

**CHAPTER 76**  
**STATE AGRICULTURE DEVELOPMENT**  
**COMMITTEE**

**Authority**

N.J.S.A. 4:1C-5f, 4:1C-10.4 and 13:8C-1 et seq.

**Source and Effective Date**

R.2010 d.047, effective January 15, 2010.  
 See: 41 N.J.R. 1300(a), 42 N.J.R. 587(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 76, State Agriculture Development Committee, expires on January 15, 2017. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 76, State Agriculture Development Committee, was adopted as R.1984 d.58, effective March 19, 1984. See: 15 N.J.R. 2086(a), 16 N.J.R. 518(b).

Subchapter 2, Agricultural Management Practices, was adopted as R.1984 d.84, effective April 2, 1984. See: 16 N.J.R. 95(b), 16 N.J.R. 707(c).

Subchapter 3, Creation of Farmland Preservation Programs, was adopted as R.1984 d.229, effective June 18, 1984. See: 16 N.J.R. 579(a), 16 N.J.R. 1471(c).

Subchapter 4, Creation of Municipally Approved Farmland Preservation Programs, was adopted as R.1984 d.230, effective June 18, 1984. See: 16 N.J.R. 582(a), 16 N.J.R. 1475(a).

Subchapter 5, Soil and Water Conservation Project Cost-Sharing, was adopted as R.1984 d.418, effective September 17, 1984. See: 16 N.J.R. 1636(a), 16 N.J.R. 2426(a).

Subchapter 6, Acquisition of Development Easements, was adopted as R.1984 d.419, effective September 17, 1984. See: 16 N.J.R. 1637(a), 16 N.J.R. 2427(a).

Subchapter 7, Review of Non-Agricultural Development Projects in Agricultural Development Areas, was adopted as R.1987 d.482, effective November 16, 1987. See: 19 N.J.R. 1009(a), 19 N.J.R. 2132(a).

Subchapter 8, Acquisition of Farmland in Fee Simple, was adopted as R.1989 d.48, effective January 17, 1989. See: 20 N.J.R. 2501(a), 21 N.J.R. 160(a).

Subchapter 9, Emergency Acquisition of Development Easements, was adopted as R.1989 d.214, effective April 17, 1989. See: 21 N.J.R. 231(a), 21 N.J.R. 981(b).

Pursuant to Executive Order No. 66(1978), Chapter 76, State Agricultural Development Committee, was readopted as R.1989 d.453, effective July 31, 1989. See: 21 N.J.R. 1601(a), 21 N.J.R. 2472(b).

Subchapter 10, Appraisal Handbook Standards, was adopted as R.1993 d.391, effective August 2, 1993. See: 25 N.J.R. 1811(a), 25 N.J.R. 3461(a).

Pursuant to Executive Order No. 66(1978), Chapter 76, State Agricultural Development Committee, was readopted as R.1994 d.393, effective June 28, 1994. See: 26 N.J.R. 1419(a), 26 N.J.R. 3159(b).

Pursuant to Executive Order No. 66(1978), Chapter 76, State Agricultural Development Committee, was readopted as R.1999 d.198, effective May 28, 1999, and Subchapter 2A, Agricultural Management Practices: Generally Accepted Operations and Practices, was adopted as R.1999, d.198, effective June 21, 1999. See: 31 N.J.R. 816(a), 31 N.J.R. 1603(a).

Subchapter 11, Committee Acquisition of Farmland Development Easements, was adopted as Emergency New Rules by R.1999 d.317, effective August 20, 1999, to expire October 19, 1999. See: 31 N.J.R. 2646(a). The provisions of R.1999 d.317 were readopted as R.1999 d.390, effective October 19, 1999. See: 31 N.J.R. 2646(a), 31 N.J.R. 3625(a).

Subchapter 12, Nonprofit Acquisition Projects: Project Eligibility, Conditions and Limitations, Subchapter 13, Nonprofit Acquisition Projects: Application Process, Subchapter 14, Nonprofit Acquisition Projects: Award Criteria, Subchapter 15, Nonprofit Acquisition Projects: Determination of Eligible Land Cost, and Subchapter 16, Nonprofit Acquisition Projects: Project Agreement, Negotiations for Purchase of Project Site, Disbursements, Accounting and Recordkeeping Requirements, were adopted as R.2000 d.95, effective March 6, 2000. See: 31 N.J.R. 4144(a), 32 N.J.R. 788(b).

Subchapter 2B, Supplemental Agricultural Activities, was adopted as R.2000 d.97, effective March 6, 2000. See: 31 N.J.R. 3882(a), 32 N.J.R. 787(b).

Subchapter 17, Planning Incentive Grants, was adopted as R.2000 d.263, effective June 19, 2000. See: 32 N.J.R. 1102(a), 32 N.J.R. 2223(a).

Subchapter 18, Agricultural Mediation Program, was adopted as R.2001 d.98, effective March 19, 2001. See: 33 N.J.R. 3(a), 33 N.J.R. 999(a).

Subchapter 19, Valuation of Development Easements in the Pinelands Area, was adopted as R.2001 d.121, effective April 2, 2001. See: 33 N.J.R. 152(a), 33 N.J.R. 1083(a).

Subchapter 20, Farmland Stewardship Program, was adopted as R.2002 d.68, effective March 4, 2002. See: 33 N.J.R. 2958(a), 34 N.J.R. 1034(a).

Subchapter 21, Administrative Grants to Counties, was adopted as R.2002 d.69, effective March 4, 2002. See: 33 N.J.R. 3597(a), 34 N.J.R. 1038(a).

Chapter 76, State Agriculture Development Committee, was readopted as R.2004 d.403, effective October 1, 2004. See: 36 N.J.R. 2322(a), 36 N.J.R. 4927(a).

Subchapter 17, Planning Incentive Grants, was repealed and Subchapter 17, County Planning Incentive Grants, and Subchapter 17A, Municipal Planning Incentive Grants, were adopted as new rules by R.2007 d.197, effective July 2, 2007. See: 38 N.J.R. 4929(a), 39 N.J.R. 2483(a).

Subchapter 22, Special Permit for Commercial Nonagricultural Activity on Preserved Farmland, and Subchapter 23, Special Permit for Installation of Personal Wireless Service Facility on Preserved Farmland, were adopted as new rules by R.2008 d.137, effective June 2, 2008. See: 39 N.J.R. 2568(a), 40 N.J.R. 2663(b).

Chapter 76, State Agriculture Development Committee, was readopted as R.2010 d.047, effective January 15, 2010. See: Source and Effective Date.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. AGRICULTURAL DEVELOPMENT AREAS**

- 2:76-1.1 Applicability
- 2:76-1.2 Definitions
- 2:76-1.3 Statutory criteria
- 2:76-1.4 Other criteria
- 2:76-1.5 Certification request
- 2:76-1.6 Committee review
- 2:76-1.7 Certification

SUBCHAPTER 2. RIGHT TO FARM

- 2:76-2.1 Definitions
- 2:76-2.2 Procedure for recommending agricultural management practices
- 2:76-2.3 Recommendations of site specific agricultural management practices where a board exists
- 2:76-2.4 Recommendations of site specific agricultural management practices where a board does not exist
- 2:76-2.5 Utilization of agricultural management practices and site specific agricultural management practices
- 2:76-2.6 Negotiation of conflicts between State regulatory practices and SADC recommended agricultural management practices
- 2:76-2.7 through 2:76-2.9 (Reserved)
- 2:76-2.10 Negotiation of conflicts between any person aggrieved by the operation of a commercial farm

SUBCHAPTER 2A. AGRICULTURAL MANAGEMENT PRACTICES: GENERALLY ACCEPTED OPERATIONS AND PRACTICES

- 2:76-2A.1 Recommendation basis
- 2:76-2A.2 Apiary agricultural management practice
- 2:76-2A.3 Poultry manure agricultural management practice
- 2:76-2A.4 Food processing by-product land application agricultural management practice
- 2:76-2A.5 Commercial vegetable production agricultural management practice
- 2:76-2A.6 Commercial tree fruit production agricultural management practice
- 2:76-2A.7 Natural resource conservation agricultural management practice
- 2:76-2A.8 Agricultural management practice for on-farm compost operations
- 2:76-2A.9 Fencing installation agricultural management practice for wildlife control
- 2:76-2A.10 Agricultural management practice for equine activities on commercial farms
- 2:76-2A.11 Aquaculture agricultural management practice
- 2:76-2A.12 Agricultural management practice for the construction, installation, operation or maintenance of solar energy generation facilities, structures and equipment on commercial farms

SUBCHAPTER 2B. SUPPLEMENTAL AGRICULTURAL ACTIVITIES

- 2:76-2B.1 Determination basis
- 2:76-2B.2 Eligibility of pick-your-own operations for Right to Farm protections
- 2:76-2B.3 Eligibility of equine activities for right to farm protections

SUBCHAPTER 3. CREATION OF FARMLAND PRESERVATION PROGRAMS

- 2:76-3.1 Applicability
- 2:76-3.2 Definitions
- 2:76-3.3 Petition
- 2:76-3.4 Board review
- 2:76-3.5 Agreement
- 2:76-3.6 Certification request
- 2:76-3.7 Certification
- 2:76-3.8 Recording of the farmland preservation program
- 2:76-3.9 Renewal, termination, reformation
- 2:76-3.10 Inclusion of additional lands
- 2:76-3.11 Withdrawal
- 2:76-3.12 Deed restrictions
- 2:76-3.13 Compliance

SUBCHAPTER 4. CREATION OF MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAMS

- 2:76-4.1 Applicability
- 2:76-4.2 Definitions

- 2:76-4.3 Petition
- 2:76-4.4 Board review
- 2:76-4.5 Agreement
- 2:76-4.6 Certification request
- 2:76-4.7 Certification
- 2:76-4.8 Recording of the municipally approved program
- 2:76-4.9 Renewal, termination, reformation
- 2:76-4.10 Withdrawal
- 2:76-4.11 Deed restrictions
- 2:76-4.12 Compliance

SUBCHAPTER 5. SOIL AND WATER CONSERVATION PROJECT COST-SHARING

- 2:76-5.1 Applicability
- 2:76-5.2 Definitions
- 2:76-5.3 Approved soil and water conservation projects
- 2:76-5.4 Eligibility for State soil and water conservation cost-share funds
- 2:76-5.5 Eligible applicants
- 2:76-5.6 Submission of the application
- 2:76-5.7 Approval for project funding
- 2:76-5.8 Payment
- 2:76-5.9 Allocation of soil and water cost-share eligibility after subdivision

SUBCHAPTER 6. ACQUISITION OF DEVELOPMENT EASEMENTS

- 2:76-6.1 Applicability
- 2:76-6.2 Definitions
- 2:76-6.3 Eligible applicants
- 2:76-6.4 Application
- 2:76-6.5 Preliminary board review
- 2:76-6.6 Preliminary Committee review
- 2:76-6.7 Appraisals
- 2:76-6.8 Committee certification of development easement value
- 2:76-6.9 Landowner offer
- 2:76-6.10 Final board review
- 2:76-6.11 Final Committee review
- 2:76-6.12 Landowner decision
- 2:76-6.13 Terms, contingencies and conditions of purchase
- 2:76-6.14 Payment procedures; schedule of payment
- 2:76-6.14A Request for pre-closing division of land
- 2:76-6.15 Deed restrictions
- 2:76-6.16 Criteria for evaluating development easement applications
- 2:76-6.17 Residual dwelling site opportunity
- 2:76-6.18 SADC grant agreement with county: General provisions
- 2:76-6.18A SADC grant agreement with county: acquisition phase; and monitoring phase
- 2:76-6.18B SADC grant agreement with county: SADC responsibility
- 2:76-6.19 Request for Committee approval of lands permanently deed-restricted by a board and/or county not requiring a Committee cost share grant
- 2:76-6.20 Minimum eligibility criteria
- 2:76-6.21 Appraiser selection
- 2:76-6.22 Appraiser retention and removal
- 2:76-6.23 Determination of the Committee's cost share for a development easement on lands acquired in fee simple title by a government entity

SUBCHAPTER 7. REVIEW OF NON-AGRICULTURAL DEVELOPMENT PROJECTS IN AGRICULTURAL DEVELOPMENT AREAS

- 2:76-7.1 Applicability
- 2:76-7.2 Definitions
- 2:76-7.3 Responsibilities of the public body and/or public utility
- 2:76-7.4 Information about the project

## AGRICULTURE DEVELOPMENT COMMITTEE

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### SUBCHAPTER 8. ACQUISITION OF FARMLAND IN FEE SIMPLE

2:76-8.1	Applicability	2:76-8.5	Committee evaluation
2:76-8.2	Definitions	2:76-8.6	Committee notification
2:76-8.3	Landowner offer	2:76-8.7	Appraisals
2:76-8.4	Board and municipal comments	2:76-8.8	Committee approval of fee simple market value
		2:76-8.9	Negotiation of offer

## AGRICULTURE DEVELOPMENT COMMITTEE

- 2:76-8.10 Final Committee action
- 2:76-8.11 Grants to local governments for acquisition of fee simple titles to farmland

### SUBCHAPTER 9. EMERGENCY ACQUISITION OF DEVELOPMENT EASEMENTS

- 2:76-9.1 Scope
- 2:76-9.2 Emergency purchase conditions

### SUBCHAPTER 10. APPRAISAL HANDBOOK STANDARDS

- 2:76-10.1 Applicability
- 2:76-10.2 Definitions
- 2:76-10.3 Appraisal report format
- 2:76-10.4 Summary
- 2:76-10.5 General information
- 2:76-10.6 Property valuation before development easement acquisition (market value unrestricted)
- 2:76-10.7 Property valuation after development easement acquisition (market value restricted)
- 2:76-10.8 Final estimate of development easement value
- 2:76-10.9 Addendum

### APPENDIX A

### APPENDIX B

### APPENDIX C

### SUBCHAPTER 11. COMMITTEE ACQUISITION OF FARMLAND DEVELOPMENT EASEMENTS

- 2:76-11.1 Applicability
- 2:76-11.2 Definitions
- 2:76-11.3 Landowner offer
- 2:76-11.4 Board and municipal comments
- 2:76-11.5 Committee evaluation
- 2:76-11.6 Committee action
- 2:76-11.7 Appraisals
- 2:76-11.8 Committee approval of development easement value
- 2:76-11.9 Negotiation of offer
- 2:76-11.10 Final Committee action

### SUBCHAPTER 12. NONPROFIT ACQUISITION PROJECTS: PROJECT ELIGIBILITY, CONDITIONS AND LIMITATIONS

- 2:76-12.1 Definitions
- 2:76-12.2 General provisions
- 2:76-12.3 Eligible projects
- 2:76-12.4 Ineligible projects
- 2:76-12.5 Donations toward the cost of acquisition
- 2:76-12.6 Allowable project costs

### SUBCHAPTER 13. NONPROFIT ACQUISITION PROJECTS: APPLICATION PROCESS

- 2:76-13.1 Timing
- 2:76-13.2 Pre-application procedures
- 2:76-13.3 Application requirements
- 2:76-13.4 Approval or denial of application; award of funding; procedural letter
- 2:76-13.5 Appraisal procedures

### SUBCHAPTER 14. NONPROFIT ACQUISITION PROJECTS: AWARD CRITERIA

- 2:76-14.1 Project award criteria

### SUBCHAPTER 15. NONPROFIT ACQUISITION PROJECTS: DETERMINATION OF ELIGIBLE LAND COST

- 2:76-15.1 Determination of eligible land cost
- 2:76-15.2 Acceptance of eligible land cost
- 2:76-15.3 Supplemental funding

### SUBCHAPTER 16. NONPROFIT ACQUISITION PROJECTS: PROJECT AGREEMENT, NEGOTIATIONS FOR PURCHASE OF PROJECT SITE, DISBURSEMENTS, ACCOUNTING AND RECORDKEEPING REQUIREMENTS

- 2:76-16.1 Project agreement
- 2:76-16.2 Negotiations for purchase of project site
- 2:76-16.3 Disbursement of grant
- 2:76-16.4 Accounting and recordkeeping
- 2:76-16.5 Monitoring

### SUBCHAPTER 17. COUNTY PLANNING INCENTIVE GRANTS

- 2:76-17.1 Applicability
- 2:76-17.2 Definitions
- 2:76-17.3 Prerequisites for grant eligibility
- 2:76-17.4 County comprehensive farmland preservation plan
- 2:76-17.5 Project area summary
- 2:76-17.6 County application procedures
- 2:76-17.7 Committee review of planning incentive grant applications
- 2:76-17.8 Annual funding eligibility
- 2:76-17.9 Committee review of an application for the sale of a development easement from an eligible farm
- 2:76-17.10 Appraisal of eligible farms
- 2:76-17.11 Committee certification of development easement values
- 2:76-17.12 Landowner offer
- 2:76-17.13 Final county review
- 2:76-17.14 Final committee review
- 2:76-17.15 Deed restrictions
- 2:76-17.16 Terms, contingencies and conditions of purchase

### SUBCHAPTER 17A. MUNICIPAL PLANNING INCENTIVE GRANTS

- 2:76-17A.1 Applicability
- 2:76-17A.2 Definitions
- 2:76-17A.3 Grant eligibility
- 2:76-17A.4 Municipal farmland preservation plan
- 2:76-17A.5 Project area summary
- 2:76-17A.6 Municipal application procedures
- 2:76-17A.7 Committee review of municipal planning incentive grant applications
- 2:76-17A.8 Annual funding eligibility
- 2:76-17A.9 Committee review of an application for the sale of a development easement
- 2:76-17A.10 Appraisal of an eligible farm
- 2:76-17A.11 Committee certification of development easement values
- 2:76-17A.12 Landowner offer
- 2:76-17A.13 Final municipal review
- 2:76-17A.14 Final committee review
- 2:76-17A.15 Deed restrictions
- 2:76-17A.16 Terms, contingencies and conditions of purchase
- 2:76-17A.17 Annual review of planning incentive grant application

### SUBCHAPTER 18. AGRICULTURAL MEDIATION PROGRAM

- 2:76-18.1 Applicability
- 2:76-18.2 Definitions
- 2:76-18.3 Certification and assignment of mediators
- 2:76-18.4 Duties of certified agricultural mediators
- 2:76-18.5 Mediation initiation
- 2:76-18.6 Agreement to Mediate
- 2:76-18.7 Mediation Agreement
- 2:76-18.8 Mediation proceedings
- 2:76-18.9 Mediator and disputant withdrawal
- 2:76-18.10 Annual renewal of mediator certification

**SUBCHAPTER 19. VALUATION OF DEVELOPMENT  
EASEMENTS IN THE PINELANDS AREA**

- 2:76-19.1 Applicability
- 2:76-19.2 Definitions
- 2:76-19.3 Valuation of development easements
- 2:76-19.4 Base value
- 2:76-19.5 Adjustments to base value, generally
- 2:76-19.6 Regional Environmental Quality Areas
- 2:76-19.7 Site-specific environmental quality factors
- 2:76-19.8 Scenic corridors and access to markets
- 2:76-19.9 On-site septic suitability
- 2:76-19.10 Agriculture viability
- 2:76-19.11 Special importance environmental resource factors
- 2:76-19.12 Wetlands and wetlands transition areas
- 2:76-19.13 Impervious coverage
- 2:76-19.14 Maximum development easement value

**SUBCHAPTER 20. FARMLAND STEWARDSHIP  
PROGRAM**

- 2:76-20.1 Applicability
- 2:76-20.2 Definitions
- 2:76-20.3 Applicant eligibility
- 2:76-20.4 Availability of State farmland stewardship cost-share funds
- 2:76-20.5 Feasibility plan application contents and procedure
- 2:76-20.6 Committee feasibility plan application review
- 2:76-20.7 Committee feasibility plan application approval process
- 2:76-20.8 Committee evaluation process for feasibility plan applications
- 2:76-20.9 Qualifications of technical consultants
- 2:76-20.10 Assignment of technical consultants
- 2:76-20.11 Technical team assemblage
- 2:76-20.12 Duties of the lead coordinator
- 2:76-20.13 Duties of technical consultants
- 2:76-20.14 Preparation and contents of the feasibility plan
- 2:76-20.15 Committee feasibility plan approval process
- 2:76-20.16 Eligible farmland stewardship implementation projects
- 2:76-20.17 Evaluation of implementation projects
- 2:76-20.18 Implementation of approved implementation projects
- 2:76-20.19 Lead coordinator and technical consultant fee payment
- 2:76-20.20 Project completion and payment
- 2:76-20.21 Failure to comply
- 2:76-20.22 Records

**SUBCHAPTER 21. ADMINISTRATIVE GRANTS TO  
COUNTIES**

- 2:76-21.1 Applicability
- 2:76-21.2 Definitions
- 2:76-21.3 Eligibility
- 2:76-21.4 Grant requirements
- 2:76-21.5 Amount of grant
- 2:76-21.6 Applications
- 2:76-21.7 Awarding of grant
- 2:76-21.8 Annual review

**SUBCHAPTER 22. SPECIAL PERMIT FOR COMMERCIAL  
NONAGRICULTURAL ACTIVITY ON PRESERVED  
FARMLAND**

- 2:76-22.1 Applicability
- 2:76-22.2 Purpose
- 2:76-22.3 Definitions
- 2:76-22.4 Eligibility to apply for a commercial nonagricultural activity
- 2:76-22.5 Application for commercial nonagricultural activity
- 2:76-22.6 Evaluation criteria for a commercial nonagricultural use
- 2:76-22.7 Review by board or nonprofit easement owner
- 2:76-22.8 Committee review and issuance of permit
- 2:76-22.9 Special permit
- 2:76-22.10 Signs

- 2:76-22.11 Monitoring
- 2:76-22.12 Suspension or revocation of a special permit
- 2:76-22.13 Request for hearing
- 2:76-22.14 Report of activities

**SUBCHAPTER 23. SPECIAL PERMIT FOR INSTALLATION  
OF PERSONAL WIRELESS SERVICE FACILITY ON  
PRESERVED FARMLAND**

- 2:76-23.1 Applicability
- 2:76-23.2 Purpose
- 2:76-23.3 Definitions
- 2:76-23.4 Eligibility to apply for a personal wireless service facility
- 2:76-23.5 Application for personal wireless service facility
- 2:76-23.6 Evaluation criteria for personal wireless service facilities
- 2:76-23.7 Review by board or nonprofit easement owner
- 2:76-23.8 Committee review and issuance of permit
- 2:76-23.9 Special permit
- 2:76-23.10 Monitoring
- 2:76-23.11 Suspension or revocation of a special permit
- 2:76-23.12 Request for hearing
- 2:76-23.13 Report of activities

**SUBCHAPTER 1. AGRICULTURAL DEVELOPMENT  
AREAS**

**2:76-1.1 Applicability**

This subchapter applies to County Agriculture Development Boards and Subregional Agricultural Retention Boards when identifying and receiving State Agriculture Development Committee certification for agricultural development areas.

**2:76-1.2 Definitions**

As used in this subchapter, the following words and terms shall have the following meanings:

“Agricultural Development Area”, hereinafter referred to as ADA, means an area identified by a county agriculture development board pursuant to the provisions of N.J.S.A. 4:1C-18 and certified by the State Agriculture Development Committee.

“Board” means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

“Committee” means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

Amended by R.1984 d.274, effective July 2, 1984.  
See: 16 N.J.R. 947(a), 16 N.J.R. 1714(a).  
Amendments to definitions.

**2:76-1.3 Statutory criteria**

(a) The board may, after public hearing, identify and recommend an area as an agricultural development area, which recommendation shall be forwarded to the county planning

(i) All application fees submitted to the Committee pursuant to this subchapter are nonrefundable, regardless of whether a special permit is issued, and shall be used for farmland preservation purposes.

**2:76-23.9 Special permit**

(a) No more than one special permit for a personal wireless service facility shall be valid at any one time for use on the premises.

(b) The standard duration of a special permit approved by the Committee shall not exceed five years.

1. A special permit may be approved for a duration greater than five years, but not more than 20 years, if the applicant provides sufficient justification pursuant to N.J.A.C. 2:76-23.5(a)18.

(c) No special permit shall be valid for more than 20 years, unless renewed by the Committee.

1. Renewal of a special permit may be sought within two years of the date of scheduled permit expiration.

2. There shall be no fee for permit renewal.

(d) The special permit shall not run with the land, and each special permit shall explicitly state this, in addition to the following:

1. The permit shall automatically terminate if there is a change in the record ownership of the premises subject to the following:

i. A contract-purchaser of the premises obtains approval for a special permit prior to the conveyance of the premises pursuant to N.J.A.C. 2:76-23.8(g); or

ii. Upon death of the record owner of the premise, the heir(s) obtains approval for a special permit pursuant to N.J.A.C. 2:76-23.8(h);

2. The owner/seller of the restricted premises and the purchaser of the restricted premises shall notify the Committee, the owner of the development easement, and the municipality in the event there is a change in record ownership of the premises after a special permit has been issued; and

3. The personal service wireless facility shall cease operation immediately upon a change in record ownership of the premises except as provided for in (d)1 above.

i. An application may be submitted pursuant to N.J.A.C. 2:76-23.5 if the new owner of the premises wishes to continue the personal wireless service facility. The application shall be treated as a new application, and the new owner shall be required to comply with all procedures set forth in N.J.A.C. 2:76-23.5, including payment of an application fee.

(e) The special permit shall not be assigned or conveyed in any manner.

(f) The special permit shall be recorded by the owner of the premises with the County Clerk's Office in the same manner as a deed;

1. A copy of the recorded special permit shall be provided to the Committee, the municipality, the owner of the development easement and to any owner of land that was subdivided from the initial preserved farm, if applicable.

(g) The special permit shall be displayed in clear view on the structure(s) for which it was issued.

(h) Upon the expiration or termination of a special permit, the personal wireless facility, including any new structures built to accommodate the facility, and any associated footings, shall be removed and the underlying land shall be restored to its preexisting condition.

**2:76-23.10 Monitoring**

(a) The owner of the development easement on the premises on which a special permit was issued by the Committee shall monitor the personal wireless facility annually to ensure compliance with the special permit.

1. A written report with photographs confirming the onsite inspection and determination of compliance or violation shall be provided to the Committee.

(b) The owner of the development easement shall be permitted access to, and to enter upon, the premises at all reasonable times for the purpose of inspection to enforce and assure compliance with the special permit. The owner of the development easement agrees to give the landowner at least 24 hours advance notice of its intention to enter the Premises.

**2:76-23.11 Suspension or revocation of a special permit**

(a) The Committee may suspend or revoke the special permit for a violation of N.J.S.A. 4:1C-32.2, this subchapter, or any term or condition of the special permit, if it owns the development easement on the farm.

(b) The Committee may suspend or revoke the special permit on a farm in which the development easement is owned by a board or qualifying tax exempt nonprofit organization, if the Committee and board/nonprofit organization jointly determine that the applicant is in violation of any term or condition of the special permit, N.J.S.A. 4:1C-32.2 or this subchapter.

**2:76-23.12 Request for hearing**

(a) Any applicant or permit holder who is aggrieved by an action of the Committee regarding a permit or renewal application or the suspension or revocation of a permit may submit a written request to the Committee for a hearing.

1. A request for a hearing shall be sent to the Committee within 20 days of receipt of notice of the Committee's action.

2. Requests shall be sent to the Executive Director, State Agriculture Development Committee, New Jersey Department of Agriculture, P.O. Box 330, Trenton, New Jersey 08625-0330.

3. Applicants or permit holders shall be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

4. The decision of the Committee shall be considered a final administrative agency decision, subject to the right of appeal to the Appellate Division of the Superior Court.

#### **2:76-23.13 Report of activities**

(a) The Committee shall submit a report every two years to the Governor, President of the Senate, the Speaker of the General Assembly, the respective chairpersons of the Senate Economic Growth Committee, the Senate Environment Committee, the Assembly Agriculture and Natural Resources Committee, and the Assembly Environment and Solid Waste Committee or their designated successors, in accordance with N.J.S.A. 4:1C-32.3.

(b) Copies of the report shall also be made available to the public upon request and free of charge, and shall be posted on the website of the Committee.