

CHAPTER 92
AGRICULTURAL DEVELOPMENT IN
THE HIGHLANDS

Authority

N.J.S.A. 13:20-1 et seq., specifically 13:20-29.

Source and Effective Date

R.2006 d.150, effective May 1, 2006.
See: 37 N.J.R. 2913(a), 38 N.J.R. 1815(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 92, Agricultural Development in the Highlands, expires on May 1, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 92, Agricultural Development in the Highlands, was adopted as new rules by R.2006 d.150, effective May 1, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. PURPOSE

2:92-1.1 Purpose

(a) This chapter establishes the practice standards and quality criteria that must be met for Farm Conservation Plans or Resource Management System Plans for agricultural or horticultural development which would increase, either individually or cumulatively, new agricultural impervious cover by three percent or more of the total land area of a Farm Management Unit, triggering the thresholds in the Highlands Preservation Area, established in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq.

(b) Nothing in this chapter shall be construed to alter or compromise the goals, purposes, policies, and provisions of, or lessen the protections afforded to farmers by, the Right to

Farm Act, P.L. 1983, c. 31 (N.J.S.A. 4:1C-1 et seq.), and any rules or regulations adopted pursuant thereto.

(c) The requirements of these rules apply only to the percentage of the total land area of the farm management unit either individually or cumulatively within the Highlands Preservation Area.

SUBCHAPTER 2. DEFINITIONS

2:92-2.1 Definitions

For the purpose of this chapter, the following terms shall have the meanings described below, unless the context clearly indicates otherwise:

“Agricultural or horticultural development” means construction for the purposes of supporting common farmsite activities, including, but not limited to: production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

“Agricultural impervious cover” means agricultural or horticultural buildings, structures, or facilities with or without flooring, residential buildings and paved areas, but shall not mean temporary coverings.

“Appropriate agent” means a person outside of U.S. Department of Agriculture (USDA) who is authorized by NRCS to provide technical assistance in the delivery of technical services to implement Farm Bill Programs.

“DEP” means the New Jersey Department of Environmental Protection.

“Department” or “NJDA” means the New Jersey Department of Agriculture.

“Farm Conservation Plan” means a site specific plan that prescribes needed land treatment and related conservation and natural resource management measures, including forest management practices, that are determined to be practical and reasonable for the conservation, protection and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity and the control and prevention of non-point source pollution.

“Farm Management Unit” means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

“Highlands Act” means the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq.

“Highlands Preservation Area” means that portion of the Highlands region so designated by subsection b of section 7 of the Highlands Water Protection and Planning Act (N.J.S.A. 13:20-7).

“Local Soil Conservation District” means a soil conservation district established in accordance with the Soil Conservation Act, N.J.S.A. 4:24-1 et seq., which is regionally located and has jurisdiction on a county or multi-county basis.

“Natural Resources Conservation Service (NRCS)” means the technical agency of the USDA, authorized by Public Law 46 of the 74th Congress for the conservation of agricultural and related natural resources.

“New Jersey Field Office Technical Guide (NJ-FOTG)” means the USDA-NRCS technical reference, customized for the State of New Jersey, prescribing practices and standards for the conservation and management of soil, water and related natural resources.

“Resource Management System (RMS) Plan” means a site specific farm conservation plan that:

1. Prescribes needed land treatment and related conservation and natural resources management measures, including forest management practices, for the conservation, protection, and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of non-point source pollution; and

2. Establishes criteria for resources sustainability of soil, water, air, plants, and animals.

“State Soil Conservation Committee (SSCC)” means the committee established pursuant to the Soil Conservation Act, N.J.S.A. 4:24-1 et seq.

“Technical Service Provider (TSP)” means NRCS certified professionals outside of the U.S. Department of Agriculture (USDA) that help agricultural producers apply conservation practices on the land.

“Temporary coverings” mean permeable, woven and non-woven geotextile fabrics that allow for water infiltration or impermeable materials that are in contact with the soil and are used for no more than two consecutive years.

“USDA” means the United States Department of Agriculture.

SUBCHAPTER 3. FARM CONSERVATION PLAN

2:92-3.1 Farm Conservation Plan requirements

(a) Agricultural or horticultural development that results, individually or cumulatively, in at least three percent but less

than nine percent increase in new agricultural impervious cover to the total land area of the Farm Management Unit since enactment of the Highlands Act (August 10, 2004) requires the development and implementation of a Farm Conservation Plan approved in accordance with this section.

1. Prior to any development activity, the owner or operator of a farm management unit or his agent shall develop a farm conservation plan with the assistance of the NRCS, TSP or an appropriate agent in conformance with Sections III and IV of the June 1, 2005 NRCS NJ-FOTG, as amended and supplemented, which is hereby adopted and incorporated by reference.

- i. Copies of the NJ-FOTG are available from the NRCS Field Offices and the State Office at 220 Davidson Ave, 4th Floor, Somerset, NJ 08873.

- ii. An electronic copy of the NJ-FOTG is available at <http://www.nrcs.usda.gov/technical/efotg/>.

- iii. A copy of this document is on file in the NJDA office of the Director, Division of Agricultural and Natural Resources, P.O. Box 330, Trenton, NJ 08625.

2. The following shall be contained in the Farm Conservation Plan submitted for approval:

- i. The name, address, block(s) and lot(s) of the operation and the name and telephone number of the emergency contact;

- ii. The owner or operator's name, signature and date;

- iii. A soil map;

- iv. An aerial photograph or diagram of the field;

- v. Identification of soil, water and animal resources, specifically, threatened and endangered species;

- vi. A list of conservation practices to be implemented;

- vii. The location and schedule for applying new practices;

- viii. Records of plan implementation activities;

- ix. A plan for operation and maintenance; and

- x. Any other site-specific information necessary for plan certification.

3. The Farm Conservation Plan shall be reviewed, and if appropriate, approved by the local Soil Conservation District. Plans developed in consultation with entities other