

CHAPTER 90

STATE SOIL CONSERVATION COMMITTEE

Authority

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

Source and Effective Date

R.2011 d.020, effective December 8, 2010.
See: 42 N.J.R. 1937(a), 43 N.J.R. 33(a).

Chapter Expiration Date

Chapter 90, State Soil Conservation Committee, expires on December 8, 2015.

Chapter Historical Note

Subchapter 1, General Provisions, was adopted as R.1975 d.360, effective January 1, 1976. See: 8 N.J.R. 3(b).

Subchapter 2, Soil and Water Conservation Project Cost Sharing: Eligible Projects, was 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 adopted as R.1985 d.158, effective April, 1985. See: 17 N.J.R. 7(a), 17 N.J.R. 807(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, General Provisions, was readopted as R.1995 d. 370, effective June 24, 1985. See: 17 N.J.R. 1160(a), 17 N.J.R. 1756(a).

Pursuant to Executive Order No. 66(1978), Chapter 90, State Soil Conservation Committee, was readopted as R.1990 d.356, effective June 22, 1990. See: 22 N.J.R. 1299(a), 22 N.J.R. 2142(a).

Pursuant to Executive Order No. 66(1978), Chapter 90, State Soil Conservation Committee, was readopted as R.1995, d.382, effective June 21, 1995. See: 27 N.J.R. 1506(a), 27 N.J.R. 2685(a).

Subchapter 4, Agricultural Conservation Cost Share Program, was adopted as R.1999 d.56, effective February 16, 1999. See: 30 N.J.R. 4096(a), 31 N.J.R. 527(a).

Pursuant to Executive Order No. 66(1978), Chapter 90, State Soil Conservation Committee, was readopted as R.2000 d.237, effective May 11, 2000. See: 32 N.J.R. 1109(a), 32 N.J.R. 2047(b).

Chapter 90, State Soil Conservation Committee, expired on November 7, 2005, and Chapter 90, State Soil Conservation Committee, was adopted as new rules and Subchapter 1, General Provisions, was renamed Soil Erosion and Sediment Control on Land Disturbance Activities by R.2006 d.12, effective February 6, 2006. See: 37 N.J.R. 2313(a), 38 N.J.R. 917(a).

Chapter 90, State Soil Conservation Committee, was readopted as R.2011 d.020, effective December 8, 2010. See: Source and Effective Date.

Cross References

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

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. SOIL EROSION AND SEDIMENT CONTROL ON LAND DISTURBANCE ACTIVITIES

- 2:90-1.1 Purpose and scope
- 2:90-1.2 Definitions
- 2:90-1.3 Standards for Soil Erosion and Sediment Control
- 2:90-1.4 Application
- 2:90-1.5 Single-family dwelling unit lots
- 2:90-1.6 Mining and quarrying activities

- 2:90-1.7 Demolition activities
- 2:90-1.8 Clearing or grading of land
- 2:90-1.9 Procedure
- 2:90-1.10 Revisions to the certified plan
- 2:90-1.11 Exempt municipality ordinances and implementation
- 2:90-1.12 Fees
- 2:90-1.13 Enforcement
- 2:90-1.14 Reports of Compliance
- 2:90-1.15 Reports
- 2:90-1.16 Appeal process

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

- 2:90-2.1 Applicability
- 2:90-2.2 Definitions
- 2:90-2.3 Standards and specifications
- 2:90-2.4 Eligible projects
- 2:90-2.5 Terrace systems
- 2:90-2.6 Diversions
- 2:90-2.7 Contour farming
- 2:90-2.8 Stripcropping systems
- 2:90-2.9 Sod waterways
- 2:90-2.10 Windbreak restoration or establishment
- 2:90-2.11 Stream protection
- 2:90-2.12 Permanent vegetative cover on critical areas
- 2:90-2.13 Landshaping or grading
- 2:90-2.14 Water impoundment reservoirs
- 2:90-2.15 Irrigation systems
- 2:90-2.16 Sediment retention, erosion, or water control structures
- 2:90-2.17 Permanent open drainage systems
- 2:90-2.18 Underground drainage systems
- 2:90-2.19 Developing facilities for livestock water
- 2:90-2.20 Forest tree stand improvement
- 2:90-2.21 Forest tree plantations
- 2:90-2.22 Site preparation for natural regeneration
- 2:90-2.23 Animal waste control facilities
- 2:90-2.24 Agrichemical handling facility
- 2:90-2.25 Cost share rates

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

- 2:90-3.1 Applicability
- 2:90-3.2 Definitions
- 2:90-3.3 Eligibility
- 2:90-3.4 Application procedure
- 2:90-3.5 Feasibility review and technical agency referral
- 2:90-3.6 Preparation of conservation plan
- 2:90-3.7 Coordination with other cost share programs
- 2:90-3.8 District approval process
- 2:90-3.9 State review and approval process
- 2:90-3.10 Project completion and payment
- 2:90-3.11 Maintenance
- 2:90-3.12 Violations
- 2:90-3.13 Records

SUBCHAPTER 4. AGRICULTURAL CONSERVATION COST SHARE PROGRAM

- 2:90-4.1 Applicability
- 2:90-4.2 Administration
- 2:90-4.3 Definitions
- 2:90-4.4 Contract requirements
- 2:90-4.5 Conservation practice operation and maintenance
- 2:90-4.6 Cost-share and incentive payments
- 2:90-4.7 Contract modifications and transfers of land
- 2:90-4.8 Contract violations and termination
- 2:90-4.9 Appeals
- 2:90-4.10 Compliance with regulatory measures
- 2:90-4.11 Access to operating unit
- 2:90-4.12 Misrepresentation and scheme or device
- 2:90-4.13 through 2:90-4.18 (Reserved)

SUBCHAPTER 1. SOIL EROSION AND SEDIMENT CONTROL ON LAND DISTURBANCE ACTIVITIES

2:90-1.1 Purpose and scope

(a) These rules 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 to provide for inspection, compliance and enforcement and to continue effective administration of the law. These rules clarify the longstanding provisions of the act prescribing the authorities, roles and responsibilities related to implementation of the act for the State Soil Conservation Committee and Soil Conservation Districts. Such authorities, roles and responsibilities include, but are not limited to, the following:

1. For the State Soil Conservation Committee:
 - i. Develop and promulgate rules and technical and administrative standards;
 - ii. Provide program oversight and training, on its own motion or upon request;
 - iii. Conduct appeals from district decisions;
 - iv. Conduct investigations;
 - v. Provide technical assistance;
 - vi. Institute policies and procedures and guidance;
 - vii. Conduct studies;
 - viii. Provide State aid to districts;
 - ix. Approve district fee schedules;
 - x. Discontinue municipal ordinances addressing soil erosion and sediment control;
 - xi. Provide program related interpretative assistance; and
 - xii. Enter into agreements with public agencies.
2. For Soil Conservation Districts:
 - i. Make determinations and apply the requirements or grant exemption from the act;
 - ii. Review and certify or deny certification of plans;
 - iii. Perform inspections and take enforcement actions, including violation notices, stop construction orders and seek court remedies or fines for violations;
 - iv. Issue or withhold reports of compliance;
 - v. Coordinate with municipalities, counties, State and Federal agencies and instrumentalities thereof;
 - vi. Conduct appeals from aggrieved parties;

- vii. Adopt or modify a fee schedule and assess fees;
- viii. Monitor the performance of municipalities implementing erosion control ordinances and recommend discontinuance of municipal ordinances when such performance is unsatisfactory; and
- ix. Enter into agreements with public agencies.

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 "Purpose"; rewrote (a).

2:90-1.2 Definitions

All definitions in P.L. 1975, chapter 251 are incorporated in these rules. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the Soil Erosion and Sediment Control Act of 1975, N.J.S.A. 4:24-39 et seq.

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

"Agriculture and horticulture" means the cultivation of land for the production of food, fiber, animals and related activities customary to agricultural production and operations.

"Certified plan" means a plan and any revisions thereto reviewed and approved by the district as conforming to the standards promulgated by the Committee.

"Committee" means the State Soil Conservation Committee.

"Complete application" means an application and all required items as set forth in N.J.A.C. 2:90-1.4 for soil erosion and sediment control plan certification and that are administratively and technically sufficient for district certification.

"Conservation plan" means a site specific plan which prescribes needed land treatment and related conservation and natural resource management measures deemed by the district to be practical and reasonable for the conservation and protection of agricultural or horticultural productivity and the control and prevention of nonpoint source pollution. Such plan is designed in accordance with the United States Department of Agriculture, June 1, 2005 Field Office Technical Guide, incorporated herein by reference, as amended and supplemented. To obtain a copy of the Field Office Technical Guide, see N.J.A.C. 2:90-1.8(b).

"Demolition" means the demolition of one or more structures including the disturbance of all land area necessary to accomplish the work.

"Exempt municipality" means any municipality that has secured soil erosion and sediment control ordinance approval for implementing N.J.S.A. 4:24-43 through 47 from the Committee prior to May 31, 1978.