



State of New Jersey

DEPARTMENT OF AGRICULTURE
State Soil Conservation Committee
HEALTH/ AGRICULTURE BUILDING
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Governor

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Secretary

Federal Facilities Chapter 251 Fee Schedule

N.J.A.C. 2:90-1.12
Effective October 20, 2008

All fees are to be made payable to the "Treasurer, State of New Jersey"

<u>Disturbance Area*</u>	<u>Review Fee**</u>	<u>Inspection Fee ***</u>
1 to 5 acres	\$950.00	\$325.00/acre
6 to 10 acres	\$1,600.00	\$260.00/acre
11 to 25 acres	\$2,300.00	\$200.00/acre
26 to 50 acres	\$3,000.00	\$180.00/acre
50.01 acres and greater	\$3,500.00	\$160.00/acre

* For projects greater than one acre, partial acres to be rounded to the nearest whole acre.

**Major revisions to a previously certified plan are subject to 1/2 the original review fee.

***Reinspection Fee: A fee of \$150.00 may be assessed (a) when the contractor has failed to provide the district with a 48 hour advance written notice of the start of construction, or (b) when the second or subsequent district inspection was conducted and there was a failure to address the same problem identified in the first written notice of non-compliance issued to the applicant/contractor, or (c) when the contractor requested an inspection for receiving a Report of Compliance and such district inspection was performed, but the site was not in compliance with the certified plan and the Standards. A copy of all written violation notices shall be issued to the contractor with a copy provided to the local controlling Federal agency.

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF PLANT INDUSTRY

Gypsy Moth

Readoption: N.J.A.C. 2:23

Proposed: June 2, 2008 at 40 N.J.R. 2621(a).

Adopted: September 25, 2008, by the State Board of Agriculture and Charles M. Kuperus, Secretary, Department of Agriculture.

Filed: September 25, 2008 as R.2008 d.317, without change.

Authority: N.J.S.A. 4:1-11.1; 4:7-15 through 35; and 4:7-36 through 42.

Effective Date: September 25, 2008.

Expiration Date: September 25, 2013.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

The rulemaking authority of the Department of Agriculture regarding the gypsy moth is established at N.J.S.A. 4:7-36 et seq. The Federal Cooperative Forestry Assistance Act of 1978 (16 U.S.C. §§2101 et seq.), as amended by the Forest Stewardship Act of 1990 (P.L. 101-264), authorizes the USDA Forest Service to enter into cooperative projects with State authorities to manage forest insects and diseases. In order for the New Jersey Department of Agriculture and local governments to qualify for Federal cost-sharing funds for cooperative gypsy moth suppression projects, the participants must meet the standards and procedures specified in the Cooperative Forestry Assistance Act. The readopted rules exceed these Federal requirements, but only in the incorporation of the public notification requirements as prescribed by the NJDEP Pesticide Control Regulations at N.J.A.C. 7:30-9.10 for Notification: community or area wide applications.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 2:23.

(b)

DIVISION OF AGRICULTURAL AND NATURAL RESOURCES

STATE SOIL CONSERVATION COMMITTEE

Soil Erosion and Sediment Control on Land Disturbance Activities

Fees

Adopted Amendment: N.J.A.C. 2:90-1.12

Proposed: March 17, 2008 at 40 N.J.R. 1397(a).

Adopted: September 25, 2008 by the State Soil Conservation Committee and Charles M. Kuperus, Secretary, Department of Agriculture and Chairman, State Soil Conservation Committee.

Filed: September 25, 2008 as R.2008 d.318, without change.

Authority: N.J.S.A. 4:24-3 and 42.

Effective Date: October 20, 2008.

Expiration Date: February 6, 2011.

Summary of Public Comments and Agency Responses:

The following is a summary of the comments received and the Department's responses. Comments were received from Barbara Sachau, resident, Morris County. Comments are shown in quotation marks because they are the verbatim statements as received by the Department.

Summary, Social and Economic Impact Statements and General Comments

1. COMMENT: "i (sic) think we need some simplification in the agriculture dept. there are far too many employees in this dept and we need processes simplified and fewer employees to be employed by this dept."

RESPONSE: The Department appreciates the suggestions; however, these comments do not impact the adopted rule language.

2. COMMENT: "i (sic) see no reason why fees should be 'redirected'. all (sic) fees in fact should go to the nj (sic) state treasurer."

RESPONSE: As provided in the Summary, fees received from Federal facilities support the costs for review, certification and inspection of erosion control plans pursuant to the Act; and fees received pursuant to the New Jersey Pollution Discharge Elimination System/Stormwater General Permit are authorized at N.J.A.C. 7:14A. Soil Conservation Districts are the implementing authority for these Programs. The certified Soil Erosion and Sediment Control Plan is an integral component of that general permit and is administered by the local Soil Conservation Districts in conjunction with the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. Soil Conservation Districts rely solely upon user fees to support the program as set forth in the Act with no State budget funds provided to Districts in support of the program. Redirecting the funds to the Districts is essential.

3. COMMENT: "there (sic) should also be a uniform fee for the entire state."

RESPONSE: This amendment provides a uniform Statewide fee schedule for land disturbance projects on Federal facilities.

4. COMMENT: "in (sic) fact this whole process should be part of the nj dep (sic), not the agriculture dept. that would make more sense."

RESPONSE: The Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., authorized the State Soil Conservation Committee and Soil Conservation Districts under the auspices of the Department of Agriculture to implement the program since 1976.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies which adopt, readopt or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The adopted amendment does not exceed Federal requirements but allows contractors to meet the intent of the Federal Clean Water Act for protecting water quality. The amendment provides the necessary clarification to satisfy an unambiguous waiver of sovereign immunity as set forth in the Federal Clean Water Act, through the promulgation of a fee for Federal facility projects.

Full text of the adoption follows:

2:90-1.12 Fees

(a)-(c) (No change.)

(d) Fee for certain Federal projects: Certain Federal project activities that are precluded from making fee payments directly to a district, based upon applicable Federal and State laws, shall remit fees payable to "Treasurer, State of New Jersey" to the local district in which the project is to be undertaken. The fee shall be submitted in conjunction with the plan for soil erosion and sediment control certification. The fee shall be in accordance with the following fee schedule based on the land surface area to be disturbed:

Federal Project Fee Schedule

Disturbance Area*	Review Fee**	Inspection Fee***
1 to 5 acres	\$950.00	\$325.00 per acre
6 to 10 acres	\$1,600	\$260.00 per acre
11 to 25 acres	\$2,300	\$200.00 per acre
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COMMUNITY AFFAIRS

(a)

NEW JERSEY COUNCIL ON AFFORDABLE HOUSING

Procedural Rules of the New Jersey Council on Affordable Housing for the Period Beginning on December 20, 2004

Transitional Procedures; Municipal Housing Liaison, Administrative Agent; RCA Administrator; Education Program

Adopted Repeal and New Rules: N.J.A.C. 5:95-15

Adopted New Rules: N.J.A.C. 5:95-16, 17, 18, and 19

Proposed: June 16, 2008 at 40 N.J.R. 3370(a).

Adopted: September 22, 2008 by the New Jersey Council on Affordable Housing, Lucy Vandenberg, Executive Director.

Filed: September 23, 2008 as R.2008 d.315, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:27D-301 et seq.

Effective Date: October 20, 2008.

Expiration Date: December 20, 2009.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

No Federal standards analysis is required because these rules are not being adopted in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Full text of the adopted new rules follows (additions to proposal indicated in boldface with asterisks *thus*; deletions indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 15. TRANSITIONAL PROCEDURES

5:95-15.1 Municipalities that received third round substantive certification on or before January 25, 2007 which is still valid

(a) All municipalities that received third round substantive certification on or before January 25, 2007 may petition to address the revised third round obligation in accordance with N.J.A.C. 5:96 and 5:97.

(b) All municipalities that received third round substantive certification on or before January 25, 2007 and choose not to do (a) above shall be subject to N.J.A.C. 5:94 and 5:95, for the period of substantive certification, not extending beyond 2015.

SUBCHAPTER 16. MUNICIPAL HOUSING LIAISON

[5:96] *5:95*-16.1 Requirement for a municipal housing liaison

(a) All municipalities that have created or will create affordable housing programs and/or affordable units shall establish the position of a municipal housing liaison by ordinance and, subject to the approval of the Council's Executive Director, appoint a municipal employee to serve in this position.

(b) The municipal housing liaison is responsible for oversight and coordination of all the activities of the municipal government as it relates to the creation, preservation and administration of affordable housing programs and/or affordable units.

[5:96] *5:95*-16.2 Responsibilities of the municipal housing liaison

(a) The following responsibilities of the municipal housing liaison may not be contracted out:

1. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, administrative agents, and interested households;

2. Monitoring the status of all proposed and completed affordable housing programs and affordable units in the municipality's Fair Share Plan;

3. Compiling, verifying, and providing monitoring information at such time and in such form as the Council requires;

4. Coordinating meetings with affordable housing providers and administrative agents, as applicable; and

5. Where applicable, providing to an administrative agent a copy of the adopted municipal Operating Manual(s), Housing Element and Fair Share Plan and ordinances relating to the creation and administration of the municipality's affordable housing programs and/or affordable units.

(b) The Municipal Housing Liaison may also serve as the administrative agent pursuant to N.J.A.C. *[5:96]* *5:95*-17 for some or all of the affordable units in the municipality. These duties shall be outlined in the municipal ordinance establishing the position of the municipal housing liaison. All applicable tasks not performed by the municipal housing liaison, shall be contracted to an administrative agent pursuant to N.J.A.C. *[5:96]* *5:95*-17.

[5:96] *5:95*-16.3 Approval of the municipal housing liaison

(a) The appointment of the municipal housing liaison is subject to review and approval by the Council's Executive Director.

(b) Upon petitioning the Council for substantive certification, the municipality shall submit its ordinance establishing the position of the municipal housing liaison and a resolution by the governing body or a letter from the chief executive appointing a municipal employee to serve as the municipal housing liaison.

(c) If the municipal housing liaison is to perform the duties of an administrative agent, the municipality shall also submit evidence of the municipal housing liaison's history of successful management of affordable housing units, particularly those produced as a result of the New Jersey Fair Housing Act or through a *Mount Laurel* court settlement, which shall include:

1. A resume;

2. A statement of qualifications; and

3. A statement of intent to attend continuing education opportunities related to the creation, preservation and administration of affordable housing programs and/or affordable units provided by the Council.

(d) The Council shall monitor the performance of the approved municipal housing liaison. In the event the municipal housing liaison does not administer the municipality's affordable housing program and/or affordable units in accordance with the Council's rules, the Council may revoke its approval.

[5:96] *5:95*-16.4 Education requirements

(a) In order to receive approval, all appointed municipal housing liaisons shall successfully complete the Council's Education Program for Municipal Housing Liaisons as described in N.J.A.C. *[5:96]* *5:95*-19 in the timeframes set forth below:

1. Any municipal employee already serving as municipal housing liaison as of June 2, 2008 shall be required to successfully complete the Education Program for Municipal Housing Liaisons by the later of