

## CHAPTER 90

## STATE SOIL CONSERVATION COMMITTEE

## Authority

N.J.S.A. 4:24-3, 4:24-42 and 4:1C-24.

## Source and Effective Date

R.1990 d.356, effective June 22, 1990.  
See: 22 N.J.R. 1299(a), 22 N.J.R. 2142(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 90, State Soil Conservation Committee, expires on June 22, 1995.

## Chapter Historical Note

Subchapter 1, General Provisions, was filed and became effective January 1, 1976 as R.1975 d.360. See: 8 N.J.R. 3(b). Revisions became effective January 1, 1976 as R.1975 d.366. See: 8 N.J.R. 5(a). Further revisions became effective January 5, 1978 as R.1978 d.5. See: 9 N.J.R. 554(a), 10 N.J.R. 54(b). Further revisions became effective July 3, 1980 as R.1980 d.305. See: 12 N.J.R. 301(b), 12 N.J.R. 451(a). Subchapter 2, Soil and Water Conservation Project Cost Sharing: Eligible Projects, was originally adopted as R.1984 d.452, effective October 15, 1984. See: 16 N.J.R. 1416(a), 16 N.J.R. 2781(a). Subchapter 3, Soil and Water Conservation Project Cost Sharing: Procedural Rules, was originally adopted as R.1985 d.158, effective April, 1985. See: 17 N.J.R. 7(a), 17 N.J.R. 807(a). Subchapter 1 was readopted pursuant to Executive Order 66(1978) effective June 24, 1985. See: 17 N.J.R. 1160(a), 17 N.J.R. 1756(a). Chapter 90 was readopted as R.1990 d.356. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

## Cross References

Flood control, spoil material to be stabilized, see N.J.A.C. § 7:13-2.7.

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## SUBCHAPTER 1. GENERAL PROVISIONS

## 2:90-1.1 Purpose

These rules and regulations are to implement P.L.1975, chapter 251, N.J.S.A. 4:24-39 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 review of district function.

“Hearing body” means the State Soil Conservation Committee.

**2:90-1.3 Standards for Soil Erosion and Sediment Control**

(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 September 9, 1974, September 1979 and April 6, 1987 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:**

Temporary Vegetative Cover for Soil Stabilization.....3.1.1  
 Revised April 6, 1987  
 Permanent Vegetative Cover for Soil Stabilization.....3.2.1  
 Revised April 6, 1987  
 Stabilization with Mulch Only .....3.3.1  
 Revised September 1979  
 Permanent Stabilization with Sod .....3.4.1  
 Revised September 1979  
 Topsoiling .....3.5.1  
 Revised September 1979  
 Maintaining Vegetation .....3.6.1  
 Adopted September 1974  
 Dune Stabilization .....3.7.1  
 Revised April 6, 1987  
 Trees, Shrubs and Vines .....3.8.1  
 Adopted June 1974  
 Protecting Trees During Construction .....3.9.1  
 Revised April 6, 1987

**2. Structural Standards:**

Land Grading .....4.1.1  
 Revised April 6, 1987  
 Diversions .....4.2.1  
 Revised April 6, 1987  
 Grassed Waterway .....4.3.1  
 Revised April 6, 1987  
 Sediment Basin .....4.4.1  
 Revised April 6, 1987  
 Slope Protection Structures.....4.5.1  
 Revised April 6, 1987  
 Channel Stabilization .....4.6.1  
 Revised April 6, 1987  
 Detention Basin .....4.8.1  
 Revised April 6, 1987  
 Subsurface Drainage.....4.8.1  
 Revised April 6, 1987  
 Traffic Control .....4.9.1  
 Revised April 6, 1987  
 Dust Control .....4.10.1  
 Revised April 6, 1987  
 Lined Waterway .....4.11.1  
 Revised April 6, 1987  
 Riprap .....4.12.1  
 Revised April 6, 1987  
 Sediment Barrier .....4.13.1  
 Revised April 6, 1987  
 Conduit Outlet Protection.....4.14.1  
 Revised April 6, 1987  
 Stabilized Construction Entrance .....4.15.1  
 Revised April 6, 1987  
 Storm Sewer Inlet Protection .....4.16.1

Revised April 6, 1987  
 Grade Stabilization Structure .....4.17.1  
 Adopted April 6, 1987  
 Parking Lot Storage .....4.18.1  
 Adopted April 6, 1987  
 Rooftop Storage .....4.19.1  
 Adopted April 6, 1987  
 Underground Tanks .....4.20.1  
 Adopted April 6, 1987

3. 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;
- iv. 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. 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 district may be obtained from the State Soil Conservation Committee, CN 330, Trenton, New Jersey 08625, 609-292-5540.

As amended, R.1978 d. 5, eff. January 5, 1978.  
 See: 9 N.J.R. 554(a), 10 N.J.R. 54(b).  
 As amended, R.1980 d. 305, eff. July 3, 1980.  
 See: 12 N.J.R. 301(b), 12 N.J.R. 451(a).  
 Amended by R.1987 d. 171, effective April 6, 1987.  
 See: 18 N.J.R. 2081(a), 19 N.J.R. 513(a).  
 Completely revised vegetation standards.

**2:90-1.4 Application**

(a) Application for soil erosion and sediment control plan certification shall be made to the local district utilizing standard application forms adopted 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 at N.J.A.C. 2:90-1.3.

(b) Applications for certification of soil erosion and sediment control plans shall include the following items:

1. One copy of the complete subdivision, site plan or construction permit application, including key map as submitted to the municipality (architectural drawings, plans and specifications for buildings not required) which includes the following:

i. The location of present and proposed drains and culverts with their discharge capacities and velocities and supporting computations and identification of conditions below outlets;

ii. A delineation of any area subject to flooding from the 100-year storm in compliance with the Flood Plains Act, N.J.S.A. 58:16A or applicable municipal zoning;

iii. A delineation of streams, wetlands pursuant to N.J.S.A. 13:9B and other significant natural features within the project area;

iv. The soils and other natural resource information used (delineation of the project site on soil map is desirable);

v. The land cover and use of area adjacent to the land disturbance; and

vi. All hydraulic and hydrologic data describing existing and proposed watershed conditions and a completed copy of the Hydraulic and Hydrologic Data Base Summary Form SSCC 251 HDF1. Where HEC 1 and HEC 2-U.S. Army Corps of Engineers or TR20 and WSP2-USDA Soil Conservation Service computer programs are used for modeling watershed hydrology and hydraulics, a copy of electronic input files shall be included. The Data Base Summary Forms and information regarding these computer programs are available at the locations listed at N.J.A.C. 2:90-1.3 above.

2. Four copies of the soil erosion and sediment control plan at the same scale as the site plan submitted to the municipality or other land use approval agency which includes the following information detailed on the plat:

i. The proposed sequence of development including duration of each phase in the sequence;

ii. A site grading plan delineating land areas to be disturbed including proposed cut and fill areas together with existing and proposed profiles of these areas;

iii. Contours at a two foot interval, showing present and proposed ground elevation;

iv. The locations of all streams and existing and proposed drains and culverts;

v. A stability analysis of all channels below all points of stormwater discharge which demonstrates that a stable condition will exist or there will be no degradation of the existing condition;

vi. The location and detail of all proposed erosion and sediment control structures including profiles, cross sections, appropriate notes, and supporting computations;

vii. The location and detail of all proposed non-structural methods of soil stabilization including types and rates of lime, fertilizer, seed, and mulch to be applied;

viii. Erosion control measures for non-growing season stabilization of exposed areas where the establishment of vegetation is planned as the final control measure;

ix. For residential development, erosion control measures which apply to dwelling construction on individual lots with notation on the final plat that requirement for installation of such control measures shall apply to subsequent owners if title is conveyed; and

x. Plans for maintenance of permanent soil erosion and sediment control measures and facilities during and after construction, which include the designation of persons or entity responsible for such maintenance;

3. Appropriate fees as adopted by the individual district and approved by the Committee (see N.J.A.C. 2:90-1.8); and

4. Additional information as may be required by the district depending upon the scope, topography and complexity of the project.

(c) The applicant shall certify and agree that the applicant shall:

1. Certify that all soil erosion and sediment control measures are designed in accordance with current Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the Committee and found at N.J.A.C. 2:90-1.3 and will be installed in accordance with the plan as approved by the district;

2. Acknowledge that structural measures contained in the soil erosion and sediment control plan are reviewed for adequacy to reduce offsite soil erosion and sedimentation and not for adequacy of structural design;

3. Retain full responsibility for any damages which may result from any construction activity notwithstanding district certification of the soil erosion and sediment control plan;

4. Require that all engineering related items of the soil erosion and sediment control plan be prepared by or under the direction of and be sealed by a professional engineer or architect licensed in the State of New Jersey in accordance with N.J.A.C. 13:27-6;

5. Assure that any conveyance of the project or portion thereof is conditioned upon transfer of full responsibility for compliance with the certified plan to any subsequent owners;

6. Maintain a copy of the certified plan on the project site during construction;

7. Allow district agents to go upon project lands for inspection; and

8. Notify the district in writing at least 48 hours in advance of any land disturbance activity and upon completion of the project.

(d) If the person submitting the application is not the project owner, a notarized authorization by the owner or authorized corporate officer must be submitted with the application. For public agency projects, such authorization shall be made by the principal executive officer or elected official of the agency.

Amended by R.1993 d.13, effective January 4, 1993.

See: 24 N.J.R. 3587(a), 25 N.J.R. 65(a).

Revised (a); added new (b)-(d).

#### 2:90-1.5 Procedure

(a) The district shall carry out the provisions of sections 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.

(i) District certification of a soil erosion and sediment control plan for any project shall be valid only for the duration of the initial project approval granted by the municipality or other land use approval agency but in no case shall exceed three and one-half years. All such municipal or other agency renewals of the project will require resubmission of the project plan and recertification approval by the district.

Amended by R.1987 d.222, effective May 18, 1987.

See: 19 N.J.R. 395(a), 19 N.J.R. 861(a).

New (e) added; renumbered old (e)-(g) as (f)-(h).

Amended by R.1993 d.13, effective January 4, 1993.

See: 24 N.J.R. 3587(a), 25 N.J.R. 65(a).

Added new (i).

#### 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 10 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 1888

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 decision aggrieves 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 no longer exempt from sections 5 through 9 of the act.

(g) Any proposed change 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 sections 5 through 9 of the act.

As amended, R.1978 d.5, eff. January 5, 1978.  
See: 9 N.J.R. 554(a), 10 N.J.R. 54(b).

#### 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.

#### 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).

**2:90-1.10 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.

R.1975 d.366, eff. January 1, 1976.

See: 8 N.J.R. 5(a).

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

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

**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.

New Rule R.1987 d.222, effective May 18, 1987.

See: 19 N.J.R. 395(a), 19 N.J.R. 861(a).

**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.

New Rule R.1987 d.222, effective May 18, 1987.

See: 19 N.J.R. 395(a), 19 N.J.R. 861(a).

SUBCHAPTER 2. SOIL AND WATER  
CONSERVATION PROJECT COST SHARING:  
ELIGIBLE PROJECTS

**2:90-2.1 Applicability**

The projects contained in this subchapter are applicable to participants in a farmland preservation program pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 all rules and regulations promulgated thereunder.

**2:90-2.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“District” or “soil conservation district” (SCD) means a governmental subdivision of this State, organized in accordance with the provisions of N.J.S.A. 4:24 et seq.

“Farmland Preservation Program” means any voluntary “Farmland Preservation Program” or “municipally approved farmland preservation program,” the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, c.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and the maintenance and support of increased agricultural production as the first priority use of the land.

“New Jersey Bureau of Forest Management” means the Bureau of Forest Management, Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

“Soil and Water Conservation Project” means any project designed for the control and prevention of soil erosion and sediment damages, the control of pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soils to achieve maximum agricultural productivity. Definitions of individual projects are contained in United States Department of Agriculture, Soil Conservation Service Standards and Specifications, Technical Guide Section 4, and are incorporated herein by reference.

“Soil Conservation Service” (SCS) means Soil Conservation Service of the United States Department of Agriculture.

"State Soil Conservation Committee" (SSCC) means an agency of the State established pursuant to Chapter 24 of Title 4 of the Revised statutes.

### 2:90-2.3 Standards and specifications

All soil and water conservation projects contained within this subchapter shall be in conformance with United States Department of Agriculture Soil Conservation Service Standards and Specifications, Technical Guide Section 4, which is hereby adopted by reference. All forest management type practices shall be in accordance with standards and specifications adopted by New Jersey Bureau of Forest Management. Where determined necessary, the State Soil Conservation Committee may develop and adopt additional standards and specifications for installation of practices.

### 2:90-2.4 Eligible projects

The soil and water conservation projects contained in this subchapter are approved for cost-sharing in a farmland preservation program.

### 2:90-2.5 Terrace systems

(a) Terrace systems which reduce pollution of water, land, or air from agricultural non-point sources may be applied to cropland subject to erosion from water runoff.

(b) The following types of practices are approved for terrace systems:

1. Terraces and the necessary leveling and filling to permit installation of an effective system.
2. Materials and installation of underground pipe outlets and other mechanical outlets.
3. Necessary vegetative protective outlets or waterways.
4. Converting the present system to a new system ONLY if the present system is not serving its intended conservation purpose.
5. Removing portions of stone walls or hedgerows if necessary to permit establishment of the practice.

(c) A protective outlet or waterway which is installed solely as an outlet for the terrace system and serves no other conservation purpose should be cost-shared as a component of this practice. A protective outlet or waterway which by itself solves a conservation problem, but also serves as an outlet for a terrace system, should be cost-shared under Sod Waterways or Sediment Retention, Erosion, or Water Control Structures.

(d) The system shall be maintained for a minimum of eight years following calendar year of installment.

### 2:90-2.6 Diversions

(a) Diversions which conserve water, prevent erosion, and prevent or reduce pollution of water, land, or air from agricultural non-point sources may be applied to farmland subject to erosion from excess surface or subsurface water runoff where the problem can be corrected by such diversion facilities.

(b) The following types of practices are approved for diversion systems:

1. Diversions, ditches, dikes, or subsurface drains where necessary for proper functioning of diversion.
2. Installation of structures such as pipes, chutes, underground outlets, or other outlets, if needed for proper functioning of a ditch or dike for more even flow, or to protect outlets from erosion.
3. Necessary leveling and filling to permit installation of an effective system.
4. Removing portions of stone walls or hedgerows if necessary to permit establishment of the practice.

(c) The following special conditions are applicable to diversion systems:

1. Cost-sharing is not authorized for ditches or dikes designed to impound water for later use, or which will be a part of a regular irrigation system. (Refer to other practices that permit such measures.)
2. A protective outlet or waterway which is installed solely as an outlet for diversion systems and serves no other purpose should be cost-shared as a component of this practice. A protective outlet or waterway which by itself solves a conservation problem, but also serves as an outlet for a diversion system, should be cost-shared under Sod Waterways or Sediment Retention, Erosion, or Water Control Structures.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

### 2:90-2.7 Contour farming

(a) A contour farming system which will protect soil from wind or water erosion and abate pollution of water, land, or air from agricultural non-point sources may be applied to non-terraced cropland subject to wind or water erosion which constitutes a pollution hazard.

(b) The following types of practices are approved for contour farming:

1. Cost-sharing is limited to the establishment of a contour farming system and the necessary removal of obstacles such as fences, stone walls, or hedgerows where applicable.
2. Cost-sharing is authorized for subsurface drains needed to eliminate spot seepage on five percent or

greater slopes where the seepage makes cross-slope tillage impractical. Subsurface drains may be the sole component if spot seepage develops and makes cross-slope tillage impractical in existing contour farming.

(c) The following special conditions are applicable to contour farming:

1. All agricultural operations must be performed as nearly as practicable on the contour.

2. On acreage devoted to row crops, one of the following must apply:

i. The crop stubble or crop residue must be left standing over the winter;

ii. A winter cover crop must be established;

iii. Adequate protective tillage operations must be performed.

3. This practice is not applicable on any acreage that is approved under stripcropping.

4. Cost-sharing is not authorized for repeating any approved measure under this practice with the same person on the same acreage.

(d) The acreage approved in the established system or an approximate equal acreage shall be maintained for a minimum of eight years after year of establishment.

#### 2:90-2.8 Stripcropping systems

(a) Contour stripcropping systems which protect soil from wind or water erosion and reduce pollution of water, land, or air from agricultural non-point sources may be applied to cropland subject to erosion or soil movement.

(b) The following types of practices are approved for stripcropping systems.

1. Cost-sharing is limited to the establishment of the systems and, if necessary, the removal of such obstacles as fences, stone walls, or hedgerows where applicable.

2. Cost-sharing is authorized for subsurface drains needed to eliminate spot seepage on five percent or greater slopes where the seepage makes cross-slope tillage impractical. Subsurface drains may be the sole component if spot seepage develops and makes cross-slope tillage impractical in existing stripcropping systems.

(c) The following special conditions are applicable to stripcropping systems:

1. On acreage devoted to row crops, one of the following must apply:

i. The crop stubble or residue must be left on the land during the winter;

ii. A winter cover crop must be established;

iii. Adequate protective tillage operations must be performed.

2. For contour stripcropping systems, cultural operations must be performed as nearly as practicable on the contour.

3. Cost-sharing is not authorized for repeating any approved measure under this practice with the same person on the same acreage.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

#### 2:90-2.9 Sod waterways

(a) Sod waterways which reduce erosion of land and the pollution of water from agricultural non-point sources may be applied to farmland needing permanent sod waterways to safely convey excess surface runoff water.

(b) The following types of practices are approved for sod waterways:

1. Cost-sharing is authorized for site preparation, grading, shaping, filling, and establishing permanent vegetative cover.

2. Cost-sharing is authorized for subsurface drains and stone lining that are necessary for proper functioning of the waterway.

(c) The following special conditions are applicable to sod waterways:

1. The cover may consist of sod-forming grasses, legumes, mixtures of grasses and legumes, or other types of vegetative cover that will provide the needed protection from erosion.

2. Close-sown small grains or annuals may be used for temporary protection followed by eligible permanent vegetative cover established by seeding.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

#### 2:90-2.10 Windbreak restoration or establishment

(a) Windbreak restoration or establishment systems which restore or establish windbreaks for protecting eligible farmland from soil erosion and for reducing the pollution of water, air, or land may be applied to farmland needing protection against serious wind erosion.

(b) The following types of practices are approved for windbreak restoration or establishment:

1. Planting trees or shrubs as needed for restoring or establishing field or farmstead windbreaks including cost of site preparation.

2. Permanent fences needed to protect the planted area from grazing, excluding boundary and road fences.

(c) The following special conditions are applicable to windbreak restoration or establishment:

1. Cost-sharing is not authorized for planting orchard trees or plantings for ornamental purposes.
2. Planting must be protected from destructive fire and destructive grazing.
3. Chemicals used in performing this practice must be registered Federally, with the State, and must be applied strictly in accordance with authorized uses, directions on the label, and other Federal or State policies and requirements.
4. Wildlife and environmental considerations must be given when designing this practice.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

#### 2:90-2.11 Stream protection

(a) Stream protection which reduces erosion or the pollution of water from agricultural activity may be applied to specific problem areas on small streams or lakes located on or adjacent to farmland where the bank is subject to damage from livestock or where sediment or runoff containing pollutants constitutes a significant hazard to water quality.

(b) The following types of practices are approved for stream protection:

1. Permanent fencing to protect banks from damage by domestic livestock. Cost-sharing may be authorized for fencing as a single eligible component where it is the most practical solution to the problem, or for repair of fencing where damaged by flooding or other natural disaster.
2. Planting trees, shrubs, or perennial grass cover as filter strips or buffer zones along banks.
3. To provide controlled access to water for livestock.
4. To install livestock crossings that will retard sedimentation and pollution. The installation of livestock crossings is limited to small streams. Where required, permits must be obtained by the applicant from appropriate authorities before the practice will be approved.
5. Impact on wildlife, trout production and maintenance, shellfish growing waters, and other environmental factors will be considered when designing the practice.

(c) The practice shall be maintained for a minimum of eight years following calendar year of installation.

#### 2:90-2.12 Permanent vegetative cover on critical areas

(a) Permanent vegetative cover on critical areas which reduces erosion and the pollution of land, water, or air from sedimentation of agricultural or silicultural origin may be applied to critical areas (such as gullies, banks, roadsides,

trails and roads, and field borders and similar problem areas), on farms which are susceptible to erosion and where runoff carrying substantial amounts of sediment constitutes a significant pollution hazard, or where both exist.

(b) The following types of practices are approved for permanent vegetative cover on critical areas:

1. Practices needed to stabilize a source of sediment such as grading, shaping, and filling, and the establishment of vegetation, (including the use of lime and fertilizer), trees or shrubs and similar practices which the SCD determines are practical for the solution of the problem.

(c) The following special conditions are applicable to permanent vegetative cover on critical areas:

1. Cost-sharing is authorized only if the measures will significantly reduce erosion and maintain, or improve, the quality of water in a stream, lake, pond, or other water source.
2. Cost-sharing is authorized for measures performed on public roadsides only where such measures are essential to solve a farm-based pollution or conservation problem.
3. Consideration should be given to wildlife and enhancing the appearance of the area when establishing the protective measures.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

#### 2:90-2.13 Landshaping or grading

(a) Landshaping or grading which permits effective surface drainage may be applied to cropland.

(b) No cost-sharing is authorized for any shaping or grading performed through normal farming operations required to prepare the land for planting or cultivating crops.

(c) The practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

#### 2:90-2.14 Water impoundment reservoirs

(a) Water impoundment reservoirs which provide water for agricultural uses and other benefits when possible may be applied to farmland on which the construction or sealing of water impoundment structures, including dugouts, is needed for the above purposes.

(b) The following types of practices are approved for water impoundment reservoirs:

1. Cost-sharing is authorized only for structures that provide water for agricultural uses, including livestock water impoundments, and irrigation.

2. Cost-sharing is authorized for fencing and vegetative cover (including mulching) needed to protect the structure.

(c) The following special conditions are applicable to water impoundment reservoirs:

1. Cost-sharing is not authorized for any reservoir which would be used primarily for recreation or household water.

2. Cost-sharing is not authorized for pipelines or troughs to furnish water to farm buildings.

3. Consideration shall be given to the needs of wildlife and to enhancing the appearance of the area when designing or installing any reservoirs under this practice.

(d) The structure shall be maintained for a minimum of eight years following calendar year of installation.

#### 2:90-2.15 Irrigation systems

(a) Irrigation water systems which conserve irrigation water, improve water quality and management, control erosion, and reduce the pollution of water on land from agricultural non-point sources may be applied on land for which an adequate supply of water is available and on which irrigation will be continued for agricultural and horticultural purposes.

(b) The following types of practices are approved for irrigation systems:

1. Permanently installed systems, mainlines, and wells.

2. Land leveling. (This may be authorized as a single component for performance during a program year if it is part of a reorganizing plan which includes other components. The other required components must be carried out in other years with or without cost-sharing.)

3. Tailwater recovery systems or other installations for the conservation of soil or water where needed as an integral part of the irrigation system.

4. Where existing systems are converted to, or new systems are installed for trickle or similar low volume, low-loss systems, cost-sharing is authorized for pumping, filtering and application equipment where such components are permanently installed.

(c) The following special conditions are applicable to irrigation systems:

1. Cost-sharing is not authorized for:

i. Portable pipe or any other normally portable equipment.

ii. Pipe installed in the well (other than casing), pumps, and pumping equipment except as specified in (b)4 above.

iii. Installation of power supplies.

iv. Sprinklers or other above-ground water application equipment except as specified in (b)4 above.

2. Consideration must be given to the needs of wildlife, preserving or enhancing the appearance of the area, and potential pollution hazards.

3. Cost-sharing is authorized for land leveling as the sole component if it is a needed part of the plan for the reorganization of the system.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

Amended by R.1986 d.105, effective April 7, 1986.

See: 18 N.J.R. 131(a), 18 N.J.R. 638(a).

Added (b)4 and (c)1ii-iv.

#### 2:90-2.16 Sediment retention, erosion, or water control structures

(a) Sediment retention, erosion, or water control structures which reduce erosion and the pollution of land or water from agricultural or silvicultural non-point sources or salt water intrusion may be applied to specific problem areas on farms where runoff of substantial amounts of sediment or runoff containing pesticides or nutrients constitute a significant pollution hazard.

(b) The following types of practices are approved for sediment retention, erosion or water control structures:

1. Sediment detention or retention structures, such as erosion control dams (excluding water storage type dams), desilting reservoirs, sediment basins, dikes, sluice gates or similar structures; including maintenance and repair where normal life span is exceeded or structures are damaged by natural causes or wildlife.

2. Channel linings, chutes, drop spillways, and pipe drops that dispose of excess water.

3. Fencing and vegetative cover (including mulching needed to protect the structure) and for leveling and filling to permit the installation of the structure.

4. Installing sediment retention structures on public roadsides only where such structures are essential to solve a farm-based pollution or conservation problem.

(c) The following special conditions are applicable to sediment retention, erosion or water control structures:

1. Cost-sharing is authorized only if the measures will contribute significantly to maintaining or improving soil or water quality.

2. Consideration must be given to the needs of wildlife when establishing the protective measures.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

**2:90-2.17 Permanent open drainage systems**

(a) Permanent open drainage systems which dispose of excess water on farmlands may be applied to cropland that has been cropped for at least three out of the last five years.

(b) The following special conditions are applicable to permanent open drainage systems:

1. Due consideration must be given to maintaining wildlife habitat when installing the system.
2. Cost-sharing is authorized to clear the necessary minimum right-of-way construction of ditches, pipes and other necessary structures, and for spreading spoil banks if needed to effectively use the system.
3. Cost-sharing is not authorized for installing structures which are primarily for the farm operator's convenience.
4. Cost-sharing is authorized for reconstruction of existing ditches if design life span has been exceeded.

(c) The practice shall be maintained for a minimum of eight years following calendar year of installation.

Amended by R.1986 d.105, effective April 7, 1986.

See: 18 N.J.R. 131(a), 18 N.J.R. 638(a).

Added text in (a) "that has been ... last five years."

**2:90-2.18 Underground drainage systems**

(a) Underground drainage systems which dispose of excess water may be applied to cropland that has been cropped for at least three out of the last five years.

(b) The following special conditions are applicable to underground drainage systems:

1. Due consideration must be given to maintaining wildlife habitat when installing the system.
2. Cost-sharing is not authorized for installing tile in open drain ditches that are meeting the drainage problem.

(c) The practice shall be maintained for a minimum of eight years following calendar year of installation.

Amended by R.1986 d.105, effective April 7, 1986.

See: 18 N.J.R. 131(a), 18 N.J.R. 638(a).

Added text in (a) "that has been ... last five years."

**2:90-2.19 Developing facilities for livestock water**

(a) Facilities for livestock water which protect vegetative cover or make practicable the use of the land for vegetative cover so as to prevent soil erosion and to prevent or reduce the pollution of water, air, or land may be applied to installations that provide water at locations which will bring about better distribution of grazing, proper rotation of grazing, or better grassland management.

(b) The following types of practices are approved for developing facilities for livestock water:

1. Construct or deepen wells.
2. Develop springs or seeps, including fencing of the area, if needed, to protect the development from pollution by livestock.
3. Install pipelines, storage facilities, cisterns, and artificial watersheds.
4. Installations to permit the continuance, expansion, or initiation of a livestock grazing operation.

(c) The following special conditions are applicable to developing facilities for livestock water:

1. Wells must be provided with pumping equipment (except for artesian wells) and adequate storage facilities; no cost-sharing is authorized for pipe installed in the well (other than casing), pumps, pumping equipment, or for dry wells.
2. No cost-sharing is authorized under this practice for any installation which:
  - i. Is primarily for recreation, wildlife, dry lot feeding, corrals, or barns;
  - ii. Makes it possible to graze crop residues, field borders, or temporary or supplemental pasture crops;
  - iii. Is for land on which the cover will be used for hay or silage or will be field chopped and hauled to headquarters for feeding;
  - iv. Primarily provides water for headquarters. (Incidental use of water at headquarters is permitted if it does not lessen the effectiveness of the installation in serving its conservation purpose.) Costs may be shared to install a structure at or near headquarters only if that is the most practical location and the structure will effectively accomplish its conservation purpose at such location.
3. Consideration should be given to the needs of wildlife and enhancing the appearance of the area, when installing watering facilities.

(d) The practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

**2:90-2.20 Forest tree stand improvement**

(a) Forest tree stand improvement practices which enhance the environment by improving or protecting a stand of desirable trees intended for timber production, pulpwood, posts, etc., and to provide soil protection may be applied to stands of forest trees where quality can be improved through timber stand improvement.

(b) The following types of practices are approved for forest tree stand improvement:

1. Thinning;

2. Pruning crop trees;
3. Releasing desirable seedlings and young trees.

(c) The following special conditions are applicable to forest tree stand improvement:

1. Cost-sharing is not authorized for:
  - i. Correcting existing erosion problems with forestry practices. (The correction of erosion problems created by past land use activities may be authorized under other appropriate State practices);
  - ii. Fencing, fire breaks, fuel breaks, firelanes, or roads;
  - iii. Timber stand improvement in stands where the undesirable stems can be removed by commercial sales, such as fuelwood, poles, etc.

2. Chemicals used in performing this practice must be Federally and State registered and must be applied strictly according to authorized uses, directions on label, and other Federal or State policies and requirements.

3. The area must be protected from destructive fire and, if seedlings are present, from destructive grazing.

4. Improvement measures should be carried out in a way that preserves or improves the quality of the environment, especially wildlife habitat and the appearance of the area.

(d) The practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

#### 2:90-2.21 Forest tree plantations

(a) Forest tree plantations that establish a stand of trees for soil protection, forestry purposes, and preserves and improves the environment may be applied to farmland suitable for growing tree species that will provide multi-purpose forest benefits. Where shrubs are used, preference should be given to varieties beneficial to wildlife.

(b) The following types of practices are approved for forest tree plantations:

1. The establishment of a plantation that will provide both forest products and improved protection from wind or water erosion.
2. Clearing land occupied largely by scrubby brush of no economic value, only where essential to permit planting desirable tree species. Technical assistance must be utilized to determine suitability of the land for clearing and the measures necessary to prevent erosion.

(c) The following special conditions are applicable to forest tree plantations:

1. Cost-sharing is not authorized for fencing, fire breaks, fuel breaks, firelanes, roads, or for parcels of woodland less than one acre.

2. Cost-sharing is not authorized for planting orchard trees, for plantings for ornamental purposes, or for Christmas tree production.

3. Planting must be protected from destructive fire and grazing.

4. Chemicals used in performing this practice must be Federally and State registered and must be strictly applied in accordance with authorized uses, directions on label, and other Federal or State policies and requirements.

5. Consideration must be given to preserving and improving the environment.

(d) This practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

#### 2:90-2.22 Site preparation for natural regeneration

(a) Site preparation for natural regeneration which establishes a stand of trees for soil protection, forestry purposes, and to preserve and improve the environment may be applied to farmland suitable for growing tree species that will provide multi-purpose forest benefits.

(b) Cost-sharing is authorized for site preparation for natural reseedling (including prescribed burning with plow lines), if all of the special conditions in (c) below apply.

(c) The following special conditions are applicable to site preparation for natural regeneration:

1. The following conditions must be met:

- i. Sufficient desirable seed trees are present to permit natural reseedling.
- ii. Brush, dense litter, or other material must be broken up and removed to expose the forest soil to permit reseedling.
- iii. Seed trees must be left until the area is restocked.

2. Cost-sharing is not authorized for:

- i. Site preparation for the natural regeneration of ornamental or Christmas trees;
- ii. Correcting existing erosion problems with forestry practices. The correction of erosion problems caused by past land use activities may be authorized under other appropriate State practices;
- iii. Fencing or roads.

3. Planting area must be protected from destructive fire and destructive grazing.

4. Chemicals used in performing this practice must be Federally and State registered and must be applied strictly according to authorized uses, directions on label, and other Federal or State policies and requirements.

5. Consideration must be given to preserving and improving the environment.

(d) This practice shall be maintained for a minimum of eight years following calendar year of installation or establishment.

#### 2:90-2.23 Animal waste control facilities

(a) Animal waste control facilities which reduce the existing pollution of water, land, or air by animal wastes may be applied to areas on farmland where animal wastes from the farm constitute a significant pollution hazard. This practice is designed to provide facilities for storage and handling of livestock and poultry waste and the control of surface runoff water to permit the recycling of animal waste onto the land in such a manner as to abate pollution which would otherwise result from livestock or poultry operations.

(b) The following types of practices are approved for animal waste control facilities:

1. For animal waste storage facilities such as aerobic or anaerobic lagoons, liquid manure tanks, holding ponds, collection basins, settling basins, composting facilities and similar facilities as well as diversions, channels, waterways, outlet structures, piping, land shaping, and similar measures needed as part of a system on the farm to manage animal waste.

2. Permanently installed equipment needed as an integral part of the system; for fencing and vegetative cover (including mulching needed to protect the facility); and for leveling and filling to permit the installation of an effective system.

(c) The following special conditions are applicable to animal waste control facilities:

1. Cost-sharing is limited to solving the pollution problems where the livestock or poultry operation is part of a total farming operation, and shall be limited to the most cost-effective facilities.

2. Cost-sharing is authorized only if the storage and diversion facilities will contribute significantly to maintaining or improving the soil or water quality.

3. Cost-sharing is not authorized for the following:

i. Measures primarily for the prevention or abatement of air pollution unless the measures also have soil and water conserving benefits;

ii. Portable pumps, pumping equipment or other portable equipment, buildings or modifications of buildings or for spreading animal wastes on the land;

iii. For that portion of animal waste structures installed under or attached to buildings which serve as part of the building or its foundation;

iv. For animal waste facilities that do not meet local or State regulations.

(d) The system shall be maintained for a minimum of eight years following calendar year of installation.

#### 2:90-2.24 Cost share rates

(a) Projects as identified in N.J.A.C. 2:90-2.5 through 2:90-2.23 shall be cost shared at 50 percent of the actual cost, not to exceed 50 percent of a maximum amount per project as estimated by the district in consultation with the United States Department of Agriculture, Soil Conservation Service District Conservationist and ASCS County Executive Director. Districts shall consult with authorized personnel within the New Jersey Bureau of Forest Management for forestry related practices.

(b) The maximum per project cost shall be based upon the average cost for installation of such practices in the district, as determined from actual ASCS and SCS cost records for similar work under Federal cost share programs. For those practices which are not in the Federal programs, the district shall consult with USDA or Bureau of Forest Management officials in the district to investigate actual costs and establish a suitable average maximum cost reflecting current prices. An average cost schedule developed in accordance with this procedure shall be adopted by the district and filed with the State Soil Conservation Committee on or before January 15 of each year. The SSCC shall reserve the right to review maximum cost rates and to require adjustments if deemed necessary.

(c) The least cost practice or system which is determined to be effective and functional shall be the basis for cost-share rates. An applicant may install a more expensive practice or system if it is determined to be effective and conforms to the standards and specifications in N.J.A.C. 2:90-2.3, but shall be eligible for reimbursement only for up to 50 percent of the least cost option described above.

New Rule. R.1985 d.303, effective June 17, 1985.

See: 17 N.J.R. 86(a), 17 N.J.R. 1542(c).

Amended by R.1986 d.105, effective April 7, 1986.

See: 18 N.J.R. 131(a), 18 N.J.R. 638(a).

(c) added.

### SUBCHAPTER 3. SOIL AND WATER CONSERVATION PROJECT COST SHARING: PROCEDURAL RULES

#### 2:90-3.1 Applicability

This subchapter contains State Soil Conservation Committee rules which describe procedures for soil conservation districts and other participating conservation agencies regarding the review and approval of applications for soil and water conservation projects pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., (P.L. 1983, C.32). These rules shall be utilized in conjunction with N.J.A.C. 2:90-2 and N.J.A.C. 2:76-5.

**2:90-3.2 Definitions**

The following words and terms, when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

“Agricultural Conservation Program” (ACP) means a Federal Cost Share Program administered by the Agricultural Stabilization Conservation Service of the United States Department of Agriculture.

“Agricultural Stabilization Conservation Service” (ASCS) means the Agricultural Stabilization Conservation Service of the United States Department of Agriculture.

“Application form” means a standard form adopted by the State Soil Conservation Committee.

“County Agriculture Development Board” (CADB) means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

“District” or “Soil Conservation District” (SCD) means a governmental subdivision of this State, organized in accordance with the provisions of N.J.S.A. 4:24-1 et seq.

“Farm conservation plan” or “plan” means a plan which indicates needed land treatment and related conservation and resource management measures including approved forest management practices that are determined practical and reasonable for a particular farm to conserve and protect natural resources and to maintain and enhance agricultural productivity.

“Farmland Preservation Program” means any voluntary “Farmland Preservation Program” or “municipally approved farmland preservation program”, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, c.276, which has its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., (P.L. 1983, c.32) and the maintenance and support of increased agricultural production as the first priority use of the land.

“New Jersey Bureau of Forest Management” means the Bureau of Forest Management, Division of Parks and Forestry of the New Jersey Department of Environmental Protection.

“Soil Conservation Service” (SCS) means Soil Conservation Service of the United States Department of Agriculture.

“Soil and Water Conservation Practice” means any individual component of a Soil Conservation Project identified on the Farm Conservation Plan. A group of practices when combined to resolve land treatment and related conservation problems are referred to as a “system.”

“Soil and water conservation project” means any project designated for the control and prevention of soil erosion and sediment damages, the control of pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soils to achieve maximum agricultural productivity. Definitions of individual projects are contained in United States Department of Agriculture, Soil Conservation Service standards and specifications, Technical Guide Section 4, which are incorporated herein by reference.

“State Agriculture Development Committee” (SADC) means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

“State Soil Conservation Committee” (SSCC) means an agency of the State established pursuant to N.J.S.A. 4:24-1 et seq.

“Standards and specifications” means the United States Department of Agriculture Soil Conservation Service standards and specifications, Technical Guide Section 4, which are hereby adopted by reference. All forest management type practices shall be in accordance with standards and specifications adopted by New Jersey Bureau of Forest Management. Where determined necessary, the State Soil Conservation Committee may develop and adopt additional standards and specifications for installation of projects. Copies of Standards and Specifications are on file and may be viewed at United States Department of Agriculture—Soil Conservation Service, Soil Conservation District, and New Jersey Department of Agriculture offices.

“System” means a group of practices which when combined provide for the resolution of land treatment and related conservation problem(s).

“Technical agency” means the United States Department of Agriculture Soil Conservation Service or the New Jersey Bureau of Forest Management having responsibility for standards and specifications as identified above for soil and water conservation projects approved by the State Soil Conservation Committee.

**2:90-3.3 Eligibility**

Any landowner enrolled in a Farmland Preservation Program is eligible to apply for State funding assistance for soil and water conservation projects approved by the State Soil Conservation Committee and promulgated in N.J.A.C. 2:90-2.A. A farm operator may act as agent for the landowner when so designated in writing by the landowner. Upon the concurrence of the SCD, the landowner may request SCD review and recommendation for State funding assistance prior to formal enrollment in a Farmland Preservation Program provided he has expressed his desire in writing to enroll in such a program and has verified that his land is eligible to be enrolled in such a program as prescribed by the CADB.

**2:90-3.4 Application procedure**

(a) An applicant shall apply to the appropriate SCD for up to 50 percent of the cost of installing a soil and water conservation project(s) on the application form as defined. N.J.A.C. 2:90-3.2.

(b) The SCD shall advise the applicant of program provisions and policies and may assist the applicant in providing the appropriate information to complete the application.

(c) The SCD may establish priorities for providing technical assistance for the plan.

(d) A copy of the completed application shall be sent to the CADB for its information.

**2:90-3.5 Feasibility review and technical agency referral**

(a) The SCD shall seek the assistance of appropriate technical agencies or agents to determine the applicability of the requested projects to the land.

(b) The technical agency shall review the application and recommend projects that are essential and applicable to the landowners' proposed operation. If the technical agency determines that the requested projects are not feasible and upon the SCD concurrence, the applicant shall be so advised by the district.

**2:90-3.6 Preparation of conservation plan**

(a) If the technical agency determines that the requested projects are feasible, it shall prepare a farm conservation plan in consultation with the landowner. The plan shall indicate the proposed projects, their location, schedule for installation, maintenance requirements; and estimated costs.

(b) Upon completion of the plan and application, the technical agency shall submit same to the SCD for review and approval. The landowner shall be advised by the SCD of action taken on the plan.

(c) The plan may be modified at the landowners request subject to technical agency concurrence and SCD approval. If the applicant determines that the requested projects cannot be completed within the original schedule because of circumstances beyond his control, the applicant may request an extension of time. The request, including reasons why the extension is needed, shall be submitted, in writing, to the SCD. Upon its concurrence, the SCD shall forward such request to the SSCC for implementation. In no case shall extensions be granted for more than 12 months.

(d) If the SCD determines that serious soil and water management problems exist on the applicants' land, it may require that such problems be addressed prior to the initiation of other projects which are not directly related to the observed soil and water management problems. In addition, projects which are dependent upon prior installation of

protective practices identified in the plan must be installed in accordance with the plan schedule.

Amended by R.1985 d.302, effective June 17, 1985.  
See: 17 N.J.R. 861(b), 17 N.J.R. 1543(a).

Added (d).

Amended by R.1986 d.190, effective May 19, 1986.  
See: 18 N.J.R. 449(a), 18 N.J.R. 1099(a).

(c) substantially amended.

**2:90-3.7 Coordination with other cost share programs**

(a) The SCD shall forward the plan and application to ASCS or other Federal agencies administering cost share programs to determine availability of funds for the project(s) in the approved plan.

(b) If the ASCS or other Federal agencies cannot share in the cost of projects, they shall return the plan and application to the SCD with appropriate documentation.

(c) Where Federal or other cost-sharing is available, the SCD shall coordinate the appropriate integration of projects.

(d) If the project(s) in the approved plan can be entirely or partially cost-shared with ACP funds, the SCD shall secure ASCS coordination of potential joint State-ACP cost sharing and the completion of appropriate portions of the application form.

(e) The SCD shall advise the applicant of funding available via other programs and recommended appropriate division of projects in the approved plan to assure maximum utilization of all other funding sources. Applicants will be required to seek maximum ACP and other Federal program funding on all projects. Where conservation systems or projects are separated into individual components, such components may be separately allocated to the respective funding sources. In any jointly cost-shared project or component, (f) and (g) below, shall be strictly adhered to.

(f) No Federal cost share program may be used as the landowner's matching portion of costs for a project(s) or any component of a project(s) funded under the provisions of this program.

(g) No portion of the State cost share program may be used as the landowner's portion of costs for a project(s) or any component of a project funded under the provisions of any Federal cost share program.

**2:90-3.8 District approval process**

(a) Following review by the technical agencies and coordination with other cost share programs, the SCD shall review the application for program conformance.

(b) Upon verification that all eligibility criteria and other program provisions have been satisfied, the SCD shall approve or conditionally approve the application.

(c) The SCD shall promptly advise the applicant of its determinations in writing.

(d) For projects where the applicant provides at least 50 percent of the project cost without county funding assistance, the approved application shall be forwarded by the SCD to the State Soil Conservation Committee for approval. The SCD shall send a copy of the approved application to the CADB for its information.

(e) For projects where the applicant receives financial assistance from County appropriated funds for the cost of projects, the SCD shall forward the approved application to the CADB for concurrence. Following its approval, the CADB shall forward the application to the SSCC for approval.

### 2:90-3.9 State review and approval process

(a) The SSCC shall review and verify that the application is in conformance with program guidelines.

(b) Following verification, the SSCC shall approve the application and recommend SADC approval and obligation of funds for the entire amount of the approved plan. The SSCC may delegate this authority to the appropriate staff.

(c) Following SADC approval the SSCC and the SCD shall be advised of project funding approval.

(d) The SCD shall advise the applicant and appropriate technical agencies of application approval.

(e) Work must commence within 12 months of funding approval or the application may be cancelled unless the landowner submits a request for extension to the SCD providing reasons for such extension. Upon concurrence, the SCD shall forward the request to the SSCC for approval and implementation. In no case shall such extensions be granted for more than nine additional months.

Amended by R.1986 d.190, effective May 19, 1986.

See: 18 N.J.R. 449(a), 18 N.J.R. 1099(a).

(e) added.

### 2:90-3.10 Project completion and payment

(a) Upon project or project component completion, the applicant shall notify the SCD and request payment.

(b) The SCD shall secure technical agency verification that the project(s) or project component(s) has been completed in accordance with technical standards and specifications and also verify applicants payment claims. If payment claims are satisfactory, the SCD shall forward the payment request with the payment claim voucher, itemized bills, and related documentation that substantiates all costs incurred to the SSCC.

(c) The SSCC shall verify that program provisions have been satisfied prior to recommending SADC payment to the applicant.

### 2:90-3.11 Maintenance

(a) The applicant shall be responsible for maintaining the project(s) for eight years following date of completion.

(b) The SCD shall be responsible for inspecting the project(s) for maintenance in accordance with guidelines provided by the SSCC. Such inspections shall be performed annually on at least five percent of each practice installed under the program within the SCD.

(c) The applicant shall allow SCD and other program agents reasonable access to the project site for the purpose of site inspections.

### 2:90-3.12 Violations

(a) If the SCD determines that an applicant fails to comply with the provisions for maintenance of the project, the SCD shall advise the landowner of required corrective measures. The SCD shall forward a copy of such notification to the SSCC.

(b) The landowner shall not be liable for inadequate maintenance or destruction of a project(s) if caused by a natural disaster that could not have been reasonably anticipated.

### 2:90-3.13 Records

The SCD shall retain application forms, plans, performance reports, and all other related information pertaining to the applicant and approved projects.