or administrator of the applied area or certain certificates that permit the use of agree to conduct planning for public land sand and gravel excavation. For the application of costal and sea sand and gravel excavation, the above mentioned documents are not required.
5. Other related documents specified by central governing authority.

The applicant applying for sand and gravel excavation in others mining area shall provide letter of consent issued by the mining right holder before the due date set by Municipal Government at Municipal City under the direct jurisdiction of the Central Government and County and City Government at County and City. For sand and gravel excavation in others mining area but excavate

different deposit, if the letter of consent can not be obtained, the reasons and documents that may prove the contact and or negotiation had been made with the mining right holder need to be provided.

The required sand and gravel excavation plan and drawings described in Paragraph 1 Subparagraph 3 need to be certified by registered professional mining engineer or other related professional engineers.

#### Article 11

The required sand and gravel excavation plan and drawings described in Paragraph 1 Subparagraph 3 should include the following items:

1. Excavation plan.
2. Water and soil conservation and environmental maintaining measures.
3. Land reclamation and maintaining measures after the depletion of sand and gravel or no intention to continue the operation.
4. Transportation plan.
5. Public facilities maintaining plan.
6. Drawings of sand and gravel excavating operation.
7. Surveying map of the sand and gravel excavation area.
8. Location of sand and gravel excavation area and related road map.
9. Other items that need to be included or documents required by Central Government Authority.

#### Article 12

Boundary of the applying area, acreage and the depth described in Article7 Paragraph 2 of this Act shall be surveyed following the procedures and methods that are promulgated by Central Government Authority.

#### Section 3 Examine and registration

#### Article 13

For the application of sand and gravel excavating permit, Municipal or County (City) Governments shall examine related documents and drawings submitted. For those documents and drawings submitted are insufficient or incomplete, Municipal or County (City) Governments should notify the applicant the reasons and request those insufficient and incomplete documents and drawings to be submitted within thirty days. Fail to submit or incomplete required documents and drawings before deadline, the application shall be rejected.

#### Article 14

When examining the application for sand and gravel excavation permit, the municipal or county (city) government shall conduct investigation along with other governmental agencies including water, fishery, water and land conservation, traffic, environmental protection and land use, land administration and other related agencies. After examining the application by the related governmental agencies and no violation of any laws or regulations are found, the application will then be reviewed by central government authority and issue sand and gravel excavation permit.

#### Article 15

Sand and gravel excavation approved by Municipal or County (City) Governments shall be recorded in the sand and gravel excavation site registration and reported to Central Government Authority for reference along with related plans and drawings. For those sand and gravel excavation area been approved, Municipal or County (City) Governments shall prepare traffic connection map of the approved sand and gravel excavation area for public reference.

#### Section 4 Extension

#### Article 16

Sand and gravel excavation party apply for permit extension complying with the requirements

listed in Article 6 shall submit the request for extension six month prior to initial permit expiration. For those sand and gravel excavation permit period within one year, the application for extension shall be submitted two month prior to the expiration of the initial permit period.

#### Article 17

Provision under Articles 10, 13 and 15 shall apply the application for the extension of sand and gravel excavation.

#### Section 5 Commencement, area reduction, revision and extinction

#### Article 18

Sand and gravel excavation party shall prepare all required documents and drawings and submit to Municipal or County (City) Governments and apply the issuance of sand and gravel excavation registration and commence the operation within six month after the date obtaining the permit. For those who possess rational reasons, extension may be applied before the expiration date of the required six month period mentioned above shall be limited to two extensions.

#### Article 19

Prior to applying for issuance of sand and gravel excavation field registration, the sand and gravel excavation party shall set up boundary marker and sign boards, and shall provide proper maintenance. The specification of boundary markers and sign boards shall be determined by Central Government Authority.

#### Article 20

Sand and gravel excavation party shall excavate sand and gravel in accordance with the approved sand and gravel excavation plan and conduct related works including water and soil conservation, environmental protection, reclamation and hazardous prevention.

#### Article 21

If the approved sand and gravel excavation plan need to be revised due to hazardous prevention works or sand and gravel resource conservation reasons, it shall be reported to Municipal or County (City) Governments. The loss of sand and gravel excavation party may claim for rational compensation from Municipal or County (City) Governments.

#### Article 22

Sand and gravel excavation party apply for area reduction or revision of sand and gravel excavation field to Municipal or County (City) Governments shall prepare the following documents.

1. The documents specified under Paragraphs 1 to 3 and Paragraph 5 in Article 10. When applying for revision, shall submit the documents specified under Paragraph 4 of the same Article.
2. Relation map of new and old sand and gravel excavation area.
3. Statement of reasons.

#### Article 23

Municipal or County (City) Governments shall revoke sand and gravel excavation permit obtained illegally.

#### Article 24

If one of the following occurs to the sand and gravel excavation party, the Municipal or County (City) Governments shall report to the Central Government Authority to examine and revoke the sand and gravel excavation permit.

1. Result in apparent environment and ecology impact and was found to be true after investigation, and the sand and gravel excavation party fail to improve or improve ineffectively, after been notified.

2. Without applying for sand and gravel excavation field registration in accordance with the provision under Paragraph 1 in Article 18.
3. Without commencing the sand and gravel excavation operation within six month after obtaining sand and gravel excavation field registration, or suspending sand and gravel excavation operation for more than six month after commencing excavation; however, with appropriate reason and request granted shall be exempted.
4. Without operating sand and gravel excavation by its own or excavating outside of the approved area.
5. Without following the approved sand and gravel excavation plan to excavate sand and gravel and fail to improve or unable to improve within preset deadline after notification.
6. Without following the notice to suspend part or all excavating operation after notified by Municipal or County (City) Governments in accordance with Article 34.
7. Fail to pay for the rental or public land use fee.
8. After the depletion of the sand and gravel or without the intention to continue the operation but fail to comply with the requirements under the provisions described in Article 36.
9. Fail to comply with Article 48 to pay environmental maintaining fee, then one month after notified by Municipal Government at Municipal City under the direct jurisdiction of the Central Government and County and City Government without paying the fee before the due date.

#### Article 25

When abolishing or revoking sand and gravel excavation permission, the sand and gravel excavation permit and sand and gravel excavation field registration shall be nullified.

#### Article 26

When the sand and gravel is depleted or without the intension to continue the operation, the sand and gravel excavation party shall arrange nullification of sand and gravel excavation permit and sand and gravel excavation field registration to the Municipal or County (City) Governments, after conducting reclamation operation in accordance with the original approved sand and gravel excavation plan and related laws and regulations. Fail to arrange such nullification, Municipal or County (City) Governments shall abolish discretionally.

#### Article 27

At the expiration, revocation or abolition of Sand and Gravel Excavation Permit, the excavation party shall perform the restoration in accordance with the approved sand and gravel excavation plan and related Acts and regulations.

#### Article 28

After using leased land for sand and gravel excavation, or stopping used the land after restoration, when land damaged, the excavation party shall make comparable compensation depends on the extent of damage.

### **Chapter III Safety in Sand and Gravel Excavation Field**

#### Article 29

Sand and gravel excavation party shall designate responsible person and technical officer of excavation field, and the details shall be reported to the Municipal or County (City) Governments for reference, and the same as modification.

The qualification, employment and discharging of responsible person and technical officer of sand and gravel excavation field shall be determined by Central Government Authorities.

#### Article 30

Sand and gravel excavation party shall be responsible for the equipment, funds and personnel for the safety of excavation field, as required under Labor Safety and Health Law and regulations, and shall undertake the following safety measures:

1. Prevention of collapse or sliding of laccolites, sand and gravel layer or waste stockpile.
  2. Control of emission of hazardous gas and dust from the working premises.
  3. Prevention of possible hazards occurred in using mechanical, electrical, moving and power equipment.
  4. Prevention of possible hazards occurred in storing, moving or using explosives.
  5. Prevention of abused removal resources or random disposal.
  6. Supply of safety preventing equipment for working persons.
  7. Other safety measures as required by government authorities.
- The designing, management and maintenance of the safety measures as stated above shall be undertaken by the responsible person of excavation field.

#### Article 31

At the occurrence of disaster, the responsible person of the sand and gravel excavation field shall handle in accordance with related Acts or Regulations, in addition, shall promptly report the situation to the Municipal or County (City) Governments for relaying to Central Government Authorities within 24 hours.

At the location in sand and gravel excavation field with immediate risk, the responsible person of excavation field shall order to stop operating promptly and evacuating the workers to safe locations.

### **Chapter IV Supervision**

#### Article 32

Sand and gravel excavation party shall report the amount of production and sales to the Municipal or County (City) Governments on regular basis.

Central Government Authorities shall make regular investigation of the amount of production and sales.

#### Article 33

In order to protect water resources, water conservancy, traffic safety, urban development, environment and landscape or other public benefits, Related purpose government authorities may apply for designating sand and gravel excavation prohibited area from central governing authority; the sand and gravel excavation party suffered damage from such designation of prohibited area may claim comparable compensation from the Purpose Government Authorities which ordering or requesting such designation.

In order to maintain and adjust sand and gravel supply and demand balance, Central government authority may designate sand and gravel excavation prohibited area; the sand and gravel excavation party suffered damage from such designation of prohibited area may claim comparable compensation

from the Central Government Authority.

Disputing over compensation between the sand and gravel excavation party and the purpose government

authorities applied for the designation prohibited area shall be reconciled by Central Government Authorities.

After designated sand and gravel excavation prohibited area, the Municipal Governments or County (City) Governments shall revoke the sand and gravel excavation permission, in whole or in part of the excavation area located within the designated prohibited area.

The residual sand and gravel excavation area after designating for prohibited area, which worth to or the excavation party has the intention to continue operating, the excavation party shall re-submit sand and gravel excavation plan for the residual area to the Municipal or County (City) Governments to apply for Sand and Gravel Excavation Permit and Sand and Gravel Excavation Field Registration. The valid period shall be limited to the period originally granted period.

The requirements of applying the residual sand and gravel excavation area as mentioned above shall be allowed under Article 11.

#### Article 34

The Municipal or County (City) Governments shall implement safety inspection to each sand and gravel excavation field. Those failed the inspection shall be instructed to improve within

designated period; failing to improve within the designated period or disaster occurred or at the risk of occurrence of disaster, the operation of whole or part of the excavation area shall order to suspend. When necessary, central government authorities may designate persons to take supervision and take control.

Sand and gravel excavation party or the responsible person of the excavation field shall not refuse, evade or obstruct the inspection stated above.

#### Article 35

In transporting sand and gravel out of the field, the responsible person of the excavation field shall issue triplicate shipping order for the carrier to bring along for inspection from time to time.

In transporting sand and gravel out of the field, the responsible person shall load in purpose built vehicles or carriage.

The purpose built vehicle or carriage shall be as defined in Road Traffic Safety Rules.

Trucking in small quantity shall not be restricted by the provision of 2nd paragraph. The standard of small quantity shall be defined by Central Government Authorities.

### **Chapter V Penal Provisions**

#### Article 36

Sand and gravel excavation without permission shall be subjected to a fine more than NT\$ 1,000,000

and under NT\$ 5,000,000. The Municipal Governments or County (City) Governments shall give deadline for arranging restoration and removal of equipment; failing designated deadline is subject to continuous daily fine of more than NT\$ 100,000 and under NT\$ 1,000,000 till the compliance, and the facility or machinery shall be confiscated. When necessary, the Municipal Governments or County (City) Governments may perform in subrogation and remove the facilities, and the cost will charge the illegal sand and gravel excavation party.

#### Article 37

Failing to comply with the order to suspend working in completely or in partly as given by the Municipal Governments or County (City) Governments shall be subjected to a fine more than NT\$ 1,000,000 and under NT\$ 5,000,000.

#### Article 38

Sand and gravel excavation party failed performing restoration in accordance with Article 26 or 27 shall be subjected to a fine more than NT\$ 500,000 and under NT\$ 2,500,000 and shall be performed restoration within a specified period. Failing or incomplete restoration within the specified period may be fined continuously, and when necessary, the Municipal Governments or County (City) Governments may perform in subrogation and remove the facilities, and the cost will charge the illegal excavation party.

#### Article 39

With one of the following situation shall be subjected to a fine more than NT\$ 500,000 and under NT\$ 2,500,000.

1. Failing in excavation sand and gravel, implementing soil and water conservation, environment protection, restoration and hazard prevention in accordance with the Sand and Gravel Excavation Plan as specified under Article 20.

2. Failing in undertaking safety measure or providing design, management and maintenance of safety measure as specified under Article 30.

Violating the above requirements led to disaster or impact environment, the government authorities shall not be accepted any and all application for Sand and Gravel Excavation Permit by the same excavation party.

#### Article 40

With one of the following defects shall be subjected to a fine more than NT\$ 200,000 and under



NT\$ 1,000,000.

1. Failing in reporting to the Municipal or County (City) Governments in accordance with Para. 1, Article 31 at the occurrence of disaster in sand and gravel excavation field.
2. Refusing, evading or interfering the inspection as specified under Para. 1, Article 34.

#### Article 41

With one of the following defects shall be subjected to a fine more than NT\$ 3,000 and under NT\$ 300,000.

1. Failing in reporting excavation and selling quantity in accordance with Para. 1, Article 32.
2. Failure of responsible person of sand and gravel excavation field in issuing triplicate shipping orders in accordance with Paragraph 1, Article 35.
3. Failure of carrier in bringing triplicate shipping orders in accordance with Paragraph 1, Article 35.
4. Failure of responsible person of sand and gravel excavation field to load the sand and gravel in purpose built vehicle or truck for transporting out of excavation field in accordance with Paragraph 2, Article 35.

#### Article 42

Sand and gravel excavation party receiving benefit in violating the provisions of the Act in excess of the maximum fine is subject to added fine within the scope of such benefit, without being limited by the maximum amount of fine specified.

#### Article 43

Cases violating the Act, which involves criminal charge shall be handled to judicial institute.

#### Article 44

The penalty for violation of the Act shall be imposed by the Municipal Governments or County (City) Governments, except otherwise provided in the Act.

#### Article 45

Failure to pay the fine imposed pursuant to the Act within the set deadline shall be referred to the court for compulsory execution.

### **Chapter VI Supplementary Provisions**

#### Article 46

The deadline for rejecting/approving application of Sand and Gravel Excavation Permit shall be announced by Central Government Authorities.

#### Article 47

Sand and Gravel Excavation Permit and the certificate of Sand and Gravel Excavation Registration obtained prior to the enforcement rules of the Act shall be renewed with the Municipal Governments or County (City) Governments, within three months after the implementation of the Act. The original permits/registrations shall be invalid if renewal had not been arranged.

Sand and gravel excavation party may continue such operation prior to the approval or rejection of application for renewing the Sand and Gravel Excavation Permit and the certificate of Sand and Gravel Excavation Registration in accordance with the above provision together with application of extension.

#### Article 48

The Municipal Governments or County (City) Governments shall collect environment maintenance fee when issuing Sand and Gravel Excavation Permit as the funds for the Municipal Governments or

County (City) Governments for the public construction works in soil and water conservation, environment protection and road traffic.  
The above environment maintenance fee may be collected basis the permitted removal quantity.  
The base of collection shall be formulated by the Central Government Authorities.

Article 49

The Municipal Governments or County (City) Governments shall collect reviewing fee, investigation fee, licensing fee or registration fee when accepting the application for permit, investigation, registration or issuance of Permit/Registration. The base of collection shall be formulated by the Central Government Authorities.

Article 50

The forms of various documents, permit and registration shall be formulated by the Central Government Authorities.

Article 51

The central government authorities shall periodically investigate the matters handled by the Municipal or County (City) Governments.

Article 52

The enforcement regulations of the Act will be prepared by Central Government Authorities.

Article 53

The Act shall become effective from the date of promulgation.