

STATE OF NEW JERSEY

SOIL EROSION AND SEDIMENT CONTROL ACT

RULES AND REGULATIONS

pursuant to

Chapter 251, P.L. 1975

Chapter 90

NEW JERSEY ADMINISTRATIVE CODE

Title 2

Department of Agriculture

Subtitle 1 State Soil Conservation Committee

General Provisions

Authority

N.J.S.A. 4:24-3 and 4:24-42

2:90-1.1 PURPOSE

These rules and regulations are to implement P.L. 1975, Chapter 251, N.J.S.A. 4:29-39 et seq., hereinafter referred to as the act, to secure timely decisions by the soil conservation districts on application for development as defined therein, to assure adequate public notice of procedures thereunder and to continue effective administration of the law.

2:90-1.2 DEFINITIONS

All definitions in Chapter 251, Laws of 1975, are incorporated in these regulations. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Appeal" means a request for a review of district function.

"Hearing body" means the State Soil Conservation Committee.

2:90-1.3 STANDARDS

(a) The State Soil Conservation Committee adopts and hereby incorporates into these rules by reference as standards for soil erosion and sediment control those standards published in the "Standards for Soil Erosion and Sediment Control in New Jersey", and identified as adopted or revised on April 12, 1999 as the technical basis for local soil conservation district certification of soil erosion and sediment control plans. Specifically, these standards include the following:

1. Vegetative Standards

Acid Soil Management	1-1
Adopted April 12, 1999	
Dune Stabilization	2-1
Revised April 12, 1999	
Maintaining Vegetation	3-1
Revised April 12, 1999	
Permanent Vegetative Cover for Soil Stabilization	4-1
Revised April 12, 1999	
Stabilization with Mulch Only	5-1
Revised April 12, 1999	
Stabilization with Sod	6-1
Revised April 12, 1999	
Temporary Vegetative Cover for Soil Stabilization	7-1
Revised April 12, 1999	
Topsoiling	8-1
Revised April 12, 1999	
Tree Protection During Construction	9-1
Revised April 12, 1999	
Trees, Shrubs and Vines	10-1
Revised April 12, 1999	

2. Engineering Standards

Channel Stabilization	11-1
Revised April 12, 1999	
Conduit Outlet Protection	12-1
Revised April 12, 1999	
Detention Basin	13-1
Revised April 12, 1999	
Dewatering	14-1
Adopted April 12, 1999	
Diversions	15-1
Revised April 12, 1999	
Dust Control	16-1
Revised April 12, 1999	
Grade Stabilization Structure	17-1
Revised April 12, 1999	
Grassed Waterway	18-1
Revised April 12, 1999	
Land Grading	19-1
Revised April 12, 1999	
Lined Waterway	20-1
Revised April 12, 1999	
Offsite Stability Analysis	21-1
Adopted April 12, 1999	
Parking Lot Storage	22-1

Revised April 12, 1999	
Riprap	23-1
Revised April 12, 1999	
Rooftop Storage	24-1
Revised April 12, 1999	
Sediment Barrier	25-1
Revised April 12, 1999	
Sediment Basin	26-1
Revised April 12, 1999	
Slope Protection Structures	27-1
Revised April 12, 1999	
Soil Bioengineering	28-1
Adopted April 12, 1999	
Stabilized Construction Access	29-1
Revised April 12, 1999	
Storm Sewer Inlet Protection	30-1
Revised April 12, 1999	
Stream Crossing	31-1
Adopted April 12, 1999	
Subsurface Drainage	32-1
Revised April 12, 1999	
Traffic Control	33-1
Revised April 12, 1999	
Turbidity Barrier	34-1
Adopted April 12, 1999	
Underground Detention Storage	35-1
Revised April 12, 1999	

3. Stormwater Runoff Treatment Standards

Dry Wells	36-1
Adopted April 12, 1999	
Extended Detention Basin	37-1
Adopted April 12, 1999	
Infiltration Structures	38-1
Adopted April 12, 1999	
On-Line Water Quality Storm Sewer Catch Basin	39-1
Adopted April 12, 1999	
Sand Filters	40-1
Adopted April 12, 1999	
Vegetative Filter Strip	41-1
Adopted April 12, 1999	
Wet Ponds	42-1
Adopted April 12, 1999	

4. Copies of the Standards may be obtained by contacting the State Soil Conservation Committee or any of the soil conservation districts as follows:

- i. Bergen County Soil Conservation District;**

- ii. Burlington County Soil Conservation District;**
- iii. Camden County Soil Conservation District;**
- iv. Cape-Atlantic Soil Conservation District (Cape May and Atlantic Counties);**
- v. Cumberland County Soil Conservation District**
- vi. Freehold Soil Conservation District (Middlesex and Monmouth Counties);**
- vii. Gloucester County Soil Conservation District;**
- viii. Hudson, Essex and Passaic Soil Conservation District (Hudson, Essex and Passaic Counties);**
- ix. Hunterdon County Soil Conservation District;**
- x. Mercer County Soil Conservation District;**
- xi. Morris County Soil Conservation District;**
- xii. Ocean County Soil Conservation District;**
- xiii. Salem County Soil Conservation District;**
- xiv. Somerset-Union Soil Conservation District (Somerset and Union Counties);**
- xv. Sussex County Soil Conservation District;**
- xvi. Warren County Soil Conservation District.**

(b) Where it can be satisfactorily demonstrated by the applicant that unique or innovative control measures or procedures not specified in this chapter may be applicable to specific sites, such measures may be proposed for consideration and utilized subject to approval by the soil conservation district and the State Soil Conservation Committee. To secure such approval, a written request shall be sent to the soil conservation district and State Soil Conservation Committee describing the unique or innovative control measure or procedure and its proposed function or use on the project. Such approval may be granted only where it is determined that strict application of the standards as herein specified will not result in the most practical and effective control of soil erosion, sedimentation and stormwater damages.

(c) The location address, and telephone number of the local soil conservation districts may be obtained from the State Soil Conservation Committee, P.O. Box 330, Trenton, N.J. 08625, 609-292-5540.

2:90-1.4 APPLICATION

Applicants shall submit their plans to the district accompanied by an application form as prescribed by the committee. Such application shall indicate the information required to make a decision on certification of plans. Application forms are available at locations listed in section 3 of this subchapter.

2:90-1.5 PROCEDURE

(a) The district shall carry out the provisions of section 5 through 7 of the act.

(b) No project shall be undertaken by any person, partnership, or corporation, or other private or public agency unless the applicant has submitted to the district with local jurisdiction a plan for soil erosion and sediment control for such project, and the plan has been certified by the district as conforming to the standards promulgated by the New Jersey State Soil Conservation Committee. The plan shall provide for the control of soil erosion and sedimentation and utilize the standards for soil erosion and sediment control adopted by the New Jersey State Soil Conservation Committee.

(c) Approval by a municipal officer or agency for an application for development for any project shall be conditioned upon certification by the district for a plan for soil erosion and sediment control.

(d) The district shall review all soil erosion and sediment control plans submitted with a complete application and provide the applicant with a written notice indicating that:

- (1) The plan was certified;
- (2) **The plan was certified** subject to the attached conditions; or
- (3) The plan was denied certification with the reasons for the denial stated.

(e) The district shall include in the notice of certification or on the certified plan the following clause: "This certification is limited to the controls specified in this plan. It is not authorization to engage in the proposed land use unless such use has been previously approved by the municipality or other controlling agency."

(f) The district shall furnish the municipal planning board a copy of the certification or denial including all conditions and statements.

(g) The district shall grant or deny certification within 30 days from submission of a complete application. The district may be granted an additional 30 day review period through mutual written agreement with the applicant. Failure of the district to grant or deny certification within such period or such extension thereof shall constitute certification.

(h) The district shall require a new submission of the plan and application when a major revision is made.

2:90-1.6 APPEAL PROCESS

(a) The State Soil Conservation Committee may, on its own motion or at the request of any person aggrieved of any action by the district, review the decision of any soil conservation district and make whatever determinations it deems appropriate in the matter. Any person aggrieved of any decision of a soil conservation district shall have ten days to appeal to the State Soil Conservation Committee which shall schedule a hearing and make a determination within 45 days of the petition for review. Any person against whom a stop-construction order is issued by any district shall also have the right to appeal to the State Soil Conservation Committee. Requests for appeal shall be addressed to:

Secretary, State Soil Conservation Committee
P.O. Box 330
Trenton, New Jersey 08625

(b) The committee shall appoint and utilize the hearing office procedures of the Department of Agriculture for fact-finding and recommendations to the committee.

(c) The committee shall send a written notice to the appellant of hearing, stating:

- (1) The application number;
- (2) Details of how decisions aggrieve appellant;
- (3) Date, time and place of hearing.

2.90-1.7 MUNICIPAL ORDINANCES

(a) Municipalities may adopt soil erosion and sediment control ordinances conforming to the standards promulgated by the committee. Adoption by the municipality of such ordinances must be completed by May 31, 1978, in order to qualify for an exemption from sections 5 through 9 of the act.

(b) Such ordinances adopted by municipalities may provide for the review and certification of plans by the district in accordance with these rules and regulations. In all such cases, there shall be written contracts with the municipalities requesting review and certification and fees shall be charged in accordance with the established district fee schedule.

(c) Municipalities shall obtain the approval of such ordinances by the committee before being exempt from the provisions of this act. The committee may continue after May 31, 1978, to review municipal ordinances enacted before May 31, 1978, and, if it so determines, grant approval to such ordinances.

(d) The committee shall secure review and comment by the district on municipal ordinances submitted to it. The district may recommend approval or disapproval to the committee. Written notification of approval or disapproval shall be sent to the district and municipality by the committee within 60 days.

(e) Municipalities having a soil erosion and sediment control ordinance presently in effect who wish to be exempt from sections 5 through 9 of this Act shall submit such ordinances to the committee for approval before May 31, 1978. Upon written notification of approval, which may be given after May 31, 1978, the municipality shall be exempt from sections 5 through 9 of this act.

(f) Districts shall annually review for compliance all soil erosion and sediment control ordinances enacted by municipalities within the district. The district shall inform the committee in writing of the results of this review by February 15 of each year. If at any time during the year, the district determines and so notifies the committee that any municipality is not enforcing its soil erosion and sediment control ordinance, the committee shall give written notice to the municipality that it is not longer exempt from section 5 through 9 of the act.

(g) Any proposed changes to a municipal ordinance which has received the approval of the committee, and is therefore exempt from sections 5 through 9 of the act, must be submitted to the committee for review and approval prior to enactment of the revised ordinance. For the municipality's exempt status to continue, all such changes must be found to be in accordance with the act and approved as such by the committee. Failure of the municipality to secure written notification of approval will result in discontinuance of municipal exemption from section 5 through 9 of the act.

2:90-1.8 FEES

Reasonable fees shall be set by the soil conservation districts based on cost. The fee schedule proposed by each district shall be approved by the committee before it is adopted by the district. Any person aggrieved of the set fee may appeal to the State Soil Conservation Committee as outlined in section 6 of this subchapter.

2:90-1.9 ENFORCEMENT

(a) Inspection of projects to determine execution in accordance with the certified plan shall be carried out by the district in close coordination with the municipal engineer and building inspector.

(b) The district shall determine whether or not the provisions of the certified plan are being followed by the applicant.

(c) The district shall inform the applicant in writing of observed deviation from the certified plan and request immediate compliance with the plan.

(d) The district or the municipality may issue a stop-construction order if the applicant takes no action to comply with the provisions of the certified plan.

(e) When a stop-construction order is issued, no further construction activity may take place until the applicant is in compliance with all provisions of the certified plan.

(f) The municipality shall not issue a certificate of occupancy for a project unless there has been compliance with

the provisions of the certified plan for permanent measures. The district shall provide the municipality with a report of compliance upon completion of the project.

2:90-1.10 CHANGES

Changes in the certified plan must be submitted to the district for reevaluation and approval.

2:90-1.11 REPORTS

The districts shall submit quarterly reports to the committee giving number of applications, number of certifications, denials and number of reviews.

2:90-1.12 MUNICIPAL ORDINANCES FOR SOIL EROSION AND SEDIMENTATION CONTROL

(a) In order to protect the public interest and welfare and to enable the orderly continuance of municipal government in this State, the New Jersey State Soil Conservation Committee gave temporary approval to all municipal ordinances for soil erosion and sediment control adopted before January 1, 1976.

(b) Such temporary approval will be terminated on May 31, 1978.

2:90-1.13 MINING AND QUARRYING ACTIVITIES

Certification of a soil erosion and sediment control plan shall be required for the operation of all mining or quarrying activities regardless of proposed or actual related agricultural or horticultural use. Mining or quarrying activities shall include the extraction and removal of soils and/or sediment, as defined in N.J.S.A. 4:24-41, from the proposed site.

2:90-1.14 MINOR SUBDIVISION

An application for minor subdivision, where the subdivider certifies in writing that no land disturbance is proposed, shall not be deemed a project for the purposes of the Soil Erosion and Sediment Control Act of 1975, as amended, N.J.S.A. 4:24-39 et seq. Municipal approval of subsequent applications for construction permits on lots derived from such subdivisions shall be conditioned upon district certification of a plan for soil erosion and sediment control where more than 5,000 square feet of the surface area of land will be disturbed by the applicant for the concurrent construction of two or more single family dwelling units or other structures. Concurrent construction, with respect to this policy, means any activity where land is disturbed in two or more lots at the same time by the same applicant in the same subdivision.