New Jersey Soil Conservation District

Chapter 251, P.L. 1975

Administrative Policy and Procedures Manual

New Jersey Department of Agriculture
State Soil Conservation Committee

Adopted June 2026

State of New Jersey

DEPARTMENT OF AGRICULTURE
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New Jersey's Chapter 251 program is a national model.

The program provides significant water quality benefits to the public, as it allows for the control of off-site sediment pollution from virtually all construction-related activities in the State.

This Policy & Procedures Manual describes the uniform administrative process utilized by our 13 soil conservation districts to implement this important land use program.

Our thanks go to the managers and staff of the conservation districts and the State Committee for their diligence and leadership in updating this guidance document.

The adoption of this Policy and Procedures Manual at the June 15, 2026 meeting of the State Soil Conservation Committee is a noteworthy accomplishment, as it was identified as an important work product of our ongoing strategic planning process.

Edward Wengryn
Secretary of Agriculture
Chairman, State Soil Conservation Committee

PREFACE

Since the initial adoption of the Chapter 251 Administrative Policy and Procedures Manual by the State Soil Conservation Committee on September 11, 1995, Soil Conservation District staff have remained committed to the effective implementation of the Act statewide (*N.J.S.A. 4:24-39 et. seq.*). This "Chapter 251 Manual" contains up to date guidance on administrative procedures utilized for review, inspection and enforcement on all applicable projects subject to the Act.

As this manual has been revised on multiple occasions to keep current with the standards and evolving field practices over the years, there have been many who have helped to ensure that this document continues to be a beneficial resource for Soil Conservation District staff across the state. I would like to thank the following individuals for their contributions in completing this version of the manual: Michael Kent of the Del-Atlantic Soil Conservation District, Ramon Mejia of the Ocean County Soil Conservation District, and Nicholas Chaballa of the Somerset-Union Soil Conservation District.

I would also like to thank Frank Minch for his guidance throughout this process, as well as John Matos-Ramos, P.E., Kelly Doyle, P.E., and Isabella Walz of the NJ Department of Agriculture. Our thanks also go out to our colleagues from the NJ Department of Transportation for their assistance and contributions.

This manual is meant to be a "living" document that evolves as new methodologies and processes are identified. Chapters may be modified and replaced with the most up to date policy, as needed.

My intent is for this document to continue to be a valuable tool to assist District staff, no matter experience level, in performing their responsibilities effectively and consistently.

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NJ Department of Agriculture
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Appendix 1

Technical Staff Resources

Chapter 1

Application and Plan Submission Processes

Activities and Projects Requiring Plan Submission

- "Project", as defined under *N.J.S.A. 4:24-41(g)* means any disturbance of more than 5,000 square feet of the surface area of land for activities requiring a construction permit.

- The accommodation of construction for which the State Uniform Construction Code would require a construction permit, except that the construction of a single-family dwelling unit shall not be deemed a "project" under this act unless such unit involves two or more such single family dwelling units and is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction application.

Examples of projects below include but are not limited to:

Demolition:

The demolition of one or more structures in which such operations will disturb 5,000 square feet or greater surface area of land. Where reconstruction of the site is intended to be the permanent site stabilization and immediately follows demolition, the District shall maintain jurisdiction until the completion of reconstruction. (For example, demolition of an existing building for the accommodation of single-family home, would require a soil erosion and sediment control certification for both the demolition and subsequent home construction phases until the completion of the single-family home and the issuance of a Report of Compliance).

Single-Family Dwelling:

As provided under *N.J.A.C. 2:90-1.5*, the construction of a single family dwelling and/or improvements to an individual lot disturbing more than 5,000 square feet of soil is subject to the Act and will require plan certification from the District. Refer to Appendix V-E (Legal Opinions) for further details and requirements.

Parking Lots:

The construction of or improvements to a parking lot (greater than 5,000 square feet of soil disturbance).

Public/ Commercial Facility:

"Public/ Commercial Facility" means any building, pipeline, highway, electricity, telephone or other transmission line; or any other structure to be constructed by a public utility, municipality, county or the State or any agency or instrumentality thereof.

Quarrying/Mining:

The operation of any mining or quarrying activity regardless of proposed or actual related agricultural or horticultural use. Mining or quarrying activities include the extraction and removal of soil and/or sediment from the proposed site.

Clearing/Grading:

The clearing or grading of any land, which meets the *N.J.S.A. 4:24-41 (d)* definition of "disturbance", for other than agricultural or horticultural purposes.

Exempt Activities

Less than 5,000 square feet of Disturbance Area:

All land disturbance activities involving less than 5,000 square feet of surface area are exempt from the Act.

Agricultural or Horticultural Activities:

Clearing or grading of land for agricultural or horticultural purposes may be exempt from the Act. To establish eligibility, proof must be provided demonstrating that the property meets the required criteria, including but not limited to the following:

- Enrolled in a Farmland Preservation Program
- Enrolled in or eligible for Farmland Assessment
- Qualifies for Right-to-Farm protections provided under *N.J.S.A 4:1C-1 et seq.*
- Possesses a Farm Conservation Plan or Forest Management Plan encompassing the agricultural activity
- Other proofs deemed appropriate by the District must be provided to demonstrate that such activity is associated with agricultural or horticultural activities

Not all land disturbing activities on farmland are exempt, as certain agricultural related activities may require the submission of a soil erosion and sediment control plan application. (See Special Situations, below)

Special Situations

A. Agricultural Development:

Beyond agricultural clearing and grading, agricultural construction may require Soil Erosion and Sediment Control Plan certification by the District. Agricultural structures or practices which are part of a District-approved conservation plan meeting the criteria of the USDA-NRCS Field Office Technical Guide for the proposed agricultural development and which addresses needed erosion may not need a SESC certification. The plan can be prepared by the USDA –Natural Resource Conservation Service or a Technical Service Provider. If a farm conservation plan is not utilized, a Chapter 251 Plan shall be required.

Agricultural development may also need to be compliant with the New Jersey Stormwater Management Rules, *N.J.A.C. 7:8*. The Rules specify that projects meeting the definition of major development be submitted to the Districts for review and approval in accordance with the requirements at *N.J.A.C. 7:8 5.4 and 5.6.*

B. **Temporary Greenhouse Construction:**

"Temporary" in this situation is defined as where the municipality does not have jurisdiction for a construction permit. However, the District may still require a Soil Erosion and Sediment Control Plan certification if more than 5,000 square feet of land is disturbed for hoop house or similar temporary structure construction. The District may accept a farm conservation plan (approved by the District and meets the criteria of the USDA-NRCS Field Office Technical Guide) which addresses needed erosion controls and is obtained and subsequently implemented for such temporary structures(s). If the farm conservation plan is not utilized a Chapter 251 Plan may be required. Refer to Appendix IV-C.

C. **Miscellaneous Non-Tillage Agricultural Disturbances:**

Farm access roads, filling, grading, clearing, and other non-tillage soil disturbance greater than 5,000 square feet may require a Soil Erosion and Sediment Control Plan certification by the District, unless the practice is part of an approved conservation plan meeting the criteria of the USDA-NRCS Field Office Technical Guide. If the farm conservation plan is not utilized or the farm conservation plan is not implemented, a Chapter 251 Plan may be required.

D. **Federal Projects:**

Land disturbance activities, which are wholly owned and controlled by the federal government, which do not pose a threat of water pollution from runoff are exempt from the Act with exceptions. The Federal Water Pollution Control Act, 33 U.S.C. 1323 requires any federal project, which may result in the discharge or runoff of pollutants or pose a threat of water pollution to comply fully with state laws such as the Soil Erosion and Sediment Control Act. Such projects are not exempt from Chapter 251 and require District certification of a Soil Erosion and Sediment Control Plan. Refer to Appendix IV-A.

Exceptions to this requirement are those activities performed under 42 U.S.C., Chapter 103; the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Under CERCLA, the Clean Water Act is considered an Applicable or Relevant and Appropriate Requirement (ARAR). Thus, all "onsite" activities are required to comply with the substantive requirements of the Clean Water Act, not the administrative requirements. The CERCLA "project" must implement the Soil Erosion and Sediment Control measures but are not required to secure a Chapter 251 certification. Only "offsite" activities can be considered for District certification of a Soil Erosion and Sediment Control Plan. There should be coordination between the District and the responsible party involved in a superfund remediation or removal.

If the federal government is merely providing funding but the project will be owned or controlled by others, a District certification of a Soil Erosion and Sediment Control Plan is required regardless of the criteria under the Water Pollution Control Act. For example, a post office, unless wholly owned by the federal government regardless if it is posing a threat of water pollution must have District certification.

Refer to the Appendix for specific policies and procedures concerning State Department of Transportation, local school districts, and other agencies and commissions. Refer to Chapter 7 for information on Exempt Municipalities.

<u>Request for Determination of Non-Applicability</u>

A request for exemption may be submitted to the local District and shall be signed by the owner or their representative. The District shall review the request and associated documentation and take the appropriate action on the request. If approved, the District shall send a letter to serve as the basis for the

applicant submitting the completed form to the municipal official. This form may serve the local municipal official as verification of District action on the request for exemption from the requirements of the Act. Refer to Appendix I-C (Sample Forms). The District may charge an administrative fee if appropriate and when incorporated into the District fee schedule.

Plan Preparation Authority

Soil Erosion and Sediment Control Plans prepared or approved by a licensed Professional Engineer or Architect in the State of New Jersey must be signed and sealed and shall follow the conditions provided under *N.J.A.C. 13:27-7.1 et seq*. and *N.J.A.C. 13:40-7.1 et seq*., which include but are not limited to:

- Where the site contains 10 or more acres, stormwater detention facilities and/or traversed by a water course, completed by an engineer only.

- Site plans depicting the locations of proposed buildings, parking layouts, and land grading, completed by an engineer, architect or landscape architect.

Available Documents

The following documents are available at Soil Conservation District Offices:

- Application for Soil and Sediment Control Plan Certification
- Addendum to Application Form – to identify corporations and partnerships (see Standards for Soil Erosion and Sediment Control in New Jersey, Appendix A2)
- Property Owner Authorization Form
- Recertification Form
- Non-Applicability Application Form
- Soil-Compaction Mitigation Verification Form
- Basin Summary Forms
- Inspection Request Forms
- 48-hour Advance Notification of Soil Disturbance
- District Fee Schedule (Varies among Districts and based on costs for providing services)
- Checklist of Requirements for Plan Submissions
- Soil Erosion and Sediment Control Act, *N.J.S.A. 4:24-39 et. seq.*
- Standards for Soil Erosion and Sediment Control in New Jersey
- Stormwater Discharge Permit Program Information

Soil Conservation Districts may provide assistance and recommendations to applicants, by appointment for utilizing the ***Standards for Soil Erosion and Sediment Control in New Jersey***, policy and procedures. There may be a nominal charge for publications.

Pre-Application Consultation:

Applicants may request a pre-application consultation with the District Manager or their designee. Such consultations are generally encouraged to advise of the program requirements and expectations of the District and potentially reduce plan review time.

Project Phasing:

For large or complex projects, applicants should consider phasing a project, considering the following criteria:

- The initial phase submitted must include roadways, drainage/utility features and drainage calculations for the entire project, or drainage calculations for that portion of the project, which impacts the initial phase.
- Phasing of a project must be based on the drainage area and pattern. All associated drainage structures for a particular phase must be denoted on the phasing plan and installed even if structures are to be completed in a subsequent phase.
- Phasing of a Soil Erosion and Sediment Control Plan must match the phasing plan submitted to the municipality and be clearly denoted on all plan sheets (i.e. grading plan, drainage, and utility plan)
- Subsequent phases shall include development of lots, roadways and all other information not included in the initial phase.
- Phasing sequences must be clearly outlined in the Sequence of Development.
- Review and inspection fees for each project Phase shall be based on the District Fee Schedule for the type of activity (example: number of lots for single-family dwelling projects; number of units or buildings for multi-family dwelling projects; or area of disturbance for commercial projects)

Administratively Complete Application Criteria

An Application for Soil Erosion and Sediment Control Plan Certification shall include the following items:

1. One copy of the complete subdivision site plan or construction permit application as submitted to the municipality.

2. Up to Four copies of the Soil Erosion and Sediment Control Plan

3. Application Form – the applicant must sign the application form. (Block #1)

4. Application Fees: (as adopted by the individual District)

5. Addendum to Application- If applicant is a corporation or partnership the addendum form must be completed, signed by the applicant. Refer to Appendix I-B (Official Forms).

Additional Items

Districts may also request electronic copies (.pdf) of Soil Erosion and Sediment Control Plans, details, calculations and Hydrologic Modeling Database-Data Entry Forms (NJDA-HMD Form 2014).

When the above items have been submitted, the application may be deemed **Administratively Complete** initiating the commencement of the technical plan review process. The District Manager or designee shall check the application for completeness, within two (2) working days of receipt except under extenuating circumstances. **Block #2** of the Chapter 251 Soil Erosion and Sediment Control Application must be signed by an authorized District representative. An Administrative Completeness Checklist must be utilized and maintained in the project file. Refer to Appendix I-A (Sample Forms).

Procedure for Handling Application Fees

Once the application is considered Administratively Complete, the check shall be stamped "For Deposit Only" and deposited in a restricted account. If the District chooses to not accept a check, the check must be returned within two (2) working days. Any checks submitted to the District, which are not accompanied by an application, shall be held for no longer than two (2) working days. If the application has not been received by that time, the check should be returned to the responsible party. It shall be emphasized that the review period will not begin until the District receives the requested items and/or information.

The applicant should be informed by phone, email and/or letter that a check for the correct amount must accompany the application. If the check is for the **incorrect amount**, the District shall notify the person responsible in writing. At the District's option, the check may be returned or an additional check can be requested for the balance. The District should not review the application and plans until a check for the correct amount has been received. The District should not accept and deposit a check that is for the incorrect amount.

Vouchers

A voucher will be signed by the application processor or designee and returned within two (2) working days of receipt except under extenuating circumstances. Upon receipt of appropriate fees, the application can be deemed administratively complete and the technical review process can begin.

Record of Application

When determined to be administratively complete, the project shall be dated and recorded on the application form (Block #2 signed by applicable district staff) and equivalent electronic database or hard file.

Establishing a Project File

Establish a file for each project. As a minimum, it shall include:

- The District project identification number assigned to each project.
- A project review checklist to review Soil Erosion and Sediment Control Plans. Refer to Appendix I-B (Sample Forms)
- The completed application form listing contact information for involved parties (ODA and/or Letter of Authorization, if required)
- Project Notes to record all communications including: site review and inspection notes, phone, verbal contacts, or correspondence, and appropriate time in each activity.
- Certified Soil Erosion and Sediment Control Plan
- Drainage Report and associated design support calculations
- Stormwater Permit, if required
- All other items relating to the project.

Cross-Reference System

A cross-reference system for identifying projects should be established when filing applications. Example: If filed by project identifying number, then it could be cross-referenced by project name, address, block & lots, etc.

Chapter 2

Plan Review and Certification Process

Plan Review Criteria and Procedures

An in-office review will be performed within 30 days of receipt of an administratively sufficient Soil Erosion and Sediment Control Plan submission. (When signature block #2 on application form is signed by District official.) An additional 30 days to complete the review may be mutually agreed upon between the District and the applicant, as provided under *N.J.S.A. 4:24-45*.

*For those projects involving more than one District, please refer to Chapter 10

Only technically trained District-employed professionals may review Soil Erosion and Sediment Control Plans. Complex plans may be reviewed in consultation with:

- SSCC Engineer(s) or Technical Staff
    - **Please refer to Appendix - II for contact information**
- USDA NRCS Engineer or Technical Staff
- County Engineer
- County Planning Board
- Municipal Engineer
- Other State Agencies (as needed)

Project-specific questions should be directed to the State Erosion Control Engineers after the District has performed their review and exhausted internal resources to solve any outstanding questions/issues. When contacting the State Erosion Control Engineers, the following information is requested:

- Project name in the subject line
- Due date
- Brief history of the project
    - First date of submittal
    - Prior approvals
    - Proposed Changes
- Electronic copies of stormwater report and engineering plans
- Specific questions to be addressed
- Comments that are already drafted

The District reviewer will review the submitted plans to ensure that the plans are designed in accordance with the New Jersey Standards for Soil Erosion and Sediment Control as appropriate and incorporate but not limited to the following:

- Limits of Disturbance
- Location(s) of proposed SESC Measures/BMP's
- Sequence of Construction
- Site Grading (existing and proposed contours/spot elevations)
- Rates & types of seed, mulch, and mulch anchoring to be used for temporary and permanent vegetative stabilization

- Location(s) of existing/proposed Stormwater Management BMP's
- Adjacent land cover and location of streams, wetlands, etc. (if applicable)
- Engineering design, calculations, and all other supporting documentation

The site may be investigated to compare existing and proposed site conditions to what is indicated on the Soil Erosion and Sediment Control Plan.

Reasons to conduct field investigation may include but no limited to:

- Verify criteria such as:
    - Proximity to wetlands, waterways, roads, sewer & utility easements, adjacent properties, and flood plains
    - Slopes (gentle vs steep)
    - Soil types (acid soils, highly erodible, etc.)
    - Streambank classification and conditions
    - Ponding areas
    - Existing land use(s) and groundcover
    - Other natural features

- Determine feasibility of the proposed soil erosion and sediment control measures, including final outfall location(s).

- Photographs of the site may be taken for future reference.

Deficient Plans

A deficient plan is one which does not address all items contained in Appendix A2, does not conform to the Standards for Soil Erosion and Sediment Control in New Jersey, has calculations or design structures that are incorrect, or as designed, does not effectively control soil erosion or retain sediment on site.

- The District shall notify the applicant or the responsible agent in writing of the particular deficiencies. All plan deficiencies shall be addressed in this letter. If time is a factor, the agent may be contacted by phone, email, or fax in an effort to expedite the necessary changes or additions, and followed up by letter. An account of all communications should be recorded in the Project Notes.
- The applicant shall be apprised of the thirty-day review period during which the District may certify or deny certification of the plan and that by mutual agreement the applicant may request in writing an additional thirty-day extension in which to revise the plan to the District's satisfaction.
- If a plan is determined to be deficient, the applicant is notified in writing of the deficiencies. The thirty-day review time clock is stopped. Upon the receipt of the revised plan and supporting documentation, the time clock shall resume at 0:00 and an additional thirty-day review period shall commence.
- During the review process, an electronic submission may be accepted by the District to help resolve **minor** deficiencies. Certification shall not be granted, however, until required hard copy plan sets, applicable drainage documentation, and all other requested information have been formally submitted for review by the District.

Certification Policy and Procedures

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 the resubmission of the project plan and recertification approval by the District.

Certification Process

- Certification should be memorialized by signature of a District Official on Block #4 of the Soil Erosion and Sediment Control Plan Application.
- A District Supervisor may be contacted to sign the plan, or a letter of certification, in advance of the next District Meeting.
- All certifications and conditional certifications of Soil Erosion and Sediment Control Plans must be duly approved or ratified by the District's Board of Supervisors at the next District meeting.
- All actions on applications for District certification and conditional certification of Soil Erosion and Sediment Control Plans must be recorded in the official District minutes. Such action must be taken by formal motion indicating name, number, or other identifiable reference the applications are being acted upon. The minutes must show the action of the supervisors on the motion. Such record is essential to support proper enforcement and implementation of District actions.
- The applicant will be notified if the project requires an Authorization to Discharge 5G3-Construction Activity Stormwater (General Permit) under the NJPDES Stormwater Permit Program

Certification

Once a plan has been thoroughly reviewed and all calculations, procedures, engineering designs, and erosion control measures are determined to meet the NJ Standards for Soil Erosion and Sediment Control, the District Manager, or other authorized persons, shall make a recommendation to the Board of Supervisors that the plan be certified. (Appendix) This recommendation should be memorialized by signature of responsible District staff member on Block #3 of the Soil Erosion and Sediment Control Plan Application.

Certification with Conditions

A Soil Erosion and Sediment Control Plan, which is fundamentally acceptable and complete, but lacks a few **minor** points, may be conditionally certified, as provided under *N.J.S.A. 4:24-44*. The minor conditions shall be specified in writing and signed by a District Supervisor and be attached to all copies of the Soil Erosion and Sediment Control Plan.

District records shall note that the plan was conditionally certified. At such time as the conditions have been met, the plans must be fully certified in accordance with the procedure outlined above.

The applicant will be notified at this time if the project requires an Authorization to Discharge 5G3-Construction Activity Stormwater (General Permit) under the NJPDES Stormwater Permit Program.

All copies of the Soil Erosion and Sediment Control Plan must be stamped and/or accompanied by a letter of certification including the following information:

- Meets standards required by *N.J.S.A. 4:24-39 et. seq.*
- The District's name
- The authorized signature of District Supervisor

- Date certified
- Project identification number
- Indicating conditions

Plan Distribution:

- The District will distribute copies of the certified plan, or letter of certification, to the municipal construction official, the applicant/responsible agent, the municipal engineer, and retain a file copy.
- Other concerned parties should be notified by sending a copy of the certification letter that the plan was certified.
- Additional copies of a plan may be certified if requested.

CERTIFICATION LETTERS (Suggested Content)

- District Letterhead
- Bold Title
- Certification Date
- Expiration Date
- Project Owner/Applicant, Corporation, Address
- Authority – N.J.S.A. 4:24-39 et. seq., Soil Erosion and Sediment Control Act, Chapter 251, P.L. 1975
- Project Name (as indicated on the application)
- Project Block & Lot Number (s)
- Municipality & County
- District Application Number
- Phase or Section (if applicable)
- Plan Date
- Latest Revision Date
- Board of Supervisors Decision – Plan was Certified or Plan was Conditionally Certified With Conditions
- Supervisor Signature
- "Any changes in the certified plan may void the certification which must be reviewed and approved by the district."
- "Any conveyance of the project (or portion thereof) prior to its completion will transfer full responsibility for compliance to the subsequent owner(s). The district must be notified in writing of any new owner(s)."
- "This certification is limited to the controls specified in this referenced plan. It is not authorization to engage in the proposed land use unless such activity has been approved by the municipality of other controlling agency."

- Additional Copies Distributed to
  a. Municipal Planning Board
  b. Municipal Engineer
  c. Municipal Construction Official

- Additional Copies Distributed to (At the district's discretion)
  a. County Planning Board
  b. Design Engineer/Architect

c. Contractor
d. Other Municipal Officials and involved parties

Denial or Withdrawal Policy

Once the applicant/responsible agent, or engineer, is contacted to submit the necessary information and fails to submit the required data within 90 days of notice of deficiency, then the plan may be denied certification. (Appendix)

Plan Denial

- The applicant/responsible agent must be notified by certified mail that the plan was denied certification without prejudice. The denial should reference the review letter which items or information is required for resubmission.
- Copies of the denial letter should be sent to the Municipal Construction Official, Municipal Engineer and Planning Board. The letter denying Soil Erosion and Sediment Control Plan Certification must be signed by a District Supervisor or designee. The denial must be ratified at the regular District meeting.
- Applicant may re-apply for Soil Erosion and Sediment Control Plan Certification. A new plan, application and appropriate fees (in accordance with the current District fee schedule) must be submitted if there are significant changes to the plan. If there are no substantial changes to the plan, the applicant may simply remit a new application and an affidavit indicating no change and the appropriate fees.

Plan Withdrawal

- This procedure should be utilized when the owner discovers that he does not intend to proceed any further with his proposed project and wishes to withdraw his application. Withdrawal of an application will stop any further review of the plans and neither constitutes the plan as being certified nor denied. This request must be submitted by the owner or responsible agent in writing to the District prior to plan certification.
- The municipal construction official, municipal engineer, and other concerned parties must be notified in writing that the plan was withdrawn.
- The owner's decision to continue with the proposed project at some future point in time will require submission of a new application and will be subject to the requirements and fees that are in effect at that time.

Disposition of Plans:

If the District fails to grant or deny certification, or notify the applicant in writing of deficiencies in the Soil Erosion and Sediment Control Plan, then the plan will automatically be certified. All letters of certification, denials or notices of deficiency must be sent within 30 days of receipt of an administratively complete Soil Erosion and Sediment Control Plan Application.

<u>Information Suggestion on Denials of Certification</u>

- District Letterhead
- Bold Title
- Date of Denial

- Project Owner/Applicant, Corporation, Address
- Authority – N.J.S.A. 4:24-39 et. seq., Soil Erosion and Sediment Control Act, Chapter 251, P.L. 1975
- Project Name (as indicated on the application)
- Project Block & Lot Number (s)
- Municipality & County
- District Application Number
- Phase or Sections (if applicable)
- Plan Date
- Latest Revision Date
- Board of Supervisors Decision – Plan was Denied Without Prejudice
- Supervisor Signature
- Additional Copies Distributed to
  a. Municipal Planning Board
  b. Municipal Engineer
  c. Municipal Construction Official

  Additional Copies Distributed to (At the District's Discretion)

  d. County Planning Board
  e. Design Engineer/Architect
  f. Contractor
  g. Other Municipal Officials and involved parties

Chapter 3

Inspection Process

Inspection Procedure

- District personnel will be responsible for scheduling and performing inspections on all land disturbance activities for which the District has certified a Soil Erosion and Sediment Control Plan.
- Appropriate action should be taken on disturbances, which meet the definition of a project, that are not associated to a certified plan with the District.
- District inspectors may schedule and/or participate in pre-construction meetings to become familiar with the existing site conditions, anticipated on-site personnel, and discuss project specific expectations.
- Inspectors will maintain a retrievable written report detailing all aspects of each individual project, which is to be kept in the Project Notes.
- The Application for Soil Erosion and Sediment Control Plan Certification requires the applicant to notify the District in writing at least 48 hours in advance of any land disturbance activity. Failure to provide such notification may result in additional inspection and/or enforcement fees.
- District personnel will be responsible for route maintenance to ensure all sites with priority are inspected in a reasonable timeframe.

Project Recordkeeping

As mentioned above, a written record is to be kept detailing each inspection for the project. These notes should document the following:

- The date and billed time for the inspection
- Level of site activity and conditions
- SESC measure installation
- Stormwater Management BMP's and associated structure(s) installation, if applicable
- Description of any enforcement action to be taken resulting from the inspection

Details of conversations with the applicant and/or on-site personnel as well as any email correspondence referencing the site and photographs documenting the site conditions should also be included in the project file.

- Photographs may outline the date, project/application number, location, etc., and can also be digitally stored for future reference.

Scheduling and Performing Inspections

The purpose of performing inspections is to ensure that the certified Soil Erosion and Sediment Control Plan is being implemented properly. Priority for scheduling site inspections should be based upon the potential for off-site sedimentation. Inspections can be categorized in Figure 1 below.

- Priority and inspection frequency should change depending on the project size, site conditions, development progression, etc.

- It is recommended that inspections should be limited for those sites that are not active and billed minimal time to the file in an effort to not exhaust fees prior to the start of land disturbance.
- During routine inspections, inactive sites should be checked occasionally to determine if any land disturbance has occurred.
- Critical areas should be identified and inspected for off-site sedimentation and damage to erosion controls, such as silt fence and stormwater management structures, throughout the construction process, including after rain events.
- All other adjacent areas associated with the project location should be protected from off-site erosion and sedimentation.
- District personnel should recognize that certain soil erosion and sediment control practices involve a much higher degree of complexity in terms of management intensity and guidance than others do. Consequently, District inspections should be scheduled more frequently as the management intensity of individual practices increase to ensure the desired or needed management level.
- In accordance with Administrative Bulletin 2017-4.0, *"Soil Restoration Measures"*, prior to the issuance of a Report of Compliance, the inspector shall ensure that soil compaction testing has been completed, if applicable.
- An inspection may be scheduled prior to the end of the growing season to ensure sites are adequately stabilized, where necessary.
- District inspectors located in the Coastal Plain area of the state should be aware of soils containing iron sulfides or where the pH is 4.0 or less. Establishing a vegetative cover on these soils must conform with the Standards.

Low Priority	Standard Priority	High Priority
• Not active or stalled projects	• Consistent site work while minimizing compliance issues • Majority of permanent improvements are completed	• Initial clearing and grading • Steep Slopes • Erosion Control measure(s) installation • Lot and Building Construction • Drainage Installation

Figure 1: Site Inspection Priority

Plan Revisions

During an inspection, the inspector may recognize the need for modifying the certified Soil Erosion and Sediment Control Plan to improve its effectiveness. When modifications to the limits of disturbance, engineering design, etc. have been implemented, the applicant will be contacted to submit revisions to the District for review. Upon completion of the review and deemed certifiable, action will be required on behalf of the District Board of Supervisors. Such changes must conform to the requirements of the current Standards of Soil Erosion and Sediment Control and the N.J. Soil Erosion and Sediment Control Act. Additional fees may be required pursuant to the District's fee schedule.

Identifying Non-Compliance Onsite

- Discrepancies between site work and the certified plan should be resolved, if possible, with the applicant's site personnel. The District site inspector should inform his/her supervisor and/or District Manager of any problems. Continued violations of the plan should be brought to the attention of all parties concerned.
- The municipal construction official should be kept informed of all site problems and of any action taken by the District. His/her cooperation is essential to good enforcement and his/her authority should be utilized when possible.
- All pertinent parties shall be notified in writing or via email of all deficiencies, discrepancies and violations on the site.

Chapter 4

Enforcement Process

District Issued Correspondence

Any deviation, deficiency or maintenance requirements to the certified Soil Erosion and Sediment Control Plan are to be documented through the use of the following letters:

1. Site Inspection Report
2. Deficiency Letter
3. Violation Notice
4. Stop Construction Order

The corrective measures required may be reviewed verbally with the superintendent/project manager at the site and documented in the Project Notes and/or followed up with formal correspondence upon returning to the District office.

If the superintendent/project manager is not available at the site at the time of inspection, they (or other responsible agent) can be contacted by phone or email. The District inspector is to follow up all phone conversations with written documentation at a minimum in the Project Notes or by issuing one of the above letters.

Adequate and responsible time is to be given to the developer for correcting or maintaining any deficiency. The District inspector is to consider the following when setting a deadline date:

- Severity of the problem/ erosion potential
- Mobilization requirements of any additional equipment needed
- Predicted weather forecast
- Equipment required to correct the problem
- Work force delays such as weekends, holidays, weather conditions, or labor disputes
- Past track record of the developer for correcting problems

Once a completion deadline date to correct the specified deviations to the plan has been decided or agreed upon, it is to be adhered to and the District inspector is to schedule an inspection of the project site on the stated date to determine compliance. A reasonable extension may be requested should one of the above issues arise.

All written correspondences for grievous violations are to be copied to all involved municipal and/or state officials. This may include the Planning Board, Environmental Commission, Municipal Clerk, DEP Wetlands or Stream Encroachment, etc. Municipal Code Enforcement and the Municipal Engineer must be copied. Each District is to maintain an up-to-date list of these officials and determine the appropriate persons to be copied in each type of correspondence. The owner/applicant, agent responsible, and job superintendent noted on the project application are always to be copied.

Written correspondence can be sent regular mail, email, fax or sent Certified Mail-Return Receipt Requested for deficiencies that are more serious or violations. All facsimile transmissions are to be followed-up with a mailed original (hard copy).

The cooperation of local construction officials should be sought when involved with any enforcement action. Regardless if verbally communicated with the official, contacts are best documented in a letter to the cooperating official.

The District Manager is to always be informed of projects where serious or repeated violations occur and especially where a threat of a Stop Construction Order (SCO) is warranted. The District Manager will apprise a District Supervisor on non-compliant projects and the actions being proposed.

Information Suggested on Violation Notices

- District Letterhead
- Bold Title
- Project Owner/Applicant, Corporation, Address
- Authority – N.J.S.A. 4:24-39 et. seq., Soil Erosion and Sediment Control Act, Chapter 251, P.L. 1975
- Violation of Act
- Current Date
- Date of Inspection (s)
- District Application Number
- Project Name (as indicated on application)
- Project Block & Lot Number (s)
- Type of Violation
  a. Failure to submit and secure plan certification
  b. Failure to submit appropriate start work notice
  c. Violation of certified plan
  d. Failure to correct previously noted deficiencies
  e. Failure to obtain district Report of Compliance
  f. Violation of certification conditions or sequence
  g. Other
    - Date for completion of specific corrective actions and follow-up inspections.
    - Possibility of Stop Construction Order and fines under the provisions of the Penalty Enforcement Law. *(N.J.S.A. 2A: 58-1 et. seq.)*
    - Authorized Signature & Title

Copies Distributed to –

- Original to Applicant
- Municipal Construction Official
- Municipal Engineer

Additional Copies Distributed at the District's Discretion

- County Planning Board
- Design Engineer/Architect
- Contractor
- Other Municipal Officials and involved parties

Stop Construction Order

The District may issue a Stop Construction Order on all aspects (including but not limited to grading, earth-moving, clearing, dwelling construction, stake-out surveying) of a project, if the project is not being executed in accordance with a certified Soil Erosion and Sediment Control Plan or if a project commences without a certified plan. Refer to Appendix I-G (Official Forms).

1. Generally, a Stop Construction Order is issued as a "last resort" only when previous written directives with deadlines (Site Inspection Reports, official letters & violation notices) have repeatedly been ignored or have resulted in minimal compliance. The District Manager and at least one District Board of Supervisors member should evaluate the need for this enforcement action. Supervisor may opt to allow the action by the manager with the supervisors signed approval. The District's counsel may need to be consulted.

2. If earlier written directives with deadlines have not resulted in adequate compliance, a final written directive will usually precede the issuance of a Stop Construction Order. That final directive will specify, after the stated deadline, the words: "…**or a Stop Construction Order will be issued** for the project." (Refer to extreme situations as explained below.)

3. Written (and photographic) documentation of ongoing deficiencies is an essential prerequisite to the issuance of a Stop Construction Order except in extreme situations as explained below. A minimum combination of two previous correspondences such as a issued Deficiency Letter and Violation Notice is considered adequate documentation.

4. In extreme situations – that is, where extensive environmental damage has occurred or is occurring which demands an immediate response – or in cases involving a violation for which a Stop Construction Order has previously been issued for that project – a Stop Construction Order may be issued **immediately** without previous notice.

5. A Stop Construction Order may also be issued immediately and without previous warning in cases where a disturbance has been generated prior to submission or certification of the required plan.

6. Whenever possible, the appropriate contact person or another responsible individual should be verbally notified onsite, at the time of inspection that a Stop Construction Order is or will be issued for the project.
7. If the appropriate contact person cannot be located onsite at the time of the inspection, he/she must be notified by phone, email or fax as soon as possible.

8. No formal Stop Construction Order may be officially issued prior to obtaining the approval and signature of the District Chairman (or District Supervisor or manager if authorization has been granted by the District Chairman).

9. Any letter giving notification that a Stop Construction Order had been issued must state that the issuing District is granted authority by *N.J.S.A. 4:24-27*. It is to state the needed corrective action required or reference a previous correspondence that stated the corrective measures.

10. A Stop Construction Order may be mailed to the project owner Certified Mail- Return Receipt Requested and/or faxed to the owner.

11. Districts may recover additional expenses incurred during a period of a Stop Construction Order following the rates approved by the State Soil Conservation Committee in the District's current fee schedule. Any letter giving notification that a Stop Construction Order has been issued must include a statement that the Stop Construction Order will be **rescinded upon payment of all reasonable District** costs, including attorney fees.

12. The offices of the appropriate municipal building inspector and municipal engineer should be given notice of the Stop Construction Order via mail, fax and/or phone. Whenever possible, communicate directly with the municipal official. All other appropriate involved parties are to be copied on all written correspondences.

13. The appropriate Divisions of the Department of Environmental Protection may be copied on all Stop Construction Orders.

14. After receiving notification that the terms of the Stop Construction Order have been complied with, the issuing District official will inspect the project in a timely manner (not to exceed two (2) working days from receiving notification of the completion of the required work). Upon confirmation of compliance, the district is to take steps to rescind the Stop Construction Order. The District may at their discretion rescind the Stop Construction Order when it is felt that substantial compliance is exhibited. The remaining items are to be listed in the letter rescinding the Stop Construction Order.

15. Following an inspection to confirm compliance with the terms of the Stop Construction Order, a letter officially rescinding the Stop Construction Order will be drafted and mailed out to the project owner, municipal officials, and all other involved parties. Refer to Appendix I-H (Official Forms). At this time a bill for any extraordinary expenses incurred during the period of the Stop Construction Order can be submitted to the owner/applicant. The owner/applicant shall have 10 calendar days from the date the Stop Construction Order is rescinded to pay stated fees. The letter rescinding the Stop Construction Order shall contain a statement: "**If soil erosion and sediment control deficiencies again develop or if all appropriate fees are not paid to the district, a Stop Construction Order may be issued without any prior notification**".

16. If the Stop Construction Order is ignored, the owner/applicant is to be told in writing that they are in violation of the Stop Construction Order. If the Stop Construction Order continues to be ignored or proves ineffective in producing the required corrective measures, the District is to proceed with court action to seek injunctive relief. The District can seek an "injunction" or a court ordered Stop Work Order during this process in response to a contractor ignoring the District's Stop Work Order. The motion for injunctive relief must be filed by District Counsel in Superior Court.

    - Legal action in response to a district issued stop work order may be pursued in municipal or superior court.

17. When a District has issued a Stop Construction Order on a project, the owner/applicant has a right to appeal that decision. (Refer to Chapter 9)

Stop Construction Order Reimbursement Cost Fees

In the event that a Stop Construction Order must be issued by the District during construction of a project, an additional fee to cover the reimbursement of legal, administrative and certification/inspection costs shall be charged to the owner/applicant. Such fees will be based upon current hourly rates pursuant to the District fee schedule and are calculated based on number of hours expended on the project, in addition to any legal fees, starting on the date the violation occurred. All fees must be paid to the district within 10 days of the rescission of the Stop Construction Order or the Stop Construction Order will be reinstated. The applicant will be notified by the District of the cost, documented in a letter, and an itemized breakdown of the District expenses will be furnished upon request.

Information Suggested on Stop Construction Orders

- District Letterhead
- Bold Title
- Project Owner/Applicant, Corporation, Address
- Authority – N.J.S.A. 4:24-39 et. seq., Soil Erosion and Sediment Control Act, Chapter 251, P.L. 1975
- Violation of Act
- Date of Inspection (s)/Previous Notice (s) Given
- Current Date/Date of Stop Construction Order
- Authority to Stop construction – 4:24-47
- Authority to seek Injunctive Relief – 4:24-53
- District Application Number
- Project Name (as indicated on application)
- Project Block & Lot Number (s)
- Municipality & County
- Reason For Stop Construction Order
    a. Violation of certified plan
    b. Failure to correct previously noted deficiencies
    c. Failure to obtain district report of compliance
    d. Violation of certification conditions or sequence
    e. Other
        - Corrective Actions Required to Lift Stop Order
        - "Continued work on any aspect of project, other than corrective measures or failure to take immediate action will cause court action with the possibility of injunctive relief."
        - "Fines up to $3,000 per each day of violation and injunctive order."
        - Rescind upon conformance and payment of any fees.
        - Authorized Signature
        - Additional Copies Distributed to (Original to Applicant)
            i. Municipal Engineer
            ii. Municipal Construction Official
            iii. Design Engineer/Architect
            iv. State Soil Conservation Committee

Construction Activity without a Certified Plan

1. All complaints or suspected violations are to be evaluated and/or responded to promptly to verify whether an actual violation of the State Soil Erosion and Sediment Control Act has occurred.

2. If the activity is in violation of the Soil Erosion and Sediment Control Act, the owner/applicant must be notified immediately in writing (Certified Mail – Return Receipt Requested) and verbally, if possible that they are in violation of the Soil Erosion and Sediment Control Act. A Stop Construction Order may be issued with the directive to submit a Soil Erosion and Sediment Control Plan. The owner or responsible party is to be provided with an application, fee schedule, etc. and a reasonable amount of time in order to submit an application and plan. The Stop Construction Order should direct appropriate temporary soil erosion and sediment control items to be installed immediately, in accordance with the Standards, while awaiting the required application plans and fee.

3. The written correspondence is to state that other municipal, county, or state permits or approvals may also be required. The District is to copy any agencies or officials that they reasonably believe would be involved with the activity.

4. If the owner/applicant fails to make an attempt to submit a Soil Erosion and Sediment Control Plan by the date specified, or installs the required temporary controls, and it is the consensus of the District (staff & supervisors) that the violating party is not being cooperative, then appropriate legal action is to be sought.

5. If the violation occurred because of a construction permit being issued by a local construction official, then the official should be contacted by the District Manager either verbally or in writing.

Additional Copies Distributed to (*At the District's Discretion*)

- Contractor
- County Planning Board
- Other Municipal Officials and involved parties

Written correspondence can be sent regular mail or faxed for more immediate response. Significant deficiencies and/or violations may be sent Certified Mail-Return Receipt Requested. All facsimile transmissions are to be followed-up with a mailed original (hard copy).

Chapter 5
Reports of Compliance

Scheduling Compliance Inspections

- The applicant is responsible for notifying the District, in writing, to schedule a compliance inspection. This notification is to be done a minimum of five (5) working days in advance of the date requested. The District cannot guarantee inspection scheduling if less notice is given.

- The applicant is also responsible for canceling a compliance inspection if stabilization is not completed, or if weather conditions (rain, wind, etc.) have disrupted stabilization efforts. A reinspection fee (as per current District fee schedule) will be assessed for each additional inspection required until the project or lot is satisfactorily stabilized or brought into compliance.

- When a compliance inspection is requested for an individual lot in a project, the remaining project area will also be inspected for compliance with the certified Soil Erosion and Sediment Control Plan. Deficiencies noted such as tracking pads, inlet protection, keeping roads free of sediment, silt fence, etc. may constitute a compliance failure for the lot.

Report of Compliance with Conditions

A Report of Compliance with Conditions (CRC) may be issued when conditions prevent permanent stabilization. Refer to Appendix I-I (Official Forms). Temporary stabilization measures or erosion controls may be required. Districts may elect to secure a performance guarantee (see Performance Guarantee, below). The CRC must state all conditions that are to be satisfied to ensure compliance with the requirements of the certified plan, as well as the date for completion of such conditions. Upon achieving compliance, this document will be upgraded to a Report of Compliance. The CRC is to be secured **prior** to the municipal construction official issuing any Temporary Certificate of Occupancy or Certificate of Occupancy.

Report of Compliance

A Report of Compliance (ROC) document is issued when a project (or part thereof) is permanently stabilized in accordance with the Standards and the certified soil erosion and sediment control plan, regardless if any other agency approval is required. This document is to be secured **prior** to the municipal construction official issuing any Temporary Certificate of Occupancy or Certificate of Occupancy. Permanent stabilization means that the project (or part thereof) is final graded, topsoiled, limed, fertilized, seeded, mulched and mulch-anchored. Sod, stone/gravel, pavement and wood mulch are other acceptable means of permanent stabilization. All other items specified in the certified Soil Erosion and Sediment Control Plan (e.g., stormwater management BMP's, special grading, etc.) must also be completed to the satisfaction of the District and in conformance with the sequence of construction.

Final Report of Compliance

A Final Report of Compliance document is issued when all aspects under the project application are completed and stabilized. This documents the end of District involvement on the project.

Performance Guarantee (Optional by District)

District Held Guarantee

- A cash performance guarantee may be posted with the District to guarantee completion of the permanent stabilization work. This period for holding performance guarantees is determined by the District Board and should commence only when conditions prohibit permanent stabilization.

- The cash guarantee amount, in the form of certified check, cash, bank check, etc. and an administrative fee is determined by the District Board.

- The district is to receive the cash performance guarantee amount and completed Performance Guarantee Agreement (Refer to Appendix I-P) BEFORE conducting the compliance inspection.

- Performance guarantee monies will only be accepted for stabilization work. Permanent improvements such as rip rap, piping, paving, etc. should not be a part of the performance guarantee agreement. The disturbed acreage must be temporarily stabilized with mulch and the mulch cover maintained throughout the guarantee period. Other practices (e.g. silt fence, hay bale barriers, etc.) may also be required if the field conditions warrant. Individual lot driveways must be stabilized to prevent tracking of sediment.

- The amount of the cash performance guarantee plus interest earned in an escrow account, minus the administrative fee, will be returned to the applicant when the applicant completes all soil erosion and sediment control practices as set forth in the Performance Guarantee Agreement. If the applicant fails to meet the conditions and terms of the agreement, the District can expeditiously perform the required soil erosion and sediment control practices upon reasonable notice to the applicant. All costs to the District (including reinspection fees) shall be paid from the performance guarantee. Should the amount be insufficient to cover all costs, the Report of Compliance or release may be withheld until the applicant pays all costs to the District.

- Once all terms of the Performance Guarantee Agreement and permanent stabilization measures are completed, a Report of Compliance may be issued.

Municipal Held Guarantee

The District may enter into an agreement with a municipality (or other governmental agency) to have access to any bond monies or performance guarantees for stabilization work. District input

and agreement must be obtained prior to release of municipal held bond or performance guarantees.

Factors Affecting Report of Compliance Issuance

The examples below are subject to conformance with current state standards and include but are not limited to:

- Inadequate temporary/permanent site stabilization, including drainage facilities
- Field conditions that are inconsistent with the current certified SESC Plan at the time of the compliance inspection
- Visible on or off-site erosion at the time of the compliance inspection

The District may withhold any Report of Compliance for any project which has not secured its NJPDES 5G3 Authorization to Discharge permit, only if applicable.

Chapter 6

Recertification of Soil Erosion and Sediment Control Plans

As provided in *N.J.A.C. 2:90-1.9 (i)*, District certification shall not exceed 3 ½ years. Districts must maintain accurate records of project activity status, remaining funds and certification periods.

For the purpose of this policy, an active project is defined as: soil disturbance over 5,000 square feet within the last 18 months. Any project that has remained stalled or idle for 18 months or longer is deemed a non-active project.

1. **Not Active Projects:** Owner/applicants of non-active projects will be contacted in writing prior to the project expiration date advising that the certification of the Soil Erosion and Sediment Control Plan for the project is about to expire. Applicants are afforded an opportunity to extend certification at their discretion. Failure of the owner/applicant to request recertification shall result in expiration of the Soil Erosion and Sediment Control Plan Certification.

   Upon expiration, the applicant, municipal engineer and municipal construction official must be informed in writing that the Soil Erosion and Sediment Control Plan Certification has expired and is no longer valid. The applicant should also be informed, "prior to any future land disturbance on this project, a new application package (application form, application fee, plans and supporting documentation) must be submitted and all Soil Erosion and Sediment Control Plans MUST be designed using the most current version of the Standards."

2. **Active Projects:** Owner/applicants of active projects will be contacted in writing prior to the project expiration date advising that the certification of the Soil Erosion and Sediment Control Plan for the project is about to expire. The letter shall state that the applicant must request recertification of the plan for an additional 3½ years. Continued construction activity on a project with an expired Soil Erosion and Sediment Control Plan Certification shall be deemed a violation and a stop work order shall be issued by the Soil Conservation District.

3. **All Projects:** Applicants may request recertification of the plan for an additional 3½ years by the following procedure:

   - Complete and sign a new Application for Soil Erosion and Sediment Control Plan Certification. The District shall use the same application number and update all records to indicate the recertification date and any changes in the application.
   - Submit additional inspection fees, where such fees have been exhausted, based upon per lot/building/acre or hours of inspections required for the remaining lots, buildings or acres to be developed in the project. Such additional fees shall be in accordance with the State Soil Conservation Committee approved District fee schedule. Any remaining inspection fees for the project shall be credited. The District, upon request by the owner/applicant, shall provide an accounting of services, which have resulted in the exhaustion of the original inspection and enforcement fee.
   - Submit an administrative recertification fee in accordance with the approved District fee schedule. Where such administrative fee has not been formally established and included

in the approved schedule, the District shall establish and secure State Soil Conservation Committee approval of such fee.

All revisions to the Soil Erosion and Sediment Control Plans shall meet the current Standards for Soil Erosion and Sediment Control in New Jersey as promulgated by the State Soil Conservation Committee *(N.J.S.A. 4:24-45).*Upon receipt of the above listed requirements, the District shall recertify the Soil Erosion and Sediment Control Plan within the timeframe specified in *N.J.S.A. 4:24-45* (30 days or 60 days by mutual agreement).

All requests for plan recertification shall be approved by the SCD Board of Supervisors at duly noticed public meetings. A written notice of recertification shall be distributed to the applicant, municipal construction official/engineer and others who are usually notified or may require such notification.

Authorization to Discharge 5G3-Construction Activity Stormwater (General Permit) shall remain in effect. No additional fee is required. However, a major revision to the Soil Erosion and Sediment Control Plan may require a new Authorization to Discharge via the electronic permit (e-permit) system.

This policy shall be publicly posted and shall be made available to all applicants who are notified of plan certification expiration

Chapter 7
Exempt Municipalities

Minimum Requirements for a Municipality which Adopted a Soil Erosion & Sediment Control Ordinance

The Soil Erosion and Sediment Control Act provided municipalities with an opportunity to be exempt from sections *4:24-43* to *4:24-47* of the Act by allowing them to adopt their own Soil Erosion and Sediment Control Ordinance. It had to be adopted by the municipality and then submitted to the State Soil Conservation Committee before May 31, 1978, for review and final approval.

All Soil Erosion and Sediment Control Ordinances approved by the State Soil Conservation Committee had to include the "Minimum Requirements for Municipal Soil Erosion and Sediment Control Ordinance for approval by the State Soil Conservation Committee for exemption from Soil Conservation District Jurisdiction in Sections 5 through 9 of Chapter 251, P.L. 1975".

Municipal Jurisdiction for Implementing the Soil Erosion and Sediment Control Act

In an exempt municipality, an approval of an application for development for any project that falls under Chapter 251 (or local ordinance) must be conditioned upon certification of a Soil Erosion and Sediment Control plan by the municipality. No exempt municipality shall implement a soil erosion and sediment control ordinance or provision that is more restrictive than the definition of project in the act. No exempt municipality may grant a waiver of the requirements or grant an exemption for a project as defined in the act or rules promulgated thereto.

Exempt municipality officials enforcing the provisions of the ordinance shall be knowledgeable in natural resources management and qualified to review plans and inspect project sites. Authorized municipal officials shall attend relevant training courses no less than once every two years.

Exempt municipalities implementing the act shall utilize the following forms:

- Application for Soil Erosion and Sediment Control Plan Certification
- Standard Report of Compliance
- Hydraulic and Hydrologic Basin Summary Sheet – submitted to the District within 15 days following the end of each calendar-year quarter
- Quarterly Report
- Verification of municipal certification of the soil erosion and sediment control plan for the Construction General Permit NJ0088323 for eligible activities – submitted at the end of each business week

District Jurisdiction for Implementing the Soil Erosion and Sediment Control Act

Where the "projects" are not addressed or encompassed in the State approved municipal ordinance, the municipality **shall not** have jurisdiction and shall require that applicants secure certification by the local District of a Soil Erosion and Sediment Control Plan for such projects. Some examples include:

- Projects not requiring a municipal issued Certificate of Occupancy (i.e. roads, pipelines)
- County Projects
- Municipal Projects
- NJ Division of Property Management and Construction Projects
- Schools

The District shall have jurisdiction for certification of such plans on any public agency projects other than those, which require a municipal construction permit under the State Uniform Construction Code.

Cooperation Between the Municipality and the District

The municipality's Soil Erosion and Sediment Control Ordinance should state the responsibility of the municipality to inform the Soil Conservation District of actions relating to implementing the Soil Erosion and Sediment Control Ordinance.

These actions shall include:

- Applications for development are approved only with properly certified Soil Erosion and Sediment Control Plans.
- The Soil Erosion and Sediment Control Plans contain adequate design criteria and utilize current State Standards.
- Satisfactory notification of all municipal actions from plan certification to Report of Compliance is provided to the District. Additional information is made available to the District upon request.
- All construction sites are adequately inspected in a manner at least equivalent to that performed by the District and any problems or violations are corrected in a timely manner.
- Certificates of Occupancy are granted only upon compliance with the certified plan for permanent measures.
- Amendments to municipal ordinances are adopted only with prior approval from the State Soil Conservation Committee.
- Other

The municipality will provide information of all soil erosion and sediment control actions at the request of the District.

In addition, the municipality will provide to the District, by March 15 of each year, a copy of the current soil erosion and sediment control ordinance and the municipal agent contact responsible for implementing the erosion control ordinance and training classes attended.

Districts Assisting Municipalities

The municipality may contact the District to request assistance in regard to problems associated with implementing the Soil Erosion and Sediment Control Ordinance. Upon the request of the municipality, the

District should fully cooperate to assist with inspections and to provide recommendations to achieve compliance on a project site. Application fees may be applied as per approved District fee schedule.

The District may sponsor workshops and training seminars to inform municipal officials, engineers, and other concerned parties of any changes in the standards, to review problems with the standards, and to discuss any other problems associated with implementing the Soil Erosion and Sediment Control Ordinance. These seminars can be held on a regional basis if a number of Districts and municipalities want to participate.

Districts Entering into Agreement with the Municipality to Implement the Municipality's Soil Erosion and Sediment Control Ordinance

The District may enter into an agreement with the municipality for any of the items listed below:

- District reviews and certifies plans.
- District inspects projects for compliance with plans.
- District enforces compliance.
- District reviews, certifies, inspects and enforces compliance.
- Other responsibilities of the District under the agreement.
- Federal Projects like Post Office construction

The District shall retain a copy of the agreement with the exempt municipality, which clearly describes the District's role and the exempt municipality's role and their respective responsibilities as specified in the municipality's Soil Erosion and Sediment Control Ordinance. (Refer to Appendix)

A copy of this agreement may be given to the applicant when a Soil Erosion and Sediment Control Plan is submitted to inform him/her of the responsibilities of both parties.

Annual Review of Exempt Municipalities

Districts shall annually review for compliance all Soil Erosion and Sediment Control Ordinances enacted by municipalities within the District. The District shall inform the State Soil Conservation Committee in writing of the results of this review by April 15 of each year. If at any time during the year the District determines and so notifies and provides proof to the State Soil Conservation Committee that any municipality is not enforcing its Soil Erosion and Sediment Control Ordinance, the State Soil Conservation Committee shall consider the proofs given and provide written notice to the municipality that it is no longer exempt from Sections 5 through 9 of the Act. The Committee may schedule a hearing to review revocation of exempt status. The State Soil Conservation Committee shall inform the exempt municipality of the findings in the annual review following acceptance of the District's annual exempt municipality report.

Failing to Inform the District of Non-Compliance

If the exempt municipality fails to inform the District of any actions, the District shall immediately contact the municipal official and inform him/her of his/her responsibility to notify the District. All correspondence with the municipality must be recorded and filed for documentation purposes. This information can be utilized for future reference when conducting the annual review or to be used as evidence for revoking the municipality's "exempt" status.

Violation on a Project Site

The District shall notify the municipality by letter of any violations which were observed when conducting spot checks and/or responding to complaints. The municipality, if not already aware of the violations, should proceed to work with the job superintendent to resolve any problem. The District should perform a follow-up check to determine whether or not the site is in compliance. If the site is still not in compliance, the District may request the State Soil Conservation Committee to formally contact the municipality advising that their exempt status will be withdrawn unless deficiencies are corrected to the satisfaction of the District. The District shall keep a copy of all notes, photographs and correspondence on file for future reference.

Revocation of a Municipalities Exempt Status

- Three years of unsatisfactory status may be grounds for the revocation of exempt status. Alternatively, if the municipality's performance is very poor, one year of poor performance may be adequate.
- If problems have not been resolved after sufficient time, at any time during the year the District determined and so notified the State Soil Conservation Committee that any municipality is not enforcing its Soil Erosion and Sediment Control Ordinance. A negative response to any of the compliance with Basic Exemption Criteria (items 1-6) indicated need to contact the municipality to correct problems. Inability to resolve problems will result in action by the State Soil Conservation Committee to revoke exemption.
- All enforcement performance problems and the Districts efforts to secure satisfactorily performance through written and verbal connections between the District and the municipality must be documented.
- The municipality shall have 30 days from receipt of State Soil Conservation Committee's letter to appeal this decision through written request.

Chapter 8
Handling Complaints

Periodically, Districts may receive complaints from local citizens regarding construction activity. Often they are referred to the District from other regulatory agencies or respective municipal authorities. District inspectors should take complaints seriously and work to assist the public even in the event that the problem may be beyond the scope of the District's program.

Identifying Complaints

Upon receiving the complaint from a concerned citizen, important details to obtain should include but not limited to the following:

- Concerned party's name and contact information
    - An individual may wish to remain anonymous, which should be granted by the District.
- Location of site in question
- Description of ongoing activities observed

Complaint Management

To ensure that complaints are handled efficiently, District's should develop a system allowing for the exchange of information from the administrative staff receiving the complaint to the technical staff conducting the investigation.

The following steps may be used to complete the process of addressing the concern(s) presented:

1. All relevant information should be entered into a database or other tracking system implemented by the District, in conjunction with a hard-copy form.
2. Complaint forms should be distributed to the appropriate inspector, complete with all pertinent information, as well as the inspector's immediate supervisor and/or the District Manager.
3. The site should be inspected as soon as possible to ensure that any issues identified can be resolved in a reasonable timeframe.
4. Observations of the site conditions should be detailed upon completion of the inspection, including any discussions with on-site personnel, on the complaint form. Any photographs may also be attached or saved electronically for reference.
5. The outcome of the inspection and next steps to be taken by the District may be discussed with the complainant, if a follow up has been requested.

In some instances, resolution to the complaint may already be underway with correspondence being issued to the applicant with an active SESC Plan certification from the District or to a property owner without the required certification, where the associated disturbance meets the definition of a project. This

should be discussed with the complainant in response to his/her concerns, again, if a follow up is requested.

If it is determined that the concern is not within the District's purview, the complainant may be referred to alternative points of contact as applicable.

Administrative Staff Resources

Chapter 9

Appeals Process

Any person who is aggrieved by a decision or any action by District personnel must first submit a written appeal to the District Board of Supervisors within 10 days of the action taken. Once this appeal has been received, the Board of Supervisors shall convene a hearing and make a determination on the request within 30 calendar days.

Any person who is aggrieved by a decision or any action by a Soil Conservation District must submit a written appeal to the State Soil Conservation Committee. The Committee has the authority to review, approve, modify, or reject any district decision.

- Any person wishing to file an appeal to the State Soil Conservation Committee must do so in writing within 10 working days from the date of the Soil Conservation District decision.

- Once the petition has been received, the State Soil Conservation Committee must schedule a hearing and make a formal determination within 90 calendar days.

- The Committee may appoint and utilize the hearing office procedures of the Department of Agriculture for review and recommendations to the Committee.

- The Committee may grant a stay of the certification granted by the District Board pending the final decision or further order of the Committee.

- The Committee will send a written notice to the appellant and Board of Supervisors of the hearing status:

    - The hearing application number
    - Details of how decision aggrieves appellant
    - Date, time and place of hearing

- Any party who disagrees with the determination of the Committee may request a hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* and *52:14F-1 et seq.*

Chapter 10

Multi-District Project Coordination

To facilitate inter-district coordination and to accomplish reasonable uniformity of fees, reviews, inspections, and enforcement of multi-district projects, the following procedure is adopted and provided as a guideline to Districts:

- District technical personnel should meet jointly, or convene virtually, regarding review and certification of project plans for soil erosion and sediment control. If the project is extensive in nature, such as a public utility corridor, inter-district coordination of this phase should be handled by appropriate staff of the State Soil Conservation Committee.

- Inspection of projects should be coordinated to the extent that requirements for performance will be virtually the same in each District. Where possible, inspections should be performed jointly, or the inspector for one District may be authorized to perform all inspections.

- Where appropriate, consideration should be given by the District having a minor portion of the project to granting full jurisdiction to the District having the major portion of the project.

- To the extent possible, fees should be charged equivalently in each involved District.

- In the instance of public utility corridors where it is determined that the adopted fee schedule does not reasonably reflect the actual cost of providing services, the involved Districts have the option of charging additional fees for required follow up inspections. The establishment of any fee variances or special fees shall be subject to approval by the State Soil Conservation Committee.

- A neighboring District may perform the review and/or inspections for a particular project, in the event of a conflict of interest. This should be discussed between the two Districts and with their respective Board of Supervisors.

Chapter 11

Projects Involving Other Agencies

The following list is provided to allow for better coordination with other state agencies subject to the requirements of Chapter 251. Any implementation problems involving other agencies should be resolved through interagency cooperation in coordination with the State Soil Conservation Committee. For Department of Transportation Projects, please refer to the Procedure for Coordination and Problem Resolution (Appendix - II).

- NJ Transit Authority – Provides bus, rail and light rail mass transportation as well as support and equipment to privately owned contract bus carriers. Park and Rides, bus terminals, bus and train stations are examples of NJ Transit projects.

- NJ Turnpike Authority- Oversees all aspects of the Turnpike and Garden State Parkway including exit ramps, tollbooths, rest areas and noise walls.

- South Jersey Transit Authority – Oversees the Atlantic City Expressway and Atlantic City Airport.

- Port Authority – Oversees Newark and Teterboro Airports, Port Newark, Hoboken Waterfront Development, PATH, tunnels and bridges to New York

- Delaware River Joint Toll Bridge Commission – Oversees all bridges and associated infrastructure into Pennsylvania, as well as port and terminal facilities

- State Projects- State agencies other than the Department of Transportation

- NJ Division of Property Management and Construction Projects – Responsible for the operation and maintenance of state-owned facilities in the capital complex, leasing of office/warehouse space and oversight in the construction of public building projects for NJ Departments and the NJ Building Authority.

- County Projects – Responsible for the construction, operation and maintenance of county-owned facilities and roadways

- Municipal Projects – Responsible for the construction, operation and maintenance of municipal owned facilities and roadways.

- School District Projects – Public schools and associated appurtenances subject to oversight by the Department of Community Affairs. (Appendix IV-O)

- State Universities/Colleges and Institutes of Higher Education – Not handled by local planning boards, these projects traditionally are subject to oversight by the DCA, NJDEP, and SCD's.

- New Jersey Meadowlands Commission – Oversees construction activities, which may impact the meadowlands region in Bergen and Hudson counties.

- Federal Projects on Federally Owned Property (Appendix IV-A) Any project that is receiving federal funding but will be owned or controlled by others would require submission of a Soil Erosion and Sediment Control Plan for certification by the local Soil Conservation District.

  Where a project is totally owned and controlled by the Federal Government, it would technically be exempt from the Soil Erosion and Sediment Control Act. However, the Federal Government does have an obligation to conform to State regulations if possible. Districts should encourage Federal agencies to plan for certification by the District.

- Army Corps of Engineers – Provides engineering services for the planning, designing, building and operating of water resource and civil works projects including but not limited to: navigation, flood control, environmental protection, and disaster response, and military facility construction.

Chapter 12

Municipal Construction Official Coordination

All New Jersey Soil Conservation Districts maintain relationships with municipal construction officials. The District can be assured that it has met its obligations within the relationship by practicing the following.

Correspondence

All correspondence related to enforcement and certification of Soil Erosion and Sediment Control Plans must be sent to the construction officials. If sudden enforcement decisions are required, phone contact or a visit to the municipal office should be made.

Certificates of Occupancy Released without a District Issued Report of Compliance

- If occupancy is noted within a property without a Report of Compliance, the District should immediately contact the municipality and record all facts in a corresponding file folder. Request a copy of the Certificate of Occupancy or Temporary Certificate of Occupancy for the District record.

- **First Occurrence**: Follow up the incident with a letter to the construction official and applicant stating that no Certificates of Occupancy for a project shall be issued by a municipality or any public agency unless there have been measures to control soil erosion and sedimentation. Also, state that the New Jersey Soil Erosion and Sediment Control Act, Chapter 251, P.L. 1975 as amended requires all Certificates of Occupancy or Temporary Certificates of Occupancy, be conditioned upon a Report of Compliance or Conditional Report of Compliance by the local District. Also, include bulletins from the Department of Community Affairs that would apply.

- **Second Occurrence**: The above recommendations may be repeated with a letter indicating that if the release of Certificates of Occupancy persists, the District will request that the Department of Community Affairs intervene on the District's behalf. Copy the Department of Community Affairs and the State Soil Conservation Committee on the correspondence; include copies of Certificates of Occupancy or Temporary Certificates of Occupancy.

- **Third Occurrence**: Contact the Department of Community Affairs directly and request that an inspector be assigned. Forward all related correspondence to the inspector assigned. Request copies of any correspondence the Department of Community Affairs forwards to the construction official as well as a letter detailing the action the Department of Community Affairs will take. Retain all correspondence.

- If there are additional occurrences, contact the previously assigned inspector from the Department of Community Affairs directly. Again, request copies of correspondence the Department of Community Affairs forwards to the construction official as well as a letter detailing the action the Department of Community Affairs will take. Retain all correspondence.

Chapter 13

FISCAL MANAGEMENT AND FEE SCHEDULE MODIFICATION

Accounting System

Soil Conservation Districts must maintain an adequate accounting system for the budgetary control over current operations for preparation of accurate financial reports on current operations and future planning. An adequate accounting system is the tool by which the Soil Conservation Districts can plan, control and appraise the operating performance of the District. It is also the means by which compliance with fiscal requirements of the District can be judged.

An adequate accounting system for a Soil Conservation District must meet the following minimum requirements:

- The books and records must be maintained on a double-entry system of accounting.
- The system must record transactions on the modified accrual basis of accounting.
- The system must record and classify all transactions pursuant to the "Chart of Accounts", segregate all revenue and expenditure transactions between appropriate funds and provide adequate documentation for audit trial purposes.
- The system must incorporate a system of internal accounting control which provides reasonable assurance that assets are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and that they are properly recorded.

District Supervisors have the ultimate responsibility for the financial management of Soil Conservation Districts. However, District Managers, bookkeepers and any other employee engaged in the management of District finances have assumed some responsibility and must perform their duties in a prudent manner in accordance with State guidelines and the District's internal accounting control system.

Accounting Period, Annual Audits and Fiscal Control

The accounting period used by the Soil Conservation Districts must be a twelve-month period, either calendar year or based on the State of New Jersey fiscal year.

Annual Audit

An accurate record of all receipts and expenditures and annual audits are required of the individual Soil Conservation Districts under the Soil Conservation Act (R.S. 4:24-21). The audits must be performed by a licensed public or certified public accountant. All audits must be submitted to the State Soil Conservation Committee by the 15th of the third month following the close of the fiscal year.

Fiscal Control

Fees received for applications submitted for Soil Erosion and Sediment Control Certification shall be recorded and allocated in a manner that will satisfy possible public scrutiny. In addition, all other funds received by Districts, regardless of the source, must be considered as funds collected in the name of a public agency and must be appropriately accounted for.

Purchase of Consultant Services, Goods and Materials

In order to assure prudent handling of public funds, Districts, as special purpose governmental subdivisions of the State, are required to adhere to appropriate public fiscal regulations. The purchase of consultant services, goods, and materials must be done in accordance with the requirements of the local Public Contracts Law, C.40A: 11-1.

Dedicated Funds

Any funds that have been received by the District for dedicated purposes must not be used for purposes other than those for which they were dedicated.

Contingency Fund

The State Soil Conservation Committee has granted the authority for Districts to establish a separate contingency fund, for example, legal fees, to assure that appropriate monies are set aside and made available for specific purposes deemed necessary to implement the Soil Erosion and Sediment Control Act.

Investments

Investments from any source of funds are to be restricted to investments that are guaranteed by the Federal Government and where there is no choice of loss of principle by the Soil Conservation District.
Examples of approved funds would be:

- Certificates of Deposit
- Money Market Accounts
- New Jersey Cash Management Fund
- United States Treasury Bills held to maturity

Investments in stocks and bonds and other investments where principle is subject to market fluctuation is not an acceptable investment. The ultimate dispositions of fund balances are to be determined in accordance with instructions received from the original funding source.

District Fee Schedules

The Soil Erosion and Sediment Control Act (*N.J.S.A. 4:24-46*) authorizes New Jersey's Soil Conservation Districts to establish fees, which are reasonable, based on a sound fiscal accounting system and documentation.

- Fees are generally based on historical costs; however, fees charged for Chapter 251 should include, where applicable, estimated completion costs when applying for rate increases.
- Fee schedules established by the Districts and all subsequent revisions must be submitted to the State Soil Conservation Committee for approval prior to their implementation.
- It is recommended that District's review their fee schedules every 3-5 years to ensure that fees remain reasonable and appropriately reflect the needs of each individual office.

All time devoted to a particular project should be recorded to the nearest ¼ hour Project Review and Inspection Sheet.). This time should include:

- Clerical time for logging in plans, typing correspondence, etc.
- SCD staff time spent on review and inspection
- Time spent on phone calls
- Other – lawyer, engineers, etc.

This cost analysis will assist in comparing District costs with the application fee and can provide guidance when determining whether a modification in the fee schedule is necessary.

A bifurcated fee schedule shall be adopted by each Soil Conservation District. This fee schedule shall break down fees by review and inspection and shall be approved by the State Soil Conservation Committee.

Guidelines and Minimum Requirements District Fee Schedule Modifications

The State Soil Conservation Committee is required by administrative rule, N.J.A.C. 2:90-1.12, to review and approve all fee schedules for implementation of the Soil Erosion and Sediment Control Act, proposed by Soil Conservation Districts prior to implementation by the District. To facilitate timely processing and approval of District requests the following guidelines shall serve as the basis for review and approval of all requests.

Basic Principles

1. Accurate records of fee based income and costs for program implementation shall be provided by the District. Annual audits and other official records of receipts and disbursements shall document such records.

2. All tangible public agency (non-fee) support including grants, salaries, in-kind contributions and other inputs actually utilized in the implementation of the Chapter 251 program shall be identified. Such inputs shall be reflected as non-cost items and not included in the net cost of program implementation.

3. Proposed modifications shall be justified based upon the best possible documentation. This will include identification of losses or gains and necessary fiscal resources to provide all required services through project completion and reasonable contingencies. Anticipated costs shall be based upon past experience and reasonable estimates of future program needs. Anticipated fee related receipts shall be based upon past experience with reasonable projection reflecting local trends.

Minimum requirements

1. Requests shall be made on analysis forms approved by the State Soil Conservation Committee District fee schedule analysis form.

2. Requests shall be submitted by the District Chairman upon authorization by the Board of Supervisors subsequent to formal action at an official meeting of the board.

3. All proposed and existing fee schedules shall be identified and included as a part of the formal request. This shall include recertification, renewals, reinspections, refund policy and all other existing and proposed charges.

4. The request shall include an explanation of the procedure and rationale utilized to estimate future program applications and implementation expenses, including needed reserves. It shall also include a description of current implementation procedures such as intensity or review, frequency of inspection, level of enforcement and other factors expressing workload.

5. Other requirements as may be determined by the State Soil Conservation Committee.

Delegation of Approval Authority

To eliminate need for detailed review by the State Soil Conservation Committee and to facilitate timely approval in instances where the State Soil Conservation Committee may not meet for an extended period, a subcommittee will be established with authority to recommend action to the State Committee or to act on district requests based upon the forgoing guidelines and requirements. The subcommittee shall consist of three (3) supervisor members of the State Committee, at least one (1) from the south and one (1) from the north, and two (2) non-supervisor members of the State Committee. The Executive Secretary of the State Committee shall assist the subcommittee and transmit its recommendations or decisions as appropriate. The subcommittee may call upon representatives of the cooperating agencies and organizations, which have voting or advisory membership on the State Committee to assist with the evaluation of fee schedule requests.

Special Project Fee Schedule Approval

All requests for State Soil Conservation Committee review and approval of a variance from previously approved district fee schedules for special projects should be forwarded to the State Soil Conservation Committee by the Chairman of the respective Districts.

In the instance of public utility corridors where it is determined that the adopted fee schedule does not reasonably reflect the actual cost of providing services, the involved Districts should have the option of charging the basic minimum fee (basic fee for up to one acre) with additional charges for required follow-up inspections or to establish other special fee criteria for required services.

Chapter 14

Record and Filing System

Soil Erosion and Sediment Control Plans

The duration of all plan certifications is limited to the initial approval period granted by the municipality, but in no case beyond a period of 3 ½ years. This provision is included in the standard application form approved by the State Soil Conservation Committee for District use. The 3-½ year period is from the original certification date, unless a new application (and application number) is assigned to the project. A new application number may be assigned in the event of major revisions to a plan (which initiates a new 3 ½ year period). Major revisions are considered when significant changes are made to drainage patterns, detention basins, grading plans, drainage system, or the number or location of dwellings, buildings, or building lots.

Filing System

Each District office is to maintain a file system that facilitates access to information contained on a project application and in individual project files. When electronic filing systems are used, adequate back-up methods are to be followed to ensure duplicate back-up files.

Record Retention

Retention and disposition of Soil Erosion and Sediment Control project files and records must follow the Record Retention Schedule approved by the State Soil Conservation Committee and State Records Committee. Soil Erosion and Sediment Control project files include, but are not limited to, application, certification and fee payment documents, detailed control plans, correspondence, engineering calculations, blueprints, review and inspection documentation, enforcement actions, performance deposit documents, Reports of Compliance and related materials.

In order to legally dispose of records, districts must fill out a "Request and Authorization for Records Disposal" (Form # CR-AA0005 (10/89 – Rev 05/2004)) (Appendix II-H), and formalize such action at a District Board of Supervisors meeting. Once proper signatures are secured, the completed form is to be forwarded to the State Soil Conservation Committee for approval and authorization. Authorization to dispose of records is generally granted after the following retention periods:

- Seven years after project completion and issuance of Final Report of Compliance
- Three years after date of notification of certification expiration (except where appealed).
- Three years after date of notification of formal denial, withdrawal by applicant or documented incomplete where no action or appeal since documentation of above formal actions.
- Seven years after the date of issuance of a letter of exemption

Soil Erosion and Sediment Control Log Book containing numerical or chronological summary of projects processed by the District, along with hydraulic and hydrologic data (as specified in section 1f on back of Application for Soil Erosion and Sediment Control Plan Certification) are to be retained as permanent records.

File Access and Distribution (OPRA)

The New Jersey Right to Know Law Amendment, *P.L. 2001, c.404* and *P.L. 2024 c.16*, *N.J.S.A. 47:1A-1 et seq*., commonly known as the Open Public Records Act (OPRA), requires public access to governmental records. Any document kept on file in the course of official business unless exempt is considered a government record. Some records may be exempted by the Federal Freedom of Information Act such as farm conservation plans. See also the definition of ***Government Record*** for confidential information not subject to the Act. The Act is applicable to Soil Conservation Districts. Any person may access for visual examination or may request a copy. The District must formally appoint a Custodian of Record. The custodian assumes responsibility for timely handling of all requests in accordance with provisions of the Act. The following is a summary of the key provisions of the Act:

***Please refer to Appendix III – Open Public Meetings Act (OPRA) for further information**

1. All requests must be immediately submitted to the Custodian of Record. Requests are not considered filed until the custodian has received a completed request form (Refer to Appendix II-E). The custodian may require the requestor to provide additional information to identify the records requested.
2. The District custodian must respond to all requests within seven (7) business days of receipt of request form. Response is defined as "contact with the requestor to advise of the anticipated time frame to fulfill the request or denial based on specified reasons". If the record is not made available by the identified date, the request shall be deemed denied. **When issuing a denial of a records request, the burden of proof rests with the District.**
3. Immediate access ordinarily shall be granted for requests to inspect, examine or copy budgets, bills, vouchers, contracts, public employee salary and overtime information.
4. The custodian must redact (make unreadable) exempt information such as personal information (social security number, unlisted phone numbers), attorney-client privilege, grievances, inter-agency or intra- agency deliberative material, farm location.
5. Fees must be charged in accordance with that Act's prescribed fee schedule as shown on the request form. Additional fees may be charged for extraordinary requests (example: reproduction of large plan sheets for which the district does not have equipment to copy). The custodian may negotiate these fees with the requestor. A deposit of 50% of the anticipated fees must accompany requests with estimated fees exceeding $25. The balance is to be collected upon delivery of the requested records.
6. The District custodian must provide records in the medium requested if it maintains the records in that medium. Every reasonable effort must be made to provide the records in the medium requested. If the agency does not maintain the records in that medium, it may be provided in some other meaningful medium. The District is permitted to charge a "special service charge" in addition to its actual duplication costs for conversion to the medium requested. This special service charge must be reasonable and based on the cost for any extensive use of information technology, or for labor costs of personnel providing the service.
7. If a request for a record would substantially disrupt District operations, the custodian is permitted to deny access to the record after trying to reach a reasonable solution that accommodates the requestor's and the District's interests.
8. A copy of the most current version of the Act must be available to the public, and a notice indicating in clear, concise and specific terms the right to appeal a denial of, or failure to provide access to a government document must be posted prominently in public view.
9. If the custodian is unable to comply with a request for access, the custodian shall indicate the specific basis therefore on the request form and promptly return it to the requestor.
10. Agricultural Records – Conservation plans and other NRCS and FSA documents are exempt from distribution to the general public. (Appendix II-D) Requests for federal records should be referred

to the local NRCS office. State cost share program producer application forms (CCSP and farmland preservation cost share program) are accessible to the general public except that addresses, social security numbers and unlisted telephone numbers must be redacted before making available. Records for Farmland Preservation Program documents for easements previously transferred are public information but not accessible when farmland preservation applications are in the appraisal/negotiation process. Questions in this area related to records the District may have on file should be directed to the State Agricultural Development Committee (SADC) at 609-984-2504.

The requestor has the right to appeal a District custodian's determination to the Government Records Council or file an action in the local Superior Court if no reasonable solution has been reached. A custodian found to have unreasonably denied access under the totality of the circumstances shall be subject to a civil penalty of $1,000 for an initial violation, $2,500 for a second violation occurring within 10 years of an initial violation and $5,000 for a third violation occurring within 10 years of an initial violation.

It is anticipated that there will be court challenges with modifications of interpretation and implementation of this Act as court rulings occur. The Department of Agriculture website (www.state.nj.us/agriculture) maintains information regarding exemptions, rule changes and forms. It is highly recommended that there be close communication between the custodian and the District counsel. Any questions or unusual requests should immediately be directed to the State Soil Conservation Committee.

Chapter 15

Progress Reporting System

District Quarterly Report

The District Quarterly Report is a summary of District activities and accomplishments. This report summarizes the number of applications received, reviewed and certified, projects inspected and other activities associated with implementing the Act.

Completing the Report

Accurate, complete and legible codes must be entered on the reporting form so they can be accurately processed.

Definitions

All entries are based on a calendar month

- Project Applications Received: the number of new Chapter 251 applications received that are deemed administratively complete. (Issued an application number)

- Certifications: the number of plans certified, including revisions by the District Board of Supervisors.

- Conditional Certification: the number of plans conditionally certified by the District Board of Supervisors. (Not included in certifications)

- Certification Resulting from Expiration of Review Period without District Action: Those projects which must be certified because they were not properly reviewed within 30 days after being deemed administratively complete

- Project Applications Withdrawn: the number of those projects that have been withdrawn by the applicant in writing.

- Project Denials: number of those projects that have had their Soil Erosion and Sediment Control Plan denied

- Fees Received: the total amount of **all** income from Chapter 251. This includes initial application fees, re-application fees, revision fees, non-compliance fees, and administrative fees for performance deposits.

- Area of Disturbance: the total number of proposed disturbed acres based on **new** applications that are deemed administratively complete (excluding revisions and recertifications)

- Reports of Compliance Issued: the total number of Reports of Compliance and Conditional Reports of Compliance's issued. Single family and multiple families will be based on per lot. High rise buildings and apartments will be base by building. **Do not** include Projects Completed in this category.

- Site Inspections Performed: the total number of inspections conducted by District inspectors on certified project sites

- SCD Staff Hours Devoted to Chapter 251 Implementation: the total number of all staff hours devoted to implementing Chapter 251. This category should include all employees [managers, inspectors, secretaries, administrative assistants, etc.]

- Projects Completed: the number of projects completed, or closed out.

- Stop Construction Orders Issued: the number of Stop Orders issued by the District for non-compliance with Chapter 251.

- Stormwater Discharge Permits Authorized: the number of Stormwater Discharge Authorizations issued

Reporting

The District Quarterly Report should be completed and distributed to the State Soil Conservation Committee within fifteen (15) days after the end of each quarter. A copy should be retained in the District office and copies reviewed at the earliest meeting of the District Board of Supervisors.

The data should be utilized to demonstrate work activity and accomplishments of the Chapter 251 program at the District level.

Chapter 16

Media Relations

Scenarios may arise where it may be necessary to issue statements to the press about projects regarding Soil Erosion and Sediment Control. Take this time to interact carefully with the media. It is an important way to promote your organization and the work the District does. When this occurs, the following guidelines are suggested. See Appendix V for additional information and guidance on social media.

- It is recommended that only the **District Chairman** or **District Manager (when Chairman not available)** speak directly to the press.

- There may be times when it is necessary to delay making a statement until all facts can be gathered. Delaying a response should be no longer than 24 hours. Explaining to the reporter that a specific response is being prepared and that he/she will be contacted once complete.

- Avoiding the media, is not suggested as a lack of communication may present a misunderstanding. It is better to report that the District is moving to take corrective measure or a as opposed to responding with "no comment", which is not recommended. Do not lie or embellish.

- Answer questions briefly and be specific without elaborate detail. If too much detail is included, the chance for miscommunication increases. Offer a written statement when possible, this will decrease the possibility of errors.

- Districts may develop a document to be utilized during interviews, which may include but not limited to the following:

    1. Participants in the Interview
    2. Topic(s) of Discussion (i.e. specific project site)
    3. Location of Interview
    4. Q&A

- Always request a copy of the proposed article and the name of the reporter and editor in charge of the reporters department. If the article is in error, contact the reporter and editor and indicate that a mistake has been made and requires correction. Retain copies of the articles as they appear.

Appendix

I. Procedural Documents

Official Forms

A. Application for Soil Erosion and Sediment Control
B. Ownership Disclosure Affidavit
C. Request for Recertification of Soil Erosion and Sediment Control Plan
D. Certification Letter
E. Denial Letter
F. Violation Notice
G. Stop Construction Order
H. Rescind Stop Work Order
I. Report of Compliance
J. Soil Compaction Mitigation Verification Form
K. Soil Conservation District/ Municipal Model Agreement

Sample Forms

A. Administrative Completeness Checklist
B. Plan Review Checklist
C. Application for Project Non-Applicability
D. Chapter 251 Inspection Report
E. Soil Erosion and Sediment Control Performance Deposit
F. Fee Schedule

II. Soil Conservation Districts and NJ Department of Transportation: Procedure for Coordination, Problem Resolution and Guidelines

III. Open Public Meetings Act (OPRA)

A. Overview
B. Government Records Request Form
C. Records Disposal Form

IV. DCA Bulletins

A. Bulletin 91-2
B. Bulletin 01-2

V. Legal Opinions

A. Applicability to Federal Projects
B. Subdivision Predating the SESC Act
C. Temporary Greenhouse Construction
D. School District Projects
E. Single Family Dwelling Units

VI. Media Relations

I. Procedural Documents - Official Forms

A. Application for SESC Plan Certification

New Jersey Natural Resources Conservation Program

APPLICATION FOR SOIL EROSION AND SEDIMENT CONTROL PLAN CERTIFICATION

The enclosed soil erosion and sediment control plan and supporting information are submitted for certification pursuant to the Soil Erosion and Sediment Control Act, Chapter 251, P.L. 1975 as amended (NJSA 4:24-39 et. seq.) An application for certification of a soil erosion and sediment control plan shall include the items listed on the reverse side of this form.

Name of Project			Project Location: Municipality	
Project Street Address			Block	Lot
Project Owner(s) Name			Email	Phone # Fax #
Project Owner(s) Street Address (No P.O. Box Numbers)			City	State Zip
Total Project Area (Acres)	Total Disturbed Area (Acres)	Total Soil Restoration Area (Acres)	No. Dwelling or other Units	Fee $
Plans Prepared by*			Email of plan preparer:	Phone # Fax #
Street Address			City	State Zip

*(Engineering related items of the Soil Erosion and Sediment Control Plan **MUST** 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 NJAC 13:27-6.1 et. seq.)

Agent Responsible During Construction			Email	
Street Address				
City	State	Zip	Phone	Fax #

The applicant hereby certifies that all soil erosion and sediment control measures are designed in accordance with current **Standards for Soil Erosion and Sediment Control In New Jersey** and will be installed in accordance with those Standards and the plan as approved by the Soil Conservation District and agrees as follows:

1. To notify the District in writing at least 48 hours in advance of any land disturbance activity. Failure to provide such notification may result in additional inspection fees.
2. To notify the District upon completion of the Project (Note: No certificate of occupancy can be granted until a report of compliance is issued by the District.
3. To maintain a copy of the certified plan on the project site during construction.
4. To allow District agents to go upon project lands for inspection.
5. That any conveyance of this project or portion thereof prior to its completion will transfer full responsibility for compliance with the certified plan to any subsequent owners.
6. To comply with all terms and conditions of this application and certified plan including payment of all fees prescribed by the district fee schedule hereby incorporated by reference.

The applicant hereby acknowledges 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. The applicant shall retain full responsibility for any damages which may result from any construction activity notwithstanding district certification of the subject soil erosion and sediment control plan. It is understood that approval of the plan submitted with this application shall be valid only for the duration of the initial project approval granted by the municipality. All municipal renewals of this project will require submission and approval by the district. In no case shall the approval extend beyond three- and one-half years at which time resubmission and certification will be required. Soil Erosion and Sediment Control Plan certification is limited to the controls specified in the 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. It is further understood that all documents, site plans, design reports etc. submitted to the district shall be made available to the public (upon request) pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

1. Applicant Certification* Signature Date Applicant Name (Print)	3. Plan determined complete: Signature of District Official Date
2. Receipt of fee, plan and supporting documents is hereby acknowledged: Signature of District Official Date	4. Plan certified, denied or other actions noted above. Special Remarks: Signature of District Official Date

***If other than project owner, written authorization of owner must be attached.** SSCC251 3/19

B. Ownership Disclosure Affidavit

SOIL CONSERVATION DISTRICT
ADDENDUM TO APPLICATION

APPLICATION BY CORPORATION, PARTNERSHIP OR ORGANIZATION

OWNERSHIP DISCLOSURE AFFIDAVIT

Soil Conservation District requests that all applicants submit a complete list of ownership for purposes of determining conflicts of interest between the applicant and the board of members or their professionals. Attach Rider if necessary.

Disclosure of owners of organization and property subject to application. Any organization making an application for development under this act shall list the names and addresses of all members, stockholders, or individual partners (collectively, "interest holders"), including any other organization holding at least a 10% ownership interest in the organization, and shall also identify the owner of the property subject to the application, including any organization holding at least a 10% ownership interest in the property.

Listing of names and addresses of interest holders of applicant and owner organization.
If an organization owns an interest equivalent to 10% or more of another organization, subject to the disclosure requirements hereinabove described, that organization shall list the names and addresses of its interest holders holding 10% or greater interest in the organization.

Disclosure of all officers and trustees of a non-profit organization. A non -profit organization filing an application of development under this act shall list the names and addresses of all officers and trustees of the non-profit organization.

This disclosure requirement is continuing during the Certification period and transfer of ownership of more than 10% must be disclosed.

Organization or non-profit organization failing to disclose: fine. Any organization or non-profit organization failing to disclose in accordance with this act shall be subject to a fine of $1,000 to $10,000, which shall be recoverable in the name of the municipality in any court of record in the State in a summary manner pursuant to the "Penalty Enforcement Law" (N.J.S.A. 2A:58-1 et seq.)

Name and Address of Owner:

_____

_____

_____

(If Corporation, Name and Address of Registered Agent and Officers, Trustees):

_____

_____

_____

Stockholders / Members / Partners:

_____

_____

_____

I certify that the above statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

_____
Print Name of Authorized Signatory & Title

Date:_____

_____
Authorized Signature

C. Request for Recertification of Soil Erosion and Sediment Control Plan

TO:_____SOIL CONSERVATION DISTRICT

I hereby formally request recertification of the soil erosion and sediment control plan for a period of 3 ½ years for the following project:

1. Name of Project:_____
2. SCD Application No._____
3. Project Owner Name(s):_____
4. Project Owner Address: _____
5. Date of Last Revision to Site Plan:_____
6. Date of Last Revision to Erosion Control Plan:_____

I certify that all revisions to the soil erosion and sediment control plan have been certified by the district and agree as follows:

a. Approval of this request will confer recertification of the existing soil erosion and sediment control plan and allow for continuation of the project.

b. Recertification extends the requirements of the previous application identified in 2. above which shall be appended herewith.

c. All terms and conditions regarding compliance with this application and certified plan shall remain in effect including payment of all fees prescribed by the district fee schedule.

d. That upon completion of the project, the district will be promptly notified. Authorization to occupy or otherwise utilize the project is conditioned upon district issuance of a Report of Compliance with the certified plan.

e. Where changes to the application have occurred including ownership, a revised and signed application form shall be included with this request for Recertification. If no revised application is forwarded, the applicant certifies that no changes to the Soil Erosion and Sediment Control Plan or Application have been made.

Applicant Certification*

_____ _____

Signature of Applicant Date

_____

Applicant Name (print)

This request has been: Certified Certified w/conditions Denied

_____ _____

Signature of District Official **Date**

***if other than project owner, written authorization of owner must be attached.**

D. Certification Letter

Date
Owner/Applicant
Street Address
City, State, Zip

Application #:
Project Name:
Municipality
Blk.: Lot:

CERTIFICATION LETTER

Pursuant to the New Jersey Soil Erosion and Sediment Control Act; N.J.S.A. 4:24-39 et seq. the _____ District has reviewed the above erosion control application and hereby grants certification of the soil erosion and sediment control plan for the above referenced project subject to the following:

1. That the applicant carries out all land disturbance activities in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey, promulgated by the State Soil Conservation Committee.
2. The owner/applicant must obtain a District issued Report of Compliance prior to the issuance of any Certificates of Occupancy by the municipality.
3. Revisions to the certified plan relating to, or that will affect land disturbance on the site, must be submitted to the District office for certification.
4. Any conveyance of the project (or portion thereof) prior to its completion will transfer full responsibility for compliance any subsequent owner(s). The District must be notified in writing of any change of ownership.
5. This approval is limited to the soil erosion and sedimentation 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.

The District requires written notification at least 48 hours in advance of any land disturbance activity.

Failure to comply with the above conditions may result in the issuance of a **STOP CONSTRUCTION ORDER**.

If there are any questions, please feel free to call our office.

Very truly yours,

District Chairman

Enclosure
pc: Mun.Planning Board
Mun.Construction Official
Mun. Engineer
Appl. Engineer

E. Denial Letter

Project Name:
Application #:
Blk.: Lot:
Municipality

Dear:

According to District policy, if we do not receive a response to a revision letter within 90 days, the project is deemed denied. Our records show a revision letter was mailed to you on_____. As of this date no response has been received, therefore the project has been denied.

If the project is to be undertaken at a later date a new submission will be required.

Should you have any questions do not hesitate to call.

Sincerely,

District Manager

F. Violation Notice

To:_____Municipality:_____

Project: _____Application No.:_____

Block No.:_____Lot No.:_____

You are hereby advised of your violation of N.J.S.A. 4:24-39 et seq., The Soil Erosion and Sediment Control Act, as amended by P.L. 1975 c. 251. The deficiencies found by an inspection on_____are to be corrected as follows:

1.
2.
3.

If the above violations are not corrected by _____, this office will proceed with the issuance of a **STOP CONSTRUCTION ORDER.**

Your failure to take immediate corrective measures to resolve these violations will result in the filing of a complaint against you under the provisions of N.J.S.A. 4:24-53, and 2A:58-1 wherein you will be subject to injunctive sanctions and fines of up to $3,000.00 for each day during which said violations continues, each day constituting an additional separate and distinct offense.

If you have any questions, do not hesitate to call.

DATE:_____

AUTHORIZED SIGNATURE:_____

CHAIRMAN

DISTRIBUTION: Owner

Developer

Municipal Engineer

Municipal Construction Official

File

G. Stop Construction Order

(*N.J.S.A. 4:24-39 et seq.*)

TO: . **MUNICIPALITY**:

DATE OF ISSUE: **BLOCK**: **LOT**:

PROJECT NAME:

APPLICATION #:

WHEREAS, an inspection by the _____ SOIL CONSERVATION DISTRICT on disclosed that the subject project is not being executed in accordance with the certified plan and:

WHEREAS, the following warnings, pursuant to regulatory procedure of the District, were previously issued:

THEREFORE, PURSUANT TO AUTHORITY GRANTED BY N.J.S.A. 4:24-47, YOU ARE HEREBY ORDERED TO STOP CONSTRUCTION ON SAID PROJECT.

The steps listed below must be taken immediately to implement soil erosion and sediment control requirements.

Continued work on any aspect of the project other than the correctional steps outlined above will be cause for a court action for injunctive relief and penalties, pursuant to N.J.S.A. 4:24-53.

The maximum statutory penalty provided by law for violations of the Soil Erosion and Sediment Control Act is a fine of up to $3,000 each day and an injunctive order of the Superior Court.

This Stop Construction Order will be rescinded upon showing that the subject project has been brought within substantial compliance with the Certified Plan and payment of all reasonable District costs, including Attorney Fees.

AUTHORIZED SIGNATURE:_____

Chairman

C: Municipal Engineer

Municipal Construction Official

Soil Conservation District Board of Supervisors

State Soil Conservation Committee Attn: Frank Minch

H. Rescind Stop Work Order

Project Name
Application #:
Blk.: Lt:
Municipality

Dear:

An inspection by the _____Soil Conservation District's inspector, on *(date of inspection)* indicates that substantial progress has been made in resolving the soil erosion and sediment control deficiencies on the above referenced project. This project is now considered to be in compliance with the Certified Soil Erosion and Sediment Control Plan. Therefore, the Stop Work Order issued by this office on _____is **herewith rescinded.**

In accordance with the District's approved schedule of fees, the administrative costs associated with the District's enforcement action have been assessed at $_____. **This includes $_____ in Administrative Fees, for issuance of the Stop Work Order and ___ _____Non-Compliance fees still outstanding.** These fees are to be satisfied upon receipt of the formal rescission notification.

The _____Soil Conservation District looks forward to your continued cooperation in maintaining adequate erosion control measures on this project.

Sincerely,

District Manager

C: Municipal Engineer

Municipal Construction Official

State Soil Conservation Committee

I. Report of Compliance

District Logo

Here

Soil Conservation District
Sediment Way
Anytown, NJ 08251

Telephone: (609) 292-5540

REPORT OF COMPLIANCE

This certifies that the Soil Erosion and Sediment Control measures to the extent indicated comply with the Soil Erosion and Sediment Control Plans as certified by the Soil Conservation District pursuant to Chapter 251, P.L. 1975 as amended, the Soil Erosion and Sediment Control Act, (N.J.S.A. 4:24-39 et seq.) and N.J.A.C. 2:90-1.14

Municipality:

Project Name: **SCD Application No:**

Block(s): **Lot(s):** **Street Address:**

Block(s): **Lot(s):** **Street Address:**

☐ **CONDITIONAL COMPLIANCE* [CRC]** ☐ **REPORT OF COMPLIANCE (NO CONDITIONS) [ROC]**

Date: **Signature of District Official:** _____

***CONDITIONS:**

1. Establishment of permanent stabilization of all disturbed areas in accordance with the certified soil erosion and sediment control plan.
2.

Conditions above must be satisfied no later than

☐ **FINAL REPORT OF COMPLIANCE**
(invalid if checked in addition to the CRC and/or ROC boxes unless authorized by district official)

Date: **Signature of District Official:**

_____

Distribution: Municipal Construction Office, Developer/Owner, District, Other

J. Soil Compaction Mitigation Verification Form

New Jersey Department of Agriculture Soil Erosion and Sediment Control Program
Soil Compaction Mitigation Verification Form
Authority: N.J.S.A. 4:24-39 et seq, and P.L. 2010, Chpt. 113

Instructions. This form is to be used only when your soil erosion and sediment control plan denotes areas of the site that are subject to soil compaction mitigation (testing and/or remediation) in accordance with the Standard for Land Grading, N.J.A.C. 2:90-1.3 (a)2, Chpt. 19 (rev. 2017). You have the option to test subsoil in areas of your site for excessive soil compaction. However, remediation (tilling or ripping 6" deep) is required in these areas if testing determines that subsoils are excessively compacted (see below). This form must be filled out completely and submitted to the local soil conservation district prior to the district performing a Report of Compliance inspection.

If an inspection is being requested during a non-growing season (typically summer and winter), testing and/or remediation work may be postponed (box III below) until the next optimum growing season. A new self-certification form will be required at that time when compaction testing or remediation, and vegetation establishment is done.

Date_____ Project Name_____ SCD # _____

County_____ Municipality_____

Street Address _____Block_____ Lot____

Name of person performing the test (print)_____
(Attach NJPE Certification for Tube[1] or Densitometer Test[2])

Organization/Affiliation with project owner_____

Certification: I hereby certify that the test(s) and / or remediation procedures performed on the subject property were conducted by me or under my supervision and that the information accompanying this form represents the actual work or testing which took place in accordance with the requirements for "Soil Management and Preparation" under the Standard for Land Grading.

Signature _____ Date _____

Place a check ☒ in the appropriate category below.

☐ **I. Testing for Presence of Soil Compaction in subsoil.** ☐ **Check here to indicate passing test results.**
Attach copy of plan, plan portion or sketch showing locations where compaction was tested.
Wire test- Insert 15 gage wire (i.e. survey flag) to a 6" depth in subsoil without bending, minimum.
Penetrometer – 6" deep at less than 300 psi, minimum.
For Tube[1] and Densitometer[2] Tests – report direct reading of bulk density in gm/cc, as specified in table 19-1, "Maximum Dry Bulk Densities by soil type, Standard for Land Grading. **Attach certified test results.**

Type of test (circle) Wire Test Penetrometer Tube Bulk Density Test [1] Nuclear Densitometer[2]

☐ **II. Remediation Work Performed.** (performed in lieu of testing or as a result of test failure)
Deep tillage of subsoil within area(s) shown on plan, minimum, of 6" deep, prior to topsoil application. Attach a copy of plan, plan portion or sketch showing locations where remediation was performed.

☐ **III. Non-Growing Season Postponement.**
Testing and/ or remediation has been postponed due to non-growing season conditions. Either testing or remediation will be conducted for this property at the beginning of the next growing season (following spring or fall) at which time this form will be resubmitted.

District Use Only.
Received by_____ Date _____

---

[1] *This test shall be certified by a New Jersey Licensed Professional Engineer utilizing only undisturbed samples (reconstitution of the sample not permitted) collected utilizing the procedure for Soil Bulk Density Tests as described in the USDA NRCS Soil Quality Test Kit Guide, Section 1-4, July 2001.*
[2] *This test shall be certified by a New Jersey Licensed Professional Engineer and conducted by a nuclear gauge certified inspector pursuant to ASTM D6938.*

12/1/2017

K. Soil Conservation District/ Municipal Model Agreement

AGREEMENT
SOIL EROSION AND SEDIMENT CONTROLS
BETWEEN THE
_____ SOIL CONSERVATION DISTRICT
AND

_____
(MUNICIPALITY)
AND
STATE OF NEW JERSEY SOIL CONSERVATION COMMITTEE

This agreement is entered into between the _____ Soil Conservation District (hereinafter referred to as the District) and _____ _____,(Municipality)_____ County, New Jersey (hereinafter referred to as the Municipality) and the State Soil Conservation Committee (hereinafter referred to as the Committee) to establish a working relationship and identify the respective responsibilities of the District and the Municipality to implement the State approved soil erosion and sediment control ordinance of the municipality in accordance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et. seq. and the Standards and Rules promulgated pursuant to the Act.

A. THE DISTRICT AGREES:

1. To review and certify, certify with conditions or deny with reasons stated, soil erosion and sediment control plans submitted to the district for all projects regulated by the State approved municipal soil erosion and sediment control ordinance.

2. To charge fees for such services in accordance with the established State approved District fee schedule, such fees to be paid by the applicant directly to the District.

3. To enforce the Ordinance to the extent that it reflects the requirements of the Soil Erosion and Sediment Control Act of 1976, as amended; maintain liaison with the municipal official and consult with applicants and municipal officials at preconstruction conferences and during construction.

4. To provide written notification to the Municipal Planning Board, Building Inspector, Municipal Engineer and County Planning Board, where applicable, regarding all actions taken by the District concerning the review, certification, inspection, enforcement, and reports of compliance for all projects requiring soil erosion and sediment control plan certification.

B. THE MUNICIPALITY AGREES:

1. To comply with the requirements of the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et. seq. and Standards promulgated by the State Soil Conservation Committee pursuant to the Act.

2. To refer all applications for development which require a soil erosion and sediment control plan to the District for certification and to condition all municipal agency approvals upon such District certification.

3. To encourage applicants to consult with the District in the development of soil erosion and sediment control plans for all applicants for development.

4. To cooperate with the District to enforce the requirements of soil erosion and sediment control plans certified by the District.

C. THE COMMITTEE AGREES:

1. To promulgate technical Standards for Soil Erosion and Sediment Control as required by the Act and to provide administrative and technical assistance to this District.

2. To establish and maintain rules for uniform implementation of the Act and to provide administrative assistance and statewide program oversight.

3. To coordinate an annual district review of municipal implementation of soil erosion and sediment control to assure compliance with the Act and program rules.

4. To review for approval, proposed changes to municipal ordinances and proposed modifications to agreements between the District and municipality exempt from sections 5 through 9 of the Act.

D. THE DISTRICT, MUNICIPALITY AND COMMITTEE MUTUALLY AGREE:

1. To utilize the Standards for Soil Erosion and Sediment Control as promulgated by the State Soil Conservation Committee, pursuant to the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et. seq., for review, certification, inspection and enforcement of all soil erosion and sediment control applications.

2. That this Memorandum shall become effective when signed by an authorized official to each party. It may be modified by mutual agreement and may be terminated by either party upon thirty (30) days written notice.

3. That termination of this agreement will obligate the municipality to resume full responsibility for implementation of soil erosion and sediment controls in accordance with the State approved ordinance. Following such termination the District will be obligated to complete all review, certification, inspection and enforcement activities on all applications it has accepted prior to the termination of this agreement.

In witness whereof the district and the municipality hereby affix their signatures as authorized by their respective governing bodies.

Soil Conservation District :_____ **Municipality** :_____

BY:_____ BY:_____

TITLE:_____ TITLE:_____

DATE:_____ DATE:_____

WITNESS:_____ WITNESS:_____

Action authorized at regular meeting of the respective agencies on:

Date:_____ Date:_____

State Soil Conservation Committee

BY: _____

TITLE:_____

DATE:_____

WITNESS:_____

This agreement has been reviewed for conformance with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and rules promulgated pursuant thereto and approved by the State Soil Conservation Committee.

I. Procedural Documents – Sample Forms

A. Administrative Completeness Checklist

Application Number:_____

Name:_____

Date Submission Received:_____

Administrative Review Completed by:_____

- ❑ Completed, signed and dated application (**signature in Block #1**)

- ❑ Is *Addendum-Ownership Disclosure Affidavit Application by Corporation or Partnership* required? If yes, is it complete and signed?

- ❑ Fees have been submitted.

- ❑ Copies of Plans
  - ❑ One copy of the complete subdivision, site plan or construction permit application
  - ❑ Up to four copies of soil erosion and sediment control plans.

- ❑ Application is administratively complete. (**signature in Block #2**)

- ❑ Application is not administratively complete and owner was notified of deficient items on _____ (*date*)

B. Plan Review Checklist

I. Administrative Review

a. Fees are appropriate for the project
_____

b. H&H Summary Form (*as necessary*)
_____

c. PDF grading/drainage plan file (*optional*)
_____

d. Soil Erosion and Sediment Control Notes
_____

e. Verify Block & Lot Numbers-Application vs. Plan.
_____

f. One copy of the complete subdivision, site plan or construction permit application (see back of application) _____

g. Up to four copies of soil erosion and sediment control plans (see back of application)_____

h. Plans are signed and sealed (raised) by a Professional Engineer (P.E.)

II. Sequence of Construction

a. Temporary controls (silt fence, stone pads, stockpile protection, etc.)
_____

b. Use of temporary sediment basin during construction
_____

c. Inlet protection after storm sewer installation
_____

d. Basin stabilization once majority of site is stabilized
_____

e. Permanent stabilization
_____

III. Hydrology/ Existing Conditions

a. Existing Drainage Area Map
_____

b. Contours at 2.0' intervals, clearly denoted
_____

c. Tc Flow Path Delineated
_____

d. Point of Analysis (POA) identified
_____

e. Land use/ Land Cover (LU/LC) defined
_____

f. Soil type and Hydrologic Soils Group (HSG) defined
_____

g. Field verification of physical features (*as necessary)* (POA, Tc, LU/LC)
_____

h. Rainfall depth (2 &10, 25 yr.) defined
_____

i. TR-55 or Rational Method (*as appropriate*)
_____

j. HEC-RAS stream channel analysis
_____

k. Not Applicable_____

IV. Hydrology / Proposed Conditions

a. Proposed Drainage Area Map
_____

b. Contours at 2.0' intervals, clearly denoted
_____

c. Tc Flow Path Delineated
_____

d. Point of Analysis identified
_____

e. Land use/ Land Cover (LU/LC) defined
_____

f. Soil type and HSG defined
_____

g. Rainfall depth (2 &10, 25 yr) defined
_____

h. TR-55 or Rational Method (*as appropriate*)
_____

i. HEC-RAS stream channel analysis
_____

j. H & H Summary Form matches drainage report information
_____

k. Not Applicable_____

V. Offsite Stability Analysis (use flow chart from Standard to assist in evaluation)

a. Specific narrative/analysis in report
_____

b. Point Stability
   i. Defined or Undefined or same point of discharge
   _____
   ii. If defined or same point, how do peak flows compare?
   _____
   iii. If undefined, does table 21-1 apply?
   _____
   iv. Infiltration failure analysis for point discharge peak flow
   _____
   v. Is conveyance structure (pipe or water way) needed?
   _____
   vi. Not Applicable_____

c. Downstream Stability
   i. Peak Flow Reductions (50% of 2yr pre, 75% of 10 yr pre)
   _____

ii. Infiltration used to meet reduction levels? (infiltration should not account for more than the reduction levels)

_____

iii. Downstream obstructions (culverts, narrow channel, debris)_____

iv. Alternate Stability Analysis (watershed model, stream velocity model etc.) _____

v. Not Applicable _____

VI. Structures

a. Stormwater Management

i. Detention / Detention + Infiltration / Wet Pond / Underground Storage

ii. 2 and 10 year peak flows reduced?

_____

iii. Infiltration component in basin/structure_____

iv. Design report outlet structure matches outlet structure details

_____

v. Uncontrolled surface flows down basin slopes

_____

vi. Suitable vegetation used in basin

_____

vii. Rip rap design for Conduit Outlet Protection (COP) in basin

_____

viii. Location of outlet structure consistent with Offsite Stability Standard

_____

ix. Forebay used_____

x. Stability of berm for forebay _____

xi. Sand bottom for infiltration _____

xii. Other/Misc _____

xiii. Not Applicable _____

b. Open Channels

i. Channel Stabilization

A. Temporary by-pass channel (2 year storm)_____

B. Bankfull or 10 year storm design_____

C. Side slopes less than 2:1_____

D. Not Applicable _____

ii. Grass Water Way

A. Inlet and outlet

_____

B. Design Storm

_____

C. Max bed slope

_____

D. Velocity

_____

E. Froude number less than 0.9_____

F. D&E Retardance _____

G. Turf Reinforcement Mat (Tx DOT table)_____

H. Side Slope _____

I. Stone center lining _____
J. Drain down basin slope/ break in grade at foot of slope
_____
K. Proper selection of vegetation
_____
L. Not Applicable _____

iii. Diversions
A. Same design issues as Grassed Waterway
_____
B. Temporary or Permanent?
_____
C. Diversion outlet
_____
D. Design Storm based on level of risk to downstream area_____
E. Supporting ridge_____
F. Diversions on slopes use downchutes_____
G. Not Applicable _____

iv. Lined Waterway
A. Vegetated lining not appropriate_____
B. Lining material uses proper n-value per table 20-1
_____
C. Flow depth, velocity and freeboard per table 20-2
_____
D. Side slopes per table 20-3
_____
E. Liner thickness_____
F. Slope less than 10% - if not then use slope protection_____
G. Not Applicable _____

c. Conduit Outlet Protection
i. General Conditions
A. Bridge opening or conduit?_____
B. Velocity in last section of pipe requires COP_____
C. Soil type at outlet_____
D. Slope of area at outlet_____
E. Tailwater calculated correctly_____
F. Calculated D50 very large; gabions or reno matts appropriate?_____
G. Not Applicable _____

ii. Apron
   A. L, W and Thickness correct_____
   B. D50 size with filter layer_____
   C. Installed inside a detention basin with deep tail water? _____
   D. Can installation occur with no slope or overfall at end? _____
   E. Appropriate equation used for tailwater? _____
   F. Not Applicable _____

iii. Scour Hole
   A. Depth = full or ½ pipe diameter_____
   B. Dimensions correct using side slopes and depth_____
   C. Elevation of top of hole flush with surrounding elevation_____
   D. Slope around and below scour hole flat_____

iv. Multiple Conduits
   A. Spacing greater or less than ¼ width of conduit(s) _____
   B. Width of apron accounts for spacing, S _____
   C. Largest values used for dis-similar conduits _____
   D. Not Applicable _____

d. Rip Rap
   i. Greater of design discharge or 25 year storm _____
   ii. Channel bend accounted for _____
   iii. Sized for bioengineering using Lane or Ishbash _____
   iv. D50 and thickness (2x D50 with filter fabric) _____
   v. Angular stone (no river stone or round stone prone to rolling) _____
   vi. Gabion thickness and velocity per table 22-1 _____
   vii. Shore line / wave protection needed_____
   viii. Not Applicable _____

e. Slope Protection Structure
   i. Flume Design_____
   ii. Rip Rap Chute _____

iii. Pipe Drop
_____

iv. Unconcentrated Runoff from paved surfaces_____

v. Not Applicable _____

f. Grade Stabilization Structure

i. Design depth, width and velocity per the Standard_____

ii. Capacity per Table 17-1
_____

iii. Not Applicable _____

g. Land Grading

i. Cut and fill areas noted_____

ii. Existing and Proposed contours at 2.0' intervals shown_____

iii. Cut face of slope stabilization
_____

iv. Protection of adjacent properties_____

v. No fill adjacent to stream channels without proper controls_____

vi. No trash or debris in fill material _____

vii. Sufficient compaction in load bearing areas_____

viii. De-compaction of soils where appropriate_____

ix. Not Applicable _____

h. Stream Crossing – General Considerations.

i. Temporary or Permanent? _____

ii. 90 degrees to center of stream_____

iii. Temporary Culvert 2 year storm design_____

iv. Temporary culvert COP 10 year design storm_____

v. Removal and restoration note(s)_____

vi. Permanent Culvert stabilization of:

A. Outlet COP _____

B. Abutments up and downstream _____

vii. Not Applicable _____

i. Subsurface Drainage

i. Design Inflow
_____

ii. Drain sizing by Manning's
_____

iii. Minimum grade 0.1%, V greater than 1.4 fps_____
iv. Appropriate measures to prevent soil migration into drain_____
v. Outlet protected against scour_____
vi. Not Applicable _____

VII. Temporary Controls

a. Dewatering
   i. Tank, bag, sump pits etc. are located so that discharge cannot enter waterways or water bodies_____
   ii. Size of the dewatering device (bag, tank etc.) is appropriate for size of pump and flow rate_____
   iii. Temporary filters (stone, hay bales etc.) have proper detail and notes _____
   iv. Note indicating periodic maintenance is required along with proper disposal of contaminated filters _____

b. Dust Control
   i. Notes describing method, frequency and location of control measures _____

c. Sediment Barrier
   i. Location graphically depicted at key locations at lower elevations_____
   ii. Location receives sheet flow only (not to be installed across a channel)_____
   iii. Design detail properly addresses Standards requirements for height, embedding, materials etc. _____
   iv. Drainage area less than 1 acre; slope upgradient of barrier less than 5%_____
   v. Super silt fence detail includes wire backed fence_____
   vi. not proposed in lieu of properly designed diversion _____
   vii. For filter tube products, details address Sections A and B (bale barrier) of the Standard _____
   viii. Not Applicable _____

d. Sediment Basin
   i. Compare two design volume options per standard _____
   ii. Length vs. Width ratios _____
   iii. Use proposed detention basin note on plan_____

iv. Dewatering
   A. 50% trap efficiency 4" hole
      _____
   B. Floating Riser
      _____
   C. Underdrain
      _____
v. Riser
   A. Use outlet control box _____
   B. Use add-on riser (no perforations)_____
   C. Watertight connection_____
   D. 1' freeboard
      _____
vi. Not Applicable _____

e. Stabilized Construction Entrance
   i. 1-2 " clean stone, 6" thick x entrance width x 50' long
      _____
   ii. Steep sloped entrance per table 27-1
      _____
   iii. Over 5% slope, stabilized with hot mix base course_____
   iv. Tire Wash needed
      _____

f. Storm Sewer Inlet Protection
   i. Less than 3 acres of contributory drainage
      _____
   ii. Does not close of the inlet
      _____
   iii. Does not cause traffic or flooding hazard_____
   iv. Capture/filter/detain 1 year event; larger storms are bypassed into system_____
   v. Not Applicable _____

g. Traffic Control
   i. Entrance/Exit points clearly identified on plan_____
   ii. Avoids trouble areas such as slopes, watercourses, vegetated areas
      _____
   iii. Tire washing used? _____
   iv. Compaction remediation needed on traffic route?
      _____

h. Turbidity Barrier (Floating)
   i. Materials used meet design criteria page 32-1
      _____
   ii. Barrier placement correct
      _____
   iii. Not Applicable _____

VIII. Vegetative Standards

a. Acid Soil Management
   i. Project location has potential for acid soil
      _____
   ii. Stockpile detail includes covering with plastic after 48hrs
      _____
   iii. Burial with 10 tons per acre of lime, 12-24" deep
      _____
   iv. Equipment wash away from streams and storm sewers
      _____
   v. Not Applicable _____

b. Dune Stabilization
   i. Certified cultivars (vegetation) is proposed
      _____
   ii. Details for wind breaks (fencing etc.) provided
      _____
   iii. Planting instructions & details provided
      _____
   iv. Maintenance plans provided
      _____
   v. Not Applicable _____

c. Maintaining Vegetation
   i. Notes on plan consistent with 'Methods and Materials'_____

d. Permanent Vegetative Cover
   i. Notes contain:
      A. Seed bed prep
         _____
      B. Subsoil prep per Land Grading Standard
         _____
      C. Topsoil quality and application depth (5")
         _____
      D. Fertilizer and lime requirements
         _____
      E. Seed selection appropriate to use
         _____
      F. Mulch over seed and mulch anchor
         _____
      G. Hydroseeding: rates appropriate; no mixing of much and seed in tank _____
      H. Irrigation until established
         _____
      I. Note # 7 (page 4-4) included (recommended)
         _____

ii. Pinelands Reserve Stabilization
   A. Re-use of native O & A horizons
      _____
   B. Native Pineland seed mix used
      _____
   C. No Seeding – mulch over native topsoil, monitor until established _____
   D. Stabilization areas delineated on plan _____
   E. Not Applicable _____

e. Mulch Only Stabilization
   i. Temporary, non-vegetative stabilization after 14 days of inactivity
      _____
   ii. Note indicating non-growing season stabilization
      _____
   iii. Materials specified w/ amounts: hay/straw, soil stabilizers, hydro-mulch, woodchips, stone
      _____
   iv. Anchoring methods (straw/much)_____

f. Sod
   i. Notes contain:
      A. Seed bed prep
         _____
      B. Subsoil prep per Land Grading Standard
         _____
      C. Topsoil quality and application depth (5")
         _____
      D. Fertilizer and lime requirements
         _____
      E. Irrigation until established
         _____
      F. Fresh/moist sod specified
         _____
      G. Sod installation/placement/anchoring (where necessary)
         _____

g. Temporary Vegetative Stabilization
   i. Seedbed preparation, decompaction, lime and fertilizer requirements
      _____
   ii. Proper seed selection from Tale 7-2
      _____
   iii. Mulching required on all seeding
      _____

h. Topsoiling
   i. Quality – no debris, weeds etc.
      _____
   ii. Minimum organic matter content 2.75%
      _____

iii. Topsoil substitute (manufactured topsoil) should be noted if intended for use _____

iv. Stripped topsoil should be stored and stabilized with vegetation _____

v. Do not work topsoil when wet _____

vi. Scarify/break up compacted subsoil prior to application _____

vii. Topsoil depth should be 5", unsettled. _____

i. Tree Protection

i. Typical detail on plan sheet noting maximum area of protection (fig 9-3) _____

ii. Trees identified on plan to be protected _____

iii. Notes for tree selection, protection etc. on plan _____

j. Trees, Vines, Shrubs

i. No invasive species specified _____

ii. Tree planting detail provided _____

C. Application for Project Non-Applicability

Any Soil Conservation District
Sediment Way
Anytown, NJ 08625
Telephone: (609) 292-5540

REQUEST FOR DETERMINATION OF NON-APPLICABILITY

*****IMPORTANT – READ ALL INFORMATION CAREFULLY*****

I, the undersigned, request that the subject land disturbance be reviewed for determination of non-applicability of the NJ Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-et seq.) I understand that I am responsible to provide the required information and review fee as requested below. I further understand that should the activity deviate from the information provided, any determination of non-applicability will be rendered VOID and will require a reassessment of the land disturbance by the District. Non-applicability means the subject land disturbance does not meet the definition of a project under the Act and as such does not require formal Soil Erosion and Sediment Control Plan Certification. The District may require additional information to support this request.

(Print or Type)

Current Owner	Project Address:
Owner Address:	Project Municipality
Municipality State, Zip:	Block(s)
Phone:	Lot(s)
Fax:	Email:

Project Description ***(check all that apply)***:___Demolition; ___New Construction*; ___Grading; ___Excavation; ___Renovation and/or Addition; ___Stockpiling; ___Utility Trenching; ___Agriculture** (cultivation of land for the production of food, fiber, animals and related activities customary to agricultural production and operation) * *Requests for the single family exception (N.J.A.C. 2:90-1.5) must be accompanied by a copy of the property Deed indicating date of subdivision.* **Requests must be accompanied by a copy of an approved USDA-NRCS Farm Conservation Plan.*

Total estimated disturbance including building footprint, driveways, parking areas, sidewalks, utilities, grading, staging/stockpiling areas, etc. - _____square feet. **Submit a copy of a site plan or grading/plot plan denoting total land disturbance and, if applicable, planning board resolution.**

☐ A non-refundable review fee of $_____ is required, made payable to the _____ **Soil Conservation District**.

Signatures- Owner/Applicant must sign before submission to the District

Owner Signature: _____ Date: _____

Construction Official: _____ Date: _____
(as applicable)

****

For District Use Only

Application#	Received By:	Date:	Check#

Conditions:

Verification: Whereas the owner has certified in writing and has submitted all required documentation that they are engaging in the above referenced activity, a Soil Erosion and Sediment Control plan submission will not be required by the District. District Official: _____ Date: _____ ____ Approved _____Denied

SSCC –NAF 01/15

D. Chapter 251 Inspection Report

SOIL CONSERVATION DISTRICT

CHAPTER 251 SITE INSPECTION REPORT

Date: _____
Application#:_____ Project Name: _____ Municipality: _____
Block: _____ Lot: _____

1. Stabilized Construction Access – Install ☐ Renew/Repair ☐
_____

2. Sediment Barriers - Install ☐ Renew ☐ Embed ☐ Additional barrier ☐
_____

3. Sediment Clean Up of Roadways/Inlets Required - Yes ☐ No ☐
_____

4. Inlet Protection – Install ☐ Renew ☐ Repair ☐ Unblock Inlets ☐
_____

5. Conduit Outlet Protection – Install ☐ Clean out sediment ☐
_____

6. Stabilization – Permanent/Temporary Seed ☐ Mulch/Mulch Anchoring ☐ Stone ☐
_____

7. Detention Structures - Sediment/Detention Install ☐ Stabilize ☐ Maintain ☐
_____

8. Diversions – Properly installed/spaced Y ☐ N ☐ Properly stabilized Y ☐ N ☐
_____

9. Topsoil Stockpiles – Stabilized Y ☐ N ☐
_____

10. Swales/Channels/Waterways – Install ☐ Stabilize ☐ Maintain ☐
_____

11. Revisions to Plan required ☐

This inspection has been conducted to ensure compliance with the provisions of the Soil Erosion and Sediment Control Plan as certified by the _____ Soil Conservation District, and pursuant to the requirements of Chapter 251, P.L. 1975, Soil Erosion and Sediment Control Act. The above noted deficiencies must be corrected by __/___/___. Failure to satisfactorily correct the above will result in further action by the District.

Issued by:_____ **Received by:**_____

E. Soil Erosion and Sediment Control Performance Deposit

Applicant: _____ **Address: _____**

Municipality/State: _____ **Phone**:_____

Fax:_____ **Email**:_____

We hereby bind ourselves to the _____ Soil Conservation District ("District") in the amount of $_____ to ensure faithful performance and completion of all temporary and permanent soil erosion and sediment control practices in accordance with the certified soil erosion and sediment control plan, Standards for Soil Erosion and Sediment Control in New Jersey and the Soil Erosion and Sediment Control Act, (N.J.S.A. 4:24-39 et seq.)

SCD Application # :_____ Project Name: _____

Block(s): _____ Lot(s):_____

Street Address:_____ Municipality: _____

The applicant understands that the performance deposit is calculated in accordance with the attached fee schedule and must be maintained until satisfactory completion of all soil erosion and sediment control practices (see conditions below) by the commencement of the next growing season (spring) / (fall) of the year _____. Upon determination of satisfactory completion, the performance deposit plus interest earned minus an administrative fee of $_____ shall be returned to the applicant.

Should the applicant fail to complete the final stabilization of the above referenced block(s)/lot(s) by the time period specified above, the District shall utilize the performance deposit to perform the work upon three (3) days' notice to the bonded party, which hereby consents to and guarantees access to the property by the District. A reasonable extension of time for completion may be granted at the sole discretion of the District. Should the performance deposit be insufficient to cover all the costs to the District for completion of the described soil erosion and sediment control practices, no Report of Compliance or Final Report of Compliance will be issued to the applicant until payment of all costs is made to the District.

The applicant also understands and agrees that under no circumstances will a Report of Compliance or Final Report of Compliance be issued on any lot without a performance deposit within the same project until such time as all lots with performance deposits have been properly stabilized and a Report of Compliance or Final Report of Compliance issued.

Conditions

1. Final grading around buildings and all disturbed areas. Seed , fertilize, lime and hay mulch as per the Standards for Soil Erosion and Sediment Control in New Jersey and the District certified soil erosion and sediment control plan.

2. [Other]

_____ _____

District Signature (date) Applicant Signature (date)

Deposit Received (date)_____

F. Fee Schedule

Application Category

A – Single Family or Two Family Residential Dwelling	$/building or $/acre
B – Multi-Family Residential Dwellings including townhouses	$ /building or $/acre
C – Commercial, Industrial, Site Plan, Apartment buildings, Condos	$/acre*
D – Soil disturbances without structures (demolition, grading, roads ,etc)	$/acre*

Categories C&D use 1 acre minimum rounded to the nearest whole acre.

Re-inspection fees - $____/inspection

Interest will be accrued for all deposits held for longer than 31 days. Deposit principle, accrued interest, minus a $_____ administrative fee will be returned upon verification of proper, permanent stabilization.

Compliance Date: _____

Interest earned: _____

Administrative fee: _____

Additional Inspection fee(s):_____

Amount Returned: _____

Date: _____

II. Soil Conservation Districts and NJ Department of Transportation Procedure for Coordination, Problem Resolution and Guidelines

NJ Department of Agriculture – State Soil Conservation Committee,

Soil Conservation Districts and

NJ Department of Transportation

Procedure for Coordination, Problem Resolution and Guidelines for Jurisdiction on Road Construction Projects subject to the Soil Erosion and Sediment Control Act NJSA 4:24-39 et seq.

To verify that the NJDOT has Soil Erosion and Sediment Control Plan Certification for DOT projects including work performed by the maintenance division, contact:

NJDOT Contact Information

Contact	**Phone Number/Email**
NJ Department of Transportation Bureau of Landscape Architecture and Environmental Solutions 1035 Parkway Avenue P.O. Box 0600 Trenton, NJ 08625-0600	(609) 963-1147 - Office
Nai Ng, P.E., Section Chief Office of Environmental Engineering	Office - (609) 963-1757 Nai.Ng@dot.nj.gov
Jack Eelman, Section Chief Hydrology and Hydraulics	Office - (609) 963-2471 Jack.Eelman@dot.nj.gov
Sean Henry Hydrology and Hydraulics	Office: (609) 963-1899 Sean.Henry@dot.nj.gov
Jayant Khetani Soil Erosion and Sediment Control	Office - (609) 963-1149 Jayant.Khetani@dot.nj.gov

Construction Activities

To achieve coordination and to expedite resolution of potential erosion related damages from construction of Department of Transportation (DOT) Projects* (see New Jersey Department of Transportation Projects DOT Project Definition); the following contact information is provided to facilitate contact between the DOT and Soil Conservation Districts (SCD's). Each agency has adopted soil erosion and sediment control standards and procedural rules and is authorized to administer respective authorities of the Soil Erosion and Sediment Control Act. The Department of Transportation has established three Construction Regions in the State, which are responsible for all DOT construction projects within that region. The regions include the counties listed below but are split between two Landscape Construction Coordinators:

Region North	**Region Central**	**Region South**
Bergen County*	Hunterdon County*	Atlantic County**
Essex County*	Mercer County*	Burlington County**
Hudson County*	Middlesex County*	Camden County**
Morris County*	Monmouth County**	Cape May County**
Passaic County*	Ocean County**	Cumberland County**
Sussex County*	Somerset County**	Gloucester County**
Union County*	So. W. Warren County*	Salem County**
Warren County*		

* Covered by Landscape Region North
** Covered by Landscape Region South

Process

When a soil erosion and sediment control problem is identified on a DOT project, the following procedure should be utilized. This process will assure Soil Conservation District representatives are conversing with a Department of Transportation representative with knowledge and authority, and problems can be addressed through direct communication with the Resident Engineer.

When correspondence to the Resident Engineer is necessary, copies should be sent to the appropriate Regional Construction Engineer and the State Soil Conservation Committee – State Erosion Control Engineer.

Procedure

1. When a Soil Conservation District representative has received a public complaint regarding a DOT construction project, then she/he should first contact the appropriate Regional Landscape Construction Coordinator as follows:

NJDOT Landscape Construction Coordinators

Region North	**Phone/Email**
Nori Shepperd	(609) 963-1128 - Office Nori.Shepperd@dot.nj.gov

Region South	**Phone/Email**
Jonathan Lahoda	(609) 963-1126 - Office Jonathan.Lahoda@dot.nj.gov

2. The Landscape Construction Coordinator will schedule and meet with District personnel and the Resident Engineer for the project in accordance with the priorities below.

    a) **Imminent Issues:** offsite runoff, offsite sedimentation, tracking, dust controls, etc., should be addressed immediately, with a meeting to be held within 5 business days to develop and implement an immediate corrective and preventive plan.

    b) **Minor Issues:** maintenance of erosion control features, inlet filters, silt fence, etc., should be investigated within 10 business days with a meeting to be held within 20 business days to develop and implement a corrective plan.

3. If an issue is not satisfactorily resolved with the Resident Engineer, contact the appropriate Regional Construction Engineer (Persons subject to change) and State Erosion Control Engineer.

Soil Erosion Issues Identified

Soil erosion issues can be identified by local officials, public complaints, other DOT offices, or other means. The concerns raised are typically areas that experience erosion within NJDOT ROW or where there is a concern that NJDOT is a contributor to erosion being experienced by property outside the NJDOT ROW. The SESC Unit under Jay Khetani, SESC Subject Matter Expert, is the lead on all such SESC issues identified to the Department. The SESC Unit responsibilities include, but are not limited to, the following:

- Coordinate and Document meetings.
- Obtain and share background information associated with the location of concern, such as contour elevations, as-built information, soils information, and aerial map
- Obtain input from the Hydrology & Hydraulics Office or the Office of Landscape Architecture.
- Ensure follow-up actions are occurring.
- Be the lead on communication with Office of Community Relations or other NJDOT offices.

NJDOT Projects Site Visit Documentation

Site Visit during Project Design

Generally, a site visit prior to construction of a site is not useful, since most erosion issues are a result of construction activities. However, certain project reviews benefit from a site visit in order to perform a more complete review such as if soil erosion issues are found on site and need to be incorporated into the design. Another reason for a site visit is to confirm information or issues identified during the review of the Soil Erosion Plans and report. The following documentation of the site visit is required:

- Project Name
- Date of Visit, Weather Conditions
- People involved in site visit/site meeting
- Narrative of issues, photo, photo location map
- Markup of FDS plans (if site visit part of FDS review)
- Narrative of what needs to be addressed in design (if site visit is not part of FDS review)

Once the information above is generated, it should be copied to all the teams reviewing SESC.

Site Visit during Construction

For identified NJDOT projects, site visits are most critical during construction of projects. Site visits should occur for all projects that are anticipated to need significant soil erosion measures. The SESC staff will visit the site throughout the project construction and document in a memo whether the required engineering measures, both temporary and permanent, are being implemented. A document should be prepared with the project name, date of visit, the name of the people who are on site, photos, locations of the issues shown on a map, and a narrative of the issues. The document should include a marked-up soil erosion and sediment control plans, indicating issues identified and whether additional engineering assistance will be needed from the H&H Office on a specific issue. Once a site visit occurs, the SESC staff will provide a copy of the document to the H&H Office. The Office of Landscape Architecture will separately perform site inspections as needed to ensure the establishment and health of the vegetation.

NJDOT Regional Construction Engineers

Region North	**Phone/Email**
Nart Appesh, Regional Construction Engineer Region North Construction 200 Stierli Court Mt. Arlington, NJ 07856-1322	(973) 810-9078 - Office nart.appesh@dot.nj.gov

Region Central	**Phone/Email**
Carl Kneidinger, Regional Construction Engineer Region Central Construction 1035 Parkway Avenue P.O. Box 0600 Trenton, NJ 08625-0600	(609) 963-1484 x1598 - Office carl.kneidinger@dot.nj.gov

Region South	**Phone/Email**
David Divalerio, Regional Construction Engineer Region South Construction 1 Executive Campus Route 70 West Cherry Hill, NJ 08002	(609) 414-6418 - Office david.divalerio@dot.nj.gov

Soil Conservation District Contact Information

When contacting the local Soil Conservation District the appropriate District Manager listed below is the key contact. Soil Conservation Districts have resource information, technical standards and guidance that may be beneficial for determining appropriate preventive or corrective measures.

District	**Manager**	**Phone/Email**
Bergen 700 Kinderkamack Rd., Ste. 103 Oradell, NJ 07649	Angelo Caruso	(201) 261-4407 acaruso@bergenscd.org
Burlington 1971 Jacksonville-Jobstown Rd. Columbus, NJ 08022	Robert Reitmeyer	(609) 267-7410 rreitmeyer@bscd.org
Cumberland-Salem P.O. Box 68, 1516 Rte. 77 Deerfield, NJ 08313	Michael Bonham	(856) 451-2422 mike@cumberlandsalem.org
Del-Atlantic Atlantic County Office Building 6260 Old Harding Hwy. Mays Landing, NJ 08330	Michael Kent	(609) 625-3144 delatlantic@delatlantic.org
Freehold 4000 Kozloski Road P.O. Box 5033 Freehold, NJ 07728	Timothy Thomas	(732) 683-8500 tthomas@freeholdsoil.org
Gloucester 545 Beckett Road, Suite 107 Swedesboro, NJ 08085	Marissa Appolonia, Admin. Jessica Wyatt, Field	(856) 589-5250 gloucester@gloucesterscd.org

Hudson, Essex, Passaic 80 Orchard Street Bloomfield, NJ 07003	Janet Rekesius	(862) 333-4505 janet@hepscd.org
Hunterdon 687 Pittstown Road, Suite #1 Frenchtown, NJ 08825	Michael DePalma	(908) 788-9466 michael.hcscd@gmail.com
Mercer 590 Hughes Drive Hamilton Square, NJ 08690	Paul Schiariti, P.E.	(609) 586-9603 pauls1mercer@aol.com
Morris Morris County Courthouse 30 Schuyler Place P.O. Box 900 Morristown, NJ 07963	Jennifer McCulloch	(973) 285-2953 jmcculloch@mcscd.org
Ocean 714 Lacey Road Forked River, NJ 08731	Christine R. Raabe	(609) 971-7002 craabe@soildistrict.org
Somerset-Union Somerset County 4-H Center 308 Milltown Road Bridgewater, NJ 08807	Matthew D'Alessandro	(908) 526-2701 mdalessandro@somersetcountynj.gov
Upper Delaware 51 Main Street, Suite B P.O. Box 198 Blairstown, NJ 07825	Sandra Myers	(908) 852-2579 smyers@upperdelawarescd-nj.org

State Soil Conservation Committee	**Phone/Email**
State Soil Conservation Committee NJ Department of Agriculture 200 Riverview Plaza, 3rd Floor Trenton, NJ 08625-0330	(609) 913-6490- Office
Frank Minch, Executive Secretary	(609) 913-6494 frank.minch@ag.nj.gov
John A. Matos-Ramos, P.E. State Erosion Control Engineer	(609) 913-6606 John.Matos-Ramos@ag.nj.gov
Kelly C. Doyle, P.E. State Erosion Control Engineer	(609) 913-6592 - Office (609) 414-0349 - Cell kelly.doyle@ag.nj.gov
Nicholas Lund, CESSWI Erosion Control Specialist	(609) 913-6496 - Office (609) 439-3250 - Cell nicholas.lund@ag.nj.gov

New Jersey Department of Transportation Projects
DOT Project Definition

The following is the definition of a New Jersey Department of Transportation project for plan certification purposes. To verify that the Department of Transportation has certified a project, Soil Conservation District Staff can contact the NJDOT Bureau of Landscape Architecture and Environmental Solutions at (609) 963-1147.

1. All roadway and bridge related projects including, state highways, freeways, interstate highways, wetland mitigation projects and local aid projects (County Routes) where the DOT is administering the construction with a resident engineer or maintenance engineer assigned to the project.

2. Certain highway work that is in conjunction with large scale development adjacent to a state highway. When a development requires extensive roadway work that is performed under a separate roadway contract administered by the DOT, that portion of the development on DOT right of way will be reviewed and certified by the DOT.

   Minor roadway revisions such as minor widening for entrance and exit ramps to a district Chapter 251 project should be included in the developer's submission to the Soil Conservation District for their review and certification. (**not** a DOT project)

3. NJDOT Maintenance Division, Projects – The DOT may design and implement or a consultant may design and implement work.

NJDOT Maintenance Engineering Units

Region North

General Administration
Roger Estivalletti
Office- 609-963-1513
Cell- (973) 849-7269
Email- Roger.Estivalletti@dot.nj.gov

Stormwater Drainage Issues
Conrad Sonntag
Office- (609) 462-7052
Email- Conrad.Sonntag@dot.nj.gov

Region Central

General Administration
Nicholas Colangelo
Office- 609-963-1283
Cell- 609-462-9170
Email- Nicholas.Colangelo@dot.nj.gov

Stormwater Drainage Issues
Shardul Raval
Office- 609-963-1272
Cell- 609-203-3777
Email- Shardul.Raval@dot.nj.gov

Region South

General Administration
Falguni Patel
Office- 856-486-6756
Email- Falguni.Patel@dot.nj.gov

Stormwater Drainage Issues
Oguzhan Kilic
Email- Oguzhan.Kilic@dot.nj.gov

Examples of transportation type projects that typically are not certified by the DOT, unless a major portion of the work (disturbance of 5,000 sq. ft. or MORE of earth) is done on DOT right of way, are:

1. NJ Transit projects
2. Airport projects (exception is Greenwood Lake Airport – DOT owned)
3. NJ Turnpike, Garden State Parkway (toll sections) & AC Expressway projects
4. Various Bridge Commissions projects
5. County and Municipal projects not administered by DOT

III. Open Public Meetings Act (OPRA)

Overview

The Open Public Records Act provides procedures for the public (the "requester') to review or copy government records. This Records Note provides a summary of these procedures and guidance for requesting records.

To access government records, a requester must determine which records he or she wishes to see or copy, and then determine which public agency holds them. OPRA applies to requests for records, not request for isolated facts. The requester should ask the custodian of records for help in identifying what public record is likely to contain the information or facts being sought.

In order to be considered a valid request under OPRA, the request must identify the specific record(s) desired, the request must be submitted to the records custodian of the public agency that has the record, and the request must be in writing on the agency's records request form or some other written format (such as a letter, e-mail or fax) that clearly mentions OPRA.

Requesters should contact the agency in advance to determine the identity of the custodian. That will help eliminate delays in fulfilling a request. In a municipal government, the custodian will be the municipal clerk, or, at other levels of government, someone in that agency who has been appointed to that job. In many municipal governments, records routinely available through an office, like the police department or tax collector, can still be obtained directly from those offices.

OPRA provides that certain government records are not available for public inspection or copying. This includes those portions of records that contain personal information such as driver's license, credit card, social security number, phone numbers and home addresses, records pertaining to security and criminal investigations, and other items authorized by law. If a record that is accessible to the public contains such information, that portion of the record will be redacted (blacked out or obscured from view).

If a requester is denied access to a government record, the custodian must provide the requester with the reason(s) for denial and written notice of the requester's rights to appeal the denial.

Please refer to the links below for additional information

OPRA Handbook for Records Custodians

https://www.nj.gov/grc/custodians/handbook/Custodians%20Handbook%20(Eighth%20Edition%20-%20Jan%202025)(Final).pdf

OPRA Request Form

https://www.nj.gov/grc/GRC%20Official%20OPRA%20request%20form%20(2024-9-3)(Writable).pdf

Government Record Council

OPEN PUBLIC RECORDS ACT REQUEST FORM

101 South Broad Street, PO Box 819 Trenton, NJ 08625

(609) 292-6830

government.records@dca.nj.gov

Frank F. Caruso

Important Notice

The last page of this form contains important information related to your rights concerning government records. Please read it carefully.

Requestor Information – Please Print

First Name _____ MI _____ Last Name _____

E-mail Address _____

Mailing Address _____

City _____ State _____ Zip _____

Telephone _____ FAX _____

Preferred Delivery: Pick Up _____ US Mail _____ On-Site Inspect _____ Fax _____ E-mail _____

Under penalty of N.J.S.A. 2C:28-3, I certify that

1. I ☐ ***HAVE*** / ☐ ***HAVE NOT*** been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States;
2. I, or another person, ☐ ***WILL*** / ☐ ***WILL NOT*** use the requested government records for a commercial purpose;
3. I ☐ ***AM*** / ☐ ***AM NOT*** seeking records in connection with a legal proceeding.

Signature _____ Date _____

Payment Information

Maximum Authorization Cost $

Select Payment Method

Cash Check Money Order

Fees: Letter size pages - $0.05 per page
Legal size pages - $0.07 per page
Other materials (CD, DVD, etc) – actual cost of material

Delivery: Delivery / postage fees additional depending upon delivery type.

Extras: Special service charge dependent upon request.

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

Note: ***If you confirmed above that the records sought are in connection with a legal proceeding, identification of that proceeding is required below.***

AGENCY USE ONLY

Est. Document Cost _____

Est. Delivery Cost _____

Est. Extras Cost _____

Total Est. Cost _____

Deposit Amount _____

Estimated Balance _____

Deposit Date _____

AGENCY USE ONLY

Disposition Notes

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IV: Department of Community Affairs (DCA) Bulletins

A. Bulletin 91-2

State of New Jersey
Department of Community Affairs
101 South Broad Street
PO Box 802
Trenton, NJ 08625-0802

Philip D. Murphy
Governor

Lt. Governor Sheila Y. Oliver
Commissioner

BULLETIN 91-2

Issued: December 1991 Revised: June 2005
Code Ref. Update: September 2022

Subject: Compliance with Requirements of the Soil Erosion & Sediment Control Act

Reference: N.J.S.A. 4:24-39 et seq.; N.J.A.C. 5:23-1.4, Prior Approvals

Effective implementation of the Soil Erosion and Sediment Control Act of 1975, as amended, depends upon cooperation between municipalities and the local soil conservation districts. A developer frequently becomes aware of the requirements of the Soil Erosion and Sediment Control Act only when he or she approaches a municipality for development approval. Without cooperation between municipalities and soil conservation districts, securing compliance with the Soil Erosion and Sediment Control Act becomes very difficult.

For a project covered by the Soil Erosion and Sediment Control Act, a construction permit should not be issued unless a soil erosion and sediment control plan has been certified by the local soil conservation district. In addition, no certificate of occupancy should be issued upon completion of the project without a report of compliance from the soil conservation district. In municipalities that have a soil erosion and sediment control ordinance approved by the State Soil Conservation Committee, the required prior plan certifications and reports of compliance must be issued by the responsible municipal official. A Temporary Certificate of Occupancy may be issued if a Report of Compliance or Report of Compliance with Conditions has been issued.

The help of local construction officials in implementing this procedure is essential. Contact your local soil conservation district (see listing provided) if you need to determine whether a project is covered by the Soil Erosion and Sediment Control Act, and for additional information. Further information may be obtained from:

STATE SOIL CONSERVATION COMMITTEE
NEW JERSEY DEPARTMENT OF AGRICULTURE
POST OFFICE BOX 330
TRENTON, NEW JERSEY 08625-0330
TELEPHONE: (609) 292-5540
FAX: (609) 633-7229

Soil Conservation District Information:
https://www.nj.gov/agriculture/divisions/anr/nrc/conservdistricts.html

B. Bulletin 01-2

State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 802
TRENTON, NJ 08625-0802

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

BULLETIN 01-2

Issued: October 2001 Revised: June 2005
Code Ref. Update: February 2016

Subject: Temporary Certificates of Occupancy

Reference: N.J.A.C. 5:23-2.23, 2.24, 4.18 and 4.20

The Uniform Construction Code (UCC) requires code officials to issue a Temporary Certificate of Occupancy (TCO) when all utilities are in place, and the building, or specified portions of a building, can be occupied without endangering the health and safety of the occupants (N.J.A.C. 5:23-2.23). A TCO is an administrative tool that allows a building to be occupied when the building is substantially complete and when the unfinished items do not adversely impact health or safety.

In this bulletin, the Department of Community Affairs (DCA) is providing direction on the issuance of a TCO by designating two categories of unfinished work or unmet prior approvals:

1. those which preclude the issuing of a TCO and
2. those which require the issuing of a TCO

A TCO shall not be issued when any of the following items that are part of a construction project have not yet been provided:

- health and life-safety systems (Note: Required systems must be fully operational and, where required, systems must have been tested.)
- sewer or septic system connection
- water supply connection or well certification
- electric utilities connection
- gas utilities connection
- New Home Warranty issued
- Rooming and Boarding Home license
- Elevation Certificate in flood hazard plain
- where required, an accessible route must be provided; although, the accessible route provided under a TCO may be temporary
- emergency vehicle access
- Soil Conservation Report of Compliance -- conditional or final (see Bulletin No. 91-2, Compliance with Requirements of the Soil Erosion and Sediment Control Act)

A TCO shall be issued, although any of the following items that are part of a construction project are incomplete:

- where there is no performance bond, site work such as parking, landscaping, drainage, and lighting (Note: Where unfinished items are covered by a performance bond, a Certificate of Occupancy (CO) may be issued.)

- a newly installed elevator or elevator device that has been approved to operate, but has not been registered with the DCA (Note: A CO shall not be issued until the elevator or elevator device has been registered with the DCA.)
- Hotel and Multiple Dwelling Certificate of Registration
- for low- and high-pressure steam and/or hot-water boilers when they are of a heat input capacity of 40,000 BTU/hr or more serving six dwelling units or more, or other dwellings with accommodations for 25 persons or more, registration issued by the Bureau of Boiler and Pressure Vessel Compliance
- unpaid non-UCC fees or penalties
- unpaid UCC fees or penalties that are being appealed

A TCO must reflect the approximate length of time needed to complete the work.

- For work that is covered by the permit, the construction official shall establish the time frame in consultation with the appropriate subcode official(s).
- For related construction work that is not covered by the permit, the construction official shall establish the time frame in consultation with the agency governing the incomplete prior approval, as appropriate.

The TCO fee must be established through a municipal ordinance. The TCO fee is not intended to be a revenue enhancer; it must reflect the administrative costs of issuing or renewing a TCO. When the permit applicant chooses to pay the full CO fee at the time of the initial issuance of the TCO, there shall be no TCO fee for the initial issuance. If the TCO is renewed, a TCO renewal fee may be charged, even when the CO fee has been paid in full.

The TCO rule and this bulletin are based on the premise that it is unreasonable to prevent the occupancy of a building when no serious health or safety concerns exist in the building.

V. Legal Opinions

A. Applicability to Federal Projects

STATE OF NEW JERSEY

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
MEMORANDUM

Date: April 11, 1990

TO: Sam Race

FROM: Mark Oshinskie, DAG

SUBJECT: Applicability of SESCA to Federal Projects

In a memo dated March 22, 1990, you requested a clarification concerning the applicability of the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39, et seq. ["SESCA] to federal projects. You are advised that SESCA may be applied to federal projects which may cause runoff and consequent water pollution. An explanation follows.

By its terms, SESCA applies to projects undertaken by the State, counties, municipalities, public utilities and private persons. See N.J.S.A. 4:24-43. SESCA does not require the federal government to obtain approval for projects. However, the federal Water Pollution Control Act, 33 U.S.C. §1323 may be seen as a federal statute which supersedes a state law on the same topic. In pertinent part, §1323 provides:

> (a) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the

> discharge or runoff of pollutants, and each officer, agent, or employee thereof in the performance of his official duties, shall be subject to and comply with all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner, and to the same extent as any nongovernmental entity including the payment of reasonable service charges. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any record keeping or reporting requirement, any requirement respecting permits and any other requirement, whatsoever), (B) to the exercise of any Federal, State, or local administrative authority, and (C) to any process and sanction, whether enforced in Federal, State, or local courts or in any other manner.

Therefore, as a general rule, federal projects are not exempt from SESCA.

Nonetheless, not <u>all</u> federal projects are subject to SESCA. Rather, according to paragraph (a)(2) of §1323, SESCA should be applied only to those projects which pose a threat of water pollution from runoff. There may be projects which involve substantial soil disturbances and, yet, because they are distant from rivers or lakes, are unlikely to cause water pollution. This type of project should not be subject to SESCA.

I apologize for not responding to your request as promptly as usual but I have been very busy with other matters,

particularly a federal court trial. Please contact me if you have any further questions regarding the issue you raised in your memo.

Mark

M. O.

MO:nlm

B. Subdivision Predating the SESC Act

State of New Jersey
DEPARTMENT OF AGRICULTURE
ARTHUR R. BROWN, JR., SECRETARY
CN 330
TRENTON, N.J. 08625-0330

STATE SOIL CONSERVATION COMMITTEE
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KENNETH J. ROEHRICH
JOHN R. TRAINO

SAMUEL R. RACE, EXECUTIVE SECRETARY
TELEPHONE: (609) 292-5640
FAX: (609) 633-2660

August 10, 1992

Mr. Michael J. Gross, Esq.
270 State Highway 35
P.O. Box 190
Middletown, New Jersey 07748

Dear Mr. Gross:

As you are aware, on July 13 the State Soil Conservation Committee took certain actions related to issues presented by you on behalf of your client, Tupper Lake Inc. Your June 25, 1992 appeal letter was included on the agenda as an information item only and the matter was not presented in a manner required for a formal appeal. The appeal, as stated in your letter, was not timely and therefore not eligible for formal consideration. Further, no notice other than advance copy of the agenda was presented to the members of the State Committee. Likewise, concerned parties were not notified in advance that action would be considered or taken and there was no advance notice that you, your client or other affected parties would be present. While the actions, as described below, were official in nature, they should not be considered prejudicial with respect to any formal hearing which may be conducted at a later date.

At that meeting Committee members heard comments from concerned parties and as a result took certain action. That action was to grant temporary relief to allow the issuance of certificates of occupancy by Stafford Township to single family dwelling units in the Ocean Acres development where construction had been completed and final soil stabilization for erosion control was verified by the Stafford Township engineer, notwithstanding that such projects had not complied with the Soil Erosion and Sediment Control Act (SESCA) as requested by the Ocean County SCD. In addition, the Committee action authorized the issuance of construction permits for single family dwelling units by Stafford Township in the Ocean Acres development without requirement for an erosion and sediment control plan certified by

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the Ocean County SCD. All such actions were to be authorized for an interim period to eliminate any potential or perceived hardship upon the homeowners or home builders until clarification was received from the Attorney General regarding the applicability of the SESCA to the construction sites which were single family dwelling units in a subdivision which predated the SESCA.

Subsequently, this office has received today the enclosed interpretation from the office of the Attorney General which supports the actions of the Ocean County SCD. The interpretation confirms that concurrent construction of single family dwelling units, where the 5,000 square foot threshold is exceeded, is an activity which is within the definition of a project and must comply with the requirements for erosion control plan certification at the construction permit stage. This requirement will apply to any subdivision or development without regard to whether the subdivision was approved prior to or after the enactment of SESCA.

Therefore you are advised that all construction project activity by your client in the Ocean Acres subdivision in Stafford Township which involves concurrent construction of two or more single family dwelling units and the aggregate disturbance of more than 5,000 square feet of surface area shall be required to comply with the requirement of the Soil Erosion and Sediment Control Act as administered by the Ocean County SCD. In addition, by copy of this letter, officials of Stafford Township are advised that the issuance of construction permits and certificates of occupancy for all such projects must be conditioned upon certification of a soil erosion and sediment control plan and a final report of compliance by the Ocean County SCD.

Finally, the temporary relief granted by the State Committee on July 13 is no longer in effect. Those projects for which construction permits have been issued but not completed and certificates of occupancy not issued, shall be required to comply with the conditions of the Soil Erosion and Sediment Control Act, NJSA 4:24-39 et.seq.

Your letter of July 14 requesting that your June 25 letter be considered as an appeal from the stop construction order from the Ocean SCD dated June 24, 1992 has been received and remains on file. That letter refers to your holding that appeal in abeyance until a response is forthcoming from the Attorney General. Please advise regarding the status of that appeal.

Contact this office if there are questions.

Sincerely,

Samuel R. Race

Enclosure

cc: Martha Kramer, Construction Official, Stafford Township
David Friedman, Manager, Ocean SCD
David Lipton
Michael McGuiness, NJBA
Ocean SCD Board of Supervisors
Arthur R. Brown, Jr.
Gregory Romano, Esq. DAG
Marcia Michaels, Esq. DAG
George Horzepa
Members, State Soil Conservation Committee
Soil Conservation Districts

STATE OF NEW JERSEY

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
MEMORANDUM

Date: August 4, 1992

TO: Samuel R. Race
Executive Secretary, SSCC

FROM: Marcia M. Michaels
Deputy Attorney General

SUBJECT: The Necessity of Obtaining a Certified Soil Erosion and Sediment Control Plan at the Construction Permit Stage For Lots in a Subdivision Which Pre-dates Enactment of the Soil Erosion and Sediment Control Act.

This memorandum is in response to your memorandum dated June 30th and received by the Office on July 7, 1992 requesting review and comments on the question of whether lots subdivided in the 1920's and 1930's for which construction permits are now being sought, must comply with the requirements for soil erosion and sediment control plan certification at the construction stage. A review of N.J.S.A. 4:24-39 et seq., N.J.A.C. 2:90-1.1 et seq., its legislative history, and case law indicates that the Soil Erosion and Sediment Control Act (SESCA), because of its comprehensiveness and the need for statewide uniformity over the subject matter, provides a basis for requiring such certification 1) for previously subdivided lots at the construction permit stage; 2) as well as for the concurrent construction of two or more single family homes by the same applicant.

SESCA established a statewide comprehensive and coordinated erosion and sediment control program, which the State Soil Conservation Committee and the Soil Conservation Districts are authorized to implement in cooperation with the counties, municipalities and the Department of Environmental Protection and Energy. N.J.S.A. 4:24-40. That statute specifically states:

> It is, therefore, declared to be the policy of the State to strengthen and extend the present erosion and sediment control activities and programs of this State for both rural and urban lands, and to establish and implement, through the State Soil Conservation Committee and the Soil Conservation Districts, in cooperation with the counties, the municipalities and the Department of Environmental Protection, a Statewide comprehensive and coordinated erosion and sediment control program to reduce the danger from storm water runoff, to retard nonpoint pollution from sediment and to conserve and protect the land, water, air and other environmental resources of the State. [L.1975, c.251, Section 2, eff. January 1, 1976].

The Legislature thus has clearly indicated its intention to implement a strong and comprehensive statewide erosion and sediment control program.

SESCA gives the Districts authority to certify soil erosion and sediment control plans as conforming to the standards promulgated by the State Soil Conservation Committee, N.J.S.A. 4:24-44; to charge fees for certain services, N.J.S.A. 4:24-46; to oversee soil erosion programs which have been

AUG 10 '92 11:33 DIV OF LAW ENV PRO SEC CN112 P.3

delegated to municipalities, N.J.S.A. 4:24-48; and to take certain enforcement actions, N.J.S.A. 4:24-47, 53. These actions pertain to "projects" which according to SESCA

> ... means any disturbance of more than 5,000 square feet of the surface area of land (1) for the accommodation of construction for which the State Uniform Construction Code would require a construction permit, except that the construction of a single-family dwelling unit shall not be deemed a "project" under this act unless such unit is part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single-family dwelling units, (2) for the demolition of one or more structures, (3) for the construction of a parking lot, (4) for the construction of a public facility, (5) for the operation of any mining or quarrying activity, or (6) for the clearing or grading of any land for other than agricultural or horticultural purposes. [N.J.S.A. 4:24-41(g)].

The Act thus exempts disturbances of less than 5,000 sq. ft. and the construction of a single family dwelling. However, in order to give full implementation to SESCA and address the Legislature's concern with controlling land disturbances of more than 5,000 square feet, liberal interpretation of the act militates in favor of considering the single family home exemption from plan certification requirements in a narrow context. An informal survey of townships involved indicates a practice contrary to the above

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and that construction permits are, in fact, routinely applied for and issued separately for each dwelling unit constructed regardless of how many are being built by the same individual in the same subdivision. Accordingly, it is customary for a builder of 2 or more single family dwellings to effectively avoid the applicability of the Act by simply following the general practice of the trade and applying for a single family dwelling construction permit which, on its face, apparently is exempt from requirements of plan certification under SESCA. However, if, in fact, an applicant applies for a construction permit for two or more single family homes, that construction permit is subject to the requirement of a certified plan. To view the Act otherwise would result in the Act having no stabilizing effect in potentially large areas of disturbed sites and, for all practical purposes, render the Act meaningless.

Indeed, the Act specifically includes in its definition of "project" a "construction permit application involving two or more such single family dwelling units..." N.J.S.A. 4:24-41(g). Moreover, the implementation in 1987 of N.J.A.C. 2:90-1.14 pertaining to Minor Subdivisions further supports this interpretation:

> Municipal approval of subsequent application 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 ... means any activity where land is disturbed in two or more lots at the same time by the same applicant in the same subdivision." (Emphasis added).

In the foregoing rule, no mention is made of the necessity for more than one dwelling being listed on a single application permit.

Another issue at hand for which this advice was requested involves approximately 2,000 lots which are not part of a proposed subdivision but rather a pre-existing subdivision. Since the statute does not directly address undeveloped subdivisions which pre-date its enactment, there is a question as to requiring plan certification now that construction permits are being sought.

Although this particular situation is not specifically addressed by SESCA, the Court in County of Essex v. Waldman, 244 N.J. Super 647, 656 - 657 (App. Div. 1990) states that:

> Where it is apparent that the drafters of a statute did not contemplate a specific situation, we must interpret the statute "consonant with the probable intent of the draftsman had he anticipated the situation at hand.'" J.C. Chap. Prop. Owner's etc. Assoc. v. City Council, 55 N.J. 86, 101, 259 A.2d 793 698 (1969), quoting Dvorkin v. Dover Tp., 29 N.J. 303, 315, 148 A.2d 793 (1959); Amerada Hess Corp. v. Div. of Tax,

AUG 10 '92 11:35 DIV OF LAW ENV PRO SEC CN112 P.6

107 N.J. 307,318-319, 526 A.2d 1029 (1987), aff'd 490 U.S. 66, 109 S.Ct. 1617, 104 L.Ed.2d 58 (1989); Safeway Trails, Inc. v. Furman, 41 N.J. 467, 477, 197 A.2d 366 appeal dismissed and cert. den, 379 U.S. 14, 85 S.Ct. 144, 13 L.Ed.2d 84 (1964); 2A Sutherland, Statutory Construction § 49.02 at 348 (4th ed. Sands 1984).

Therefore, while SESCA provides no specific mention of pre-existing subdivisions N.J.S.A. 4:24-54 mandates that "This act shall be liberally construed to effectuate the purpose and intent thereof." (Emphasis added). To effectuate and implement a coordinated single statewide policy with regard to controlling problems addressed by SESCA, it follows that subdivisions, which pre-date the enactment of SESCA but are yet not fully developed, are to be considered in a consistent manner and be required to comply with the plan certification requirement at the construction permit stage. Not to subject such subdivisions to compliance would result in an inconsistent application of SESCA in direct contravention of explicit legislative findings (N.J.S.A. 4:24-40) and the liberal construction directed by N.J.S.A. 4:24-54 and relevant case law.

For the foregoing reasons, it is our opinion that concurrent construction of more than one single family home by the same applicant, owner, builder or developer, on lots which are part of a subdivision which predates (or post dates) the

Soil Erosion and Sediment Control Act must comply with control plan certification at the construction permit stage.

C. Temporary Greenhouse Construction

State Soil Conservation Committee Policy
Applicability of Chapter 251, PL 1975
Temporary Greenhouse Construction

Q. Does the owner of a temporary greenhouse built under the exemption have to comply with Chapter 251, P.L. 1975, the Soil Erosion and Sediment Control Act?

A. The municipality will not require a Chapter 251 soil erosion and sediment control plan since it will not have jurisdiction for a construction permit. However, the soil conservation district may still require a Chapter 251 soil erosion and sediment control plan if more than 5,000 square feet of land is disturbed for temporary greenhouse construction. This requirement can be satisfied if any needed erosion controls are addressed in a farm conservation plan and implemented during construction. The plan can usually be prepared by the Soil Conservation Service through the soil conservation districts for agricultural producers at no cost. If the farm conservation plan procedure is not utilized a Ch. 251 plan may be required.

Adopted by the
State Soil Conservation Committee
March 11, 1991

A2-4

D. School District Projects

Put in SSCC mtg folder 5/30

State of New Jersey

DEPARTMENT OF AGRICULTURE
CN 330
TRENTON, NEW JERSEY 08625-0330
ARTHUR R. BROWN, JR., SECRETARY

SAMUEL R. RACE, EXECUTIVE SECRETARY
TELEPHONE: (609) 292-5540

DIVISION OF RURAL RESOURCES
STATE SOIL COSERVATION COMMITTEE
ARTHUR R. BROWN, JR. CHAIRMAN
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RICHARD LEITHMANN
CHARLES PRATSCHLER
KENNETH J. ROEHRICH
JOHN R. TRAINO

May 24, 1989

TO: Mark Oshinskie

FROM: Sam Race Sam Race

SUBJECT: School District Projects

Attached is the new statute we discussed and my draft advisory to districts. The issue was raised by the Burlington SCD which had received an application for a new upper elementary school in Shamong Township. The fee was $1,875.

This represents a substantial amount of staff time and cannot be absorbed by the Burlington District. If exempted the project costs would have to be covered by additional fees collected from private sector applicants.

The new amendment in Chapter 43 seems only to add school districts to the original 1985 exemption for municipalities and counties. Currently, our districts are requiring fees from municipal and county projects. This would seem to confirm my interpretation that our districts are not agencies of the state in the context of this bill.

Further, if it is held that the districts are agencies of the state then there should be a provision for them to be funded by the State from the general fund with a direct line of accountability to the state for its actions. Currently, there is some accountability control but it is far from a direct line authority where a Department head actually is directly accountable for staff actions and for expenditure of funds.

Your comments will be appreciated at the earliest opportunity.

cc: Anton Muschal
SSCC Staff

bcc: John VanZandt

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E. Single Family Dwelling Units

NEW JERSEY DEPARTMENT OF AGRICULTURE
STATE SOIL CONSERVATION COMMITTEE
Chapter 251, PL 1975 as amended,
Administrative Policies Bulletin

Administrative Bulletin: 2015-1.0	**Effective Date:** January 1, 2015
Subject: Single-Family Dwelling Unit Lots and Clearing/Grading Activities	**From:** Frank Minch, Executive Secretary Sean Moriarty, DAG

1.01 PURPOSE

To provide clarification, guidance and consistency in implementation of the "Single-Family Exemption" by the Soil Conservation Districts ("Districts") under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39, et. Seq. ("Act").

1.02 SUMMARY

The Act, commonly referred to as Chapter 251, is the regulatory framework for the activities of the Districts addressing and reviewing applications for certification of Soil Erosion and Sediment Control Plans ("Plan"). The purpose and intent of this Administrative Bulletin is to provide consistency in the statewide effort to control soil erosion and sedimentation under the Act. Specifically, this Bulletin provides the State Soil Conservation Committee's ("SSCC") interpretation of the scope of limitations of the Act's so-called Single-Family Exemption.

1.03 STATUTORY AND REGULATORY BACKGROUND

The Act conditions approvals of an application for any project upon certification of a Plan by the District. N.J.S.A. 4:24-43. The Act defines the term "project" as:

> *any disturbance of more than 5,000 square feet of the surface area of land (1) for the accommodation of construction for which the State Uniform Construction Code would require a construction permit, except that the construction of a single-family dwelling unit shall not be deemed a "project" under this act unless such unit is a part of a proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single- family dwelling units, (2) for*

the demolition of one or more structures, (3) for the construction of a parking lot, (4) for the construction of a public facility, (5) for the operation of any mining or quarrying activity, or (6) for the clearing or grading of any land for other than agricultural or horticultural purposes.

N.J.S.A. 4:24-41. The Single-Family Exemption stems from the Act's determination that the construction of a "single-family dwelling unit" is not considered a project unless it is part of a "proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single-family dwelling units." Id. The Committee defined the "proposed subdivision" language with the adoption of N.J.A.C. 2:90-1.5, which reads as follows:

> *(a) An application for a construction permit for any single-family dwelling unit, on any lot that has arisen from a subdivision approved after January 1, 1976 comprising two or more contiguous or non-contiguous single-family dwelling lots, the construction of which would disturb greater than 5,000 square feet is subject to the act, and the applicant/owner shall secure certification of a soil erosion and sediment control plan. The act shall also apply if any lots in the subdivision are conveyed to separate owners or if construction is by the same or a separate applicant, owner, builder or contractor.*
>
> *(b) The concurrent construction of two or more contiguous or non-contiguous single-family dwelling units, by the same applicant, owner, builder or contractor on lots which were part of a preexisting subdivision approved prior to January 1, 1976, shall be subject to the requirements of the act provided that the proposed cumulative land disturbance is greater than 5,000 square feet.*

N.J.A.C. 2:90-1.5; 37 N.J.R. 2313(a) (2006).

1.04 INTERPRETATION

The threshold determination for applicability of the Act is whether the activity in question will disturb "more than 5,000 square feet of the surface area of land." N.J.S.A. 4:24-41. If the disturbance threshold is met, the activity will be subject to the act if it also falls within one of the six enumerated categories:

1. The accommodation of construction for which the State Uniform Constriction Code ("UCC") requires a construction permit;
2. Demolition of one or more structures;
3. Construction of a parking lot;
4. Construction of a public facility;
5. Operation of any mining or quarrying activity; or
6. Clearing or grading of any land for other than agricultural or horticultural purposes.

N.J.S.A. 4:24-41. Accordingly, any activity that meets the disturbance threshold but does not fall within one of the enumerated categories is not a project is therefore not subject to the Act.

The first category – construction requiring a UCC permit - is most relevant to the Single-Family Exemption. Here, the Act expressly exempts the construction of a "single-family dwelling unit." This exemption is limited, however, to those single-family dwelling units that are not part of a "proposed subdivision, site plan, conditional use, zoning variance, planned development or construction permit application involving two or more such single-family dwelling units." The Committee defined this limitation by inquiry into the date of creation of the lot containing the single-family dwelling unit and its relation to the effective date of the Act, January 1, 1976. N.J.A.C. 2:90-1.5. Accordingly, the Single-Family Exemption, applies as follows:

For lots created by a subdivision approved after January 1, 1976: The construction of a single-family dwelling unit is not exempt from the Act if the subdivision created two or more single-family dwelling lots. The exemption applies regardless of whether the all the subdivided lots have been or are being built at the time of application.

For lots created prior to January 1, 1976: Construction of a single-family dwelling unit is exempt unless it is part of concurrent construction of two or more contiguous or non-contiguous single-family dwelling units by a common entity.

In sum, the Single-Family Exemption is limited to those individual dwelling units existing on single-family dwelling lots created before the effective date of the Act, January 1, 1976, that are not part of a larger development by a common entity.

It is important to note that the Act exempts only the dwelling unit and not the entire lot. The usage of the terms "unit" and "lot" in the Act and the rules is instructive on this point. The Act expressly states that the unit is exempt while the rules recognize that the unit exists on the lot and, utilizing the express language of the Act, draw a distinction as to what lots may contain exempt units. To interpret the rules as extending an exemption of the unit to all activities conducted on the lot would be contrary to the express language of the Act.

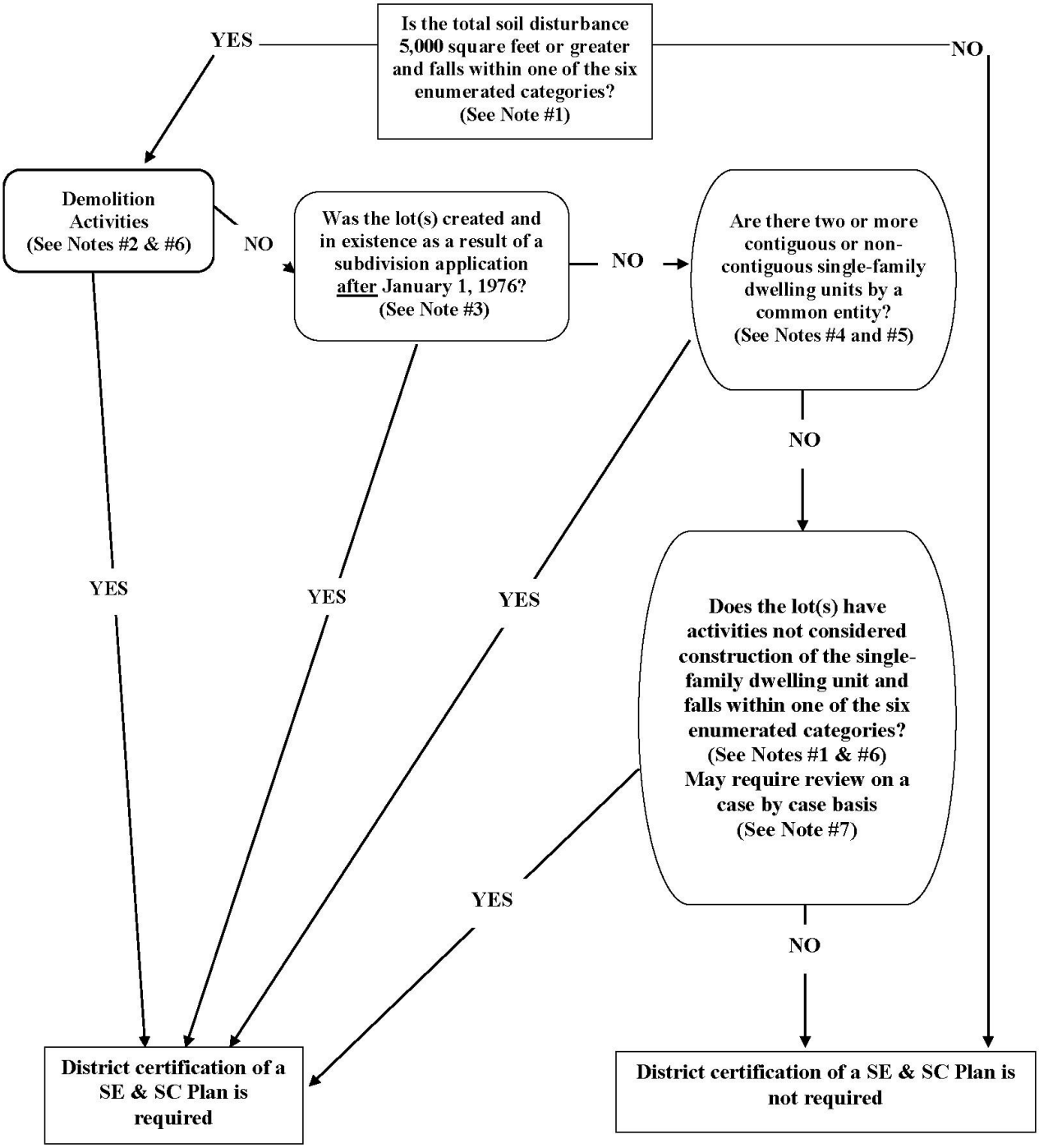
The determination of whether the Act applies to activities not considered construction of the single-family dwelling unit on a lot that contains an exempt unit requires an examination of the threshold questions: (1) is there a disturbance of more than 5,000 square feet; and (2) does the activity fall within one of the six enumerated categories? In these cases, the date of subdivision of the lot is not relevant.

Further, when considering whether the activity in question falls within the first enumerated category, the determining factor is the requirement of UCC construction permit. The UCC requires a permit for the construction, extension, repair, removal, renovation, alternation or reconstruction of all buildings and structures, as defined therein. N.J.A.C. 5:23.2.2, -1.3, -2.1, -2.14. A structure is defined as "a combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above, or below the surface of a parcel of land." N.J.A.C. 2:23-1.4. A building is defined as "a structure enclosed with exterior walls or fire walls,

built, erected and framed of component structural parts, designed for the housing shelter, enclosure and support of individuals, animals or property of any kind." Id. The UCC uses these terms interchangeably and their definitions evidence that UCC construction permits are generally required for those structures or buildings intended for occupancy. Id.

Relevant activities that would likely require a UCC permit would include reconstruction, addition or expansion to the single-family dwelling unit and construction of sheds, garages or similar structures suitable for occupancy. It is unlikely, however, that a septic system installation would require a UCC permit. Finally, with regard to pool construction, the UCC requires permits only for the plumbing and electrical components (which would presumably not meet the 5,000 square foot disturbance threshold) rather than the construction of the pool itself and must therefore be reviewed on a case-by-case basis.

Definition of a Project for
"Single-Family Exemption"
Under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39, et seq
-Flow Chart-



Effective 1/1/2015

Notes:

1. The threshold determination for applicability of the Act is whether the activity in question will disturb "more than 5,000 square feet of the surface area of land." N.J.S.A. 4:24-41. If the disturbance threshold is met, the activity will be subject to the act if also falls within one of the six enumerated categories:

    1. The accommodation of construction for which the State Uniform Construction Code ("UCC") requires a construction permit;
    2. Demolition of one or more structures; (demolition activities) see Administrative Memorandum dated January 3, 2012;
    3. Construction of a parking lot;
    4. Construction of a public facility;
    5. Operation of any mining or quarrying activity; or
    6. Clearing or grading of any land for other than agricultural or horticultural purposes.

    N.J.S.A. 4:24-41. Accordingly, any activity that meets the disturbance threshold but does not fall within one of the enumerated categories is not a project is therefore not subject to the Act.

2. Any demolition activity of one or more structures and any associated new disturbance involving more than 5,000 square feet in size, including the construction of one single-family dwelling or other project.

3. **For lots created by a subdivision approved after January 1, 1976:** The construction of a single-family dwelling unit is not exempt from the Act if the Subdivision created two or more single-family dwelling lots. The Act applies regardless of whether all the subdivided lots have been or are being built at the time of application.

4. **For lots created prior to January 1, 1976:** Construction of a single-family dwelling units is exempt unless it is part of concurrent construction of two or more contiguous or non-contiguous single-family dwelling units by a common entity.

5. In sum, the Single-Family Exemption is limited to those individual dwelling units on existing single-family dwelling lots created before the effective date of the Act, January 1, 1976 that are not part of a larger development by a common entity.

6. It is important to note that the Act exempts only the dwelling unit and not the entire lot. The usage of the terms "unit" and "lot" in the Act and the rules is instructive on this point. The Act expressly states that the unit is exempt while the rules recognize that the unit exists on the lot and, utilizing the express language of the Act, draw a distinction as to what lots may contain exempt units. To interpret the rules as extending an exemption of the unit to all activities conducted on the lot would be contrary to the express language of the Act.

7. **For questionable projects:** A District review on a case-by-case basis may be required to determine if the disturbance threshold is met, with the activities falling within one of the six enumerated categories and a District certification of a SE & SC plan is required. **(See Note #1)**

    On disturbances that do not clearly fall into one of the six enumerated categories, the District certification of a SE & SC plan is not required.

    On disturbances that marginally exceed the threshold with no potential of offsite damage due to soil erosion or sedimentation, the project owner may meet the District certification requirements by agreeing to the statewide adopted SE & SC plan & fee if required.

    The Determination of whether the Act applies to activities not considered construction of the single-family dwelling unit on a lot that contains an exempt unit requires an examination of the threshold questions: (1) is there a disturbance of more than 5,000 square feet; and (2) does the activity fall within one of the six enumerated categories? In these cases, the date of subdivision of the lot is not relevant.

VI. Media Relations

What to do When a Reporter Calls

Reputable reporters will always identify themselves as reporters. If you're not the person they need this time, tell them who is – if you know.

Ask what kind of story they're doing – whom they've talked to and what they're looking for – what facts and figures they need.

There are two basic rules for dealing with reporters: Always return their phone calls promptly and always tell the truth.

Always respond to reporters – even if you're just calling to tell them you don't know the answers to their questions.

Make sure you give media calls top priority. Media representatives are usually working on short deadlines. If you don't return their calls, you will give them a negative image not only of you agency, but also of all public servants.

Media Interviews

What if the reporter wants an interview?

Find out the subject and scope **before** you agree – or ask your boss or spokesperson to agree – to be interviewed. Ask whom else the reporter has interviewed or plans to interview. If this is a broadcast talk show, ask who the other guests will be and what topics and questions will be discussed. Also, will it be taped or live, and time length of interview.

You control the parameters for any interview – time, place and length. Keep time with reporters short – Fifteen minutes should be long enough for radio, 30 minutes for TV, including time for equipment set-up and breakdown; as long as an hour for print.

How do I get ready for a media interview?

Do your homework. Review all the materials you can get about your agency, not just the material the reporter is asking about. Decide what **you** want to talk about.

Refine your positive talking points. the interview should be driven by these messages, not by the questions. Plan to use your talking points as the foundation for all the questions you will be answering.

Don't use doublespeak, government-speak, or jargon – phrases no one else understands. Talk in plain language and organize your ideas logically.

Find out everything you can about the reporter or correspondent. What is his or her reputation for fairness? What stories has the reporter done? What types of stories has the publication or station done in the past? Are the stories long and in-depth, or short, and lacking details? What is the slant to most of the stories?

Scan the news of the day to make sure you're prepared for any last-minute questions. For a TV interview, watch the news show to see how much air time each story gets. If this is a print interview, scan the latest issue of the publication.

Using Plain Language

People will understand what you are writing or saying the first time if you use plain language. Speak so that everyone can understand and organize your ideas from general to specific or from specific to general or from most important to least important.

Don't use technical words. If you're need to use a technical term, explain what it means. Choose your words consistently and keep your sentences easy to understand.

Prior to the Interview

Do your homework before speaking to a reporter; prepare talking points before based on the questions you asked for prior.

During the Interview

When the interview begins, remember that you are the expert. If the reporter uses inaccurate facts when asking a question, respectfully correct the error. If applicable, ask if you can record the interview.

If this is a TV interview, remember that visual impact can make stories more emotional than any other media. and never lose your temper.

It is important to remember that the interview isn't over until the reporter leaves. TV correspondents commonly shoot *B-roll,* sometimes called *cutaway footage,* or *cutaways.* These are used to fill in the interview so it isn't just a *talking head.* B-roll also makes the final produced story more visually interesting. Camera crews usually leave the sound on while taping the B-roll. The reporter might ask you again how you really feel about an issue. Make sure you repeat only what was said earlier, as the mike is still live and anything you say is being recorded.

In some cases, radio or print reporters will also leave their tape recorders running and if you are giving a telephone interview, assume the reporter is taping the conversation.

At the end of the interview, thank the reporter for the opportunity.

Avoid the following to ensure a successful interview:

- Using "no comment" as a sole response
- Never lie to a reporter.
- Never lose your temper. Be polite, but firm.
- Never use profanity or slang. Don't say or comment on anything that could even remotely be construed to be off-color, sexist, or racist or about one's age, religion, or politics.

- Never answer hypothetical questions. Don't speculate. Be specific. Stick to what you know.
- Never comment on what others have said, particularly if you haven't seen or heard it. Don't verify something that might not be true.
- Never use doublespeak, government-speak, or jargon. Make your information easy to understand.
- Never talk to a reporter without being prepared.
- Never say anything "off the record". Assume all microphones are live.

The most important rule: Never say anything to a reporter you don't want to see on TV or read on the front page of a newspaper.

Specific Interview Scenarios

What if the reporter interrupts or tries to rush you?

Ask to finish your statement and begin what you were saying again.

What if the reporter asks how you "really feel" about an issue?

Give the same answer you gave before. There is no room for your personal opinion, only your professional one.

What if you don't understand the question?

Ask the reporter for clarification and provide a fact-based answer to the best of your ability.

What if you can't think of the answer to the question?

Ask the reporter to repeat or clarify the question. If you can not answer, tell the reporter you will need to follow up with the correct information and offer to call the reporter as soon as possible.

Press Conferences: From time to time it might be a good idea to hold a press conference to clarify an issue or promote a program. When hosting a press conference consider the following:

- Don't be selective. Invite all media outlets in the area. Include local television.
- Notify the press well in advance and follow up with a phone call.
- State the amount of time in advance and prepare an agenda. Keep the speaker(s) away from the reporters prior to the conference.
- Use handouts and prepare a press packet.
- Repeat questions for clarity.
- Use a meeting room, not an office.
- At a minimum, record the conference. Consider videotaping. Most importantly, try not to lose control of the interview or press conference. If you are having some difficulty, try to end quickly.

Social Media Guidance:

Use a Scheduling Tool for Efficiency

Using a tool such as Meta Business Suite allows you to schedule Facebook and Instagram content in advance. This helps ensure a consistent posting schedule.

Post Consistently to Maintain Relevance

Regular posting shows that your agency is active, engaged, and providing current information. Consistency also helps grow your audience and keeps community members coming back for updates.

Share Outside Content Thoughtfully

Sharing posts from partner organizations, community groups, or other government entities is encouraged, as it increases engagement and builds relationships.

However, to avoid the appearance of favoritism, be sure to vary the sources you share from and maintain balanced representation.

Use Tags and Hashtags to Boost Visibility

Tagging relevant agencies, organizations, and stakeholders helps your posts reach wider audiences. Strategic use of hashtags also increases discoverability and overall engagement with your page.

Ensure Consistent Messaging Across Platforms

Key messages should align across all platforms your agency uses. Posts can be tailored to each platform's style, but the core information—especially related to public safety, programs, or announcements—should remain consistent and accurate.