

4:24-39. Short title

This act may be cited and referred to as the "Soil Erosion and Sediment Control Act."

L.1975, c. 251, s. 1, eff. Jan. 1, 1976.

4:24-40. Legislative findings

The Legislature finds that sediment is a source of pollution and that soil erosion continues to be a serious problem throughout the State, and that rapid shifts in land use from agricultural and rural to nonagricultural and urbanizing uses, construction of housing, industrial and commercial developments, and other land disturbing activities have accelerated the process of soil erosion and sediment deposition resulting in pollution of the waters of the State and damage to domestic, agricultural, industrial, recreational, fish and wildlife, and other resource uses. 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, s. 2, eff. Jan. 1, 1976.

4:24-41. Definitions

For the purposes of this act, unless the context clearly indicates a different meaning:

a. "Application for development" means a proposed subdivision of land, site plan, conditional use zoning variance, planned unit development or construction permit.

b. "Certification" means (1) a written endorsement of a plan for soil erosion and sediment control by the local Soil Conservation District which indicates that the plan meets the standards promulgated by the State Soil Conservation Committee pursuant to this act, (2) that the time allotted in section 7 of this act has expired without action by the district or (3) a written endorsement of a plan filed by the State Department of Transportation with the district.

c. "District" means a Soil Conservation District organized pursuant to chapter 24 of Title 4 of the Revised Statutes.

d. "Disturbance" means any activity involving the clearing, excavating, storing, grading, filling or transporting of soil or any other activity which causes soil to be exposed to the danger of erosion.

e. "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

f. "Plan" means a scheme which indicates land treatment measures, including a schedule of the timing for their installation, to minimize soil erosion and sedimentation.

g. "Project" 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.

h. "Sediment" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

i. "Soil" means all unconsolidated mineral and organic material of any origin.

j. "Standards" means the standards promulgated by the committee pursuant to this act.

k. "Committee" means the State Soil Conservation Committee in the Department of Agriculture established pursuant to R.S. 4:24-3.

l . "Public 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.

L.1975, c. 251, s. 3, eff. Jan. 1, 1976. Amended by L.1977, c. 264, s. 2, eff. Oct. 18, 1977; L.1979, c. 459, s. 1, eff. Feb. 27, 1980.

4:24-42. Standards for control of soil erosion and sedimentation; promulgation, amendment and repeal

The committee shall have the power, subject to the approval of the Secretary of Agriculture and the Commissioner of Environmental Protection, to formulate, promulgate, amend and repeal standards for the control of soil erosion and sedimentation, pursuant to the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.).

a. Such standards shall be based upon relevant physical and developmental information concerning the watersheds and topography of the State, including, but not limited to, data relating to land use, soil, slope, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics.

b. Such standards shall include criteria, techniques and methods for the control of erosion and sedimentation resulting from land

disturbing activities for various categories of soils, slopes, and land uses.

c. Such standards shall include standards of administrative procedure for the implementation of this act.

L.1975, c. 251, s. 4, eff. Nov. 12, 1975. Amended by L.1979, c. 459, s. 2, eff. Feb. 27, 1980.

4:24-43. Certification of plan by district; development of projects

Approval of an application for development for any project by the State, any county, municipality, or any instrumentality thereof shall be conditioned upon certification by the local district of a plan for soil erosion and sediment control. Any person proposing to engage in any project not requiring approval by the State, any county, municipality, or any instrumentality thereof shall, prior to commencing such project, receive certification by the local district of a plan for soil erosion and sediment control. Any public utility, municipality, county or the State or any agency or instrumentality thereof, other than the State Department of Transportation, which proposes a project shall, prior to the construction of such project submit to and receive certification by the district of a plan for soil erosion and sediment control. The State Department of Transportation shall certify a plan for any project that it proposes to construct and shall file such certification with the district. Certification by the Department of Transportation shall be pursuant to soil erosion control standards developed jointly by the Department of Transportation, the Department of Environmental Protection and the committee and promulgated by the Department of Transportation.

L.1975, c. 251, s. 5, eff. Jan. 1, 1976. Amended by L.1979, c. 459, s. 3, eff. Feb. 27, 1980.

4:24-44. Certification of plan; criteria; notice

The district shall certify such plan if it meets the standards promulgated by the committee pursuant to this act. The district shall provide written notice to the applicant indicating that:

- a. the plan was certified;
- b. the plan was certified subject to the attached conditions; or
- c. the plan was denied certification with the reasons for denial stated.

L.1975, c. 251, s. 6, eff. Jan. 1, 1976.

4:24-45. Limitation on time for grant or denial of certification

The district shall grant or deny certification within a period of 30 days of submission of a complete application unless, by mutual agreement in writing between the district and the applicant, the period of 30 days shall be extended for an additional period of 30 days. Failure of the district to grant or deny certification within such period or such extension thereof shall constitute certification. For purposes of this section, a major revision of the plan by the applicant shall constitute a new submission.

L.1975, c. 251, s. 7, eff. Jan. 1, 1976.

4:24-46. Fees

The district shall adopt a fee schedule and collect fees from applicants for the certification of plans and for on-site inspections of the execution of certified plans. Such fees shall bear a reasonable relationship to the cost of rendering such services.

L.1975, c. 251, s. 8, eff. Jan. 1, 1976.

4:24-47. Stop-construction order; failure to comply with certified plan

The district or the municipality may issue a stop-construction order if a project is not being executed in accordance with a certified plan.

L.1975, c. 251, s. 9, eff. Jan. 1, 1976.

4:24-48. Exempt municipalities

Any municipality, which adopts an ordinance that conforms to the standards promulgated pursuant to this act within 12 months of their promulgation and obtains the approval of the committee thereto, shall be exempt from sections 5 through 9 of this act, until such time as the local district determines that the municipality is not enforcing said ordinance.

L.1975, c. 251, s. 10, eff. Jan. 1, 1976.

4:24-49. Certificate of occupancy for project; conditions for issuance

No certificate of occupancy for a project shall be issued by a municipality or any other public agency unless there has been compliance with the provisions of a certified plan for permanent measures to control soil erosion and sedimentation.

L.1975, c. 251, s. 11, eff. Jan. 1, 1976. Amended by L.1979, c. 459, s. 10, eff. Feb. 27, 1980.

4:24-50. County planning board as agent for district

In those counties where the district does not maintain its central office, the board of freeholders may, by resolution, direct the county planning board to act as an agent of the district within that county and to administer the powers granted to the district pursuant to this act, until such time as a district is established within that county. The committee shall establish guidelines to implement this section.

L.1975, c. 251, s. 12, eff. Jan. 1, 1976.

4:24-51. Cooperation with and authorization to receive financial aid from governmental units or private sources

The districts and the committee are authorized to cooperate and enter into agreements with any Federal, State or local agency to carry out the purposes of this act. The districts and the committee are authorized to receive financial assistance from any Federal, State, county or other public or private source for use in carrying out the purposes of this act.

L.1975, c. 251, s. 13, eff. Jan. 1, 1976.

4:24-52. State aid

The committee is authorized to make grants of State aid to districts and to municipalities to carry out the purposes of this act.

L.1975, c. 251, s. 14, eff. Jan. 1, 1976.

4:24-53. Violations; injunction; penalty; enforcement

15. If any person violates any of the provisions of this act, any standard promulgated pursuant to the provisions of this act, or fails to comply with the provisions of a certified plan the municipality or the district may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner. Any person who violates any of the provisions of this act, any standard promulgated pursuant to this act or fails to comply with the provisions of a certified plan shall be liable to a penalty of not less than \$25.00 nor more than \$3,000.00 to be collected in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court, and municipal court shall have jurisdiction to enforce said penalty enforcement law. If the violation is of a continuing nature, each day during which it continues shall constitute an additional separate and distinct offense.

L.1975,c.251,s.15; amended 1991,c.91,s.179.

4:24-54. Liberal construction

This act shall be liberally construed to effectuate the purpose and intent thereof.

L.1975, c. 251, s. 16, eff. Jan. 1, 1976.

4:24-55. Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

L.1975, c. 251, s. 17, eff. Jan. 1, 1976.