

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 N.J.S.A. 4:24-43 through 47.

As amended, R.1978 d.5, eff. January 5, 1978.

See: 9 N.J.R. 554(a), 10 N.J.R. 54(b).

Recodified from N.J.A.C. 2:90-1.7 and amended by R.2006 d.12, effective February 6, 2006.

See: 37 N.J.R. 2313(a), 38 N.J.R. 917(a).

Section was "Municipal ordinances"; rewrote the section; former N.J.A.C. 2:90-1.11, Changes, repealed.

2:90-1.12 Fees

(a) Ordinary fees: Reasonable fees shall be set by the districts based on the costs for providing services. The district shall establish fee categories based on the types and sizes of construction projects and an hourly rate for assessing fees. The fee schedule provisions proposed by each district shall be approved by the committee before it is implemented by the district. Any person aggrieved on the set fee may appeal to the Committee as outlined in N.J.A.C. 2:90-1.16.

(b) Extraordinary fees: The district fee schedule may include the assessment of fees for reimbursement of extraordinary expenses resulting from enforcement actions taken. The district may seek reimbursement for litigation expenses including court costs and attorney's fees from the adverse party as part of a negotiated settlement agreement or where the district prevails in any litigation action.

(c) Interest income derived from fee reserve balances may be utilized by the district for implementing district education programs for applicants, contractors, municipal officials and the public.

Recodified from N.J.A.C. 2:90-1.8 and amended by R.2006 d.12, effective February 6, 2006.

See: 37 N.J.R. 2313(a), 38 N.J.R. 917(a).

Rewrote (a) and added (b) and (c); former N.J.A.C. 2:90-1.12, Reports, recodified as N.J.A.C. 2:90-1.15.

2:90-1.13 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 and sequence of construction 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. Failure of the applicant to adequately correct deficiencies in the time frame set forth in the district letter to the applicant shall result in the issuance of a violation notice. Failure of the applicant to correct the deficiencies in the violation notice may result in the issuance of a stop construction order.

(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. The district or municipality may issue a stop-construction order if a person initiates land disturbance prior to securing plan certification.

(e) When a stop-construction order is issued, no further construction activity or any other work may take place on the project except for implementation of erosion controls as required by the district, until such time the project is in compliance with all provisions of the certified plan.

Amended by R.2005 d.39, effective January 18, 2005.

See: 36 N.J.R. 3961(a), 37 N.J.R. 265(a).

Deleted (f).

Recodified from N.J.A.C. 2:90-1.9 and amended by R.2006 d.12, effective February 6, 2006.

See: 37 N.J.R. 2313(a), 38 N.J.R. 917(a).

In (b), added "and sequence of construction"; in (c), added last two sentences; in (d), added last sentence; rewrote (e); former N.J.A.C. 2:90-1.13, Municipal ordinances for soil erosion and sedimentation control, repealed.

Case Notes

Township manager is without authority either under the Soil Erosion and Sediment Control Act or this rule to issue a stop construction order for noncompliance with the certified plan; only the municipal construction code enforcement official may issue such a stop order. *J.P. Properties, Inc. v. Macy*, 183 N.J.Super. 572 (Law Div.1982).

2:90-1.14 Reports of Compliance

(a) A District having certified a soil erosion and sediment control plan for a project pursuant to N.J.S.A. 4:24-39 et seq. shall issue a written Final Report of Compliance in accordance with this section, upon the District determination that the project is in full and complete compliance with the requirements and provisions of the certified plan such that all permanent measures to control soil erosion and sedimentation are in effect for the entire project.

(b) A Report of Compliance (ROC) shall be issued when the District determines that a project or portion thereof is in full compliance with the certified plan and the Standards for Soil Erosion and Sediment Control in New Jersey (see N.J.A.C. 2:90-1.3), and that the permanent measures to control soil erosion and sedimentation are in effect for the area encompassed by the ROC.

(c) A Report of Compliance with Conditions (CRC) shall be issued when the District determines that the project or portion thereof is not yet in full compliance with the certified plan but is in satisfactory compliance to the extent practicable and in accord with the sequence of development and requirements thereof, such that the issuance of a temporary and conditional approval is appropriate with such conditions as may be imposed by the District. Satisfactory compliance means temporary measures and appropriate permanent measures for soil erosion and sediment control have been implemented according to the Standards including provisions for stabilization, site work and that no other site specific concerns exists.

(d) Upon written request from the applicant, the District may issue a ROC or CRC on a lot-by-lot or section-by-section basis for a project when lots or sections are a part of the project.

(e) The district may withhold a ROC or CRC for any project which has not secured discharge authorization of the stormwater general permit NJG0088323 where a NJPDES permit is required for stormwater discharges associated with a construction activity pursuant to N.J.A.C. 7:14A-24.2.

(f) All fees shall be paid to the district prior to issuance of the ROC or CRC.

(g) A standard Report of Compliance form approved by the State Soil Conservation Committee shall be utilized by the District and shall allow for the District's issuance of a CRC or ROC. The District shall complete the standard Report of Compliance form in accordance with the requirement set forth in (g)1 through 4 below.

1. The District shall identify on the standard Report of Compliance form the block and lot, street address (if known), municipal location, the District application number and the date of issuance of the ROC.

2. The District shall state on the standard Report of Compliance form that the project or applicable portion thereof is in compliance with permanent measures to the extent determined by the district.

3. In order for the District's issuance of a ROC to be valid and effective, the standard Report of Compliance form shall be signed by an authorized District official, the District chairman or a designee, and specify its effective date.

4. In order for the District's issuance of a CRC to be valid and effective, the District shall comply with the requirements set forth in (g)1 through 3 above, and shall state in the standard Report of Compliance form all conditions that are to be satisfied to assure compliance with the requirements of the certified plan, as well as the date for completion of such conditions.

(h) Copies of the ROC or CRC shall be distributed by the District to the applicant; the municipal construction code official having construction code jurisdiction for the project, if applicable; and/or in the case where a construction permit is not required for a project (such as for mining and land clearing projects among others), the municipal official having jurisdiction over such project, if any.

1. The district may also issue a copy of a ROC or CRC, to such other persons or entities, as the district deems necessary or appropriate in its discretion. This includes, without limitation, any county, state and Federal agency, or instrumentality thereof, exercising any jurisdiction over the project.

2. In the case where a municipality authorized under N.J.S.A. 4:24-48 is the issuing agent, a copy of all ROCs and CRCs shall be submitted to the local District.

(i) No certificate of occupancy (CO) for a building or structure on a project, or any portion thereof, shall be issued by a municipality or any other public agency unless there has been a ROC issued by the District indicating compliance with the provisions of the certified plan for measures to control soil erosion and sedimentation. The District shall provide the municipality or other public agency with a ROC in accordance with (h) above.

(j) No temporary certificate of occupancy (TCO) for a building or structure on a project, or any portion thereof, shall be issued by a municipality or any other public agency unless a CRC or ROC is issued by the District. The District shall provide the municipality or other public agency with a copy of the CRC or final ROC.

(k) During the non-growing season, as defined in the Standards for Soil Erosion and Sediment Control in New Jersey (the Standards), or where seasonal or weather related constraints exist, or where the applicant's scheduling has prevented or delayed final stabilization (for example, completed site work during winter), the District may issue a CRC or ROC in accordance with (k)1 through 3 below.

1. Where the applicant has completed temporary stabilization and provided temporary erosion control measures in compliance with the certified soil erosion and sediment control plan, the applicant may request a CRC or ROC from the District. The District may also require the applicant to provide a performance deposit and enter into a performance agreement with the District to assure completion of final stabilization. In such instance, the District, at its option, may issue the CRC or ROC subject to the requirement that final stabilization be completed by the date indicated on the performance agreement such as, by the end of the next growing season, as defined in the Standards or such reasonable time period established by the District.

2. Upon receipt of the signed performance agreement and cash performance deposit, the District shall deposit the performance deposit into an interest bearing escrow account with interest to accrue to the benefit of the applicant. The applicant shall sign and deliver to the District, any and all forms required by the District or its bank to open and maintain such interest bearing escrow account.

3. Upon completion of final stabilization by the applicant, the District shall return such performance deposit with interest to the applicant minus the administrative costs assessed by the District pursuant to below.

4. Upon the failure of the applicant to timely or satisfactorily implement the permanent stabilization in