

NATIONAL ASSEMBLY

Law No: 46/2005/QH11

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

NATIONAL ASSEMBLY
OF THE SOCIALIST REPUBLIC OF VIETNAM
Legislature XI, Session 7
(From 05 May to 14 June 2005)

LAW
ON AMENDMENT AND SUPPLEMENT
OF SOME ARTICLES OF THE MINERAL LAW

In case any international convention which Vietnam is a member has any provision different from those of this Law, the provisions of such international convention shall be applied.

2. Article 3a shall be added as follows:

“Article 3a. Principle of mineral activities

Mineral prospecting, exploration, mining and processing activities shall be in compliance with the following principles:

1. Mineral resources must be protected, exploited, used in a rational,

5. Article 8 shall be amended and supplemented as follows :

“ Article 8. Acts to be prohibited

The State shall prohibit the following acts:

1. Illegal basic geological survey of mineral resources; prospecting, exploration, exploitation, processing, storage, transportation, buying and selling of minerals;
2. Violation of minerals master plan, areas of prohibition or temporary prohibition of mineral activities;
3. Failure to implement correctly the obligations in mineral activities stipulated in Articles 23, 27, 33, 46 and 52 of this Law;
4. Disclosure of information on mineral resources under the state confidentiality;
5. Abuse of position and power to violate the provisions of the law on minerals;
6. Other acts to be prohibited according to the provisions of the law on minerals.”

6. Article 9 shall be amended and supplemented as follows:

“**Article 9.** Responsibility for the protection of mineral resources

1. The Ministry of Natural Resources and Environment shall determine the areas containing mineral resources already investigated and assessed notify the People's Committees of provinces and cities directly under the central authority for management and protection.

2. The People's Councils and People's Committees of all levels within their duties and powers shall have the responsibility to take measures for protection of mineral resources in their localities, including areas not yet notified by the Ministry of Natural Resources and Environment but discovered to have minerals.

3. Organizations, individuals have the right and obligation to protect mineral resources and keep the state confidentiality about mineral resources.

4. Organizations, permitted to carry out mineral activities shall have the responsibility to protect the mineral resources within the area permitted for their activities

5. Organizations, individuals preparing plans for construction of concentrated residential areas, permanent structures in an area containing mineral resources already investigated and assessed explored with mineral reserves approved, when submitting the plans for approval must attach the statements in writing of the competent state management agency stipulated in Item 1 of Article 56 of this Law.

The Government shall stipulate the preparation and approval of plans for construction of national defense and security structures in areas containing mineral resources already investigated and assessed ”

7. Article 41 shall be amended and supplemented as follows:

“Article 41.

a) For areas already investigated and assessed in terms of mineral resources or not yet investigated or assessed but discovered to contain minerals, the competent state authority as stipulated in Item 1 of Article 56 of this Law shall decide on exploration the serve the basis for issuing mining license before the project is approved the investment license is issued;

b) For areas not yet investigated assessed in terms of mineral resources which during the construction is discovered to contain minerals, the competent state authority as stipulated in Item of Article 56 of this Law shall decide whether to mine or not to decide the mining schedule the case of mining to ensure the meeting of the schedule the construction. In this case mineral exploration is not compulsorily required

2. For areas having investment projects of national importance under the jurisdiction to decide by the National Assembly or important projects with investment decided by the Government Prime Minister, having been investigated and assessed in terms of mineral resources not yet investigated or assessed but having been discovered to contain minerals the Ministry of Natural Resources and Environment shall take the lead and coordinate with related Ministries and sectors and People's Committees of provinces and cities directly under the central authority where the project is located to decide on the exploitation and issue the mining license according to the jurisdiction stipulated in Item 1, Article 56 of this Law to ensure meeting the schedule of the construction.

3. In case of finding out that the exploitation of minerals stipulated in Items 1 and 2 of this article is not efficient no organizations or individuals apply for mining license, the competent state authority stipulated in Item 1 of Article 56 of this Law shall decide not to mine and shall answer in writing to the investment deciding agency, the investment license issuing agency or the investor.

4. Exploitation of minerals stipulated in Items 1 and 2 of this article, where the organizations or individuals permitted to mine the minerals are not the investor of the project to whom the lands been allocated leased out by the State, the use of land for mineral exploitation [(e meeting the)TJ 2.5751m)6.9suTD e

10. Article 55 shall be amended and supplemented as follows:

“Article 55. Responsibility for state management of minerals

1. The Government shall carry out firm state management of minerals.

2. The Ministry of Natural Resources and Environment shall be responsible before the Government for the implementation of the State Management of minerals throughout the country.

3. The Ministry of Industry shall be responsible for the State management of mining, mineral processing industry, except for minerals to be used as construction materials and minerals to be used as raw materials for cement production.

4. The Ministry of Construction shall implement the State management of exploitation and processing of minerals to be used as construction materials and raw materials for cement production.

5. The People's Committees of all levels shall implement the State management of minerals within their cities according to their jurisdiction.

6. Ministries and Ministerial level bodies, within their duties and powers, shall have the responsibility to coordinate with the Ministry of Natural Resources and Environment, Ministry of Industry, Ministry of Construction and the People's Committees of provinces and cities directly under the central authority in State management of minerals.

7. The Mineral Reserve Assessment Council shall have the responsibility to assist the Government in appraisal and examination of mineral reserves in mineral exploration reports for approval, except minerals to be used as common construction materials and peat.

8. The Government shall stipulate concretely the competence and responsibilities in state management of minerals of the Ministry of Natural Resources and Environment, the Ministry of Industry, the Ministry of Construction and the People's Committees at different levels; the organization and activities of the Mineral Reserve Assessment Council.”

11. Article 56 shall be amended and supplemented as follows:

“Article 56. Competence, procedures for issuing, extending, withdrawing mineral licenses

1. The competence for issuing, extending and withdrawing mineral licenses, permitting transfer of mineral rights is stipulated as follows:

a) The Ministry of Natural Resources and Environment shall issue prospecting permits, exploration licenses, mining license and mineral processing licenses, except the cases stipulated in Point b of this Item;

b) The People's Committees of provinces and cities directly under the central authority shall issue artisanal mining licenses as stipulated in Articles 49 and 50 of this Law; prospecting permits, exploration licenses, mining licenses,