SOIL EROSION CONTROL LAW
of the
PEOPLES’ REPUBLIC OF CHINA

ORDER OF THE PRESIDENT
OF THE PEOPLES’ REPUBLIC OF CHINA
No. 49

This Act was passed by the Twentieth Congress of the National Assembly Standing Committee, Session VII, Peoples’ Committee of China, on June 29, 1991 and became effective immediately thereafter.

PART 1: THE MAIN LEGISLATION

1. GENERAL PRINCIPLES

**Article 1:** This law respecifics the works necessary to:

- prevention and resist soil erosion caused by flowing water;
- ensure appropriate use and protection of water and land resources;
- reduce damage caused by water
- prevent wind erosion;
- improve environmental conditions; and,

- accelerate production

**Article 2:** The term "Anti-soil erosion" here indicates measures for the prevention and management of soil erosion caused by:

- natural forces; and,

- human activity

**Article 3:** All organizations and individuals are responsible for:

- taking care of land and water resources;
- preventing and protecting against soil erosion;
- inspection; and,

- denouncing groups and individuals whose actions cause the destruction of land and water resources, including soil erosion.

**Article 4:** Implementation of soil protection works under State control should follow the following paradigm: prevention is the most important activity complemented by comprehensive planning, integrated prevention and control, and the application
of methods appropriate for each region and strengthened management, especially as regards efficient provision of soil protection.

**Article 5:** Central and local government should assign the highest priority to the prevention of and protection against soil erosion and must carry out all measures to ensure successful prevention and protection against soil erosion.

**Article 6:** The Ministry responsible for water resources is a responsible for the management of soil erosion control works on nation-wide scale. Local level administrative and management branches manage and supervise soil erosion control activities within their own localities from the district level up.

**Article 7:** Water management branches placed directly under the authority of central government, and various administrative levels from the district level up, should cooperate with related branches to provide soil protection approved by the due authorities and based on sound investigation and assessment of the natural resources in the locality. Planning should be approved according to administrative levels. Anti-soil erosion planning approved by district authorities should be agreed by water management agencies at a higher level. Any changes for anti-soil erosion planning should be agreed by the original approving agency.

Agencies from the district level up should include tasks defined as anti-soil erosion planning into their socio-economic development plans, budgeting and implementation arrangements.

Administrative units from district level up should base their soil protection plans on the actual situation and implement them in a focused and concentrated way.

**Article 8:** Organizations and individuals working in construction activities likely to cause soil erosion should take measures to protect water and land resources and should bear responsibility for the consequences of soil erosion caused by their own activities.

**Article 9:** All administration levels should strengthen propaganda activities of propaganda and disseminate scientific knowledge concerning soil erosion control.

**Article 10:** The Government encourages relevant parties to increase scientific and technical research into land and water protection; to expand technological and scientific knowledge of soil erosion; to disseminate widely modern techniques for soil protection; to train and enhance talented persons in the domain of land and water management and soil protection.

**Article 11:** Organizations and individuals who achieve success in preventing soil erosion shall be praised and rewarded by authorities at different levels.

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2 PREVENTION AND PROTECTING LAND AGAINST EROSION

**Article 12:** Peoples' Committee at different levels must mobilize people to protect forest and ground cover and to expand forest and grass cover areas.

**Article 13:** According to the actual local requirements Peoples’ Committee at different levels must direct collective agro-economic organizations to:

- grow cover crops;
- to plan forestation and grazing;
- cover the bared hills and mountains;
- to rotate cultivation and grazing;
- to prevent wind and sand;
- to providing a protecting plant cover

- Strictly prohibit the felling of forest trees and land clearance, slash and burn practises, weeds on the grass cover of the slopes and dry areas, and de-barking.
**Article 14:** The opening up of new land for subsistence crops is strictly prohibited on slopes greater than 25°.

Provincial Peoples’ Committees, self-management regions and cities under the direct authority of central government can set the rules for land clearing on the slope smaller than 25° based on the local actual situation.

Specific sloping areas where land clearing is prohibited shall be decided and defined by district Peoples’ Committees.

The cultivation of subsistence crops on slopes which are restricted according to this law but which were planted up prior to the enactment of this law must be gradually restored based on the real situation and infrastructure of the fields to forest or grass or to terraced fields should be developed.

**Article 15:** Opening up new lands on virgin slopes with gradients between < 25° and > 5° must first be approved by the relevant district water management agency after which permission from the district Peoples’ Committee must be obtained before opening up the land in question.

**Article 16:** Whilst logging, it is necessary to apply measures appropriate to the location. It is strictly prohibited to destroy whole forests. Soil protection measures should be applied in both logging areas and lumber yards. Once logging has finished reforestation is required.

For protection forests such as water conservation forest, soil-erosion control forests, wind-break and sand-holding forest, it is only allowed to thin in order to maintain the forest in natural regenerative conditions.

Erosion protection measures should be identified in all logging plans. Once logging plans have been approved by the forestry branch the anti-soil erosion methods in the logging area should be put in operation under the supervision of inter-branches such as the irrigation or forestry management branch.

**Article 17:** When leveling land sloping greater than 5% for forestation or economic crop production (i.e., tea, oil crops etc) soil protection measures must be included.

**Article 18:** When constructing railroads, roads or irrigation schemes, it is necessary to minimize destruction of the plant cover. Construction waste (soil, stone, sand) must be transported to determined (fixed) places and piled. It is strictly prohibited to throw such materials into rivers, reservoirs and canals that are outside of designated places. On each sides of railways and roads measures should be taken to protect the slopes. After construction works, it is required that trees and grass cover should be replanted on the site, on excavated areas and on spoil tips in order to protect the land against erosion.

Soil, stone and residues from mineral exploitation enterprises, electricity plants, large and medium scale industrial enterprises etc should be piled at the determined places. It is strictly prohibited to throw all kinds of waste into rivers, reservoirs and canals other than at fixed places. If, during the course of exploitation and constructing, the soil surface is removed or destroyed, measures to replace the top-soil surface and plant cover should be taken.

**Article 19:** Developers of buildings, railways, roads, irrigation schemes, mineral exploitation enterprises, electricity plants, large and medium- scale industrial plants in mountainous, sloping, windy and sandy areas must have environmental impact reports and soil protection measures approved by the relevant water management agency. Plans of soil erosion control must be established in accordance with Article 18 of this law.

According to the mineral resources law, when:

- establishing a minerals exploitation enterprise in group or individual; or
- when making an application for minerals exploitation in mountainous, hilly
and sandy regions, it is necessary to have soil protection plans approved by the Peoples’ Committee and water management agency from the district level up before the enterprise or individual may get the permission of minerals exploitation.

Measures of soil erosion control should be designed and incorporated with the main works. When construction works are accepted, with the mandatory participation of the water management, agency soil protection measures should also be accepted.

**Article 20:** Local authorities should strengthen their management capacities as regards activities such as mineral exploitation, sand extraction, stone and earth excavation and as regards erosion prevention.

It is strictly prohibited to dig soil, sand and take stones away in areas prone to landslides. These specific areas shall be determined by the authorities from district level up.

### 3. REGULATIONS OF SOIL EROSION CONTROL

**Article 21:** Administrative organizations from the district level up must instruct interested parties and mass organizations to carry out protection measures in eroded areas according to soil erosion control plans.

**Article 22:** In areas where flowing water causes soil erosion, small watersheds of should be considered the basic planning unit when establishing soil erosion control systems.

In the areas subject to wind abrasion, it is necessary to provide irrigation systems and to plant trees and grass and to establish forest bands for the prevention and control of wind and sand damage.

**Article 23:** The State requires ago-economic collectives and farmers in eroded areas to carry out preventative measures and to protect land against erosion, and simultaneously to issue preferential policies for capital, fuel, food, taxation etc. Specific measures will be regulated by the government.

**Article 24:** In principle it is forbidden to open up and cultivate new land on slopes greater than 50°. However, based on the actual situation, local authorities at different levels should organize ago-economic collectives and farmers to:

- implement sloping land agricultural technology
- to carry out measures such as building drainage system, terraced fields, and water storage for cultivation etc.

**Article 25:** When eroded collective land is transferred over to personal use, provisions for soil erosion control must be included in the land transfer agreement.

**Article 26:** Collective ago-economic organizations and households or inter-households are permitted to undertake implementation of soil erosion control in deserted mountains, bare hills, stream, and uncultivated ground.

When a contractor is entrusted with soil protection activities on deserted mountains, bare hills, streams and virgin ground, a contract for these activities should apply according to the principle: "He who protects the soil should benefit from it".

Timber trees and subsidized crops which are planted by the person responsible for soil erosion control will belong to him or her and if, while implementing soil erosion measures, arable land area is expanded, he or she will have a right to use it.
The Government guarantees the legal rights of contractors winning erosion control contracts.

If the beneficiary of the agreement dies while the agreement remains in force, the inheritor is allowed to continue implementation under the signed agreement according to its provisions.

**Article 27:** Enterprises and administration bodies which cause soil erosion as a result of both construction and production activities are responsible for soil erosion control. If these organizations are not able to carry out the activity of anti-soil erosion, the water management company must do it. All the costs will be paid by these above organs. Soil protection costs associated with construction activities shall be added into cost of capital construction investment. Expenses covering soil protection during production activities shall be added into cost of production.

**Article 28:** Any soil protection works, forests and grasses planted on eroded areas must be controlled and accepted by relevant agencies, as decided by administrative bodies from the district and higher levels.

Soil management and protection equipment of soil erosion control, experimental areas, forests, grasses and other achievements of anti-soil erosion process should be strengthened.

### 4. SUPERVISION AND MONITORING

**Article 29:** Administrators of the Ministry of Water Resources shall be in charge of:

- developing supervisory and monitoring system;
- promoting the activities of anti-soil erosion;
- monitoring implementation;
- forecasting and disseminating the soil erosion situation on nation-wide scale.

**Article 30:** Soil erosion inspectors who work for water management companies from district and higher levels has right to inspect the actual situation on soil erosion and soil protection activities within his/her own locality. Organizations and individuals being inspected must report according truthfully and must facilitate the inspector in the execution of their duty.

**Article 31:** Any controversies or disputes among the regions arising from the implementation of soil protection activities shall be addressed as a first step within these regions, if the problems cannot be solved thereby, they shall be submitted to Peoples’ Committees at higher levels.

### 5. LEGAL RESPONSIBILITY

**Article 32:** Violators of Article 14 of this law that open up new land in prohibited areas will be punished by the district water management company and when necessary, supplementary disciplinary action such as cash fines will be used.

**Article 33:** Enterprises, administrative agencies, agro-economic collectives that illegally clear land sloping between 5° and the prohibited limit will be stopped by district water management company and when necessary, supplementary disciplinary action such as cash fines will be used.

**Article 34:** Water management agency at district level and higher ones have the right to stop violations caused by excavation in places determined by district Peoples’ Committee as areas prone to landslide or indicating mud and stone runoff and when necessary, supplementary disciplinary action such as cash fines will be used.
Article 35: Individuals or organizations responsible for logging; neglect of soil and water protection and actual soil erosion must be reported to district Peoples’ Committee or higher levels by water management agencies. Peoples’ Committee at different levels shall make decisions regarding punishment and rehabilitation schedules and when necessary, supplementary disciplinary action such as cash fines will be used.

Article 36: Enterprises or administrative units that cause soil erosion during construction and production activities while practising no protective methods shall be liable for fines which depend on the severity of their violations or shall be stopped working in order to reverse the eroded situation. Individuals who cause soil erosion shall be disciplined by his/her office leader or punished by his/her branch leader.

Penalties shall be proposed by district water management agency and decided by district Peoples’ Committee. Orders to stop working will be issued by Peoples’ Committee at city/district levels. When issuing an order to stop work to enterprises, administrative units under direct control of provincial or central government, it is necessary to report to and get approval from provincial or central government.

Individuals who cause soil erosion while undertaking mineral exploitation without taking any remedial measures shall also be punished according to legislation of these two above articles.

Article 37: Acts of encroachment, threatening and preventing inspectors to perform their duties as regulated must be tried for criminal acts in accordance with the law. Non violent threats or refusal to cooperate with inspectors in the execution of their duties as regulated shall be punished by the police unit according to order and security regulations.

Article 38: Administratively punished persons who wish to appeal against their punishment may do so to a higher level institution within 15 days of receiving the punishment decision.

Within 15 days since the date receiving punishment decision, they have right to directly prosecute a claim in the Peoples’ Court.

The Appeal Court should reach its decision within 60 days of receiving the complaint.

If the applicants remain unsatisfied yet, they may claim to the Peoples’ Court within 15 days of receiving the appeal decision.

If the Appeal Court has not reached its decision yet within the allowed time, the applicants may return the claim to the Peoples’ Court within 15 days of the appeal decision deadline.

If the appeal time is over and the applicant makes a complaint neither to higher level nor to the Peoples’ Court nor carry out the sentence, the organ responsible for the punishment decision shall ask the Court to force the applicant to serve the sentence.

Article 39: Persons responsible for soil erosion are responsible for rehabilitating damaged area and for compensating resulting losses to individuals and organizations in it.

Any conflicts related to the terms of compensation should be resolved by the water management agency.

Plaintiffs remaining dis-satisfied, may file a claim in the Peoples’ Court

Plaintiffs have rights to prosecute directly a claim in the Peoples’ Court without asking for a settlement by water management agency.
6. EXECUTION PROVISION (Details for implementation of Anti-soil Erosion Law)

Article 40: Inspectors who are negligent or who make use of their position causing losses in benefits and/or public assets shall be administratively punished by their director or a director of higher level. If there is enough evidence of guilt, they will be punished by criminal law.

Article 41: Based on this law, the Government shall define details for its implementation. Standing Peoples’ Council at provincial level, self-management regions and city under direct control shall give detailed instructions for the implementation of this law based on the actual conditions of its locality.

Article 42: The law came into effect on the date of its enactment concurrently all regulations concerned with soil protection was passed by the government on June 30, 1982 are all abrogated.

PART 2: EXECUTION PROVISIONS

1. GENERAL PRINCIPLES

Article 1: The following under-laws are based on the Soil Erosion Control law of the Peoples’ Republic of China hereafter referred to as the Soil Erosion Control Law.

Article 2: All organizations and individuals have rights to denounce, at district and higher levels, water management agencies responsible for:

- the destruction of land and water resources
- soil erosion:
- illegal logging
- destruction of the pasture or other grass cover in order to cultivate,
- opening up new land on the slopes
- dumping soil sand, stone, waste materials, ore residues into river, reservoir, stream, gully outside of permitted places;
- destruction of the works and equipment of soil erosion.

Article 3: Peoples’ Committee at different levels must provide detailed instructions for the implementation of rehabilitation and protection measures at eroded areas.

Article 4: Based on the actual situation at the local, People=s Committee at different levels ought to establish agency who is functional and responsible for implementing the tasks of prevention and protecting land against erosion, which are planned by water management agency, based on law of anti-soil erosion and this execution provision.

Article 5: Peoples’ Committees at different levels must:

- approve soil protection measures;
- define the resulting workplan and incorporate it into socio-economic development plans;
- prepare budgets for projects;
- organise the implementation;
- arrange credit facilities or grants to eroded areas with insufficient capital
resources to implement soil protection measures under the law.

**Article 6:** Specific soil protection areas shall be planned by authorities at government, province and district levels, the specific extent of these areas shall be defined and reported to Peoples’ Committee at the same level by water management agency at district level and higher ones for the approval and establishment.

Seriously eroded areas can be classified into sectors such as focused protective sector, focused monitoring sector and focused soil erosion control area.

**Article 7:** Provinces, self-management regions, cities under direct control within seriously eroded areas, may establish secondary vocational school on land and water protection or develop specialist capabilities in relevant universities and institutions. Basic principles of land and water protection should be introduced in the curricula of elementary and high schools.

### 2. PREVENTION AND PROTECTING LAND AGAINST EROSION

**Article 8:** Peoples Committee at various levels in mountainous, hilly and sandy regions should strengthen management for groups and individuals who exploit medicinal herbs, produce charcoal and bake bricks and tile as regards land and water protection imperatives and as regards the implementation of soil protection measures and general environmental protection.

**Article 9:** In regions having limited and/or seriously eroded pastures, local authorities and relevant management agencies should implement measures to change grazing practices on the meadows.

**Article 10:** Peoples’ Committees and concerned management agencies at the local level should:

- organise afforestation for fire wood supply;
- develop small hydroelectricity works;
- exploit wind energy, biogas, solar energy exploitation and fuel efficient stoves.

**Article 11:** Areas comprising land cleared and planted to subsistence crops prior to enactment of this law land were cleared, fields must be leveled or slopes made more gradual; also yields of the crops should be gradually increased and grass and trees should be replanted on the sloping areas. For areas where stopping cultivating would cause difficulties, district Peoples’ Committees shall identify options for terracing the fields or other soil protection measures.

**Article 12:** Any application for opening virgin land must comply with the law, furthermore it is necessary to formulate soil protection measures for the prior approval of the water management agency or a supervisory or monitoring agency under the direct control of the water management agency.

**Article 13:** Logging plans, must include measures for soil protection in logged forests. When a plan has been already approved by the forestry management agency, then its copy shall be sent to the water management agency. The two agencies shall coordinate in monitoring implementation of the soil protection measures.

**Article 14:** Plans addressing soil protection arising from environmental reports for proposed railways, roads, irrigation schemes, mineral exploitation enterprises, electricity enterprises and large/medium scale industrial enterprises, intended for mountainous, hilly and sandy areas, should be approved by the water management agency.

In mountainous, hilly and sandy areas, organizations and individuals requiring permission to exploit ore and minerals must make soil protection plans. These plans must be approved first by water management agency at district levels and higher, after which the organizations and individuals may request exploitation
permits.

Minutes of acceptance in respect of erosion monitoring equipment and soil protection measures in construction works must be signed and approved by the water administrative management agency. Erosion monitoring equipment and soil protection measures works which do not meet the requirements must be rejected.

Specific steps for approving soil protection plans should be regulated by the water administrative management ministry and other concerned ministries.

**Article 15:** Construction and production projects, built or under construction prior to the enactment of this law and causing soil erosion, then their sponsors should propose soil protection measures for the consideration of water management agencies at district level and higher.

### 3. REGULATIONS OF SOIL EROSION CONTROL

**Article 16:** Peoples’ committees from the district level up, should organize:

- state farms,
- forestry enterprises,
- state pasture,
- agro-economic collectives,
- households cultivating sloping areas with gradients less than prohibited, to terraced fields; soil and water conservation works; drainage systems and soil protection works, including protection from erosion caused by flowing water.

**Article 17:** If land under collective ownership in eroded areas is transferred to personal use, responsibilities for soil protection should be included in the land transfer agreement. Commune, Town Peoples’ Committees and economic collectives must supervise implementation of the agreement.

**Article 18:** Soil protection activities on deserted mountains, streams, bare hills, uncultivated ground may be undertaken by farmers, inter-households or professional teams. Enterprises, administrative agencies or individual to contribute their shares, are also allowed to invest capital and manpower in anti-soil erosion implementation.

When implementation is carried out by the above parties, a contract must be signed between the involved partners: the contractor may transfer the contract to the third party as long as the contract remains valid and the transfer is acceptable to the other parties to the contract.

**Article 19:** Enterprises and administrative organizations that cause soil erosion during the process of construction or production must overcome the soil erosion problem. If these organizations do not have enough technical capacity to carry out soil protection activities, the water management agency shall do it all expenses for which are payable by the above parties. The cost shall be decided by pricing and financial agencies and provincial water management agencies.

**Article 20:** When thinning, logging and managing protection forests (soil protection, flood protection, windbreaks and shelter belts) financed and exploited by water management agencies, any income arising must be used to maintain the same forests in natural regenerative condition.

**Article 21:** Completed soil protection equipment and works; forests and planted meadows must be checked and accepted according to government criteria. If the criteria are met, a record is made and criteria for management responsibility established.

Organizations and individuals are not allowed illegally to seize or destroy soil
protection works. Any enterprises or administrative units, which during the process of construction and production cause any damage to soil protection work, must compensate accordingly.

4. MONITOR AND SUPERVISION

Article 22: The monitoring system referred to in the article 29 of this law includes a national Monitoring Center for soil erosion control; anti-soil erosion stations in big river basin; anti-erosion stations at provincial level and self-management regions, cities; plus sub-stations for province, self-management region and cities under direct control.

Management issues relating to the monitoring system shall be regulated by administrative officials of the Ministry of Water.

Article 23: Administrators of the Ministry of Water and of bodies of water must periodically make periodic monitoring reports concerning soil erosion control. The notification should include the following issues:

- eroded areas
- damages causing by soil erosion and development
- the status and efficacy of erosion prevention and protection measures.

Article 24: Enterprises, administrative units responsible for soil protection regularly inform district level water management agencies at district level and above regarding the status of soil protection works and activities.

Article 25: Water management agencies directly under the authority of district and higher level Peoples’ Committee must, together with erosion monitoring agencies monitor and supervise according to anti-soil erosion legislation and executive provision. Monitoring staff should carry their identification card while on duty.

5. LEGAL RESPONSIBILITIES

Article 26: The fine payable by violators of Article 32 of the Soil Erosion Control Law who illegally opening new land shall range from 1 to 2 Yuan /m².

Article 27: The fine payable by violators of Article 33 of the Soil Erosion Control Law who illegally opening new land shall range from 0.5 to 2 Yuan /m².

Article 28: The fine payable by violators of Article 34 of the Soil Erosion Control Law who illegally opening new land shall range from 500-5,000 Yuan /m².

Article 29: The fine payable by violators of Article 35 of the Soil Erosion Control Law who illegally opening new land shall range from 2-5 Yuan per m².

Article 30: The fine payable by violators of Article 36 of the Soil Erosion Control Law who illegally opening new land shall range from 1,000-10,000 Yuan /m².

Article 31: Minor acts of destruction to soil protection works not subject to criminal law shall be punished by the Police according to the regulations on order and security management of the Peoples’ Republic of China.

Article 32: According to clause 2 of Article 39 of the Soil Erosion Control Law, when requiring a water management agency to arbitrate disputes concerning compensation responsibility and indemnity, an application should be made which provides details of:
- the situation of the applicant
- timing, location and scale of the damage
- the nature of the damages

Evidence

**Article 33:** In the case of erosion caused by natural calamities, concerned organizations and individuals must report to water resource management agencies details concerning the nature, scale and timing of the event along with descriptions of measures taken. The water management agency should confirm this damage in order that nobody is accused wrongly.

6. EXECUTION PROVISION

**Article 34:** Execution provisions are defined by the Ministry of Water

**Article 35:** This execution provision comes into effect on the date of enactment.