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| Title : | Disposal Directions for National Non-public Use Land for Sand and Gravel Excavation Ch |
| Date : | 2007.12.21 |
| Legislative : | 1.Promulgation of Decree No.3255 by the National Property Administration, MOF on March 24, 1972 2.Revision of Decree No. 15378 by the National Property Administration, MOF on December , 16, 1976 3.Revision of Decree No. 8900009808 by the National Property Administration, MOF on April 14, 2000 4.Revision of Decree No. 0964002092 by the National Property Administration, MOF on December 21, 200 |
| Content : | <p>Article 1</p> <p>In line with the need of national non-public use land for sand and gravel excavation, the Directions have been established.</p> <p>Article 2</p> <p>Applications for national non-public use land for sand and gravel excavation shall be handled by the respective regional office or branch of the Ministry of Finance (hereinafter referred to as the implementing agency) in accordance with the Directions.</p> <p>The Authority-in-charge referred to in the Direction refers to agencies at various levels specified in Article 2 of the Sand and Gravel Excavation Act.</p> <p>Article 3</p> <p>A person, who applies for sand and gravel excavation shall apply for the issuance of a “Certificate of Consent for National Non-public Use Land Planned for Sand and Gravel Excavation” (hereinafter referred to as “Certificate of Consent for Planning” , referring to Attachment 1 for the format thereof) with the preparation of the following documents:</p> <ol style="list-style-type: none">(1) Application form.(2) Identity documents of the applicant.(3) The drawings and land rolls of relationship locations of the national and private lands within the scope of the application, of which the numbers and areas shall be calculated respectively, according to each ownership thereof.(4) The land registration transcripts, cadastral map transcripts, and certificates of land zoning of urban planning for national lands within the scope of the application area (which are not required for lands for non-urban planning). <p>If the documents for the application specified in the preceding Article are insufficient or incomplete, the implementing agency shall notify the applicant to submit the documents correctly or return the documents.</p> |

For the documents specified in Subparagraph 4 of Paragraph 1 of Article 3, if the implementing agency is able to conduct a search electronically, the searched data can be accordingly printed for review without submission by the applicant.

Where two or more people in the same area apply to the implementing agency for sand and gravel excavation, the first application prevails. However, for applications filed on the same day, the sequence is determined by means of drawing lots.

Article 4

After the implementing authority has accepted the application, and the documents are deemed sufficient or complete upon examination, with the field survey completed, unless prohibited by law, or the national land is assessed to have a higher usage value rather than sand and gravel excavation, a Certificate of Consent for Planning is issued upon payment of the guarantee deposit of the consent for planning.

The guarantee deposit of the consent for planning specified in the preceding paragraph is determined based on the assessed present value of land at the time of application for the national land, for which the applicant may pay by cash or by establishing a pledge on a certificate of time deposit at a financial institution.

Article 5

The Certificate of Consent for Planning is only for the applicant to apply to the Authority-in-charge for a sand and gravel excavation permit and agree to carry out exploration, inspection, investigation, and sand and gravel resources evaluation on the national land under consent for planning. The applicant shall not claim other rights.

The certificate specified in the preceding paragraph is valid for a period of one year and is void upon expiration of the validity period. However, for those who possess reasonable grounds, an extension of six months may be applied before the expiration of the validity period. Each extension is limited to a six-month period.

Article 6

The implementing agency shall abolish the issued Certificate of Consent for Planning and refund the guarantee deposit of the consent for planning at no interest in any of the following circumstances; however, if the applicant changes the terrain or landform without permission, a payable indemnity for damages shall be charged in advance, and the applicant is required by law to make up the deficiency, if any, without claiming any right.

(1) The applicant fails to apply to the Authority-in-charge for a sand and gravel excavation permit within the validity period of the certificate.

(2) The applicant has not been granted a sand and gravel excavation permit by the Authority-in-charge.

(3) The national land under consent for planning is under public needs.

The indemnity for damages set forth in the preceding paragraph shall be equivalent to actual damages. The applicant is commanded to hire a professional technician to calculate the amount of damage upon assessment

and authentication.

Article 7

The applicant, after obtaining a sand and gravel excavation permit (i.e. sand and gravel excavation party), shall prepare and submit the sand and gravel excavation permit together with documents of evidence such as the sand and gravel excavation plan and drawings, land rolls, or the like, which have been approved by the Authority-in-charge to apply for the issuance of "Certificate of Consent for Using National Non-public Use Land Planned for Sand and Gravel Excavation" (hereinafter referred to as Consent for Usage, referring to Attachment 2 for the format thereof).

The sand and gravel excavation plan and drawings as specified in the preceding paragraph shall state the planned removal quantity from the national land per year term within the plan period, and shall be sent to a professional technician for review and certification.

The sand and gravel excavation party, upon paying the prepaid usage fee and usage security deposit for that year, and the issuance of the Consent for Usage by the implementing agency, is permitted to conduct excavation in accordance with the provisions in the Sand and Gravel Excavation Act. The usage fee shall be prepaid at the beginning of the term for each subsequent year term, with the actual usage fee determined according to actual sales amount at the end of the term.

The usage security deposit specified in the preceding paragraph may be paid by way of subtraction from the guarantee deposit of the consent for planning.

Article 8

The usage fee and usage security deposit of sand and gravel excavation is evaluated as follows: (referring to Attachment 3 for example of calculation)

(1) Prepaid usage fee per term:

It is evaluated based on the product of the on-site market price at the time of sales provided by the Stone, Sand, & Gravel Association (hereinafter referred to as sales price) (dollars/cubic meters, m^3) multiplied by the planned removal quantity of the year term specified in Paragraph 2 of Article 7 (m^3), which multiplied by 15%.

(2) Actual usage fee per term:

1. It is evaluated, at the end of the per year term, based on 15% of the actual sales amount of the current term serving as the actual usage fee, which, comparing with the prepaid usage fee, the overcharge shall be refunded, and the shortage be supplemented.

2. Actual sales amount of the current term:

It is calculated, at the end per year term, by multiplying the sales price (dollars/cubic meters, m^3) by the actual removal quantity (m^3) of the current term, reviewed, and certified, by a professional technician. However, if the lands of the sand and gravel excavation area are all national non-public use lands, it is calculated by multiplying the sales price (dollars/cubic meters, m^3) by the actual removal quantity (m^3) of the

current term approved by the Authority-in-charge for future reference.

(3) Usage security deposit: evaluated based on 5% of the product of the sales price (dollars/cubic meters, m³) multiplied by the total planned removal quantity (m³) within an agreed usage period of the national land.

The sand and gravel excavation party shall provide relevant information required by the implementing agency for calculating the usage fee and guarantee deposit.

Article 9

The agreed usage period specified in the Consent for Usage shall not exceed the period approved by the Authority-in-charge. Upon the expiration of the period, the usage is agreed to terminate.

The sand and gravel excavation party may, prior to two months before the expiration of the agreed usage period set forth in the preceding paragraph, submit a proof of approval of extension by the Authority-in-charge to apply for extension of the deadline of the Consent for Usage, where the extended period shall not exceed the period approved by the Authority-in-charge.

Article 10

The sand and gravel excavation party, upon the expiration of the agreed usage period, the sand and gravel excavation completed ahead of plan, or with no intention to continue the excavation, shall complete land restoration in accordance with the sand and gravel excavation plan and drawings previously approved by the Authority-in-charge and relevant laws and regulations, before returning the land to the implementing agency. If there is any damage determined by the implementing agency, the sand and gravel excavation party shall pay adequate compensation, according to the damage extent.

For the sand and gravel excavation party who has completed land restoration and returned the land, the implementing agency shall return the paid usage security deposit and overpaid usage fee at no interest, after deducting the compensation set forth in the preceding paragraph, and request the sand and gravel excavation party to make up the deficiency, if any, according to law.

The sand and gravel excavation party, during the period of sand and gravel excavation and land restoration, is liable for any damage to rights and interests of other parties arising from relevant operations.

Article 11

Other items that the sand and gravel excavation party shall obey:

- (1) The sand and gravel excavation shall comply with the Sand and Gravel Excavation Act and relevant laws and regulations.
- (2) The purpose of the national land shall not change.
- (3) Deforestation on the national land without authorization is prohibited.
- (4) Fees shall be paid, and the relevant data shall be submitted, in accordance with the Directions.
- (5) The implementation of land restoration shall not violate the Waste Disposal Act, Soil and Groundwater Pollution Remediation Act, or other laws and regulations.

In the case that the sand and gravel excavation party violates Subparagraphs (1), (2) and (3) set forth in the preceding paragraph, or violates Subparagraph (4) but still fails to pay the required fees even after being notified by a reminder, the implementing agency may revoke the Consent for Usage at any time, and demand the sand and gravel excavation party to complete land restoration in accordance with the sand and gravel excavation plan and drawings previously approved by the Authority-in-charge and relevant laws and regulations before returning the land.

If the sand and gravel excavation party, when returning the land, has not completed land restoration in accordance with the sand and gravel excavation plan and drawings previously approved by the Authority-in-charge and relevant laws and regulations, or violates Subparagraph (5) of Paragraph (1), the paid usage security deposit and overpaid usage fee serves as fees for land restoration. Any overcharge shall be refunded (at no interest) and any shortage be supplemented. The implementing agency, in the event of damages, notifies the sand and gravel excavation party, who shall be liable for the damages.

Article 12

Those not prescribed in the Directions shall be handled in accordance with the Sand and Gravel Excavation Act, and the relevant laws and regulations

Attachments : 1-1.Disposal Directions for National Non-public Use Land for Sand and Gravel Excavation-Attachment1.pdf
1-2.Disposal Directions for National Non-public Use Land for Sand and Gravel Excavation-Attachment2.pdf
1-3.Disposal Directions for National Non-public Use Land for Sand and Gravel Excavation-Attachment3.pdf

Data Source : Ministry of Finance, R.O.C. Laws and Regulations Retrieving System