

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).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 76, State Agriculture Development Committee, expires on November 24, 2004. See: 36 N.J.R. 2322(a).

Chapter Historical Note

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

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

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

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

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

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

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

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

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

Pursuant to Executive Order No. 66(1978), Chapter 76, State Agriculture 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 Agriculture 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 Agriculture Development Committee, was readopted as R.1999 d.198, effective May 28, 1999, and Subchapter 2A, Agricultural Management Practices: Generally Accepted Operations and Practices, was adopted

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

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**SUBCHAPTER 1. AGRICULTURAL
DEVELOPMENT AREAS**

2:76-1.1 Applicability

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

2:76-1.2 Definitions

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

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

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

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

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

2:76-1.3 Statutory criteria

(a) The board may, after public hearing, identify and recommend an area as an agricultural development area, which recommendation shall be forwarded to the county planning board. The board shall document where agriculture shall be the preferred, but not necessarily the exclusive, use of land if that area:

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:

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).

2:76-2A.8 Agricultural management practice for on-farm compost operations operating on commercial farms

(a) Pursuant to the authority of N.J.A.C. 1:30-2.2, the State Agriculture Development Committee hereby adopts and incorporates by reference the Natural Resource, Agriculture, and Engineering Service’s “Field Guide to On-Farm Composting,” NRAES-114, as the agricultural management practice for on-farm compost operations operating on commercial farms, provided that:

1. Biosolids, including sludge derived materials, paper sludge, cotton sludge, slaughter wastes, and solid wastes subject to regulation under N.J.A.C. 7:26 are not part of the compost mixture;

2. The finished compost product is not distributed or sold to off-farm users;

3. The production or use of compost on a commercial farm be in accordance with the requirements of the Water Pollution Control Act, N.J.S.A. 58:10-1 et seq., N.J.A.C. 7:26A, N.J.A.C. 7:14A and this section;

4. Only finished compost meeting the product quality criteria at N.J.A.C. 7:26A-4.5(c) shall be land applied to commercial farms; and

5. The location of compost areas and the land application of compost to commercial farms shall be in conjunction with and conformance to a farm conservation plan prepared by the United States Department of Agriculture-Natural Resources Conservation Service (“USDA-NRCS”) and approved by the Soil Conservation District.

(b) Within one year of the start-up of the composting operation, commercial farm operators shall attend a composting course sponsored by the Rutgers Extension County Agricultural or Resource Management Agents or other courses approved by the New Jersey Department of Environmental Protection.

(c) Copies of the “Field Guide to On-Farm Composting” may be purchased from the Natural Resource, Agriculture, and Engineering Service, Cooperative Extension, 152 Riley Robb Hall, Ithaca, NY 14853-5701. Purchasing information is also available on the Natural Resource, Agriculture, and Engineering Service’s site on the World Wide Web at <http://www.NRAES.ORG>.

New Rule, R.2002 d.94, effective March 18, 2002.
 See: 33 N.J.R. 2564(a), 34 N.J.R. 1262(c).

2:76-2A.9 Fencing installation agricultural management practice for wildlife control

(a) The installation of fencing on farmland for protection against wildlife damage shall be a generally accepted agricultural management practice recommended by the Committee.

1. The installation of fencing on farmland for protection against wildlife damage shall be performed in accordance with the following:

i. With respect to high-tensile woven wire fencing, the Rutgers Cooperative Extension publication entitled "High-Tensile Woven Wire Fences for Reducing Wildlife Damage," FS 8XX, which the State Agriculture Development Committee hereby adopts and incorporates by reference, as amended and supplemented, pursuant to N.J.A.C. 1:30-2.2;

ii. With respect to electric fencing, the Rutgers Cooperative Extension publication entitled "Vertical Seven-Wire Deer Control Fence," FS 151, which the State Agriculture Development Committee hereby adopts and incorporates by reference, as amended and supplemented, pursuant to N.J.A.C. 1:30-2.2; and

iii. The particular fence manufacturer's installation instructions and guidelines.

2. Pursuant to N.J.S.A. 4:1C-9, N.J.A.C. 2:76-2.3 and N.J.A.C. 2:76-2.4, a commercial farm operator shall request a site specific agricultural management practice recommendation from the appropriate County Agriculture Development Board or the State Agriculture Development Committee in counties where no County Agriculture Development Boards exist, when installing, maintaining or utilizing a type of fence not specifically recommended in this agricultural management practice.

3. Copies of "High-Tensile Woven Wire Fences for Reducing Wildlife Damage" and "Vertical Seven-Wire Deer Control Fence" may be obtained from Rutgers, The State University of New Jersey, Publications Distribution Center, RCE, Cook College, 57 Dudley Road, New Brunswick, NJ 08901-8520.

New Rule, R.2002 d.93, effective March 18, 2002.
See: 33 N.J.R. 2566(a), 34 N.J.R. 1263(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".

- i. A discussion of the topography, soil characteristics, hydrologically limited areas, state owned or privately held riparian lands, frontage, configuration, dwellings, outbuildings and other appropriate characteristics;
- ii. Any rejected, approved, or pending subdivision plans;
- iii. Any exceptions to the subject property. (The appraiser shall incorporate the effect of the value of exceptions into the valuation); and
- iv. The estimated acreage of hydrologically limited areas.

(b) A detailed discussion of the subject property's highest and best use based upon its characteristics as set forth in this section.

(c) A determination of the subject property's market value unrestricted. The appraiser shall consider the effect of building and improvements when conducting the valuation, but only the market value of the land is required to be identified.

1. The appraiser shall consider the direct sales comparison method of valuation which shall be based on a comparison of the relevant vacant acreage sales to the subject property. At a minimum, the report shall address the following:

- i. Grantor/grantee;
- ii. Deed date/recording date;
- iii. Deed book and page;
- iv. Sale price;
- v. Property size;
- vi. Location, block and lot;
- vii. Soil types/percent tillable soils;
- viii. Frontage/access;
- ix. Conditions of sale;
- x. Color photograph(s);
- xi. Improvements;
- xii. Utilities;
- xiii. Easements;
- xiv. Verification; and
- xv. Legible copy of subject tax map.

2. The appraiser shall adjust the comparable sales to include salient characteristics in the market which may include, but not be limited to the following: soil characteristics, zoning, topography, hydrologically limited areas, riparian lands (state owned or privately held), date of sale and financing.

i. The appraiser shall provide a land sale comparative rating grid in conformance with the sample, Appendix C of this subchapter, incorporated herein by reference.

ii. The final estimate of value shall be expressed as a per acre figure and a total value for the property.

3. In addition, the appraiser may consider the following methods of valuation:

- i. Subdivision method;
- ii. Income capitalization method; and
- iii. Cost method.

4. The appraiser shall provide a value conclusion which identifies the final market value unrestricted for the subject property and discuss how the conclusion was determined.

Amended by R.2003 d.208, effective May 19, 2003.

See: 35 N.J.R. 379(a), 35 N.J.R. 2176(a).

In (a)1, deleted existing iii and recodified existing iv through v as iii through iv.

2:76-10.7 Property valuation after development easement acquisition (market value restricted)

(a) The property valuation after development easement acquisition (market value restricted) section of the appraisal report shall contain the following:

1. A description of the subject property in conformance with N.J.A.C. 2:76-10.6(a)1. In addition, an evaluation of the deed restrictions contained in N.J.A.C. 2:76-6.15 and their effect on the subject property, the subject property's adaptability for agricultural use or other uses which are not in conflict with the deed restrictions, soils and their productivity and other items which are significant to the valuation of the subject property;

2. A detailed description of the subject property's highest and best use as encumbered by the deed restrictions. The highest and best use analysis shall consider the following:

- i. The legality of possible use;
- ii. The physical possibility of use;
- iii. The probability or likelihood of use; and
- iv. The economic feasibility of use.

3. A determination of the subject property's market value restricted. The appraiser shall consider the effect of buildings and improvements when conducting the valuation, but only the market value of the land is required to be identified.

i. The appraiser shall consider the direct sales comparison method of valuation which shall be based on a comparison of the relevant vacant acreage sales to the subject property as encumbered by the deed restric-

tions. The appraiser shall consider the following types of land sales;

- (1) Deed restricted properties;
- (2) Physically limited properties;
- (3) Flood plain;
- (4) Low development pressure; and
- (5) Development easements.

ii. The appraiser shall adjust the comparable sales to include, but not be limited to, the following: soil characteristics, zoning, hydrologically limited areas, date of sale, financing, and residential opportunities.

(1) The appraiser shall consider the effect of residential opportunities, including an existing residential unit, an exception, which is not encumbered by the deed restrictions, or a residual dwelling site opportunity allocated to the subject property pursuant to N.J.A.C. 2:76-6.17, if appropriate, and any other improvements when conducting the valuation, but only the market value of the land is required to be identified.

(2) The appraiser shall determine if there is an increment of value attributed to the land that is independent of the actual value of the improvement.

(3) The appraiser shall provide a land sale comparative rating grid in conformance with the sample in Appendix C.

(4) The final estimate of value shall be expressed as a per acre value and a total value for the property.

iii. In addition, the appraiser may consider the following methods of valuation:

- (1) Income capitalization; and
- (2) Cost approach.

Amended by R.2003 d.208, effective May 19, 2003.

See: 35 N.J.R. 379(a), 35 N.J.R. 2176(a).

In (a)3ii, added new (1) and (2) and recodified existing (1) and (2) as (3) and (4).

2:76-10.8 Final estimate of development easement value

(a) The final estimate of development easement value section of the appraisal report shall contain the following:

1. The estimated development easement value which is arrived at by the difference between the market value unrestricted and the market value restricted and reported as a per acre value and total value of the property;
2. A discussion of the rights represented by the value conclusion and resultant changes in the highest and best use of the unrestricted versus the restricted property; and
3. A summary of the major points of the report which support the final estimate of value.

2:76-10.9 Addendum

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

1. A subject property location map;
2. A subject property tax map or survey;
3. Soils/flood/topographic maps;
4. A study of hydrologically limited areas (if appropriate);
5. Subject property photos (color);
6. Reference materials, studies, articles, or other data considered important;
7. Development easement deed restrictions; and
8. The appraiser's qualifications.

APPENDIX A

SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS

PROPERTY LOCATION

PROPERTY TYPE

LAND SIZE

ZONING

HIGHEST AND BEST USE

DATE OF VALUATION

	PER ACRE	TOTAL
ESTIMATE OF PROPERTY VALUE "BEFORE":	_____	_____
ESTIMATE OF PROPERTY VALUE "AFTER":	_____	_____
ESTIMATE OF DEVELOPMENT EASEMENT VALUE:	_____	_____

APPENDIX B

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Reference materials, etc.	00
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Appraiser's qualifications	00

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

Authority

N.J.S.A. 4:1C-5(f); P.L. 1999, c.152, § 42.

Source and Effective Date

R.1999 d.390, effective October 19, 1999.
See: 31 N.J.R. 2646(a), 31 N.J.R. 3625(a).

Subchapter Historical Note

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: Source and Effective Date.

2:76-11.1 Applicability

This subchapter applies to transactions in which the State Agriculture Development Committee purchases development 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.

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 no-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

Authority

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

Source and Effective Date

R.2000 d.95, effective March 6, 2000.
See: 31 N.J.R. 4144(a), 32 N.J.R. 788(b).

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 negotia-

tion 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

Authority

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

Source and Effective Date

R.2000 d.95, effective March 6, 2000.
See: 31 N.J.R. 4144(a), 32 N.J.R. 788(b).

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;
- vi. The dimensions of each lot marked on each perimeter boundary;
- vii. Improvements shown in approximate location on lots;
- viii. If the acquisition of part of a lot is proposed, both the area of the part to be acquired and the area of the remainder must be denoted;

ix. The name and block and lot identification of adjacent landowner(s);

x. The scale of map proportional to the size of the project site so as to allow an appraiser to prepare an accurate appraisal;

xi. An arrow indicating north;

xii. The location and area of all known existing easements, road rights-of-way, and similar features, with source of such information identified;

xiii. The location and area of tidelands, as determined from New Jersey Tidelands claims maps, conveyance overlays, and atlas sheets;

xiv. The location and area of flood plain, as shown on the New Jersey State Flood Hazard Area maps prepared under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;

xv. The location and area of coastal wetlands, as shown on maps prepared by the Department under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.; and

xvi. The location and area of freshwater wetlands, as determined from:

(1) A wetlands delineation, if one exists, verified by the Department's Land Use Regulation Program or its successor;

(2) Freshwater wetlands maps prepared by the Department under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., if they exist; or

(3) If the document listed under (a)4xvi(1) and (2) above do not exist, U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) maps, in conjunction with County Soil Surveys published by the U.S. Department of Agriculture;

6. A street map which clearly indicates the location of the project site;

7. A copy of the affidavit of publication of the newspaper notice required under (b) below;

8. Photographic slides and/or prints that clearly show the existing conditions at the proposed project site; and

9. A local tax map that indicates the lots and blocks to be acquired.

(b) Within 90 days of submitting the application to the Committee, the nonprofit shall publish a notice in the official newspaper of the municipality in which the proposed project is located that the application for Committee funding has been submitted and is available for review at the Committee office. The nonprofit shall also send the notice to the governing body of the municipality or municipalities in which the proposed project or projects are located and to the County Agriculture Development Board.

1. Any comments received by the nonprofit shall be forwarded to the Committee.

(c) The Committee shall conduct one or more project site inspections to verify the statements in the application.

(d) A nonprofit that has submitted an application shall monitor and immediately notify the Committee of any pending or proposed actions or events affecting the project site. The nonprofit shall also immediately notify the Committee of any fires, demolitions, floods, natural disasters, donations, easements, leases, survey discrepancies, or changes in ownership of the project site.

2:76-13.4 Approval or denial of application; award of funding; procedural letter

(a) Upon receipt of an application containing all the information required under N.J.A.C. 2:76-13.3, the Committee shall determine if the project is eligible for funding in accordance with the requirements of N.J.A.C. 2:76-12.3, and, based on the preliminary ranking of the project under N.J.A.C. 2:76-6.16, the Committee shall approve or deny the application.

(b) If the application is approved, the Committee shall notify the nonprofit in writing of the amount of the Committee's funding award.

(c) If the application is denied, the Committee shall notify the nonprofit in writing.

(d) After the notification of the funding award under (b) above, the Committee shall send the nonprofit a procedural letter that directs the nonprofit to:

1. Obtain and submit to the Committee the appraisals required under N.J.A.C. 2:76-13.5; and

2. For lands to be acquired in fee simple title, obtain a preliminary assessment of the project site and submit to the Committee the preliminary assessment report. Upon receipt of the preliminary assessment report, the Committee shall determine if the report contains the information required under the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and shall notify the nonprofit as follows:

i. If the preliminary assessment report does not contain the required information, the Committee shall send the nonprofit a deficiency letter identifying the information that must be submitted. The nonprofit shall submit the information by the date specified in the letter.

ii. If the preliminary assessment report contains the required information and does not identify any areas of concern, as defined under the Technical Requirements for Site Remediation, the Committee shall send the nonprofit a letter acknowledging the sufficiency of the preliminary assessment report. The chief executive offi-

cer of the nonprofit shall certify, on a form provided by the Committee with the sufficiency letter, that the nonprofit has reviewed the preliminary assessment report and determined to proceed with the acquisition of the project site. The nonprofit shall return the certification to the Committee within 30 days of the date of the sufficiency letter.

iii. If the preliminary assessment report contains the required information and identifies one or more areas of concern, as defined under the Technical Requirements for Site Remediation, the Committee shall send a letter notifying the nonprofit that the areas of concern must be addressed to the Committee's satisfaction before the nonprofit acquires the project site.

2:76-13.5 Appraisal procedures

(a) The nonprofit shall obtain two appraisals as follows:

1. The nonprofit shall request a meeting with Committee staff to discuss the selection and hiring of two appraisers and the scope of work;

2. The nonprofit shall select two appraisers from the list of appraisers adopted by the Committee pursuant to N.J.A.C. 2:76-6.7 to conduct independent appraisals to determine the fair market value of the development easement or fair market value of the fee simple estate;

3. All appraisals shall be prepared pursuant to the Garden State Preservation Trust Act, N.J.S.A. 13:8C-38, P.L. 1999, c.152, the Committee's Appraisal Handbook Standards at N.J.A.C. 2:76-10 and the Committee's Appraisal Handbook;

4. The nonprofit shall request a meeting with Committee staff and the appraisers to discuss the scope of work and to visit the project site, prior to starting the appraisal(s); and

5. The nonprofit shall submit to the Committee one copy of each completed appraisal.

(b) The nonprofit shall immediately submit to the Committee, in writing, any information it has which could affect the appraised value of the project site.

SUBCHAPTER 14. NONPROFIT ACQUISITION PROJECTS: AWARD CRITERIA

Authority

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

Source and Effective Date

R.2000 d.95, effective March 6, 2000.
See: 31 N.J.R. 4144(a), 32 N.J.R. 788(b).

2:76-14.1 Project award criteria

The Committee shall rank an application after it has received the application under N.J.A.C. 2:76-13.3 according to the criteria contained at N.J.A.C. 2:76-6.16.

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

Authority

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

Source and Effective Date

R.2000 d.95, effective March 6, 2000.
See: 31 N.J.R. 4144(a), 32 N.J.R. 788(b).

2:76-15.1 Determination of eligible land cost

(a) The Committee shall determine the sufficiency of any appraisals submitted under N.J.A.C. 2:76-13.5 and shall notify the nonprofit in writing of any deficiencies that prevent a certification of fair market value of the development easement or the fair market value of the fee simple estate.

(b) The Committee shall determine the eligible land cost for each parcel within a project site as follows:

1. If the difference between the two appraisal values is greater than 10 percent of the higher appraisal value, the eligible land cost shall be determined based upon the following:

i. The Committee shall appoint a review appraiser to evaluate the appraisals submitted by the nonprofit to recommend a fair market value pursuant to the appraisal handbook standards at N.J.A.C. 2:76-10. The Committee shall have final authority for certifying the fair market value of the development easement or fair market value of the fee simple estate.

2. If two appraisals have been obtained on a parcel, and the difference between the two appraisal values is 10 percent of the higher appraisal value or less, the eligible land cost shall be the average of the appraisal values. The nonprofit may, however, request that the Committee provide a certified fair market value, in which case the eligible land cost shall be that certified fair market value.

i. The Committee reserves the right to appoint a review appraiser to evaluate the appraisals submitted by the nonprofit to recommend a fair market value pursuant to the appraisal handbook standards at N.J.A.C. 2:76-10. The Committee shall have final authority for certifying the fair market value of the development easement or fair market value of the fee simple estate.

(c) The Committee shall send to the nonprofit a copy of the certification report and statement of the eligible land cost for review and acceptance in accordance with N.J.A.C. 2:76-15.1.

1. The Committee reserves the right to negotiate an offer price for less than the certified fair market value.

(d) If the survey of a parcel submitted with an advance payment or reimbursement request under N.J.A.C. 2:76-16.3(c) shows an acreage total different from the acreage total shown in the statement of eligible land cost or negotiated offer, the Committee shall notify the nonprofit or appraiser(s), request an adjusted market value determination, if needed, and revise accordingly the eligible land cost or negotiated offer to reflect the actual acreage of the parcel.

2:76-15.2 Acceptance of eligible land cost

(a) Within 60 days after the nonprofit receives from the Committee the statement of eligible land cost or negotiated offer pursuant to N.J.A.C. 2:76-15.1, the nonprofit shall submit to the Committee a letter stating that the nonprofit has reviewed and accepts the eligible land cost or negotiated offer of the parcel and that the nonprofit has the ability and intention to finance the cost of the parcel, should such cost exceed the amount of Committee funding.

(b) Receipt by the Committee of the letter submitted under (a) above constitutes the nonprofit's acceptance of the eligible land cost or Committee's negotiated offer.

2:76-15.3 Supplemental funding

(a) A nonprofit may request, in writing, supplemental funding for a project if it has accepted the eligible land cost under N.J.A.C. 2:76-15.2 and if the eligible land cost exceeds the grant amount awarded under N.J.A.C. 2:76-13.4.

(b) Provided sufficient funds are available, the Committee shall increase the amount of funding for a project in response to a request submitted under (a) above to cover 50 percent of the eligible land cost, development easement costs, or negotiated offer and allowable costs under N.J.A.C. 2:76-12.6.

(c) The Committee and the nonprofit shall execute an amendment to the project agreement in accordance with N.J.A.C. 2:76-16.1 to reflect any supplemental funding provided under this section.

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

Authority

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

Source and Effective Date

R.2000 d.95, effective March 6, 2000.
See: 31 N.J.R. 4144(a), 32 N.J.R. 788(b).

2:76-16.1 Project agreement

(a) The Committee shall send the project agreement to the nonprofit. The nonprofit shall ensure that the project agreement is approved and signed by the nonprofit's attorney, and executed by the person authorized under the resolution described at N.J.A.C. 2:76-13.3(a)2. The project agreement shall contain:

1. An identification of the parcels to be acquired or preserved as part of the project site;
2. The estimated cost of acquisition of the project site; and
3. The following conditions:

- i. That the nonprofit shall, for lands acquired in fee simple title, ensure that the lands are maintained for agricultural use and production pursuant to N.J.A.C. 2:76-6.15;

- ii. That the nonprofit shall, for lands acquired in fee simple title, agree not to sell, lease, exchange, or donate the lands unless:

- (1) The lands will continue to be maintained for agricultural use and production pursuant to N.J.A.C. 2:76-6.15;

- (2) The Committee is notified that the restricted farm is being offered for sale, exchange or donation; and

- (3) The Committee approves the transfer in writing prior to the nonprofit's offering, for sale or conveyance, of any of its interest in the land. This requirement for written approval is met if an intended transferee is named in the project agreement executed under this section;

- iii. That the nonprofit shall, in the case of the acquisition of a development easement, agree not to convey the development easement except to the Federal government, the State, a local unit of government, or another qualifying tax exempt nonprofit organization for farmland preservation purposes;

- iv. That the nonprofit shall, at the time of acquisition of lands in fee simple title, agree to execute a deed of easement. The deed of easement shall be recorded in the same manner as a deed and shall run with the land. The deed of easement shall contain the following:

- (1) Restrictions consistent with the provisions of N.J.A.C. 2:76-6.15 and approved by the Committee;

- (2) The Committee's right to enforce the conditions of the restrictions;

- (3) The remedies available to the Committee in the event the nonprofit does not comply with the conditions of the restrictions;

- (4) A reimbursement provision which requires the nonprofit that sells or donates any interest in any lands acquired with a grant by the Committee, that the nonprofit shall pay to the Committee 50 percent of the net proceeds. For purposes of this section, "net proceeds" means the amount of compensation received by the nonprofit in excess of any unreimbursed costs; and

- (5) Other special conditions as appropriate;

- v. That the nonprofit shall, at the time of acquisition of a development easement, agree to execute a deed of easement. The deed of easement shall be recorded in the same manner as a deed and shall run with the land. The deed of easement shall contain the following:

- (1) Restrictions consistent with the provisions of N.J.A.C. 2:76-6.15 and approved by the Committee;

- (2) The Committee's right to enforce the conditions of the restrictions;

- (3) The remedies available to the Committee in the event the nonprofit does not comply with the conditions of the restrictions; and

- (4) Other special conditions as appropriate;

- vi. The requirements for recordkeeping and project administration pursuant to N.J.A.C. 2:76-16.4; and

- vii. Other terms and conditions, including a statement of the remedies described at (f) through (i) below.

(b) Upon receipt of the project agreement executed in accordance with (a) above, the Committee shall establish an account from which the grant shall be disbursed.

(c) The Committee and the nonprofit shall execute an amendment to the project agreement to:

1. Add a parcel to the project site if the nonprofit demonstrates that the parcel meets the project eligibility requirements at N.J.A.C. 2:76-12.3;

2. Extend the project period established in the project agreement if the nonprofit demonstrates that it is making a good faith effort to complete the project in an expeditious manner; or

3. Reflect any supplemental funding provided under N.J.A.C. 2:76-15.3.

(d) Upon receipt of notification from the nonprofit of the scheduled date of closing, the nonprofit shall forward a copy of the title commitment, survey, deed of easement and any other necessary documents to complete the closing.

1. The Committee shall review the closing documents and, if appropriate, send the executed deed of easement required under (a)3iv or v above to the nonprofit. The Committee shall forward the approved grant to the nonprofit. The nonprofit shall have the deed of easement recorded by the county clerk or registrar either when the deed for the project site is recorded or when the nonprofit receives the first disbursement of Committee funds.

i. A copy of the executed deed of easement shall be forwarded to the Committee.

ii. A copy of the recorded deed of easement shall be forwarded to the Committee when available.

(e) In addition to any other rights or remedies available to the Committee under law, if the nonprofit does not comply with any of the requirements of the project agreement, the deed of easement, this chapter, or the Committee laws, or if the nonprofit makes any material misrepresentation in the project application and/or the documentation submitted in support of the application, the Committee may take any of the following actions:

1. Issue a written notice of noncompliance directing the nonprofit to take and complete corrective action within 30 days of receipt of the notice.

i. If the nonprofit does not take corrective action, or if the corrective action taken is not adequate in the judgement of the Committee, then the Committee may take any of the actions described at (e)2 through 4 and (f) below;

2. Withhold a grant disbursement or portion thereof;

3. Terminate the project agreement; and/or

4. Demand immediate repayment of all Committee funds that the nonprofit has received.

(f) If the nonprofit fails to comply with any of the terms of the project agreement, the deed of easement, this chapter, or the Committee laws, the Committee may initiate suit for injunctive relief or to seek specific enforcement, without posting bond, it being acknowledged that any actual or threatened failure to comply will cause irreparable harm to the Committee and that money damages will not provide an adequate remedy.

(g) If the Committee incurs legal or other expenses, including its own personnel expenses, for the collection of payments due or in the enforcement or performance of any of the nonprofit's obligations under the project agreement, the deed of easement, this chapter, or the Committee laws, the nonprofit shall pay these expenses on demand by the Committee.

(h) The Committee is not required to mitigate any damages to the nonprofit resulting from the nonprofit's noncompliance with the terms of the project agreement, the deed of easement, this chapter or the Committee laws.

1. The nonprofit shall monitor lands from which a development easement was acquired or lands purchased in fee simple title pursuant to the provisions of N.J.A.C. 2:76-16.5.

2:76-16.2 Negotiations for purchase of project site

(a) Unless the nonprofit has already entered into a purchase or an option contract with the property owner, the nonprofit may enter into a purchase or option contract with the property owner after the nonprofit accepts the eligible land cost or negotiated offer under N.J.A.C. 2:76-15.2.

(b) Any person who performed an appraisal under N.J.A.C. 2:76-13.5 of any parcel in the project site shall not conduct negotiations for such parcel.

2:76-16.3 Disbursement of grant

(a) The Committee shall disburse the grant in advance of closing or as reimbursement after closing.

(b) If the nonprofit seeks payment in advance of closing, it shall submit its request at least 60 days before the scheduled date of closing.

(c) For each parcel of land in the project site for which payment is requested, the nonprofit shall submit:

1. For payment in advance of closing, the following:

i. A copy of the contract of sale;

ii. A land survey plan, prepared in accordance with the Committee's Survey Contract Standards, rules of the State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A, incorporated herein by reference;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)1ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance binder, with copies of the deed of record and of all easements, restrictions, and other instruments of record as attachments. The binder must name the Committee as additional insured;

v. A copy of each canceled check (both sides), voucher, or invoice for appraisal, preliminary assessment, and survey costs;

vi. A Nonprofit Acquisition Payment Form, which the Committee provides with the statement of eligible land cost under N.J.A.C. 2:76-15.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of nonprofit, municipality, and county;

(2) An itemized statement of the cost of acquisition of the parcel; and

(3) A certification by the nonprofit's chief executive officer or chief financial officer that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the nonprofit seeks payment; and

2. For reimbursement after closing, the following:

i. A copy of the canceled check (both sides) for the purchase of the parcel(s) in the project site;

ii. A land survey plan, prepared in accordance with the Committee's Survey Contract Standards, rules of the State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)2ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance policy, with copies of the deed of record and of all easements, restrictions, and other instruments of record as attachments, and conforming to the following:

(1) The policy must name the Committee as additional insured;

(2) The policy must replace the survey exception with a survey endorsement that insures title to the area within the metes and bounds description;

(3) The policy amount must be at least equal to the eligible land cost; and

(4) Schedule B, Section II (Exceptions) must note that the parcel is subject to the Committee's approved restrictions as contained in the deed of easement;

v. A copy of the recorded deed, containing the metes and bounds description required under (c)2iii above;

vi. A copy of each canceled check (both sides), voucher, or invoice for appraisal, preliminary assessment, survey, and any other allowable project costs under N.J.A.C. 2:76-12.6;

vii. A Nonprofit Acquisition Payment Form, which the Committee provides with the statement of eligible

land cost or negotiated offer under N.J.A.C. 2:76-15.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of nonprofit, municipality, and county;

(2) An itemized statement of the cost of acquisition of the parcel;

(3) A certification by the nonprofit's chief executive officer or chief financial officer that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the nonprofit seeks payment;

(4) A justification of any difference between the purchase price and the eligible land cost or negotiated offer of the parcel; and

(5) A justification of any difference between the parcel acreage as described in the appraisal and the parcel acreage purchased; and

3. All documents required under (c)2 above not submitted with a request for payment in advance of closing shall be submitted as expeditiously as possible after closing.

(d) Upon receipt of a request for payment under (c) above, the Committee shall:

1. Send to the nonprofit a payment invoice for the grant amount or 50 percent of the cost of acquisition, whichever is less. The nonprofit's chief executive officer or chief financial officer shall verify, sign, and return the invoice to the Committee for processing; and

2. Conduct a site inspection of the parcel of land for which the payment is requested.

(e) The Committee shall mail each grant disbursement to the nonprofit in the form of a check. The nonprofit shall not sign over the check to the property owner or any other person but shall deposit the check into the nonprofit's bank account.

(f) The nonprofit shall immediately inform the Committee if the closing date established in the contract of sale for the project site is postponed for any reason. A nonprofit that has received a disbursement in advance of a scheduled closing that is postponed is subject to the following conditions:

1. As of the 30th day after the disbursement is made, the nonprofit shall pay to the Committee interest accrued on the amount of the disbursement from that day up to the 90th day after the disbursement. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 30th day.

2. As of the 90th day after the disbursement is made, the nonprofit shall repay to the Committee the amount of

the disbursement plus accrued interest from 30 days after disbursement to the date of repayment. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 90th day.

(g) A nonprofit that has repaid the disbursement plus accrued interest under (f)2 above may, upon acquisition of the project site, submit a request for reimbursement after closing in accordance with (c)2 above.

(h) The nonprofit may unilaterally withdraw the project at any time before it receives Committee funds. The nonprofit shall not terminate the project agreement after it receives any Committee funds without the written consent of the Committee.

(i) If the nonprofit terminates the project agreement under (h) above, the nonprofit is responsible for any costs of acquisition incurred as of the time of termination. The nonprofit shall also repay, with interest at the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect at the time of termination, any disbursement which the Committee made to the nonprofit for the project.

2:76-16.4 Accounting and recordkeeping

(a) The nonprofit shall maintain and make available to the Committee for inspection on request all financial documents and records related to the project for three years in accordance with (d) below.

(b) The nonprofit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the Committee grant.

(c) The nonprofit shall maintain separate records for each project including the amount, receipt, and disposition of all funding received for the project, including the Committee's grants, contributions, gifts, or donations from any other sources.

(d) The nonprofit shall provide a duly authorized representative of the Committee access to all records, books, documents, and papers pertaining to the project agreement and/or the approved project for audit, examination, excerpt, and transcript purposes. Such records shall be maintained and access shall be provided during performance of the project and for three years after the latter date of either final payment or audit resolution. The nonprofit shall include this requirement in all project-related contracts.

(e) The nonprofit shall conduct annual audits and submit audit reports in conformance with the Single Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156, Federal OMB Circular A-133; "Audits of Nonprofit Organizations," incorporated herein by reference, and State OMB Circular 98-07: "Single Audit Policy," incorporated herein by reference.

1. Audit reports shall address nonprofit's compliance and all specific instances of noncompliance with the material terms and conditions of the project agreement and applicable laws and regulations.

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

Authority

N.J.S.A. 4:1C-5f and 13:8C-1 et seq., and P.L. 1999, c.180.

Source and Effective Date

R.2000 d.263, effective June 19, 2000.
See: 32 N.J.R. 1102(a), 32 N.J.R. 2223(a).

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 authorized 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;

(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**Authority**

N.J.S.A. 4:1C-10.4(c)

Source and Effective Date

R.2001 d.98, effective March 19, 2001.
See: 33 N.J.R. 3(a), 33 N.J.R. 999(a).

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.

1. Provide legal or other advice to the parties in a mediation proceeding, or offer or deliver services, other than mediation services on any issue raised in the mediation session;

2. Solicit or accept from any person or entity, either directly or indirectly, anything of value;

3. Disclose confidential information gained as a result of his or her service as a mediator, except upon agreement with the parties and the Committee;

4. Use information gained as a result of his or her service as a mediator in any way which could result in the receipt of anything of value by the mediator or any person or organization with which the mediator is associated; and

5. Use or attempt to use his or her position as a mediator to gain unlawful benefits, advantages or privileges for himself or herself, or for others.

(g) A mediator shall disclose to the Committee, and to the parties to a mediation session, every potential conflict of interest and every other matter which may affect the mediator's ability to act in a fair, diligent and impartial manner during the proceeding. A mediator shall withdraw from the proceeding if the mediator is unable to act in a fair and impartial manner.

(h) Interim and final agreements of the parties, if any, shall be reduced to writing and placed on a form provided by the Committee. The mediator shall assist in the preparation of the written agreement. The mediator shall forward the original, executed agreement to the Committee and it is the responsibility of the Committee to distribute copies of the agreements to all parties to the mediation.

(i) If an agreement is not reached, the mediator shall prepare a Notice of Termination of Mediation, on a form provided by the Committee, and have it executed by all parties. The mediator shall forward the Notice of Termination to the Committee and it is the responsibility of the Committee to distribute copies of the Notice of Termination to all parties to the mediation.

(j) Agreements may provide for continued mediation at a future date. The parties to a mediation proceeding are solely responsible for any agreement reached, and for the enforcement of any agreement. An agreement is subject to applicable laws and court orders, and is subject to the exercise of rights by persons not parties to the agreement. All agreements requiring acceptance by a party not participating in the process shall be considered tentative, non-binding agreements until such acceptance has been obtained.

2:76-18.9 Mediator and disputant withdrawal

(a) Any party shall have the right, upon written request, to direct the Committee to select a different mediator prior to the initial mediation meeting.

(b) Upon written agreement by the parties and the Committee, the mediation proceedings shall continue with a new mediator.

(c) In the case of a mediation with multiple disputants, a mediation session shall continue if one or more parties withdraw, upon agreement by the remaining parties.

(d) A party or a mediator may withdraw from mediation at any time. The party or mediator shall notify the Committee of his or her withdrawal and set forth the reasons for same.

2:76-18.10 Annual renewal of mediator certification

(a) The Committee shall annually review and renew the certificates of certified mediators to insure satisfactory performance of mediation responsibilities by June 30th of each year.

1. In order to have his or her certification renewed, a certified mediator, if assigned a case(s) during the fiscal year, must have satisfied the requirements of this subchapter.

2. If a certified agricultural mediator has not been assigned a case(s) during the fiscal year, his or her certification shall be renewed.

(b) The Committee shall schedule training courses as necessary to maintain a list of certified mediators to satisfy the requests for services.

SUBCHAPTER 19. VALUATION OF DEVELOPMENT EASEMENTS IN THE PINELANDS AREA

Authority

P.L. 1999, c.152, specifically §§ 38 and 42 (N.J.S.A. 13:8C-38 and 42).

Source and Effective Date

R.2001 d.121, effective April 2, 2001.
See: 33 N.J.R. 152(a), 33 N.J.R. 1083(a).

2:76-19.1 Applicability

This subchapter applies to the valuation of development easements in three management areas of the Pinelands area (agricultural production areas, special agricultural production areas, and preservation areas) whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part pursuant to the Garden State Preservation Trust Act, P.L. 1999, c.152, is determined based upon the value of any Pinelands Development Credits allocated to the parcel pursuant to P.L. 1979, c.111 and the Pinelands Comprehensive Management Plan adopted pursuant thereto.

2:76-19.2 Definitions

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

"Agricultural production areas" means those areas established by the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-5.13(c).

"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 thereto.

"Pinelands area" means that area defined in N.J.S.A. 13:18A-3h and designated by N.J.S.A. 13:18A-11.

"Pinelands Development Credit" or "PDC" means a transferable development right created pursuant to the Pinelands Comprehensive Management Plan, and further defined by N.J.S.A. 13:18A-32h and N.J.A.C. 3:42-2.2.

"Pinelands National Reserve" means the approximately 1,000,000 acre area so designated by section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. § 471i., Pub. L. 95-625.

"Preservation area" means that area defined in N.J.S.A. 13:18A-3j and designated by N.J.S.A. 13:18A-11b.

"Protection area" means that portion of the Pinelands area not included within the preservation area, as defined in N.J.S.A. 13:18A-3k.

"Reasonably contiguous" means within one mile.

"Regional growth areas" means those areas as defined in the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-5.13(g).

"Special agricultural production areas" means those areas established by the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-5.13(d).

"Streams" means bodies of water which continuously contain moving water or which form a link between two bodies of standing water.

"Towns" means those areas established by the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-5.13(f).

"Villages" means those areas established by the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-5.13(f).

2:76-19.3 Valuation of development easements

(a) Development easements shall be valued by adjusting the base value of the easement as determined in accordance with N.J.A.C. 2:76-19.4 pursuant to the factors set forth in this subchapter.

(b) Landowners shall have a choice of having their development easements appraised pursuant to this subchapter or pursuant to N.J.S.A. 4:1C-31.

(c) For those properties on which a portion of the total amount of PDCs allocated have been severed and on which Pinelands restrictions have been placed, the remaining portion of the property (on which PDCs have not been severed and on which Pinelands restrictions have not been placed) shall be eligible for valuation pursuant to this subchapter. Properties on which all allocated PDCs have been severed (and on which Pinelands restrictions have been placed), except for a portion reserved for the sole purpose of constructing residences or other buildings on the property, shall not be eligible for valuation pursuant to this subchapter.

2:76-19.4 Base value

(a) The base value of a development easement shall be determined according to whether the property is uplands or wetlands and the allocation of Pinelands Development Credits on the property from which the development easement will be conveyed.

1. For those development easements on property located in Pinelands area where the property is eligible for a Pinelands Development Credit (PDC) allocation of two PDCs per 39 acres (uplands and cultivated lands), the base value of the development easement shall be \$1,600 per acre.

2. For those development easements on property located in Pinelands Area where the property is eligible for a Pinelands Development Credit allocation of 0.2 PDCs per 39 acres, the base value of the development easement shall be \$160.00 per acre.

3. For those development easements on property located in Pinelands area where the property is eligible for a Pinelands Development Credit allocation of one PDC per 39 acres, the base value of the development easement shall be \$800.00 per acre.

(b) If the property contains both uplands and wetlands, a weighted formula shall be utilized based on the percentage of uplands and the percentage of wetlands.

1. Example: A farm contains a total of 42 acres; 35.7 acres are uplands (85 percent) and 6.3 acres are wetlands (15 percent). The base value is (85 percent x \$1,600) + (15 percent x \$160.00), or \$1,384 per acre.

(c) In the event that a landowner chooses to place a deed restriction on his or her property limiting impervious coverage on the property pursuant to N.J.A.C. 2:76-19.13, then the base value for that property shall be:

1. \$1,800 per acre for property that is eligible for a PDC credit allocation of two PDCs per 39 acres;
2. \$180.00 per acre for property that is eligible for a PDC allocation of .2 PDCs per 39 acres; and
3. \$900.00 per acre for property that is eligible for a PDC allocation of one PDC per 39 acres.

2:76-19.5 Adjustments to base value, generally

(a) The base values of a development easement shall be adjusted by the following:

1. Regional Environmental Quality Areas;
2. Site-specific environmental quality factors;
3. Scenic corridors and access to markets;
4. On-site septic suitability;
5. Agriculture viability factors; and
6. Special importance environmental resource factors.

(b) Adjustments to base values shall not be cumulative. Each adjustment shall be made on the original base value.

2:76-19.6 Regional Environmental Quality Areas

(a) The base value shall be increased by the percentage factor associated with the environmental quality area in which the property is situated. Only one area adjustment factor shall be applied to each development easement. If the property on which a development easement is being valued lies within two environmental quality areas, the area in which the majority of the property lies shall apply.

1. Northern Environmental Quality Area (consisting of those properties in the Protection Area in Ocean County, but which are not in the Pinelands National Reserve)—24 percent;
2. Western Environmental Quality Area (consisting of properties located in the Protection Area in Burlington County and properties that are reasonably contiguous to the Protection Area in Burlington County)—44 percent;
3. Central Environmental Quality Area (consisting of properties located in the Protection Area in Camden and Atlantic Counties)—33 percent;
4. Southern Environmental Quality Area (consisting of properties located in the Protection Area in Gloucester and Cumberland Counties)—15 percent;
5. Pinelands National Reserve Area (consisting of properties located in the Pinelands National Reserve, but not in the Pinelands Area, in Ocean, Atlantic, Cumberland and Cape May Counties)—24 percent; and

6. Preservation Area (consisting of properties located in the Preservation Area which do not fall within any of the other areas)—14 percent.

2:76-19.7 Site-specific environmental quality factors

The base value shall be increased based upon the property's proximity to towns, regional growth areas, Pinelands area boundaries, and villages, pursuant to the following chart. The maximum adjustment for this factor shall be 25 percent.

Management Area Town or Regional Growth Area or Pinelands Area Boundary Village	Distance to Management Area and Pinelands Area Boundary (Miles)				
	<0.5	0.5-2.0	2.0-4.0	4.0-6.0	>6.0
	15%	15%	10%	5%	0%
	10%	5%	0%	0%	0%

2:76-19.8 Scenic corridors and access to markets

(a) The base value shall be increased based upon the property's proximity to roads which provide access to scenic corridors and markets in which agricultural products may be sold or purchased, pursuant to the following chart. No more than two factors may be utilized.

Limited Access Highway Federal or State Highway County Road Municipal Road Unpaved	Distance to Highways and Roads in Miles				
	.5mi.	.5-2 mi.	2-4 mi.	4-6 mi.	6-8 mi.
	20%	20%	15%	10%	5%
	15%	10%	5%	0%	0%
	10%	5%	0%	0%	0%
	5%	0%	0%	0%	0%
	0%	0%	0%	0%	0%

(b) The base value shall be increased based upon the following road frontage ratios. Road frontage shall be the ratio of total road frontage, measured in feet, to total property size, measured in acres.

1. Greater than 30:1—10 percent;
2. 11:1 to 30:1—six percent; and
3. 1:1 to 10:1—two percent.

2:76-19.9 On-site septic suitability

(a) The base value shall be adjusted for the property's on-site septic suitability rating as one indicator of the environmental conditions on the parcel under the provisions of the Pinelands Comprehensive Management Plan. Base values shall be increased based upon the following septic suitability limitations:

1. Seventy-six percent to 100 percent slight limitations—10 percent;
2. Fifty-one percent to 75 percent slight limitations—seven percent;

3. Twenty-six percent to 50 percent slight limitations—five percent; and

4. Five percent to 25 percent slight limitations—two percent.

2:76-19.10 Agriculture viability

(a) The base value shall be increased based upon the type of soil on the property pursuant to the following chart. The maximum adjustment for this factor shall be 20 percent.

	Prime	Statewide Importance	Unique
76% to 100%	20%	18%	12%
51% to 75%	15%	14%	9%
26% to 50%	10%	9%	6%
Less than 26%	5%	4%	3%

(b) If the property is reasonably contiguous to land that has been permanently preserved, the base value shall be increased by 12 percent.

2:76-19.11 Special importance environmental resource factors

(a) If the property contains lakes and reservoirs that significantly impact the recharge of the Cohansey Aquifer, contain water year round, and are greater than two acres, the base value shall be increased by .375 percent per acre pursuant to N.J.A.C. 2:76-19.12. The maximum adjustment for this factor shall be 15 percent pursuant to N.J.A.C. 2:76-19.12.

(b) If the property contains any streams, the base value shall be increased by 20 percent pursuant to N.J.A.C. 2:76-19.12.

2:76-19.12 Wetlands and wetlands transition areas

(a) If a property contains lakes and reservoirs as described in N.J.A.C. 2:76-19.11(a) or streams as described in N.J.A.C. 2:76-19.11(b), the owner of the property shall choose between one of the following options:

1. Receiving an increase in base value pursuant to N.J.A.C. 2:76-19.11 and having the following deed restriction placed on the property:

“Agricultural use of wetlands and areas within 300 feet of wetlands (“wetlands transition areas”) shall be consistent with subchapter 6 of the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-6, as may be amended from time to time. Specifically, except for horticulture of native Pinelands species, berry agriculture, and beekeeping, agriculture shall not be permitted in wetlands and wetlands transition areas, except if such agricultural uses existed prior to the promulgation of the Pinelands Comprehensive Management Plan in 1979 or if the Comprehensive Management Plan is amended to permit such uses.”

2. Not receiving an increase in base value pursuant to N.J.A.C. 2:76-19.11 and not being required to place the deed restriction contained in N.J.A.C. 2:76-19.12(a)1 on the property.

2:76-19.13 Impervious coverage

A landowner may choose to receive a higher base value pursuant to N.J.A.C. 2:76-19.4(c) by placing a deed restriction on his or her property that limits impervious coverage on the property. The impervious coverage limitation shall be 10 percent of the total property acreage, and shall include, but not be limited to, houses, barns, stables, sheds, silos, outhouses, cabanas and other buildings, swimming pools, docks, or decks. Temporary greenhouses and other temporary coverings which do not have impervious floors shall be excluded from the computation of the impervious coverage area. If the landowner chooses to increase the base value pursuant to N.J.A.C. 2:76-19.4(c), he or she shall place such impervious coverage limitations on his or her property.

2:76-19.14 Maximum development easement value

In no instance shall the development easement value calculated pursuant to this subchapter exceed 80 percent of the fee simple market value of the property as determined by the Committee.

SUBCHAPTER 20. FARMLAND STEWARDSHIP PROGRAM

Authority

N.J.S.A. 4:1C-10.4, 4:1C-5f and 13:8C-42.

Source and Effective Date

R.2002 d.68, effective March 4, 2002.
See: 33 N.J.R. 2958(a), 34 N.J.R. 1034(a).

2:76-20.1 Applicability

This subchapter sets forth State Agriculture Development Committee rules which provide for a landowner, or a farm operator as an agent for the landowner, whose land is within a permanent farmland preservation program, to apply for and receive grants for farmland stewardship projects.

2:76-20.2 Definitions

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

“Agricultural use” means the use of land for common farmsite activities including, but not limited to:

1. Production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities; and

2:76-20.19 Lead coordinator and technical consultant fee payment

(a) Every lead coordinator and technical consultant retained by the Committee shall enter into a consultant agreement with the Committee setting forth the terms and conditions for the technical services to be provided for each feasibility plan.

(b) Lead coordinators and technical consultants shall be compensated for their services at an agreed-upon rate which will be reflected in the consultant agreement between the lead coordinators, technical consultants and the Committee.

1. Lead coordinators and technical consultants shall not receive compensation for travel expenses.
2. Lead coordinators and technical consultants shall not be reimbursed for other expenses, including meals, tolls and parking.
3. Lead coordinators and technical consultants shall, at the termination of the services, file with the Committee a statement on a form approved by the Committee listing the total fee for services rendered.
4. Lead coordinators and technical consultants shall not be considered employees of the Committee.

2:76-20.20 Project completion and payment

(a) Upon project completion, the applicant shall notify the Committee and request payment on a payment claim voucher form authorized by the Committee.

(b) The payment request shall be accompanied by the completed payment claim voucher, itemized bills, and related documentation that substantiates all costs incurred.

(c) In-kind services performed by the applicant or applicant's employees shall be permitted to be used as the applicant's matching portion of costs for a project(s) or any component of a project(s) funded under the provisions of this program. All contributions, including cash and approved third party in-kind, shall be accepted as part of the applicant's cost sharing or matching when such contributions meet all of the following criteria:

1. The contributions are verifiable from the applicant's records;
2. The contributions are not included as contributions for any other Federally or State assisted project or program;
3. The contributions are necessary and reasonable for proper and efficient accomplishment of project objectives;
4. The contributions are not paid by the State and/or Federal government under another award, except where authorized by State and/or Federal statute to be used for cost sharing or matching;

5. The donation of buildings for construction/facility acquisition projects or long-term use is allowable under the program, and the value of the donated buildings for cost sharing or matching shall be the lesser of (c)5i or ii below;

- i. The certified value of the remaining life of the buildings recorded in the applicant's accounting records at the time of donation; or
- ii. The current fair market value. However, when there is sufficient justification, the Committee may approve the use of the current fair market value of the donated buildings, even if it exceeds the certified value at the time of donation to the project;

6. Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor, if approved by the Committee, may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project. Rates for volunteer services shall be consistent with those paid for similar work in the applicant's organization. In those instances in which the required skills are not found in the applicant's organization, rates shall be consistent with those paid for similar work in the labor market in which the applicant competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation;

7. When an employer other than the applicant furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid;

8. Donated supplies may include such items as expendable equipment, office supplies or workshop supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation;

9. The method used for determining cost sharing or matching for donated equipment and buildings for which title passes to the applicant may differ according to the purpose of the award, if (c)9i or ii below apply;

- i. If the purpose of the grant is to assist the applicant in the acquisition of equipment and buildings, the total value of the donated property may be claimed as cost sharing or matching;
- ii. If the purpose of the grant is to support activities that require the use of equipment and buildings, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for buildings shall be allowed, provided that the Committee has approved the charges;

10. The value of donated property shall be determined in accordance with the usual accounting policies of the applicant, with the following qualifications:

i. The value of donated buildings shall not exceed its fair market value at the time of donation to the applicant as established by an independent appraiser (for example, certified real property appraiser) and certified by a responsible official of the applicant; and

ii. The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation;

11. The value of donated facility space shall not exceed the fair rental value of comparable facility space as established by an independent appraisal of comparable facility space in a privately-owned building in the same locality;

12. The value of loaned equipment shall not exceed its fair rental value; and

13. The following requirements pertain to the applicant's supporting records for in-kind contributions from third parties:

i. Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the applicant for its own employees; and

ii. The basis for determining the valuation of personal service, material, equipment and buildings shall be documented.

(d) The Committee shall verify that the project(s) have been completed in accordance with the feasibility plan and also verify applicant's payment claims. If payment claims are satisfactory, the Committee shall forward payment.

(e) No Federal or State cost share program shall be used as the applicant's matching portion of costs for a project(s) or any component of a project(s) funded under the provisions of this program.

(f) No portion of the State cost share program shall be used as the landowner's portion of costs for a project(s) or any component of a project funded under the provisions of any Federal or State cost share program.

2:76-20.21 Failure to comply

(a) If the Committee determines that an applicant fails to comply with the provisions for maintenance of the project, the Committee shall advise the landowner of required corrective measures.

(b) The landowner shall not be liable for inadequate maintenance or destruction of a project(s) if caused by a natural disaster that could not have been reasonably anticipated.

2:76-20.22 Records

(a) The Committee shall retain copies of application forms, feasibility plans, performance reports, and all other related information pertaining to the applicant and approved projects for a period of eight years.

(b) All application forms, feasibility plans, performance reports, and all other related information pertaining to the applicant and approved projects containing commercial or financial information of a sort not customarily disclosed to the public and which disclosure would be likely to result in placing the person submitting the information at a competitive disadvantage, shall be deemed to be confidential and not subject to review or reproduction under the provisions of N.J.S.A. 47:1A-1 et seq.

SUBCHAPTER 21. ADMINISTRATIVE GRANTS TO COUNTIES

Authority

N.J.S.A. 4:1C-5f and 13:8C-42.

Source and Effective Date

R.2002 d.69, effective March 4, 2002.
See: 33 N.J.R. 3597(a), 34 N.J.R. 1038(a).

2:76-21.1 Applicability

This subchapter establishes a program to provide matching grants to county agriculture development boards (boards) for the administration of the development easement acquisition program (N.J.A.C. 2:76-6) and the planning incentive grant program (N.J.A.C. 2:76-17) subject to available funding.

2:76-21.2 Definitions

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

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

"Farmland preservation plan" means a comprehensive plan prepared by boards projecting a county's farmland preservation goals for the next five to 10 years.

2:76-21.3 Eligibility

(a) To be eligible for a grant, a board shall have already completed a farmland preservation plan or shall agree to complete a farmland preservation plan within six months of the Committee's approval of a grant request.

1. The farmland preservation plan shall be updated annually and submitted to the Committee each year in which a grant is awarded by the Committee.

2:76-21.4 Grant requirements

Grants shall be used for creating and filling staff positions that were created subsequent to January 2001 solely for generating and processing applications under the development easement acquisition program and the planning incentive grant program.

2:76-21.5 Amount of grant

(a) Grant amounts shall be 50 percent of the cost of creating and filling new staff positions. Cost shall be limited to the following:

1. Salary; and
2. Fringe benefits.

(b) A grant shall not exceed \$20,000 per county.

2:76-21.6 Applications

(a) A county shall obtain grant application forms from the Committee.

(b) Completed application forms shall be submitted to the Committee by January 17, 2002, for fiscal year 2002 and by April 1 for future grant requests.

(c) The application form shall request the following information:

1. County requesting grant;
2. Grant amount requested;
3. Title of new position created subsequent to January 2001, for purposes described in N.J.A.C. 2:76-21.4;
4. Agency or unit where the position will be established;
5. Person supervising position;
6. Salary and fringe benefits allocated to fund the position;
7. Verification that the position was approved by the Board of Chosen Freeholders or other appropriate authority;
8. Anticipated work hours and permanency of the position;
9. Anticipated duties of the position;

10. Copy (if available) and status of county's farmland preservation plan; and

11. Number and acres of applications pending pursuant to N.J.A.C. 2:76-21.7(a)2.

2:76-21.7 Awarding of grant

(a) The Committee shall determine the priority of allocating grants to counties according to the following factors:

1. Priority shall first be given to counties that have the most agricultural lands to potentially be preserved, indexed to the county in the State with the most agricultural land to potentially be preserved, based on the 1997 Agricultural Census or most current U.S. Agricultural Census data available and adjusted for acreage already preserved for agricultural purposes.

i. Grant applications shall be assigned a maximum of 50 points identifying farmland preservation potential based on the following formula:

$$\frac{\text{County Preservation Potential (Acres)}}{\text{County With Highest Preservation Potential (Acres)}} \times 50 = \text{points}$$

2. Priority shall next be given to counties that have the most acreage from farmland preservation applications pending before the county and the Committee, indexed to the county in the State with the most acreage from farmland applications pending before the county and the Committee.

i. Grant applications shall be assigned a maximum of 25 points identifying applications pending based on the following formula:

$$\frac{\text{County Applications Pending (Acres)}}{\text{County With Most Applications Pending (Acres)}} \times 25 = \text{points}$$

(b) Grants shall be awarded by the Committee in the order of those counties with the highest point total resulting from the combination of (a)1 and 2 above.

(c) The Committee shall enter into a grant agreement with the county.

2:76-21.8 Annual review

(a) A Board that has received a grant shall provide the Committee with an annual performance review of each new staff person that was funded with the grant indicating the benefits and accomplishments resulting from the position.

(b) Annual performance summaries shall be filed with the Committee by August 15 of each year a grant is awarded.