

## 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.2000 d.237, effective May 11, 2000.  
See: 32 N.J.R. 1109(a), 32 N.J.R. 2047(b).

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

Chapter 90, State Soil Conservation Committee, expires on May 11, 2005.

#### 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: Source and Effective Date. See, also, section annotations.

#### 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 on April 12, 1999 as the technical basis for local soil conservation district certification of soil erosion and sediment control plans. Specifically, these standards include the following:

#### 1. Vegetative Standards:

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

Channel Stabilization .....	11-1
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Conduit Outlet Protection .....	12-1
Revised April 12, 1999	
Detention Basin .....	13-1
Revised April 12, 1999	
Dewatering .....	14-1
Adopted April 12, 1999	
Diversions .....	15-1
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Dust Control .....	16-1
Revised April 12, 1999	
Grade Stabilization Structure .....	17-1
Revised April 12, 1999	
Grassed Waterway .....	18-1
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Land Grading .....	19-1
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Lined Waterway .....	20-1
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Offsite Stability Analysis .....	21-1
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Parking Lot Storage .....	22-1
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Stabilized Construction Access .....	29-1
Revised April 12, 1999	
Storm Sewer Inlet Protection .....	30-1
Revised April 12, 1999	
Stream Crossing .....	31-1
Adopted April 12, 1999	
Subsurface Drainage .....	32-1
Revised April 12, 1999	
Traffic Control .....	33-1
Revised April 12, 1999	
Turbidity Barrier .....	34-1
Adopted April 12, 1999	
Underground Detention Storage .....	35-1
Revised April 12, 1999	
3. Stormwater Runoff Treatment Standards:	
Dry Wells .....	36-1
Adopted April 12, 1999	
Extended Detention Basin .....	37-1
Adopted April 12, 1999	
Infiltration Structures .....	38-1
Adopted April 12, 1999	
On-Line Water Quality Storm Sewer Catch Basin .	39-1
Adopted April 12, 1999	
Sand Filters .....	40-1
Adopted April 12, 1999	
Vegetative Filter Strip .....	41-1
Adopted April 12, 1999	
Wet Ponds .....	42-1

Adopted April 12, 1999

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

- i. Bergen County Soil Conservation District;
- ii. Burlington County Soil Conservation District;
- iii. Camden County Soil Conservation District;

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 by a decision of the 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  
PO Box 330  
Trenton, New Jersey 08625-0330

(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.

Amended by R.2000 d.237, effective June 5, 2000.

See: 32 N.J.R. 1109(a), 32 N.J.R. 2047(b).

## 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.

“Natural Resources Conservation Service” (NRCS) means Natural Resources Conservation Service of the United States Department of Agriculture.

“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, Natural Resources Conservation Service Standards and Specifications, Technical Guide Section 4, and are incorporated herein by reference.