

**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.2004 d.403, effective October 1, 2004.
See: 36 N.J.R. 2322(a), 36 N.J.R. 4927(a).

Chapter Expiration Date

Chapter 76, State Agriculture Development Committee, expires on October 1, 2009.

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: 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 Pine-lands 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: Source and Effective Date.

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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:

1. Encompasses productive agricultural lands which are currently in production or have a strong potential for future production in agriculture and in which agriculture is a permitted use under the current municipal zoning ordinance or in which agriculture is permitted as a non-conforming use;

2. Is reasonably free of suburban and conflicting commercial development;
3. Comprises not greater than 90 percent of the agricultural land mass of the county;
4. Incorporates any other characteristics deemed appropriate by the board.

2:76-1.4 Other criteria

(a) The factors in this section that shall be considered by the board in developing criteria for the identification of agricultural development area(s) shall include, but not necessarily be limited to, the following:

1. Soils;
2. Current and anticipated local land use plans and regulations;
3. Farmland assessment status;
4. Anticipated approvals for non-agricultural development;
5. Accessibility to publicly funded water and sewer systems;
6. Compatibility with comprehensive and special purpose county and State plans;
7. Proximity and accessibility to major highways and interchanges;
8. Minimum size of an ADA;
9. Landowner sign-up;
10. Land within boroughs, towns or cities;
11. Inclusion of entire or partial lots and blocks;
12. Land ownership;
13. Natural and special features;
14. Type and distribution of agriculture.

(b) Guidelines for interpretation of the above factors may be obtained from the committee upon request. Requests shall be addressed to:

The State Agriculture
Development Committee
PO Box 330
Trenton, New Jersey 08625-0330

2:76-1.5 Certification request

(a) In order to obtain committee certification of board approval of ADAs, the board shall submit the following to the committee:

1. Board certification that a hearing was held in compliance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.;

- 2. A copy of the approved minutes of the hearing which shall include a summary of the testimony;
- 3. A comprehensive report consisting of the following:
 - i. Discussion of factors considered for arriving at the adopted ADA criteria;
 - ii. Adopted criteria for ADA identification;
 - iii. A resolution of adoption of ADA(s);
 - iv. Map(s), preferably but not necessarily U.S.G.S. (1:24000), showing the general location of the ADA(s) as defined by the application of the criteria.

2:76-1.6 Committee review

- (a) The committee shall review board submissions pursuant to N.J.A.C. 2:76-1.5.
- (b) In order to certify, the committee must make a finding that the board's analysis of factors and resultant

criteria are reasonable and consistent with the provisions of this subchapter.

2:76-1.7 Certification

Upon compliance with the provisions of this subchapter, the committee shall present to the Secretary of Agriculture its findings and recommendations to certify, to certify with conditions, or deny the request made pursuant to N.J.A.C. 2:76-1.5.

SUBCHAPTER 2. RIGHT TO FARM

2:76-2.1 Definitions

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

2:76-6.2 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 board pursuant to the provisions of N.J.S.A. 4:1C-18 and certified by the State Agriculture Development Committee.

“Agriculturally viable parcel” means a parcel that is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel’s agricultural output.

“Application,” as relates to the purchase of development easements, means a standard form adopted by the county agriculture development board.

“Appraisal handbook standards” means the rules and requirements for conducting appraisals established at N.J.A.C. 2:76-10.

“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 Agricultural Development Committee (SADC) established pursuant to N.J.S.A. 4:1C-4.

“Cost” as used with respect to cost of development easements includes, in addition to the usual connotations thereof, the cost of inspection, appraisal, legal, financial, and other professional services, estimates and advice; and the cost of organizational, administrative and other work and services, including salaries, supplies, equipment and materials.

“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 and acquired under 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 thereto.

“Exceptions,” unless the text indicates otherwise, means portions of the applicant’s land holdings which are not to be encumbered by the deed restrictions contained in N.J.A.C. 2:76-6.15.

“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.

“Formula index” means the value obtained by application of the formula contained in N.J.S.A. 4:1C-31b(1).

“Governing body” means, in the case of a county, the board of chosen freeholders, and in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality.

“Landowner” means the record owner of the land, duly authorized contract purchaser of the land or record owner of the development easement acquired pursuant to N.J.S.A. 4:1C-34.

“Landowner asking price” means the applicant’s per acre confidential offer for the sale of a development easement.

“Municipally approved farmland preservation program”, hereinafter referred to as “municipally approved 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. Any municipally approved program shall be established pursuant to N.J.S.A. 4:1C-21.

“Non-agricultural development value—agricultural value” means the fair market value of the development easement as certified by the committee.

“Option agreement” means a written agreement for consideration between an owner of land and the board whereby the board has a right to purchase the development easement within a specified time for a designated price.

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

“Quality score” means the Committee’s numeric total derived from the application of the criteria for evaluating a development easement application contained in N.J.A.C. 2:76-6.16.

“Regularly engaged in farmsite activities” means actively engaged in the day-to-day agricultural operation on the premises.

1. A landowner cannot establish that he or she is actively engaged in the day-to-day agricultural operation merely by showing that:
 - i. He or she owns the premises;
 - ii. The land is actively farmed; or

iii. The land is assessed pursuant to the Farmland Assessment Act, N.J.S.A. 54:4-23.1.

“Residential unit” means the residential building to be used for single family residential housing and its appurtenant uses. The construction and use of the residential unit shall be for agricultural purposes.

“Residual dwelling site” means the location of the residential unit and other appurtenant structures.

“Residual dwelling site opportunity” means the potential to construct a residential unit and other appurtenant structures on the premises in accordance with N.J.A.C. 2:76-6.17.

“Secretary” means the Secretary of Agriculture.

“Use for agricultural purposes,” as related to the exercise of a residual dwelling site opportunity and the continued use of the residential unit constructed thereto, means at least one person residing in the residential unit shall be regularly engaged in common farmsite activities on the premises 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, water management and grazing.

Amended by R.1986 d.386, effective September 22, 1986.
See: 18 N.J.R. 1328(a), 18 N.J.R. 1930(a).

Added “premises”.

Amended by R.1988 d.493, effective October 17, 1988.

See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).

Added definitions “Agricultural Development Area” and “project area”.

Amended by R.1989 d.49, effective January 17, 1989.

See: 20 N.J.R. 1761(a), 21 N.J.R. 158(a).

Added definitions.

Amended by R.1989 d.537, effective October 16, 1989.

See: 21 N.J.R. 3294(a).

Change to “project area” made upon adoption.

Amended by R.1990 d.529, effective November 5, 1990.

See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Added definitions for “ancillary costs”, “formula index”, “landowner asking price” and “non-agricultural development value—agricultural value”.

Amended by R.1993 d.392, effective August 2, 1993.

See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Amended by R.1994 d.393, effective August 1, 1994.

See: 26 N.J.R. 1419(a), 26 N.J.R. 3159(b).

Amended by R.1995 d.613, effective December 4, 1995.

See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

Deleted definitions of “Ancillary costs” and “Project area” and added definition of “Agriculturally viable parcel”.

Amended by R.2006 d.387, effective November 6, 2006.

See: 38 N.J.R. 2244(a), 38 N.J.R. 4689(a).

Added definition “Regularly engaged in farmsite activities”.

2:76-6.3 Eligible applicants

(a) Any landowner that applies to the board in compliance with N.J.A.C. 2:76-6.4 and whose land is in a farmland preservation program, a municipally approved program or qualifies for differential property tax assessment pursuant to

the Farmland Assessment Act of 1964 and which is included in an agricultural development area shall be eligible to sell a development easement on that land.

(b) Any person or organization acquiring a development easement, by purchase, gift or otherwise, may apply to sell that development easement to the board pursuant to N.J.S.A. 4:1C-34.

Amended by R.1993 d.392, effective August 2, 1993.

See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Amended by R.1994 d.393, effective August 1, 1994.

See: 26 N.J.R. 1419(a), 26 N.J.R. 3159(b).

2:76-6.4 Application

(a) Under the provisions of N.J.A.C. 2:76-6.3, the landowner shall submit a completed application to the board.

(b) The board shall require the landowner to sign a certification confirming that the information provided in the application is true.

(c) The board and/or Committee reserve the right to take any necessary action against the landowner to require the return of any funds provided by the board for the purchase of a development easement in the event that the board and/or Committee has determined that the landowner supplied false or misleading information in the application.

Amended by R.1993 d.392, effective August 2, 1993.

See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Amended by R.1996 d.212, effective May 6, 1996.

See: 28 N.J.R. 319(a), 28 N.J.R. 2373(a).

Added (b) and (c).

2:76-6.5 Preliminary board review

(a) The board shall review and evaluate the easement purchase application and respective project area to determine the suitability of the land for development easement purchase and establish a priority ranking of the applications on the basis of the following factors:

1. Criteria duly adopted by the board which evaluates the degree to which the purchase would encourage the survivability of the land in productive agriculture and the degree of imminence of change of the land from productive agriculture to nonagricultural use pursuant to N.J.S.A. 4:1C-31b.

(b) The board shall review the application pursuant to N.J.A.C. 2:76-6.17(a) and determine the number of residual dwelling site opportunities to be allocated to the premises.

(c) The board shall inform the landowner of the number of residual dwelling site opportunities allocated to the premises.

(d) The board shall approve or disapprove the application.

(e) An application approved by the board shall be forwarded to the municipal governing body for review.

1. Unless previously granted by prior ordinance, the municipal governing body shall by resolution approve or disapprove the application and so notify the board.

(f) The board shall submit a request for a grant for the purchase of a development easement to the Committee on or before October 15, 2001 for requests submitted in 2001 and on or before September 15 for requests submitted after 2001. The request for a grant shall be submitted on a form prescribed by the Committee. The information provided by the board shall include the following:

1. RDSO eligibility and allocation;
2. Exceptions approved by the board with its justification;
3. CADB preliminary ranking with its justification; and
4. Other information relating to the specific application as required by the Committee.

(g) An application consisting of a development easement acquired by the board and/or county must be submitted to the Committee within three consecutive application rounds.

1. The development easement acquired by a municipality, the board and/or county shall at a minimum contain the restrictions found at N.J.A.C. 2:76-6.15(a) which were in effect at the time the development easement was acquired.

(h) In the event that the board grants preliminary approval to more than the maximum number of applications authorized by the Committee pursuant to N.J.A.C. 2:76-6.11(a), it shall forward to the Committee all such application(s) in excess of the maximum number with its justifications for granting such approvals along with other information required in (f) above for preliminary approval.

Amended by R.1988 d.493, effective October 17, 1988.
See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).

(a) and (d) substantially amended.
Amended by R.1989 d.49, effective January 17, 1989.
See: 20 N.J.R. 1761(a), 21 N.J.R. 158(a).

Added new (c) and (d); recodified old (c) and (d) to (e) and (f); added (e)1-3.

Amended by R.1990 d.529, effective November 5, 1990.
See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Cite correction at (c).
Amended by R.1993 d.392, effective August 2, 1993.
See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Amended by R.1994 d.393, effective August 1, 1994.
See: 26 N.J.R. 1419(a), 26 N.J.R. 3159(b).
Amended by R.1995 d.613, effective December 4, 1995.
See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

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

in (g), substituted "on or before November 15" for "within 30 days of the date appraisal work is authorized pursuant to N.J.A.C. 2:76-6.7" at the end of the first sentence of the introductory paragraph; and in (i), substituted references to the maximum number of applications authorized by the Committee pursuant to N.J.A.C. 2:76-6.11(a) for references to seven applications throughout.

Amended by R.2001 d.47, effective February 5, 2001.
See: 32 N.J.R. 3513(a), 33 N.J.R. 550(a).

Rewrote the section.
Amended by R.2001 d.311, effective September 4, 2001.
See: 33 N.J.R. 1980(b), 33 N.J.R. 2987(a).

In (f), rewrote the first sentence of the introductory paragraph.

2:76-6.6 Preliminary Committee review

(a) The Committee shall review and evaluate all applications received from the boards in accordance with the criteria set forth in N.J.A.C. 2:76-6.16.

(b) Except for those applications submitted pursuant to (c) below, for any application which is submitted in excess of the maximum number of applications authorized by the Committee pursuant to N.J.A.C. 2:76-6.11(a) per county, the Committee may grant preliminary approval only if it finds that the application is of superior quality and that there is a substantial likelihood that the land would change from productive agriculture to nonagricultural use prior to the next funding round.

(c) The Committee shall grant preliminary approval to an application which is in excess of the maximum number of applications authorized pursuant to N.J.A.C. 2:76-6.11(a) per county, only if the application is for a farm which is located in more than one county and is selected by at least one other board as one of its applications not requiring Committee approval.

(d) The Committee shall establish a preliminary ranking of the approved applications based on the applicant's quality score and inform the board at least 15 days prior to the Committee's certification of a development easement value.

Amended by R.1988 d.493, effective October 17, 1988.
See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).

(a) and (b) substantially amended.
Amended by R.1989 d.49, effective January 17, 1989.
See: 20 N.J.R. 1761(a), 21 N.J.R. 158(a).

Added new (b) and (c); recodified old (b) to (d).
Amended by R.1990 d.529, effective November 5, 1990.
See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Corrected cite at (c).
Repeal and New Rule, R.1993 d.392, effective August 2, 1993.
See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Amended by R.1995 d.613, effective December 4, 1995.
See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

Amended by R.1999 d.198, effective June 21, 1999.

See: 31 N.J.R. 816(a), 31 N.J.R. 1603(a).
In (b) and (c), substituted references to the maximum number of applications authorized by the Committee pursuant to N.J.A.C. 2:76-6.11(a) for references to seven applications.

2:76-6.7 Appraisals

(a) The procedure for conducting and reviewing appraisals shall be as follows:

1. The Committee shall adopt a list of appraisers who are designated as state certified general real estate appraisers (SCGREA) pursuant to N.J.A.C. 13:40A-1.2;

i. The Committee may remove appraisers from the adopted list if the appraisals are not conducted in conformance with the appraisal handbook standards pursuant to N.J.A.C. 2:76-10 or generally recognized appraisal practices.

2. The board in accordance with county procedures shall select two appraisers from the list adopted by the Committee to conduct independent appraisals of development easements or on lands that have received board and, where appropriate, Committee approvals;

3. Appraisers shall perform appraisals in accordance with procedures detailed in the appraisal handbook;

i. For grant requests for the purchase of development easements submitted to the Committee in 2001, the appraiser shall certify the fair market value of the development easements as of September 1 of the year in which the appraisals are conducted. For grant requests submitted to the SADC after 2001, the appraiser shall certify the fair market value of the development easements as of August 1 of the year in which the appraisals are conducted;

4. Upon completion of the appraisals, the appraisers shall forward appraisal reports to the appropriate person designated by the board to review the reports for completeness of contractual requirements; and

5. For grant requests for the purchase of development easements submitted to the Committee in 2001, the board shall forward the completed appraisals to the Committee on or before December 15, 2001. For grant requests for the purchase of development easements submitted to the Committee after 2001, the board shall forward the completed appraisals to the Committee on or before November 15 of the year in which the appraisals were conducted.

Amended by R.1988 d.493, effective October 17, 1988.
 See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).
 (b)4 amended; new (b)5 added and old 5 renumbered as 6; (b)7 and 8 added.
 Recodified from 2:76-6.8 and amended by R.1993 d.392, effective August 2, 1993.
 See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).
 Prior text at 2:76-6.7, "Municipal review," repealed.
 Amended by R.1994 d.393, effective August 1, 1994.
 See: 26 N.J.R. 1419(a), 26 N.J.R. 3159(b).
 Amended by R.1995 d.613, effective December 4, 1995.
 See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).
 Amended by R.2001 d.311, effective September 4, 2001.
 See: 33 N.J.R. 1980(b), 33 N.J.R. 2987(a).
 Rewrote (a)3i and (a)5.

2:76-6.8 Committee certification of development easement value

(a) The Committee shall appoint a review appraiser to evaluate the appraisals submitted by the board and to recommend a fair market value of the development easement for each application. The review appraisal shall be done in accordance with the appraisal handbook standards at N.J.A.C. 2:76-10.

(b) The Committee shall have final authority for certifying the fair market value of the development easement.

(c) The Committee's certified fair market value of the development easement shall not be greater than the highest independent appraised value of the development easement or be less than the lowest independent appraised value of the development easement.

(d) The Committee may find an appraisal invalid if it does not comply with the appraisal handbook for standards at N.J.A.C. 2:76-10 or generally recognized appraisal practices.

1. If an appraisal is found to be invalid, the committee shall reject the application for which the appraisal was conducted.

(e) The Committee shall certify the fair market value of the development easement and submit the value to the board.

New Rule, R.1993 d.392, effective August 2, 1993.

See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).
 Prior text at section Appraisal, recodified as 2:76-6.7.

2:76-6.9 Landowner offer

(a) Within 45 days of the Committee's certification of the fair market value of the development easement, the board shall forward the value to the landowner and the landowner shall submit an asking price to the Committee.

(b) The landowner asking price shall contain information required by the Committee.

(c) The landowner asking price shall be submitted as a sealed confidential offer on or before a uniform date and time to be set by the Committee.

1. The Committee shall not accept any offer submitted after the time and date prescribed by the Committee or any offer which does not contain the information required by the Committee.

(d) The Committee shall publicly open all of the confidential landowner offers at a time and date prescribed by the Committee and published pursuant to the "Open Public Meeting Act".

(e) The Committee shall forward the landowner offers to the respective boards.

Amended by R.1988 d.435, effective September 6, 1988.
 See: 20 N.J.R. 1319(a), 20 N.J.R. 2254(b).
 (a): Grants to the Board raised from no more than 50 percent to 80 percent; added development easement.
 Amended by R.1988 d.493, effective October 17, 1988.
 See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).
 (b)-(d) substantially amended.
 Amended by R.1989 d.49, effective January 17, 1989.
 See: 20 N.J.R. 1761(a), 21 N.J.R. 158(a).
 Added (a)1.
 Amended by R.1990 d.529, effective November 5, 1990.
 See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).
 Established 30 day time frame in which to agree on landowner asking price.
 Repeal and New Rule, R.1993 d.392, effective August 2, 1993.
 See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).
 Section was "Final board review."
 Amended by R.1995 d.613, effective December 4, 1995.
 See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.10 Final board review

(a) Within 30 days of the Committee's opening of the confidential offers pursuant to N.J.A.C. 2:76-6.9(d), the board shall approve or disapprove the applications and submit the following to the Committee:

1. The priority ranking of the approved applications based upon suitability criteria duly adopted by the board which evaluate the following:

i. Priority consideration shall be given to offers with higher numerical values obtained by applying the following formula:

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}{\text{nonagricultural development value} - \text{agricultural value}} = \frac{\text{landowner's asking price} - \text{agricultural value}}{\text{landowner's asking price} - \text{agricultural value}}$$

ii. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture; and

iii. The degree of imminence of change of the land from productive agriculture to nonagricultural use;

2. The final purchase price of the development easement for each application.

i. The purchase price of the development easement shall be adjusted according to the acceptance or rejection of any residual dwelling site opportunities permitted pursuant to N.J.A.C. 2:76-6.17 and other adjustments required by the Committee;

3. The justification for the board's decision; and

4. A copy of the municipal governing body's resolution approving the purchase of the development easement.

(b) Regardless of the board's ranking determined by (a) above, the board may disapprove an application if it determines that an applicant has initiated proceedings in anticipation of applying to sell a development easement or during the application process which have the effect of increasing the applicant's appraised development easement value.

Amended by R.1988 d.493, effective October 17, 1988.

See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).

Added (a)1 and renumbered old (a)1.-2. as 2.-3; substituted "value" for "offer" in (a)2.

Amended by R.1990 d.529, effective November 5, 1990.

See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Sixty day time frame established.

Repeal and New Rule, R.1993 d.392, effective August 2, 1993.

See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Section was "Board application to the committee."

Amended by R.1995 d.613, effective December 4, 1995.

See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.11 Final Committee review

(a) The Committee shall approve a maximum limit of funds available and the maximum number of applications permitted per county for an easement purchase grant round to provide grants to counties and municipalities for the purchase of development easements on farmland.

(b) Upon receipt of applications which have received final approval by the board, the Committee shall determine the landowner's formula index by application of the formula contained in N.J.S.A. 4:1C-31b(1) as follows:

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}{\text{nonagricultural development value}} - \frac{\text{landowner's asking price}}{\text{agricultural value}} = \text{formula index}$$

(c) The Committee's funding priority shall be given to those applications which have higher numerical values obtained by application of the following formula:

$$(\text{quality score}) + (\text{formula index} \times 200) = \text{final score}$$

1. Regardless of the final score, the Committee may disapprove an application if it determines that the applicant has initiated proceedings in anticipation of applying to sell a development easement or during the application process which have the effect of increasing the applicant's appraised development easement value.

2. The Committee may give funding priority to offers with higher numerical values in any one county based on the applicant's final score.

(d) The Committee shall not authorize a grant for an amount greater than 80 percent of the Committee's certified fair market value of the development easement or the board and/or county's purchase price of the development easement, whichever is lower. In situations where the Committee is cost sharing on an easement which has been acquired, or is being acquired, by a municipality, the Committee shall not authorize a grant for an amount greater than 80 percent of the Committee's certified fair market value of the development easement or 80 percent of the sum of the municipality's purchase price of the development easement plus the interest or discount on bonds the municipality incurred in association with the acquisition of the development easement from the date the municipality acquires the easement to the date of the appropriation of State funds, whichever is lower.

1. The percent Committee cost share shall be based upon the following:

Landowner's asking price	Percent committee cost share
From \$0.00 to \$1,000	= 80% above \$0.00
From > \$ 1,000 to \$ 3,000	= \$ 800 + 70% above \$ 1,000
From > \$ 3,000 to \$ 5,000	= \$ 2,200 + 60% above \$ 3,000
From > \$ 5,000 to \$ 9,000	= \$ 3,400 + 50% above \$ 5,000
From > \$ 9,000 to \$ 50,000	= 60%
From > \$ 50,000 to \$ 75,000	= \$30,000 + 55% above \$ 50,000
From > \$ 75,000 to \$ 85,000	= \$43,750 + 50% above \$ 75,000
From > \$ 85,000 to \$ 95,000	= \$48,750 + 40% above \$ 85,000
From > \$ 95,000 to \$105,000	= \$52,750 + 30% above \$ 95,000
From > \$105,000 to \$115,000	= \$55,750 + 20% above \$105,000
From > \$115,000	= \$57,750 + 10% above \$115,000

i. If the landowner's asking price is greater than the certified fair market value, the Committee's cost share grant shall be based upon the Committee's certified fair market value.

2. Notwithstanding (d)1 above, the Committee shall provide a grant for the purchase of a development easement on the top ranked application in a county at a 50 percent cost share in those counties where pursuant to (d)1 above, the Committee's cost share percentage would be less than 50 percent.

i. The Committee's cost share grant shall only apply to the purchase of a development easement pursuant to N.J.A.C. 2:76-6.3.

3. Notwithstanding (d)1 above, the Committee shall provide a grant for the purchase of a development easement purchase on the top ranked application in a county at an 80 percent cost share in those counties which have

not received an 80 percent committee cost share for development easement purchase.

4. Subject to available funds, the Committee shall provide a cost share grant for up to 50 percent of the cost for eligible ancillary costs for the purchase of development easements.

i. Eligible ancillary costs shall be limited to wetlands determinations, appraisals, review appraisals, title search, title insurance and surveys on those farms from which a development easement has been purchased by the board pursuant to N.J.S.A. 4:1C-11 et seq. and this subchapter; and

ii. Ineligible costs include other local governmental expenses and administrative costs related to the acquisition of the development easement, such as staff and attorney work, clerical supplies and office space.

(e) Subject to the available funds, the Committee shall approve a grant, on a per acre basis, for the purchase of a development easement as determined in (d)1 and 2 above, based on the final surveyed acreage.

(f) In order to receive a grant for the purchase of a development easement, the County Board of Chosen Freeholders shall enter into a grant agreement pursuant to N.J.A.C. 2:76-6.18 through 6.18B.

(g) The Committee shall notify the respective boards of applications receiving final approval.

Amended by R.1988 d.435, effective September 6, 1988.
See: 20 N.J.R. 1319(a), 20 N.J.R. 2254(b).

(c): Added "no more than 80" to replace "50".
Amended by R.1988 d.493, effective October 17, 1988.
See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).

(a) and (b) substantially amended.
Amended by R.1990 d.529, effective November 5, 1990.
See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Expanded and clarified formula and basis by which funding priority is established; includes a sliding scale.

Amended by R.1993 d.392, effective August 2, 1993.
See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).
Amended by R.1994 d.43, effective January 18, 1994.
See: 25 N.J.R. 3890(a), 25 N.J.R. 4697(a), 26 N.J.R. 350(a).
Amended by R.1994 d.393, effective August 1, 1994.
See: 26 N.J.R. 1419(a), 26 N.J.R. 3159(b).

Amended by R.1995 d.613, effective December 4, 1995.
See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).
Amended by R.1999 d.198, effective June 21, 1999.
See: 31 N.J.R. 816(a), 31 N.J.R. 1603(a).

In (a), inserted a reference to the maximum number of applications permitted per county.

Amended by R.2001 d.47, effective February 5, 2001.
See: 32 N.J.R. 3513(a), 33 N.J.R. 550(a).

In (d), rewrote the introductory paragraph.
Amended by R.2004 d.39, effective January 20, 2004.
See: 35 N.J.R. 4164(a), 36 N.J.R. 441(b).

Rewrote (d).

2:76-6.12 Landowner decision

(a) Within 30 days of the board's receipt of the Committee's final approval, the board shall present to the landowner a written offer to purchase the development easement. A binding offer shall be contingent upon compliance with the provisions stated in N.J.A.C. 2:76-6.13.

(b) The landowner shall accept or reject the offer in writing within 30 days of receipt thereof. Any offer not accepted within that time shall be deemed rejected.

Amended by R.1990 d.529, effective November 5, 1990.
See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Established 30 day time frames.

Amended by R.1995 d.613, effective December 4, 1995.
See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.13 Terms, contingencies and conditions of purchase

(a) Upon the landowner's acceptance of an offer to sell a development easement, the landowner shall provide evidence that current lien, easement and right-of-way holders will, as required by the Committee and board, subordinate their rights to the rights and privileges granted by the sale of the development easement to the board and shall supply recordable evidence of their subordination at the time of transfer of the easement.

(b) The board shall authorize an insured title search and a survey be conducted on the subject land.

(c) Upon the purchase of the development easement by the board, a statement containing the conditions of conveyance and restrictions on the use an development of the land shall be attached to and recorded with the deed of the land in the same manner as the deed was originally recorded (see N.J.A.C. 2:76-6.15).

1. Subject to Committee approval, the board may establish more stringent deed restrictions for the purpose of recognizing local conditions.

(d) Deed restrictions shall be recorded as follows:

1. The statement containing the conditions of conveyance and restrictions shall be recorded with the county clerk.

2. The board shall provide for notification of the development easement purchase to the following:

- i. County governing body;
- ii. County planning board;
- iii. Municipal governing body;
- iv. Municipal tax assessor;
- v. Municipal planning board; and
- vi. Soil conservation district.

(e) The board shall be responsible for monitoring all lands from which a development easement has been purchased since June 1, 1985, pursuant to N.J.S.A. 4:1C-11 et seq. and this subchapter, to ensure compliance with the provisions of the Deed of Easement. The monitoring shall consist of the following:

1. An onsite inspection shall be performed at least once a year;

2. All inspections and monitoring shall be completed within the period commencing July 1 and ending June 30;

3. A written summary shall be provided to the Committee by July 15, verifying that the inspections were conducted during the scheduled period with a certification concerning whether the farm was in compliance with the provisions of the Deed of Easement;

4. The Board shall inform the SADC if any of the terms and conditions of the Deed of Easement were violated within 30 days of identifying such violation; and

5. Appropriate action shall be taken within the board's and/or County's authority to ensure that the terms and conditions of the Deed of Easement are enforced.

Amended by R.1993 d.392, effective August 2, 1993.
 See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).
 Amended by R.1995 d.613, effective December 4, 1995.
 See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.14 Payment procedures; schedule of payment

(a) The board and the landowner may agree upon and establish a schedule of payment which provides that the landowner may receive consideration for the easement in a lump sum, or in installments over a period of up to 40 years from the date of settlement, provided that:

1. If a schedule of installments is agreed upon, the State Comptroller shall retain in the fund, or the governing body shall retain, an amount of money sufficient to pay the landowner pursuant to the schedule.

2. The landowner shall receive, annually, interest on any unpaid balance remaining after the date of settlement. The interest shall accrue at a rate established in the installment contract.

(b) Proof of title insurance, a certified survey and a copy of the recorded deed shall be forwarded to the Committee when requesting a grant for reimbursement of the board's purchase of a development easement.

Amended by R.1988 d.435, effective September 6, 1988.
 See: 20 N.J.R. 1319(a), 20 N.J.R. 2254(b).
 (b): Substituted "no more than 80" for "50".
 Amended by R.1993 d.392, effective August 2, 1993.
 See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).
 Amended by R.1995 d.613, effective December 4, 1995.
 See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.14A Request for pre-closing division of land

(a) In the event that a landowner applies to the board and Committee to divide farmland which has received final approval by both the board pursuant to N.J.A.C. 2:76-6.10 and Committee pursuant to N.J.A.C. 2:76-6.11, but prior to the conveyance of the development easement to the board, the Committee may grant approval to divide the land if all of the following criteria are met:

1. The division of the land results in agriculturally viable parcels;

2. The division of the land is for an agricultural purpose;

3. Common deed ownership of the land existed at the time of application;

4. There exists a contract of sale between the board and/or county and the landowner to convey the development easement to the board and/or county which does not contain a condition requiring or permitting the division prior to the conveyance;

5. The county and/or board has granted approval of the division;

6. There is an existing, valid contract of sale to convey the divided parcel(s) to a third party(ies); and

7. The county and/or board enters into a Grant Agreement with the SADC pursuant to N.J.A.C. 2:76-6.18.

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

7. Review and take appropriate action as required pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., this chapter and the Deed of Easement.

New Rule, R.1995 d.613, effective December 4, 1995.
 Sec: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

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

(a) A board and/or county may request Committee approval of land from which a development easement was purchased by or donated to the board and/or county for the purpose of ensuring that the owner of the land is afforded all of the benefits available to lands from which a development easement has been conveyed pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and N.J.A.C. 2:76.

(b) To initiate a review by the Committee, the board shall provide the Committee with the following:

1. A completed application which included the following:
 - i. The landowner name, address, phone number;
 - ii. The block and lot designation;
 - iii. Acres;
 - iv. The general location;
 - v. Operation;
 - vi. Residence, RDSOs, exceptions;
 - vii. Pre-existing, non-agricultural uses;
 - viii. Prior subdivision approval;
 - ix. Easements/rights of way;
 - x. The quality score and ranking;
 - xi. The degree of imminence of change or conversion analysis; and
 - xii. The county ranking of the farm.
2. Certification that the land is located in an agricultural development area;
3. Certification that the land qualifies for differential property tax assessment pursuant to the Farmland Assessment Act of 1964;
4. A copy of the municipal governing body's resolution approving the purchase and/or donation of the development easement;
5. A copy of the board's and, if appropriate, county's approval of the purchase or receipt of a donated development easement; and

6. A copy of the recorded Deed of Easement that conveyed a development easement and all of the non-agricultural development rights and development credits appurtenant to the lands and premises to the board and/or county.

i. The deed restrictions imposed on the premises shall at a minimum contain the restrictions found at N.J.A.C. 2:76-6.15(a) which were in effect at the time the development easement was acquired.

ii. If appropriate, the Deed of Easement shall contain the following provision:

"Grantor understands and accepts that Grantee may, at its sole option, apply to have this easement enrolled for participation in the State of New Jersey Agriculture Retention and Development Program as administered by the State Agriculture Development Committee. It is the intention of Grantor to convey to Grantee, by this present instrument, all of the rights which would have to be conveyed under N.J.S.A. 4:1C-11 et seq. and under N.J.A.C. 2:76-1.1 et seq. in order to qualify this easement for participation in the State Program. Grantor hereby agrees and undertakes to cooperate with Grantee in any appropriate aspect of the State in the application process and to execute any necessary papers presented by the State or by Grantee in connection therewith. Grantor hereby consents to the participation in or exercise of any of Grantee's rights and obligations hereunder by the State Agriculture Development Committee or any other State agency or political subdivision of the State of New Jersey. Grantee stipulates that any rights and prerogatives which this Deed of Easement extends to the Committee (which entity is neither a party to this conveyance nor to any of the negotiations and agreements leading up to same) are inchoate and shall not be exercised unless and until Grantee and the Committee enter into an agreement as a result of the enrollment of this easement in the State of New Jersey Agriculture Retention and Development Program";

7. A copy of the board and/or county's marked up title commitment, or, if appropriate, title policy issued for the purchase or donation of the development easement on the premises;

8. A copy of the survey plat with a legal metes and bounds description of the premises;

9. If appropriate, an executed Enrollment Agreement between the board and/or county and the Committee which grants the Committee all of the rights and prerogatives contained in the Deed of Easement; and

10. An executed Grant Agreement between the board and/or county and the Committee.

(c) The Committee shall review the documentation provided by the board and/or county to ensure that the information is accurate and complete in accordance with N.J.S.A.

4:1C-11 et seq., P.L. 1983, c.32 and this chapter and shall approve or disapprove the board and/or county's request.

1. If approved, the Committee shall execute the Enrollment Agreement as identified in (b)9 above and Grant Agreement and return the Enrollment Agreement to the board for recording with the county clerk's office;

2. Upon the board's recording of the Enrollment Agreement, the owner of the land shall be eligible for all of the benefits provided to lands from which a development easement has been conveyed pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and this chapter.

3. The Committee's approval of a board and/or county-owned development easement pursuant to this section shall not preclude the board and/or county from applying for a grant from the Committee at a later date to reimburse the board and/or county for its cost of acquiring the development easement pursuant to N.J.A.C. 2:76-6.5(h). However, counties are not eligible to apply to the Committee for a cost share grant for the donated portion of a development easement.

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

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

2:76-7.1 Applicability

This subchapter applies to any public body or public utility which intends, within an agricultural development area, to exercise the power of eminent domain for the acquisition of land, or advance a grant, loan, interest subsidy or other funds within an agricultural development area for the construction of dwellings, commercial or industrial facilities, transportation facilities, or water or sewer facilities to serve non-farm structures.

2:76-7.2 Definitions

"Advance a grant, loan, interest subsidy or other funds" means the provision of funds in the form of a grant, loan or interest subsidy or other financial assistance for the construction of a project as defined in this subchapter.

"Agricultural development area" means the agricultural land area identified by the board and certified by the Committee pursuant to N.J.S.A. 4:1C-18 and N.J.A.C. 2:76-1.

"Board" means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agriculture 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.

"Initiation of an action" means the earliest of the following events: the filing of a complaint by a public body or public utility with the New Jersey Superior Court for permission to exercise the power of eminent domain; the issuance of a draft environmental impact statement or environmental assessment; the approval of a project as a "categorical exclusion" by the Federal Highway Administration; or, in the case of the advancement of funds, the time at which a public utility or public body decides to make a final commitment to advance a grant, loan, interest subsidy or other funds toward a project.

"Notice of intent" means the written notification by a public body or public utility to the Committee and the board and the supporting documents and information pursuant to N.J.A.C. 2:76-7.3(c) and 2:76-7.4(d).

"Project" means the use or purpose for which any public body or public utility intends to acquire land within an agricultural development area through the exercise of the power of eminent domain, or the construction, within an agricultural development area, of dwellings, commercial or industrial facilities, transportation facilities, or water or sewer facilities to serve non-farm structures, for which construction any public body or public utility intends to advance a grant, loan, interest subsidy or other funds.

"Proposed action" means the intention of any public body or public utility to exercise the power of eminent domain for the acquisition of land or advance a grant, loan, interest subsidy or other funds for a project as defined in this subchapter.

"Public body" means any State, regional, county or municipal agency or governing body, including but not limited to special districts and authorities.

"Public utility" means and includes every public utility enumerated in N.J.S.A. 48:2-13, and every natural gas pipeline utility as defined at N.J.S.A. 48:10-2 et seq. vested with the power of eminent domain and subject to regulation under State or Federal law.

"Secretary" means the Secretary of Agriculture.

2:76-7.3 Responsibilities of the public body and/or public utility

(a) A notice of intent shall be filed with the board and the Committee by any public body or public utility which intends, within an agricultural development area, to:

1. Exercise the power of eminent domain for the acquisition of land; or
2. Advance a grant, loan, interest subsidy or other funds for the construction of a project as defined in this subchapter.

(b) The following are exempt from the requirements of (a) above:

1. Extension of roadside public utility electric and gas distribution lines; and
2. Minor improvements and/or repairs to existing transportation and water or sewer infrastructure systems that do not increase existing capacity or extend service into previously unserved areas.

(c) The notice of intent shall include:

1. A statement of the reasons for the proposed action;
2. An evaluation of alternatives which would not include action in the agricultural development area;
3. Information about the project and its impact as outlined in N.J.A.C. 2:76-7.4.

(d) The notice of intent shall be filed with the board and the Committee at least 30 days prior to the initiation of an action described in (a) above. The time at which the action is initiated shall be as defined in N.J.A.C. 2:76-7.2.

2:76-7.4 Information about the project

(a) The information outlined in (d) below regarding the proposed action and project shall be required in the notice of intent submitted to the board and the Committee by the public body or public utility and shall be used, along with other relevant information, by the board and the Committee to evaluate the impact of the project on the agricultural activities in the Agricultural Development Area. If the board determines that further information is required to complete its evaluation, such information shall be submitted by the public body or public utility within 10 working days of the request.

(b) If a draft environmental impact statement has been prepared in connection with the proposed action or project and includes all of the information required in (d) below, then that statement, along with the information required in N.J.A.C. 2:76-7.3(c) and together with a cover letter to the board and the Committee stating that the enclosed statement is intended to serve as a notice of intent to undertake an action within an agricultural development area, shall fully comply with the notice requirement, provided that such statement is served upon the board and the Committee at least 30 days prior to the initiation of the proposed action.

(c) If a draft environmental impact statement prepared in connection with the proposed action or project does not contain all of the information required in (d) below, including the information required in N.J.A.C. 2:76-7.3(c), then that statement, together with all additional information necessary and a cover letter to the board and the Committee stating that the enclosed statement is intended to serve as a notice of intent to undertake an action within an agricultural development area, shall fully comply with the notice requirement, provided that such statement is served upon the board

and the Committee at least 30 days prior to the undertaking of the proposed action.

(d) The following information must be submitted for each project:

1. The name of the public body or public utility involved, its address, telephone number and the name of a contact person.
2. The location and land use of the project as follows:
 - i. The location of the project, including:
 - (1) The municipality(ies), block and lot number(s) to the extent known;
 - (2) A key map adequately locating the site or proposed route of the project;
 - (3) The current use of the site; and
 - (4) The land use of area adjacent to the site, including:
 - (A) Current buffers between the project and farmland; and
 - (B) The proposed use of buffers between the project and farmland.
 - (C) Land use on adjacent lots.
 - ii. A description of the project, including:
 - (1) The type of project (utility, residential, commercial, industrial, etc.);
 - (2) The purpose of the project;
 - (3) The total area of the project;
 - (4) The phases of the project;
 - (5) The infrastructure required, including roads and utilities (water, electric, gas, etc.); and
 - (6) The alternatives considered, if any.
 - (7) The site plan, if available.
3. A discussion of farm activities impacts on the project through consideration of the following issues from the public body or public utility's perspective and identification of feasible solutions to these potential problems:
 - i. Potential complaints concerning noise from use of farm machinery, irrigation pumps or other equipment;
 - ii. Potential complaints concerning odors associated with livestock, poultry, crops or manure spreading;
 - iii. Potential complaints concerning use of herbicides, pesticides and fertilizers; and
 - iv. Potential dust problems.
4. A discussion of project impacts on farm activities, including:

- i. Prevention of access to an actively farmed area;
 - ii. Potential increase in vandalism of farm equipment, buildings and/or crops;
 - iii. Potential increase in farm trespass;
 - iv. Potential increase in vehicle traffic;
 - v. Potential increase in litter (glass, plastic and/or paper) that may affect the farm operation; and
 - vi. Potential impact on aesthetics of the area.
5. A discussion of the project's impact on water resources with respect to the agricultural operation, including:

- i. The following aspects of water diversion:
 - (1) Surface runoff affecting water bodies, including irrigation ponds;
 - (2) Groundwater aquifers affected; and
 - (3) Rechanneling of streams or water courses;
- ii. The potential effect on surface and groundwater quality; and
- iii. The site's function as a water recharge area.

SUBCHAPTER 8. ACQUISITION OF FARMLAND IN FEE SIMPLE

2:76-8.1 Applicability

This subchapter applies to all transactions in which the State Agriculture Development Committee purchases real property pursuant to P.L. 1988, c.4, N.J.S.A. 4:1C-31.1 and N.J.S.A. 4:1C-31.2 and all other relevant provisions of the Agriculture Retention and Development Act and the Garden State Preservation Trust Act, P.L. 1999, c.152.

Emergency amendment R.1999 d.317, effective August 20, 1999 (to expire October 19, 1999).

See: 31 N.J.R. 2646(a).

Added a reference to the Garden State Preservation Trust Act. Adopted concurrent proposal, R.1999 d.390, effective October 19, 1999. See: 31 N.J.R. 2646(a), 31 N.J.R. 3625(a).

2:76-8.2 Definitions

As used in this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

"Agricultural Development Area(s) (ADA)" means area(s) identified by a county agriculture development board pursuant to the provisions of N.J.S.A. 4:1C-18 and certified by the State Agricultural Development Committee (SADC).

"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. "Agricultural deed restrictions for farmland preservation purposes" means a statement containing the conditions of the conveyances and the terms of the restrictions set forth in P.L. 1983, c.32 and as additionally determined by the committee on the use and development of the land which shall be recorded with the deed in the same manner as originally recorded.

2:76-8.3 Landowner offer

(a) An owner of farmland within an agricultural development area may offer to sell to the Committee the fee simple absolute title to the farmland at a price which, in the opinion of the landowner, represents the fair market value of the property.

(b) The Committee shall forward copies of the offer to the respective board and municipality.

2:76-8.4 Board and municipal comments

The respective board and municipality may submit comments regarding the pending offer to the Committee within 30 days of the date of application.

2:76-8.5 Committee evaluation

(a) In determining the suitability of the purchase of farmland, the committee shall consider the criteria set forth in N.J.S.A. 4:1C-31.1 and any comments of the respective board and municipality.

(b) In addition to the factors set forth in (a) above, the committee shall evaluate the same criteria utilized for the evaluation of applications for development easement purchases set forth in N.J.A.C. 2:76-6.16.

(c) In addition to the criteria and factors in (a) and (b) above, priority consideration shall be given to farms which have experienced crop losses as a result of the drought of 1999 in excess of 50 percent of the average yield of commodities that comprise at least 35 percent of the farm's total yield based on market value or that comprise at least 35 percent of the farm total acreage devoted to the commodities suffering such crop loss.

1. In order to receive the priority consideration contained in N.J.A.C. 2:76-8.5, the landowner must be an established farmer as defined in 7 C.F.R. § 1945.154. In order to receive the priority, an applicant who conducts the farming operation as an individual must manage the farming operation. If the applicant is another entity, at least one stockholder, member, partner, or joint operator must manage the farming operation.

2. In order to determine the extent of crop loss, the Committee shall utilize the methodology contained at N.J.A.C. 2:76-11.6.

Emergency amendment R.1999 d.317, effective August 20, 1999 (to expire October 19, 1999).

See: 31 N.J.R. 2646(a).

Added (c).

Adopted concurrent proposal, R.1999 d.390, effective October 19, 1999.

See: 31 N.J.R. 2646(a), 31 N.J.R. 3625(a).

2:76-8.6 Appraisals

(a) If the Committee grants preliminary approval of the offer for fee simple purchase, it shall select two independent professional appraisers from among members of recognized organizations of real estate appraisers to perform appraisals on the offered farmland.

(b) Upon completion of the appraisals, the appraisers shall forward the appraisal reports to the Committee.

(c) The Committee shall appoint a review appraiser to evaluate the two appraisals and establish a recommended fair market value for the property.

2:76-8.7 Final Committee action

(a) Upon receipt of the fair market value determination, the Committee shall either:

1. Approve the purchase of the parcel at a maximum purchase price; or

2. Disapprove the application and state the reasons for the denial.

(b) The Committee may authorize staff to negotiate with the landowner for a purchase price less than the appraised fair market value.

SUBCHAPTER 9. EMERGENCY ACQUISITION OF DEVELOPMENT EASEMENTS

2:76-9.1 Scope

This subchapter sets forth the emergency conditions under which the State Agriculture Development Committee (SADC) may provide up to 100 percent funding for the purchase of development easements on farmland pursuant to N.J.S.A. 4:1C-31(c)-(e) as amended.

2:76-9.2 Emergency purchase conditions

(a) If the SADC determines that there is a substantial likelihood that the use of the land will change from productive agriculture to non-agriculture, the SADC may provide up to 100 percent of the cost of development easements on the following:

1. On farmland which conforms to the priority criteria set forth in N.J.A.C. 2:76-6 and where the SADC determines that the purchase would be in the interest of the State regardless of whether the respective county agriculture development board (CADB) is willing to provide funds for the purchase.

2. On farmland which conforms to the priority criteria set forth in N.J.A.C. 2:76-6 and where both the SADC and the respective CADB determines that the purchase is in their respective interests and no county funding is immediately available.

(b) The SADC may require the county to provide additional cost share funds beyond those currently required for future purchases of development easements in the event of the 100 percent SADC funding pursuant to (a)2 above.

SUBCHAPTER 10. APPRAISAL HANDBOOK STANDARDS

2:76-10.1 Applicability

This subchapter provides the standards contained in the State Agriculture Development Committee's appraisal handbook for independent professional appraisers to follow when conducting appraisals of farmland for the purpose of acquiring a development easement pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, as amended.

2:76-10.2 Definitions

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

"Agricultural value" means the value of the property based solely on its agricultural productivity which does not take into account alternative uses for the property.

"Agricultural market value" means the market value of property with a present and future highest and best use for agricultural production. This includes consideration of exposure on the market and competition for agricultural property among farmers.

"Appraiser handbook" means a document prepared and adopted by the Committee which identifies the standards for conducting appraisals which shall be available to the boards.

"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 Agricultural 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 and acquired under 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 thereto.

“Exceptions”, unless the text indicates otherwise, means portions of the applicant’s land holdings which are not to be encumbered by the deed restrictions contained in N.J.A.C. 2:76-6.15.

“Hydrologically limited area” means those areas which are designated as freshwater wetlands, transition zones, 100 year flood hazard areas, hydric soils, State open waters, State-owned riparian lands, or otherwise lack or have limited development potential due to excessive water.

“Market value restricted” means the market value of property subject to the deed restrictions placed on the title of the property as set forth in N.J.A.C. 2:76-6.15.

“Market value unrestricted” means the market value that a property will bring in the open market under all conditions requisite for a fair sale and which value includes all rights of fee simple ownership.

“Subject property” means the property being considered for the purchase of a development easement.

2:76-10.3 Appraisal report format

(a) The appraisal reports prepared by the independent appraiser pursuant to N.J.S.A. 2:76-6.7 shall follow the following format:

1. Summary;
2. General information;
3. Property valuation before development easement acquisition (market value unrestricted);
4. Property valuation after development easement acquisition (market value restricted);
5. Final estimate of development easement value; and
6. Addendum.

(b) The requirements for each section of the appraisal reports are described in N.J.A.C. 2:76-10.4 through 10.9.

2:76-10.4 Summary

(a) The summary section of the appraisal report shall contain the following:

1. A letter of transmittal which shall include the development easement value expressed as a per acre value and a total value;

2. A certification of appraisal which shall include the market value unrestricted, market value restricted, development easement value, date of valuation and the signature of the appraiser responsible for the report;

3. A summary of salient facts and important conclusions which shall include any other information which the appraiser deems relevant. The format shall conform with the sample, Appendix A of this subchapter, incorporated herein by reference; and

4. A table of contents which shall include the topic listings contained in the appraisal report with corresponding page numbers. The format shall conform with the sample, Appendix B of this subchapter, incorporated herein by reference.

2:76-10.5 General information

(a) The general information section of the appraisal report shall contain the following:

1. The purpose of the appraisal which estimates the market value of the development easement on the subject property as restricted pursuant to N.J.A.C. 2:76-6.15;
2. A statement of the rights being valued:
 - i. Market value unrestricted;
 - ii. Market value restricted; and
 - iii. Development easement value;
3. A section defining the legal and technical terms of the report;
4. Any assumptions and limiting conditions;
5. A section identifying the subject property by municipal tax map block and lot or other means. The subject property and its current use shall be briefly described;
6. Zoning and assessment information; and
7. Information detailing community and neighborhood data. This shall include, but not be limited to, the character of the community, land use trends, degree of development pressure in the area and any other information which may impact the market value unrestricted.

(b) Appraisers shall apply the valuation procedure set forth in N.J.S.A. 13:8C-38j to land the owner of which is:

1. The same person who owned the lands on the date of enactment of P.L. 2004, c.120 (August 10, 2004) and who has owned the lands continuously since that enactment date;
2. An immediate family member of that person, defined as a spouse, child, parent, sibling, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, step-parent, stepchild, stepbrother, stepsister, half brother, or half sister, whether the individual is related by blood, marriage, or adoption; or

	PAGE #'S
Zoning and Assessment Information	00
Community and Neighborhood Data	00
PROPERTY VALUATION, BEFORE DEVELOPMENT	
EASEMENT ACQUISITION (MARKET VALUE UNRESTRICTED)	
Subject Property Description and Adaptability for Development Use	00
Highest and Best Use	00
Valuation Method(s)	00
Sales Grid	00
Value Conclusion	00
PROPERTY VALUATION AFTER DEVELOPMENT	
EASEMENT ACQUISITION (MARKET VALUE RESTRICTED)	
Subject Property Description	00
Highest and Best Use	00
Valuation Methods	00
Sales Grid	00
Value Conclusion	00
FINAL ESTIMATE OF DEVELOPMENT EASEMENT VALUE	
ADDENDUM	
Subject property location map	00
Subject property tax map or survey	00
Soils/flood/topographic maps	00
Study of hydrologically limited areas	00
Subject property photos	00
Reference materials, etc.	00
Development easement restrictions	00
Appraiser's qualifications	00

ment easements on farmland pursuant to the Garden State Preservation Trust Act, P.L. 1999, c.152. In order to receive the priority consideration contained in N.J.A.C. 2:76-8.5, the landowner must be an established farmer as defined in 7 C.F.R. § 1945.154. In order to receive the priority an applicant who conducts the farming operation as an individual must manage the farming operation. If the applicant is another entity, at least one stockholder, member, partner or joint operator must manage the farming operation.

2:76-11.2 Definitions

As used in this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“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 title thereto, which interest represents the right to develop that land for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential.

“Farmland” means land identified as having prime or unique soils as classified by the Natural Resource Conservation Service in the United States Department of Agriculture, having soils of Statewide importance according to criteria adopted by the State Soil Conservation Committee, established pursuant to N.J.S.A. 4:24-3, or having soils of local importance as identified by local soil conservation districts, and which land qualifies for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L. 1964, c.48 (N.J.S.A. 54:4-23.1 et seq.), and any other land on the farm that is necessary to accommodate farm practices as determined by the State Agriculture Development Committee.

“Farmland preservation,” “farmland preservation purposes” or “preservation of farmland” means the permanent preservation of farmland to support agricultural or horticultural production as the first priority use of that land.

2:76-11.3 Landowner offer

(a) An owner of farmland may offer to sell to the Committee a development easement on the farmland at a price which, in the opinion of the landowner, represents the fair market value of the development easement.

(b) The Committee shall forward copies of the offer to the respective board and municipality.

APPENDIX C

LAND SALE COMPARATIVE RATING GRID

Sale No.	1	2	3
Sale Price	\$ _____	\$ _____	\$ _____
Reflects in Units	\$/AC	\$/AC	\$/AC
Date of Sale	_____	_____	_____
Conditions of Sale	_____ %	_____ %	_____ %
Financing	_____ %	_____ %	_____ %
Time Adjustment	_____ %	_____ %	_____ %
Total Adjustment	_____ %	_____ %	_____ %
Adjusted Sales Price	\$ _____	\$ _____	\$ _____
Location	_____ %	_____ %	_____ %
Size	_____	_____	_____
Frontage	_____	_____	_____
Topography	_____	_____	_____
Zoning	_____	_____	_____
Easements	_____	_____	_____
Wetlands	_____	_____	_____
(Hydrologically limited areas)	_____	_____	_____
Soils	_____	_____	_____
Other	_____	_____	_____
Net Adjustment	_____ %	_____ %	_____ %
Value Indicated to Subject by Unit	\$ _____/AC	\$ _____/AC	\$ _____/AC

SUBCHAPTER 11. COMMITTEE ACQUISITION OF FARMLAND DEVELOPMENT EASEMENTS

2:76-11.1 Applicability

This subchapter applies to transactions in which the State Agriculture Development Committee purchases develop-

2:76-11.4 Board and municipal comments

The respective board and municipality may submit comments regarding the pending offer to the Committee within 30 days of the date of application.

2:76-11.5 Committee evaluation

(a) In determining the suitability of the purchase of development easements on farmland, the committee shall consider the criteria set forth in N.J.S.A. 4:1C-31 and any comments of the respective board and municipality.

(b) In addition to the factors set forth in (a) above, the committee shall utilize the same criteria utilized for the evaluation of applications for development easement purchase set forth in N.J.A.C. 2:76-6.16.

(c) In addition to the criteria and factors in (a) and (b) above, priority consideration shall be given to farms which have experienced crop losses as a result of the drought of 1999 in excess of 50 percent of the average yield of commodities that comprise at least 35 percent of the farm's total yield based on market value or that comprise at least 35 percent of the acreage devoted to the commodities suffering such crop loss.

(d) Other than for farmland given priority consideration to (c) above, the Committee may only purchase development easements if (d)1 and 2 or (d)1 and 3 below are satisfied:

1. The application is of superior quality as determined by the evaluation made pursuant to (b) above; and
2. There exists a substantial likelihood that the use of the land will change from productive agriculture to non-agriculture; or
3. There exists significant Statewide or regional importance for preserving the farm.

(e) The Committee shall grant or deny preliminary approval based upon this subsection.

Amended by R.2000 d.98, effective March 6, 2000.
See: 31 N.J.R. 3880(a), 32 N.J.R. 788(a).

Inserted a new (d); and recodified former (d) as (e).

2:76-11.6 Yield determination and recordkeeping

(a) In determining the average record yield and any crop loss, the landowner shall submit to the Committee, Farm Service Administration Form, FmHA 1945-22, "Certification of Disaster Losses," which states the physical and production losses suffered as a result of the drought emergency.

(b) The applicant shall report total acres and actual yields for all crops planted and/or grown as a result of the drought, and the number of all animal units and production per animal units being maintained at the time of the drought emergency. The information shall come from the applicant's own records or from Farm Service Administration records of acres grown and proven actual yields in the year of the drought emergency.

(c) The landowner shall also submit previous five-year production levels.

(d) Landowners are required to certify, subject to penalties of law, that the accuracy and completeness of the information provided on Form FmHA 1945-22 can be supported by written records.

(e) When appropriate, the committee shall rely upon the Farm Service Administration's determination of crop loss.

2:76-11.7 Appraisals

(a) If the Committee grants preliminary approval of the offer to acquire the development easement, it shall select two independent professional appraisers from among members of recognized organizations of real estate appraisers to perform appraisals on the offered development easement farmland.

(b) Appraisals to determine the fair market value shall be conducted consistent with the process set forth in subsection c of section 24 of P.L. 1983, c.32 (N.J.S.A. 4:1C-31) and sections 38(e) and 38(g) of the Garden State Preservation Trust Act, P.L. 1999, c.152.

(c) Upon completion of the appraisals, the appraisers shall forward the appraisal reports to the Committee.

(d) The Committee shall appoint a review appraiser to evaluate the two appraisals and establish a recommended fair market value for the development easement.

2:76-11.8 Final Committee action

(a) Upon receipt of the fair market value determination, the Committee shall either:

1. Approve the purchase of the development easement at a maximum purchase price; or
2. Disapprove the application and state the reasons for the denial.

(b) The Committee may authorize staff to negotiate with the landowner for a purchase price less than the appraised fair market value of the development easement.

(c) The Committee may require a local government to contribute to the Committee a portion of the cost of acquiring the development easement.

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

2:76-12.1 Definitions

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

“Agricultural use” means the use of the land for 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.

“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 interest represents the right to develop that land for all nonagricultural purposes and which interest may be transferred under laws authorizing the transfer of development potential.

“Farmland” means land identified as having prime or unique soils as classified by the Natural Resources Conservation Service in the United States Department of Agriculture, having soils of Statewide importance according to criteria adopted by the State Soil Conservation Committee, established pursuant to N.J.S.A. 4:24-3, or having soils of local importance as identified by local soil conservation districts, and which land qualifies for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L. 1964, c.48 (N.J.S.A. 54:4-23.1 et seq.), and any other land on the farm that is necessary to accommodate farm practices as determined by the State Agriculture Development Committee.

“Garden State Preservation Trust” means the Garden State Farmland Preservation Trust established pursuant to section 20 of the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152.

“Nonprofit” means a nonprofit organization that is exempt from Federal taxation pursuant to section 501(c)(3) of the Federal Internal Revenue Code, 26 U.S.C. § 501(c)(3), and which qualifies for a grant pursuant to the Garden State Preservation Trust Act, N.J.S.A. 13:8C-42, P.L. 1999, c.152.

2:76-12.2 General provisions

(a) The Committee may provide a grant to a nonprofit for up to 50 percent of the cost of acquisition of development easements on farmland or up to 50 percent of the cost of acquisition of fee simple titles to farmland from willing sellers.

(b) The Committee shall establish a maximum funding limit per project or per applicant based on available funds and project priorities established pursuant to criteria contained at N.J.A.C. 2:76-6.16. There is no minimum or maximum grant request amount. Any funding awarded by the Committee is subject to approval by the Garden State Preservation Trust and legislative appropriation.

(c) A nonprofit may use as its matching share of the cost of acquisition its own funds or a donation of all or a portion of the eligible development easement cost or fee simple acquisition of the land cost of the project site.

(d) A nonprofit shall not use as its matching share of the cost of acquisition either:

1. The value of lands that the nonprofit owns at the time of application for Committee funding;
2. The value of lands that were acquired with funds obtained under the Committee or any other State grant or loan program for the purpose of acquiring land; or
3. Funds obtained under the Committee or any other State grant or loan program for the purpose of acquiring a development easement on farmland or fee simple title to farmland.

(e) If the value of the donated land that the nonprofit uses as its matching share exceeds 50 percent of the cost of acquisition, the Committee shall reduce the amount of the funding it provides by the amount by which the donation exceeds 50 percent of the cost of acquisition.

(f) The nonprofit is responsible for meeting all requirements of all Committee rules, other State statutes, Federal statutes, and local ordinances, as applicable.

2:76-12.3 Eligible projects

The purchase of development easements on farmland or the purchase of fee simple title to farmland, pursuant to N.J.S.A. 13:8C-39, are eligible for acquisition with Committee funding, subject to N.J.A.C. 2:76-12.4.

2:76-12.4 Ineligible projects

(a) The following acquisition projects are not eligible for Committee funding:

1. Any lands not located in an agricultural development area;
2. Any lands which do not qualify for differential property tax assessment pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.;
3. Any lands which are permanently restricted by an easement which is not consistent with N.J.A.C. 2:76-6.15, unless approved by the Committee;
4. Any land that is, or is intended to be, used for other than an agricultural use as defined at N.J.A.C. 2:76-12.1;
5. Any lands or development easement that was acquired prior to the enactment of the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152; and
6. Any lands or development easement that was held by the nonprofit for more than three years.

2:76-12.5 Donations toward the cost of acquisition

(a) The Committee shall not treat as a donation any donation accepted prior to approval of an application for Committee funding under N.J.A.C. 2:76-13.4, unless approved by the Committee.

(b) The Committee shall not treat as a donation any donation of land which is not part of the approved project.

(c) The Committee shall not treat as a donation the reduction in the cost of acquisition resulting from negotiation between the nonprofit and the property owner, unless approved by the Committee.

2:76-12.6 Allowable project costs

(a) The following costs are allowable, provided the costs are incurred in conformance with all applicable laws:

1. Costs which the nonprofit incurs to acquire farmland in fee simple title or to acquire a development easement based on the Committee's approved grant;
2. Costs which the nonprofit incurs for any appraisal obtained in accordance with N.J.A.C. 2:76-13.5;
3. Costs which the nonprofit incurs for surveys necessary for the acquisition of a development easement or the acquisition of fee simple title to farmland; and
4. Costs which the nonprofit incurs for obtaining a title search and title insurance.

(b) The following costs are not allowable:

1. Administrative, legal and operating costs related to the acquisition;
2. Salaries and/or wages of employees of the nonprofit;
3. Real property taxes; and
4. Costs associated with an application for Committee funding that is not approved under N.J.A.C. 2:76-13.4.

**SUBCHAPTER 13. NONPROFIT ACQUISITION
PROJECTS: APPLICATION PROCESS**
2:76-13.1 Timing

A nonprofit may submit an application for Committee funding within 90 days after the date of publication of a notice of availability of grant funds in the New Jersey Register.

2:76-13.2 Pre-application procedures

(a) The Committee encourages nonprofits to request a pre-application conference with the Committee as early as possible, prior to application submission, to discuss project eligibility, award criteria and application requirements.

(b) A nonprofit that enters into a purchase or option contract with an owner of land prior to receiving Committee approval is not precluded from submitting an application to the Committee, but shall proceed at its own risk.

2:76-13.3 Application requirements

(a) A nonprofit shall submit an application containing all of the following:

1. A completed application form, provided by the Committee, that identifies the nonprofit; lists the project location; contains a brief description of the project and an estimate of the funding request amount; identifies the nonprofit's contact person for the project; and contains the certification of the person authorized by the enabling resolution required under (a)2 below to submit the application.

- i. The nonprofit shall base the estimated funding request amount on the present market value or anticipated purchase price of the project site and not solely on the tax assessed value of the project site. The nonprofit shall include estimated survey, appraisal, and preliminary assessment costs, and estimated costs of building demolition, if applicable;

2. A certified copy of the enabling resolution, authorizing the submission of a Committee application and authorizing a person to execute the project agreement described in N.J.A.C. 2:76-16.1(a);

3. A narrative description of the extent to which the project meets the award criteria under N.J.A.C. 2:76-14.1;

4. A copy of the deed restrictions to be placed on the land;

5. A project reference map with dimensions of at least 22 inches by 36 inches and containing the following information:

- i. The project name and location;

- ii. The parcel number as assigned by the nonprofit to each adjacent group of lots with one owner. Lots under a single ownership that are physically separated must be assigned individual parcel numbers;

- iii. The lot and block numbers and municipality(ies) in which the proposed project site is located;

- iv. The owner(s) of record as of the date of application submission;

- v. The area of project site, in acreage;

2. Audit reports shall contain an itemized schedule of all project-related financial assistance received by the nonprofit identifying: grantor agency, program title, State account number, and total disbursement.

(f) The Committee shall adjust the nonprofit's final payment, if necessary, based on the results of the annual audit reports.

(g) If a nonprofit sells or donates any interest in any lands acquired with a grant by the Committee, the nonprofit shall pay to the Committee the relative percent cost share based on its initial grant as compared to the original purchase price of the net proceeds. This reimbursement provision shall be contained in the deed of easement on lands acquired in fee simple title by the nonprofit. For purposes of this subsection, "net proceeds" means the amount of compensation received by the nonprofit in excess of any unreimbursed costs.

2:76-16.5 Monitoring

(a) Any lands from which a development easement was acquired or lands purchased in fee simple title by a nonprofit with a grant provided by the Committee shall be monitored by the nonprofit as follows:

1. An onsite inspection shall be performed at least once a year;
2. All inspections and monitoring shall be completed within the period commencing July 1 and ending June 30;
3. A written summary shall be provided to the Committee by July 15, verifying that the inspections were conducted during the scheduled period with a certification concerning whether the farm was in compliance with the provisions of the deed of easement;
4. The Committee shall be notified if any of the terms and conditions of the deed of easement were violated within 30 days of identifying such violation; and
5. Appropriate actions shall be taken within the nonprofit's authority to ensure that the terms and conditions of the deed of easement are enforced.

SUBCHAPTER 17. PLANNING INCENTIVE GRANTS

2:76-17.1 Applicability

This subchapter establishes a farmland preservation planning incentive grant program. The rules describe the process for the State Agriculture Development Committee to provide grants to eligible counties and municipalities for the purpose of preserving a significant area of reasonably contiguous farmland that will promote the long term economic

viability of agriculture as an industry in a municipality or county.

2:76-17.2 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.

"Application" means the formal submission by the county or municipality to the Committee which includes the list of farms and other information required by the 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.

"Garden State Preservation Trust" means the public body created pursuant to N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152.

"Governing body" means, in the case of a county, the board of chosen freeholders, and in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality.

"List of farms" means the specific properties from which a development easement may be acquired pursuant to P.L. 1999, c.180.

"Mayor" means the municipal official identified pursuant to section 3.2 of P.L. 1975, c.291 (N.J.S.A. 40:55D-5).

"Project area" means an area identified by a municipality or county agriculture development board located within an ADA which consists of the following and lands which are reasonably contiguous to any of the following:

1. List of farms;
2. Lands from which development easement purchase applications have been approved by the municipality or board and submitted to the Committee pursuant to the Agriculture Retention and Development Act, as amended and the Garden State Preservation Act;
3. Lands from which fee simple applications have been approved by the Committee;
4. Other lands from which development easement applications have been approved by the Committee as au-

thorized pursuant to the Garden State Preservation Trust Act;

5. Lands from which development easements have already been purchased;
6. Other permanently deed restricted farmlands;
7. Lands enrolled in farmland preservation programs or municipally approved farmland preservation programs; and
8. Other permanently preserved lands dedicated for open space purposes that are compatible with agriculture, as approved by the Committee.

"Reasonably contiguous" means located within one mile.

2:76-17.3 Identification of project areas

To be eligible for a grant, a county or municipality shall identify project areas.

2:76-17.4 Appointment of an agricultural advisory committee

(a) To be eligible for a grant, a county or municipality shall establish an agricultural advisory committee.

1. For municipal applications, members of a municipal agricultural advisory committee shall be appointed by the mayor with the consent of the municipal governing body. The municipal agricultural advisory committee shall report to the municipal planning board. A municipal agricultural advisory committee shall be composed of:

- i. At least three, but not more than five, residents of the municipality; and
- ii. A majority of the members actively engaged in farming and owning a portion of the land they farm.

2. For county applications, the board shall serve as the agricultural advisory committee.

2:76-17.5 Dedicated funding source

(a) To be eligible for a grant, a county or municipality shall establish and maintain a dedicated source of funding for farmland preservation pursuant to P.L. 1997, c.24 (N.J.S.A. 40:12-15.1 et seq.), or an alternative means of funding for farmland preservation, such as, but not limited to:

1. A dedicated tax;
2. Repeated, continuing annual appropriations; or
3. Repeated issuance of bonded indebtedness.

(b) The Committee may determine that a funding source other than a dedicated tax established pursuant to P.L. 1997, c.24 (N.J.S.A. 40:12-15.1 et seq.) is, in effect, a dedicated source of funding based upon a demonstrated commitment to farmland preservation by the county or municipality.

2:76-17.6 Farmland preservation plan element

(a) To be eligible for a grant, a municipality shall prepare and adopt a farmland preservation plan element pursuant to paragraph (13) of section 19 of P.L. 1975, c.291 (N.J.S.A. 40:55D-28b(13)) in consultation with the municipal agriculture advisory committee. The farmland preservation plan element shall include:

1. An inventory of farm properties in the entire municipality and a map illustrating significant areas of agricultural land;
2. A detailed statement showing that municipal plans and ordinances support and promote agriculture as a business; and
3. A plan for preserving as much farmland as possible in the short term by leveraging monies made available by the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152 through a variety of mechanisms including, but not limited to, utilizing:
 - i. Option agreements;
 - ii. Installment purchases; and
 - iii. Encouraging donations for permanent development easements;
4. A statement of farming trends, characterizing the type(s) of agricultural production in the municipality; and
5. A discussion of plans to develop the agricultural industry in the municipality.

(b) To be eligible for a grant, a county shall prepare and adopt a comprehensive county farmland preservation plan. The comprehensive county farmland preservation plan shall include a clear statement of:

1. County farmland preservation goals, incorporating one, five and 10 year acreage targets for permanent farmland preservation;
2. An inventory of available farmland to be preserved and a map illustrating significant areas of agricultural land;
3. Consistency with municipal and regional land use planning and preservation efforts;
4. Other farmland preservation techniques;
5. Farmland preservation program funding and staffing;
6. Farming trends; and
7. Plans to develop the agricultural industry.

2:76-17.7 Municipal application procedures

(a) A municipality may submit an application through one of the following methods:

1. If county funding is sought, the application shall be forwarded to the board for review and approval prior to the submission of the application to the Committee pursuant to the deadlines established by N.J.A.C. 2:76-17.9; or
2. If county funding is not sought, the municipality shall forward the application directly to the Committee.
 - i. The Committee shall notify the respective board within 30 days of receipt of an application.
- (b) A municipality may enhance its application by submitting a joint proposal with one or more contiguous municipalities resulting in the preservation of a more significant area of reasonably contiguous farmland.
- (c) The application shall include:
 1. A copy of the adopted farmland preservation plan element prepared pursuant to paragraph (13) of section 19 of P.L. 1975, c.291 (N.J.S.A. 40:55D-28b(13));
 2. An estimate of the cost of purchasing development easements on the list of farms in a designated project area which shall be determined:
 - i. In consultation with the board; or
 - ii. Through an appraisal for the entire project area;
3. An inventory showing the list of farms and the characteristics of the list of farms in the project area, which shall include, but not be limited to, parcel characteristics such as:
 - i. Size of each farm in the list of farms, aggregate size of the list of farms, and size of the project area;
 - ii. Density of the list of farms as compared to the density of the project area;
 - (1) Density of the list of farms consists of the total acreage contained in the list of farms.
 - (2) Density of the project area consists of the sum of the acreage contained in the list of farms, lands from which development easement purchase applications have been approved by the municipality or board and submitted to the Committee pursuant to the Agriculture Retention and Development Act and the Garden State Preservation Trust Act, lands from which development easements have already been purchased, other permanently deed restricted farmlands, lands enrolled in farmland preservation programs or municipally approved farmland preservation programs, and other permanently preserved lands dedicated for open space purposes that are compatible with agriculture, as approved by the Committee;

iii. Soil productivity including the following:

- (1) Prime soils identified by the U.S.D.A., Natural Resource Conservation Service;
- (2) Soils of Statewide importance as identified by the New Jersey Department of Agriculture, State Soil Conservation Committee; and
- (3) Other soils which are specifically suited for the production of specialty crops and are being used or intended to be used for that purpose; and

iv. The proportion of land that is deemed tillable.

4. A multi-year plan for the purchase of development easements on a list of farms in a project area, indicating the municipality's and, if appropriate, the county's share of the estimated purchase price.

i. If a municipality and/or county intends to leverage monies made available through N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152, the municipality and/or county shall provide an accounting of such leveraging, including, but not limited to:

- (1) The estimated percentage of leveraged State funds in the application;
- (2) The time period of installment purchase agreements;
- (3) The donation of development easement value; and
- (4) The use of option agreements.

5. Documentation pertaining to local commitment for farmland preservation including, but not limited to, the following:

- i. Municipal and county land use regulations, policies and programs which support the long term viability of the agricultural industry;
- ii. Demonstrated support for agriculture as a business;
- iii. An analysis of the consistency of the application with the State Development and Redevelopment Plan and other land use plans, programs and regulations;
- iv. Documentation to show that infrastructure plans and county and municipal investments in farmland preservation in a project area do not conflict; and
- v. Demonstration of financial support by the county and/or municipality for farmland preservation;

6. A discussion of efforts made to minimize the negative impact caused by the conversion of agricultural land to nonagricultural use in the project area; and

7. A discussion of efforts to preserve agricultural lands in the project area which face an imminent conversion to nonagricultural uses.

2:76-17.8 County application procedures

(a) A county shall submit an application directly to the Committee.

(b) To avoid duplication, the county shall notify all municipalities in which properties included in the project area are located no later than the date of application submission.

(c) A county may enhance its application by submitting a joint proposal with one or more contiguous counties resulting in the preservation of a more significant area of reasonably contiguous farmland.

(d) The application shall include:

1. A copy of the adopted county comprehensive farmland preservation plan element prepared pursuant to N.J.A.C. 2:76-17.6;

2. An estimate of the cost of purchasing development easements on the list of farms in a designated project area which shall be determined through:

- i. Existing appraisal data; or
- ii. An appraisal for the entire project area;

3. An inventory showing the list of farms and the characteristics of the list of farms in the project area, which shall include, but not be limited to, parcel characteristics such as:

- i. Size of each farm in the list of farms, aggregate size of the list of farms, and size of the project area;
- ii. Density of the list of farms as compared to the density of the project area;

(1) Density of the list of farms consists of the total acreage contained in the list of farms.

(2) Density of the project area consists of the sum of the acreage of the following: the list of farms; lands from which development easement purchase applications have been approved by the municipality or board and submitted to the Committee pursuant to the Agriculture Retention and Development Act and the Garden State Preservation Trust Act; lands from which development easements have already been purchased; other permanently deed restricted farmlands; lands enrolled in farmland preservation programs or municipally approved farmland preservation programs, and other permanently preserved lands dedicated for open space purposes that are compatible with agriculture, as approved by the Committee;

iii. Soil productivity including the following:

- (1) Prime soils identified by the U.S.D.A., Natural Resource Conservation Service;

(2) Soils of statewide importance as identified by the New Jersey Department of Agriculture, State Soil Conservation Committee; and

(3) Other soils which are specifically suited for the production of specialty crops and are being used or intended to be used for that purpose; and

iv. The proportion of land that is deemed tillable;

4. A multi-year plan for the purchase of development easements on a list of farms in a project area, indicating the county's and, if appropriate, the municipality's share of the estimated purchase price.

i. If a municipality and/or county intends to leverage monies made available through N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152, the municipality and/or county shall provide an accounting of such leveraging, including, but not limited to:

(1) The estimated percentage of leveraged state funds in the application;

(2) The time period of installment purchase agreements;

(3) The donation of development easement value; and

(4) The use of option agreements;

5. Documentation pertaining to local commitment for farmland preservation including, but not limited to, the following:

i. Municipal and county land use regulations, policies and programs which support the long term viability of the agricultural industry;

ii. Demonstrated support for agriculture as a business;

iii. An analysis of the consistency of the application with the State Development and Redevelopment Plan and other land use plans, programs and regulations;

iv. Documentation to show that infrastructure plans and county and municipal investments in farmland preservation in a project area do not conflict; and

v. Demonstration of financial support by the county and/or municipality for farmland preservation;

6. A discussion of efforts made to minimize the negative impact caused by the conversion of agricultural land to nonagricultural use in the project area; and

7. A discussion of efforts to preserve agricultural lands in the project area which face an imminent conversion to nonagricultural uses.

2:76-17.9 Application deadlines

(a) The Committee shall establish deadlines for application submission at least 120 days in advance of the deadline.

(b) The Committee shall review all applications for completeness within 60 days of the application submission deadline.

(c) The county or municipality may be requested to correct minor deficiencies in the application during the Committee's 60 day review period. The Committee may reject applications for major deficiencies with respect to the requirements set forth in this subchapter.

2:76-17.10 Multiple program submissions

The list of farms contained in an application may also be submitted to the Committee for consideration through the easement purchase program as authorized pursuant to N.J.A.C. 2:76-6.

2:76-17.11 Committee review

(a) The Committee shall evaluate applications based on whether the project area provides an opportunity to preserve a significant area of reasonably contiguous farmland that will promote the long term viability of agriculture as an industry in the municipality or county.

(b) The Committee shall evaluate and rank applications based upon the following criteria:

1. Leveraging Criterion (weight 40);

i. Priority shall be given to applications that leverage State funding made available through N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152.

ii. Factors to be considered are as follows:

(1) The percentage of leveraged State funds in the application;

(2) The time period of the installment purchase agreement;

(3) Donation of development easement value; and

(4) Option agreements;

2. Local Commitment Criterion (weight 25);

i. Priority shall be given where municipal and county land use regulations, policies and programs support the long term viability of the agricultural industry.

ii. The factors to be considered are as follows:

(1) Demonstrated support for agriculture as a business;

(2) Consistency with the State Development and Redevelopment Plan and other land use plans, programs and regulations;

(3) Absence of conflicting infrastructure plans and investments in project areas; and

(4) Financial support demonstrated for farmland preservation purposes;

3. Soil Productivity Criterion (weight 25);

i. Priority shall be given to soils in the list of farms which exhibit superior quality, require minimal maintenance and have a greater potential for long term viability for a variety of agricultural purposes.

ii. The factors to be considered are as follows:

(1) Prime soils identified by the U.S.D.A., Natural Resource Conservation Service;

(2) Soils of Statewide importance as identified by the New Jersey Department of Agriculture, State Soil Conservation Committee; and

(3) Other soils which are specifically suited for the production of specialty crops and are being used or are intended to be used for that purpose;

4. Size Criterion (weight 20);

i. Priority shall be given to project areas that have a list of farms with larger land masses;

5. Project Area Density Criterion (weight 20);

i. Priority shall be given to project areas that have a higher ratio of acreage contained in the list of farms as compared to the project area;

6. Tillable Acres Criterion (weight 15);

i. Priority shall be given to project areas that have a list of farms which have a high proportion of tillable land; and

7. Imminence of Change Criterion (weight 10);

i. Priority shall be given to applications that demonstrate an effort to minimize the negative impact caused by the conversion of agricultural land to nonagricultural use in the project area.

ii. Factors to be considered are:

(1) The degree of imminence of change; and

(2) The impact of the conversion on the project area.

(c) The Committee shall consider the geographic distribution of applications when ranking them.

2:76-17.12 Preliminary approval

(a) The Committee shall evaluate concurrent easement purchase and planning incentive grant applications prior to preliminary ranking of easement purchase applications pursuant to N.J.A.C. 2:76-6.6 in a particular funding round.

(b) The Committee shall grant or deny preliminary approval of an application and shall notify the county or municipality of its decision in writing. The Committee shall state the reasons for approval or denial in writing.

(c) The Committee shall establish a preliminary funding allocation to the municipality or county for all applications receiving preliminary approval. Preliminary funding allocations shall be established as follows:

1. The Committee shall determine the estimated total cost of development easement acquisitions contained in the application. (Example: 10 year funding plan requiring \$1 million per year = \$10 million total development easement cost.)

2. The Committee's estimated cost share shall be calculated based on the average county or municipal cost share of development easements to date. If data is not available, the Committee's current average Statewide cost share for the purchase of development easements shall be utilized. Example: (\$10 million total development easement cost) x (65 percent) = \$6.5 million.

3. The Committee shall allocate 75 percent of the total of the estimated Committee cost share needed for the purchase of development easements on the list of farms contained in the application subject to the following:

i. The available funds earmarked by the Committee from the Garden State Preservation Trust Fund for planning incentive grants; and

ii. The maximum allocation, which shall not exceed \$1.5 million per applicant per year.

4. The maximum allocation of \$1.5 million per applicant per year may be increased with the approval of the Committee pursuant to N.J.A.C. 2:76-17.16 and 2:76-17.21.

5. The preliminary funding allocation may be increased with the approval of the Committee pursuant to N.J.A.C. 2:76-17.21.

(d) The Committee's preliminary funding allocation for each applicant shall be submitted to the Garden State Preservation Trust.

1. The Garden State Preservation Trust shall be notified of future funding requests for the purchase of development easements through installment purchases based on the anticipated schedule of installment payments as contained in the application.

(e) The Committee shall monitor the county's or municipality's funding plan pursuant to N.J.A.C. 2:76-17.21 and adjust the allocation of funds based on the county's or municipality's progress in implementing the proposed funding plan.

(f) In the event concurrent easement purchase and planning incentive grant applications were submitted pursuant to (a) above, the county or municipality shall inform the Committee within 45 days from receipt of the Committee's action as to which funding program to pursue.

2:76-17.13 Appraisals

(a) For applications approved by the Committee pursuant to N.J.A.C. 2:76-17.12(b), the county or municipality shall select two appraisers from the list of appraisers approved by the Committee pursuant to N.J.A.C. 2:76-6.7 to conduct independent appraisals of each farm on the list of farms to determine the fair market value of the development easement for which funding is requested, pursuant to N.J.S.A. 4:1C-31, N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152 and N.J.A.C. 2:76-10.

1. The county or municipality shall provide pertinent farm information including, but not limited to, residential opportunities, exceptions, wetlands and any other factors which may affect the fair market value of the development easement to the appraisers.

i. The county or municipality shall notify the Committee of the date on which appraisal contracts are awarded and the dates when the county or municipality expects to submit appraisal reports to the Committee.

(b) The appraisers shall perform appraisals in accordance with N.J.S.A. 4:1C-11 et seq., N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152, N.J.A.C. 2:76-10 and the Committee's appraisal handbook.

(c) Counties and/or municipalities shall direct appraisers to consider the following when appraising the farms contained in the list of farms:

1. The farmland owner's request for exceptions from the property.

i. Exceptions from the property shall not cause a negative impact on the continued use of the land for agricultural purposes;

2. The farmland owner's request for residual dwelling site opportunities.

i. The allocation of any residual dwelling site opportunities shall be made pursuant to N.J.A.C. 2:76-6.17; and

3. Other preservation efforts by State, county, municipal and nonprofit agencies.

(d) The two appraisers shall certify the current fair market value of the development easement as of a uniform date established by the county or municipality, as appropriate.

(e) The valuation of a development easement for lands located in the Pinelands with Pinelands Development Credits shall be determined by the Committee pursuant to N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152.

(f) Upon completion of the appraisals, the appraisers shall forward the appraisal reports to a person designated by the county or municipality, who shall review the reports for completeness of contractual requirement.

(g) The county or municipality shall forward the completed appraisals to the Committee.

1. The county or municipality shall also provide the Committee with pertinent farm information including, but not limited to, single family, multi-family, and agricultural labor residential buildings, residual dwelling site opportunities, exceptions (number of and acres), and type of agricultural operation.

2:76-17.14 Committee certification of development easement values

(a) The Committee shall appoint a review appraiser to evaluate the appraisals submitted by the county or municipality and to recommend a fair market value of the development easement for each farm. The review appraisal shall be conducted in accordance with the appraisal standards contained in N.J.A.C. 2:76-10.

(b) The Committee shall have final authority for certifying the fair market value of the development easement.

(c) The Committee's certified fair market value of the development easement shall not be greater than the highest independent appraised value of the development easement or be less than the lowest independent appraised value of the development easement.

(d) The Committee may find an appraisal invalid if it does not comply with the appraisal handbook standards at N.J.A.C. 2:76-10 or generally recognized appraisal practices.

1. If an appraisal is found to be invalid, the Committee shall not provide a grant for the particular farm.

(e) The Committee shall certify the fair market value of the development easement and submit the value to the municipality or board.

(f) The Committee shall certify the fair market value of the development easement on lands located in the Pinelands with Pinelands Development Credits pursuant to N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152, and submit the value to the municipality and/or board.

2:76-17.15 Landowner offer

(a) Within 30 days of receipt of the Committee's certification of fair market value of the development easement, the municipality or the board shall forward the value to the landowner.

1. The municipality and/or board may negotiate a purchase price of the development easement for an amount less than the Committee's certified fair market value of the development easement.

2. If applicable, the municipality and/or board shall inform the landowner of the terms and conditions of any installment purchase agreements, options or potential donations.

(b) Within 60 days of the landowner's receipt of the Committee's certification of fair market value of the development easement, the landowner shall submit an asking price to the municipality or the board.

1. A landowner asking price which is greater than the highest of the two independent appraised development easement values determined pursuant to N.J.S.A. 4:1C-31(c), N.J.A.C. 2:76-17.13 and N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152 shall be deemed a rejection of the offer.

2:76-17.16 Final local review

(a) The municipality or board shall approve or disapprove the individual farms contained in the list of farms based on total available funding and provide the following:

1. A commitment of funding by each level of government;
2. A commitment of funding for the year in which the development easement shall be acquired;
3. A commitment of funding in the event the development easement shall be acquired under installment purchase pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-32, as amended; and
4. A commitment of funding in the event that donation or other method of leveraging monies authorized pursuant to N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152, is being utilized.

(b) This subchapter shall not be construed to require that any individual farm in the list of farms in a project area shall receive a price per acre that is the same as any other farm in that project area or that any individual farm must be purchased with installment payments because other farms in the project area are so purchased.

(c) No development easement shall be purchased at a price greater than the highest of the two independent appraised values determined pursuant to N.J.A.C. 2:76-17.13, N.J.S.A. 4:1C-31(c) and N.J.S.A. 13:8C-1 et seq., P.L. 1999, c.152.

(d) In the event that there are insufficient municipal and/or county funds to acquire development easements on all of the farms in the list of farms, the municipality and/or county shall establish a priority ranking of farms and forward only those farms for which there is a funding commitment to the Committee for final approval.

1. Funding requests shall not exceed the Committee's allocation of funds approved pursuant to N.J.A.C. 2:76-17.12.
2. If a municipality and/or county finds that it has insufficient funds, a request for additional funds may be made to the Committee prior to submitting a request for final approval to the Committee pursuant to N.J.A.C.

2:76-17.17. The request for additional funds may be made for the following reasons:

- i. Higher than anticipated Committee-certified development easement values;
- ii. Higher rate of acceptances by landowners in the list of farms than anticipated;
- iii. Ancillary costs associated with successful acquisitions; and
- iv. An amendment to the schedule of payments in which funding may be needed sooner than anticipated to acquire a development easement on a farm contained in the list of farms.

(e) A copy of the governing body's resolution(s) approving the funding proposal and the purchase of the development easements shall be submitted to the Committee.

2:76-17.17 Final committee approval

(a) The Committee shall review all requests for funding for the purchase of a development easement on an individual farm approved by the board and/or municipality for compliance with all applicable statutes, rules and regulations.

(b) The Committee shall approve a cost share grant in each of the years included in the plan for the purchase of each development easement on each individual farm.

1. The Committee's cost share for the purchase of the development easement on an individual farm shall be consistent with the provisions of N.J.A.C. 2:76-6.11.
2. In the event that the approval requires a schedule of installment payments, the Committee shall enter into an agreement with the municipality and, if appropriate the county, pursuant to N.J.A.C. 2:76-17.18(c), subject to the following:
 - i. The provisions of N.J.S.A. 4:1C-32, as amended;
 - ii. The approval of funding by the Garden State Preservation Trust; and
 - iii. The appropriation of funds.

(c) Subsequent to the receipt of an executed agreement pursuant to N.J.A.C. 2:76-17.18, the Committee shall submit to the Garden State Preservation Trust a summary of individual farms that the Committee recommends to receive funding from the Garden State Preservation Trust Fund.

(d) The Committee shall monitor the county's or municipality's funding plan pursuant to N.J.A.C. 2:76-17.21 and adjust the appropriation of funds based on the county's or municipality's progress in implementing the proposed funding plan.

(e) The Committee shall inform the municipality and/or county of its decision.

2:76-17.18 Landowner decision

(a) Within 30 days of the Committee's final approval, the municipality or the county shall present to the landowner a written offer to purchase the development easement pursuant to the plan for purchase.

(b) The landowner shall accept or reject the offer in writing within 30 days of the receipt thereof. Any offer not accepted within that time shall be deemed rejected.

(c) The municipality and/or county shall enter into an agreement with the landowner and shall provide a copy to the Committee.

2:76-17.19 Deed restrictions

(a) Deed restrictions shall be attached to and recorded with the deed of the land and shall be consistent with N.J.A.C. 2:76-6.15.

(b) Easements shall be held by the Committee, or by the appropriate board if county funds are utilized in the purchase of development easements on a particular farm.

2:76-17.20 Terms, contingencies and conditions of purchase

(a) Terms, contingencies and conditions of purchase shall be consistent with the provisions of N.J.A.C. 2:76-6.13.

1. For monitoring purposes, if the board does not provide funding toward the purchase of the development easement, the Committee shall be responsible for monitoring the farm annually to ensure compliance with the deed of easement.

2:76-17.21 Annual review of planning incentive grant application

(a) The Committee shall review each application annually, within 60 days of the anniversary of the Committee's preliminary approval pursuant to N.J.A.C. 2:76-17.12.

(b) The Committee may modify its preliminary funding allocation pursuant to N.J.A.C. 2:76-17.12 or approval of a grant pursuant to N.J.A.C. 2:76-17.17. In determining whether to modify the preliminary funding allocation, the Committee may consider the following:

1. Geographic distribution of funds;
2. Available funds;
3. Unanticipated imminence of conversion of the land to a nonagricultural use;
4. Increased costs due to higher than anticipated Committee-certified development easement values;

5. Increased costs due to a higher than anticipated rate of acceptances by landowners in the list of farms;

6. Ancillary costs associated with successful acquisitions;

7. An amendment to the schedule of payments in which funding may be needed sooner than anticipated to acquire a development easement on a farm contained in the list of farms;

8. The municipality and/or the county have not completed easement acquisitions by the specified dates in the application or the agreement;

9. The actual purchase price relative to the Committee's certified development easement value; and

10. The degree of adherence by the municipality and/or the county to its application.

(c) The municipality and/or county may request amendments to the application which shall be considered by the Committee on a case-by-case basis.

(d) Any unexpended funds resulting from a modification pursuant to (b) above may be reallocated by the Committee to any farmland preservation program administered by the Committee, subject to the provisions of the Garden State Preservation Trust Act.

SUBCHAPTER 18. AGRICULTURAL MEDIATION PROGRAM

2:76-18.1 Applicability

(a) This subchapter establishes procedures to be followed by certified mediators, disputants and State Agriculture Development Committee staff for implementing the New Jersey Agricultural Mediation Program as administered by the State Agriculture Development Committee.

(b) The Committee's Agricultural Mediation Program is a certified mediation program, in that it meets the United States Department of Agriculture-Farm Service Agency's (USDA-FSA's) requirements for certification.

(c) The Committee shall offer the services of the Agricultural Mediation Program to disputants provided there is adequate funding for the program.

2:76-18.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.