

CHAPTER 76

STATE AGRICULTURE DEVELOPMENT COMMITTEE

Authority

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

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

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

Chapter Historical Note

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

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

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

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

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

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

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

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

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

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

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

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

Pursuant to Executive Order No. 66(1978), Chapter 76, State Agricultural Development Committee, was readopted as R.1999 d.198, effective May 28, 1999, and Subchapter 2A, Agricultural Management Practices: Generally Accepted Operations and Practices, was adopted by R.1999, d.198, effective June 21, 1999. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. AGRICULTURAL DEVELOPMENT AREAS

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

SUBCHAPTER 2. RIGHT TO FARM

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

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

- 2:76-2A.1 Recommendation basis
- 2:76-2A.2 Apiary agricultural management practice
- 2:76-2A.3 Poultry manure agricultural management practice
- 2:76-2A.4 Food processing by-product land application agricultural management practice
- 2:76-2A.5 Commercial vegetable production agricultural management practice
- 2:76-2A.6 Commercial tree fruit production agricultural management practice
- 2:76-2A.7 Natural resource conservation agricultural management practice

SUBCHAPTER 2B. SUPPLEMENTAL AGRICULTURAL ACTIVITIES

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

SUBCHAPTER 3. CREATION OF FARMLAND PRESERVATION PROGRAMS

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

SUBCHAPTER 4. CREATION OF MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAMS

- 2:76-4.1 Applicability
- 2:76-4.2 Definitions
- 2:76-4.3 Petition
- 2:76-4.4 Board review
- 2:76-4.5 Agreement
- 2:76-4.6 Certification request
- 2:76-4.7 Certification
- 2:76-4.8 Recording of the municipally approved program
- 2:76-4.9 Renewal, termination, reformation
- 2:76-4.10 Withdrawal
- 2:76-4.11 Deed restrictions
- 2:76-4.12 Compliance

SUBCHAPTER 5. SOIL AND WATER CONSERVATION PROJECT COST-SHARING

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

SUBCHAPTER 6. ACQUISITION OF DEVELOPMENT EASEMENTS

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

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

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

SUBCHAPTER 8. ACQUISITION OF FARMLAND IN FEE SIMPLE

- 2:76-8.1 Applicability
- 2:76-8.2 Definitions

- 2:76-8.3 Landowner offer
- 2:76-8.4 Board and municipal comments
- 2:76-8.5 Committee evaluation
- 2:76-8.6 Appraisals
- 2:76-8.7 Final Committee action

SUBCHAPTER 9. EMERGENCY ACQUISITION OF DEVELOPMENT EASEMENTS

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

SUBCHAPTER 10. APPRAISAL HANDBOOK STANDARDS

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

SUBCHAPTER 11. COMMITTEE ACQUISITION OF FARMLAND DEVELOPMENT EASEMENTS

- 2:76-11.1 Applicability
- 2:76-11.2 Definitions
- 2:76-11.3 Landowner offer
- 2:76-11.4 Board and municipal comments
- 2:76-11.5 Committee evaluation
- 2:76-11.6 Yield determination and recordkeeping
- 2:76-11.7 Appraisals
- 2:76-11.8 Final Committee action

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

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

SUBCHAPTER 13. NONPROFIT ACQUISITION PROJECTS: APPLICATION PROCESS

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

SUBCHAPTER 14. NONPROFIT ACQUISITION PROJECTS: AWARD CRITERIA

- 2:76-14.1 Project award criteria

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

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

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

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

SUBCHAPTER 17. PLANNING INCENTIVE GRANTS

- 2:76-17.1 Applicability
- 2:76-17.2 Definitions
- 2:76-17.3 Identification of project areas
- 2:76-17.4 Appointment of an agricultural advisory committee
- 2:76-17.5 Dedicated funding source
- 2:76-17.6 Farmland preservation plan element
- 2:76-17.7 Municipal application procedures
- 2:76-17.8 County application procedures
- 2:76-17.9 Application deadlines
- 2:76-17.10 Multiple program submissions
- 2:76-17.11 Committee review
- 2:76-17.12 Preliminary approval
- 2:76-17.13 Appraisals
- 2:76-17.14 Committee certification of development easement values
- 2:76-17.15 Landowner offer
- 2:76-17.16 Final local review
- 2:76-17.17 Final committee approval
- 2:76-17.18 Landowner decision
- 2:76-17.19 Deed restrictions
- 2:76-17.20 Terms, contingencies and conditions of purchase
- 2:76-17.21 Annual review of planning incentive grant application

SUBCHAPTER 18. AGRICULTURAL MEDIATION PROGRAM

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

SUBCHAPTER 19. VALUATION OF DEVELOPMENT EASEMENTS IN THE PINELANDS AREA

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

SUBCHAPTER 20. FARMLAND STEWARDSHIP PROGRAM

- 2:76-20.1 Applicability
- 2:76-20.2 Definitions
- 2:76-20.3 Applicant eligibility
- 2:76-20.4 Availability of State farmland stewardship cost-share funds

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

SUBCHAPTER 21. ADMINISTRATIVE GRANTS TO COUNTIES

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

APPENDIX A. SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS

APPENDIX B. TABLE OF CONTENTS

APPENDIX C. LAND SALE COMPARATIVE RATING GRID

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:

New Rule, R.1999 d.367, effective October 18, 1999.
 See: 31 N.J.R. 2023(a), 31 N.J.R. 3081(c).
 Amended by R.2000 d.450, effective November 6, 2000.
 See: 32 N.J.R. 2636(a), 32 N.J.R. 3974(a).
 In (a) and (c), substituted references to 2000 for references to 1999.

2:76-2A.7 Natural resource conservation agricultural management practice

(a) The purpose of this section is to establish a generally accepted agricultural management practice for the implementation of a farm conservation plan for the conservation and development of soil, water and related natural resources on farmland.

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

“District” or “Soil Conservation District” (SCD) means a governmental subdivision of this State, organized in accordance with the provisions of N.J.S.A. 4:24-1 et seq.

“Farm conservation plan” means a site specific plan developed by the landowner and approved by the local soil conservation district which prescribes needed land treatment and related conservation and natural resource management measures including forest management practices that are determined practical and reasonable to conserve, protect and develop natural resources, to maintain and enhance agricultural productivity and to control and prevent non-point source pollution.

“United States Department of Agriculture, Natural Resources Conservation Service, (NRCS) Field Office Technical Guide” means a composite of national, regional, State and local data and standards derived primarily from local universities, NRCS and conservation district offices and cooperating conservation agencies which administer natural resource conservation programs.

(c) The implementation of a farm conservation plan on farmland shall be a generally accepted agricultural management practice recommended by the Committee.

1. A farm conservation plan shall be prepared in conformance with the following:

i. United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG), revised April 20, 1998, incorporated herein by reference, as amended and supplemented; and

ii. Forest management practices shall be in accordance with standards and specifications adopted by the New Jersey Department of Environmental Protection, Bureau of Forest Management where such standards and specifications are not included in the NRCS FOTG.

2. For purposes of this recommended agricultural management practice, a farm conservation plan which

includes recommendations concerning land application of sewage sludge-derived products is not recommended as a generally accepted agricultural management practice by the Committee.

New Rule, R.2000 d.96, effective March 6, 2000.
 See: 31 N.J.R. 3881(a), 32 N.J.R. 787(a).

SUBCHAPTER 2B. SUPPLEMENTAL AGRICULTURAL ACTIVITIES

Authority

N.J.S.A. 4:1C-9(i) and 4:1C-10.4.

Source and Effective Date

R.2000 d.97, effective March 6, 2000.
 See: 31 N.J.R. 3882(a), 32 N.J.R. 787(b).

2:76-2B.1 Determination basis

Pursuant to N.J.S.A. 4:1C-9(i), the supplemental agricultural activities contained in this subchapter are determined to be eligible to receive the protection of the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

2:76-2B.2 Eligibility of pick-your-own operations for Right to Farm protections

(a) As used in this section, “pick-your-own operation” means a direct marketing alternative wherein retail or wholesale customers are invited onto a commercial farm in order to harvest agricultural, floricultural or horticultural products.

(b) A pick-your-own operation is determined to be a permissible activity entitled to receive the protections and benefits of the Right to Farm Act, provided that the commercial farm operation of which the pick-your-own operation is a component meets the criteria as set forth in N.J.S.A. 4:1C-9.

SUBCHAPTER 3. CREATION OF FARMLAND PRESERVATION PROGRAMS

Law Review and Journal Commentaries

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

2:76-3.1 Applicability

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

2:76-3.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

Added definition “premises”.