

CHAPTER 76

**STATE AGRICULTURE DEVELOPMENT
COMMITTEE**

Authority

N.J.S.A. 4:1C-5f and 4:1C-10.4.

Source and Effective Date

R.1999 d.198, effective May 28, 1999.
See: 31 N.J.R. 816(a), 31 N.J.R. 1603(a).

Executive Order No. 66(1978) Expiration Date

Chapter 76, State Agriculture Development Committee, expires on May 28, 2004.

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

by R.1999, d.198, effective June 21, 1999. See: Source and Effective Date. See, also, section annotations.

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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 board. The board shall document where agriculture shall be the preferred, but not necessarily the exclusive, use of land if that area:

3. The Committee shall issue findings and recommendations to the board, the aggrieved person, the municipality(ies) in which the commercial farm is located and the commercial farm operator.

i. The findings and recommendations of the Committee shall include a summary of the testimony and any supporting documents utilized by the Committee in its recommendations.

ii. The Committee's decision shall be considered a final administrative agency decision and shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.

New Rule, R.1999 d.198, effective June 21, 1999.
See: 31 N.J.R. 816(a), 31 N.J.R. 1603(a).

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

2:76-2A.1 Recommendation basis

The agricultural management practices recommended in this subchapter are recommended pursuant to N.J.A.C. 2:76-2.2.

2:76-2A.2 Apiary agricultural management practice

(a) The following words and terms, as used in this section, shall have the following meanings:

“Apiary” means one or more colonies of honey bees.

“Bee” means members of the genus apis.

“Colony” means a hive or swarm of bees.

“Hive” means the manmade structure which contains a colony of honey bees.

(b) All overwintering apiaries must be registered with the New Jersey Department of Agriculture, pursuant to N.J.A.C. 2:24-3.1 et seq.

(c) Overwintering apiaries, honey production apiaries, queen and package apiaries and bee colonies utilized for crop pollination will not exceed an average density of 50 colonies per acre.

(d) All colonies must be located at least 25 feet from a public sidewalk, alley, street or road.

(e) All apiaries must be at least 300 feet from any residence, excluding the residence(s) associated with the agricultural operation. If less than 300 feet from any residence, a six feet high solid fence or hedge must be erected buffering the residence.

(f) All apiaries must have on site an adequate source of water which is no more than one-half mile from the apiary.

(g) All bee equipment and hives must be maintained in good condition.

(h) All colonies must be kept in movable frame hives in accordance with N.J.S.A. 4:6-10.

2:76-2A.3 Poultry manure agricultural management practice

(a) The poultry manure agricultural management practice applies to agricultural operations, which store poultry manure prior to land application and land apply poultry manure as part of crop production practices. Poultry manure is collected and stored in a variety of ways, depending on the need of the producer. The methods used to collect, handle and store the manure greatly affect its quality. Manure often has to be stored before it is land applied. Proper storage is essential for manure to maintain its value as a nutrient resource and to prevent it from polluting surface or groundwater. The important points to consider when storing poultry manure are to keep it covered so rainfall will not create runoff from the storage area and to stack the manure no more than five to six feet deep to prevent overheating and burning.

(b) Poultry manure should not be stored outside unless it is covered by some type of waterproof sheeting and water is diverted away from the stack. The manure stack should be located on high ground and away from drainage ways and sources of surface water. Covered stockpiles should be considered for short-term storage only. If manure will be stored in this manner for more than one month, place an impervious pad under the stack.

1. Stockpiles of manure can be protected by covering with plastic sheeting, which is anchored with earth or other suitable weighted materials. Anchor the edges by laying the sheeting edge across a small trench approximately 12 inches deep and backfilling with soil. Lay suitable weighted materials over the top of the plastic on the pile. Heavy gauge (six mil) plastic can last one or two seasons. Lighter gauge plastic is not recommended.

2. The liner consisting of a minimum of a six mil plastic is laid on the soil surface on top of which the stockpile is formed. If the soil is loose, compact it before laying out the plastic. Apply a 12-inch layer of manure over the majority of the plastic before forming the pile to minimize the possibility of tearing by the equipment tires. Fold the edges of the liner one to two feet up the sides of the pile and anchor in the manure. Apply the surface cover as described for a covered stockpile. The ground liner will be torn during unloading of the pile and new plastic will be required each year.

3. If a permanent location for manure storage is desired, a concrete slab can be constructed on which to place a covered stockpile. The concrete should be at

least six inches thick, reinforced with wire mesh and placed on six inches of compact gravel. To prevent concrete failure, thicken the perimeter of the concrete to form a footer where traffic enters and exits. Construct the stockpile as described for a covered stockpile, as set forth in (b)1 above. Anchor the cover sheet edges with wood poles, concrete blocks or other heavy objects on the concrete slab.

4. Bunkers are permanent aboveground concrete slabs with two parallel walls of concrete identical to those used for storing silage on livestock farms. A bunker allows deeper piling and compaction of manure to reduce the total area required for the manure storage. An end wall can be constructed to slightly increase the storage capacity. However, loading the structure is more easily accomplished without an end wall. A cover of plastic sheeting can be attached to the walls with batten strips and anchored with a suitable weighted material. A more permanent cover of fiberglass reinforced fabric with edge anchorage eyelets similar to that used for truck covers may be utilized.

5. Concrete slabs, bunkers or other structures with permanent roofs may be constructed to eliminate the need for plastic covers. The roof structure must be a clear span supported by the outside walls or perimeter posts. Roof structures must be of sufficient height to allow manure piling. Compaction loading will be difficult under a roof. Roofs 12 feet or higher will require wall panels to protect the stored manure from excessive blowing rain.

(c) The rate of manure application should be limited to that amount required for crop production and maintenance of a reasonable level of soil fertility. The amount of poultry manure used depends on crop needs, soil fertility levels, physical characteristics of the soil and the potency of the manure. The actual amount of manure applied should be calculated for each crop production situation as follows:

1. Manure analysis should be conducted;
2. Soil fertility tests should be conducted on land areas to be fertilized;
3. Crop needs for projected yields for each of the main fertilizer elements should be determined from appropriate guides for crop production; and
4. Manure application should be limited to amounts needed to make up the difference between crop needs and existing soil fertility levels.

(d) The following concern field application of poultry manure:

1. Manure should not be spread on ground that is frozen, snow covered or too wet to be plowed within the time limits listed in (d)3 and 4 below.

2. A manure free vegetative buffer zone of not less than 25 feet shall be maintained along or around defined drainage channels and sinkholes on slopes of six percent or less. On slopes greater than six percent, the vegetative buffer shall be four times the percent slope times 100 feet. Where a vegetative buffer is not established, manure shall not be spread closer than 50 feet from the defined drainage channel or sinkholes on slopes of six percent or less. Without a vegetative buffer on slopes greater than six percent, the distance shall be eight times percent slope times 100 feet. For example, the buffer zone for a 10 percent slope should be: $8 \times 0.10 \times 100 = 80$ feet.

3. The following manure management alternatives concern manure with less than 60 percent moisture content:

i. Manure to be spread on land which will be tilled, shall be incorporated in the soil within 48 hours by:

- (1) Moldboard plowing;
- (2) Chisel plowing followed by disking; or
- (3) Other methods which at a minimum achieve the results attained by the methods identified in (d)3i(1) or (2) above.

ii. Manure may be spread on the surface of pasture or hayland having more than a 75 percent vegetative cover.

iii. Manure may be spread on the surface on land where no-till corn will be planted at half the recommended rate as determined in (c) above during the months of March, April, or May.

4. Manure containing 60 percent or more moisture shall only be spread on cropland to be tilled and must be incorporated in the soil the same day by:

- i. Moldboard plowing;
- ii. Chisel plowing followed by disking; or
- iii. Other methods which at a minimum achieve the results attained by the methods identified in (d)4i or ii above.

5. The following concern land slope:

i. Manure shall not be applied on land where the slope exceeds eight percent, except when injected or plow furrow application is made.

ii. If injected or plow furrow application is made, the slope of the land shall not exceed 10 percent.

6. The requirements for the application of manure as contained in (d)5 above may be modified if the application is made according to an approved conservation plan, developed by the Soil Conservation District for the control of runoff and erosion, and which has been implemented by the owner.

New Rule, R.1999 d.199, effective June 21, 1999.
See: 31 N.J.R. 823(a), 31 N.J.R. 1607(a).

SUBCHAPTER 3. CREATION OF FARMLAND PRESERVATION PROGRAMS

Law Review and Journal Commentaries

Farmlands—Municipal Land Use. Judith Nallin, 136 N.J.L.J. No. 12, 70 (1994).

2:76-3.1 Applicability

This subchapter provides for any eligible landowner to voluntarily petition a county agriculture development board or a subregional agricultural retention board for the creation of a farmland preservation program.

2:76-3.2 Definitions

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

“Agreement” means a legally binding written document between the landowner(s), and the board which must be signed by both parties and certified by the State Agriculture Development Committee to signify approval of a petition for creating a farmland preservation program.

“Agricultural Development Area” hereinafter referred to as ADA, means an area identified by a 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.

“Development easement” means an interest in land less than fee simple absolute title thereto, which enables the owner to develop the land for any nonagricultural purpose as determined by the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and any relevant rules or regulations promulgated pursuant hereto.

“Farmland preservation program” means any voluntary program, the duration of which is at least eight years, authorized by law enacted subsequent to the effective date of the “Farmland Preservation Bond Act of 1981,” P.L. 1981, C.276, which has as its principal purpose the long term preservation of significant masses of reasonably contiguous agricultural land within agricultural development areas adopted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32 and the maintenance and support of increased agricultural production as the first priority use of that land.

“Petition” means a formal written document adopted by the board, which an eligible landowner must submit to the board when applying for inclusion in a farmland preservation program.

“Premises” means the property under easement which is defined by the legal metes and bounds description in the Agreement.

“Soil and water conservation project” means any project designed for the control and prevention of soil erosion and sediment damages, the control of pollution on agricultural lands, the impoundment, storage and management of water for agricultural purposes, or the improved management of land and soils to achieve maximum agricultural productivity.

Amended by R.1986 d.196, effective June 2, 1986.

See: 18 N.J.R. 508(a), 18 N.J.R. 1193(b).

Added definition “premises”.