

CHAPTER 76

**STATE AGRICULTURE DEVELOPMENT
COMMITTEE**

Authority

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

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

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

Chapter Historical Note

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

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

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

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

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

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

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

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

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

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

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

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

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

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SUBCHAPTER 1. AGRICULTURAL DEVELOPMENT AREAS

2:76-1.1 Applicability

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

2:76-1.2 Definitions

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

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

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

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

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

2:76-1.3 Statutory criteria

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

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

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

(c) The notice of intent shall include:

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

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

2:76-7.4 Information about the project

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

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

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

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

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

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

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

2. Coordinate the initial onsite investigation of the property identified in Schedule A of the agreement with the SADC staff to establish the necessary baseline information for completing the Deed of Easement and for future inspection and monitoring purposes;

3. Obtain clear, valid record title, marketable, and insurable by a title company authorized to do business in New Jersey pursuant to N.J.A.C. 2:76-6.13(a);

4. Provide a copy of the title commitment to the SADC;

5. Prepare a Deed of Easement in accordance with N.J.A.C. 2:76-6.15 on the Deed of Easement form adopted by the SADC;

6. Identify the county's percent cost share and cost share grant amount for the purchase of the development easement;

7. Identify the municipal percent cost share and cost share grant amount for the purchase of the development easement;

8. Identify if the landowner is providing a donation to the county concerning the sale of the development easement pursuant to N.J.S.A. 4:1C-35;

9. Inform the SADC if the purchase of the development easement will require a lump sum payment (grant) to the County or installments over a period of up to 40 years from the date of settlement pursuant to N.J.S.A. 4:1C-32(c);

10. Subject to outstanding liens, other payments necessary to cover the easement and other special circumstances which may result in escrowing of funds, issue a check to the landowner for the total purchase price of the development easement at the time of closing for the purchase of the development easement, unless the installment purchase option is utilized;

11. Purchase the development easement on all properties set forth in Schedule A of the agreement within 18 months of the SADC's final approval;

i. The county may request the SADC to consider extending the 18 month period for one additional six month period;

12. File and record a notice of settlement prior to the easement purchase closing;

13. Immediately and properly record the fully executed Deed of Easement and all other appropriate settlement documents with the County Clerk's office following the purchase of the development easement;

14. Provide for notification of the development easement purchase pursuant to N.J.A.C. 2:76-6.13(d)2.

15. Provide the SADC with a copy of the recorded Deed of Easement immediately upon the county's receipt of the originally recorded Deed of Easement;

16. Provide the SADC with a copy of the insured title policy immediately upon receipt; and

17. Provide the SADC with an accounting of the County's ancillary costs pursuant to N.J.A.C. 2:76-6.11(d)3.

(c) During the acquisition phase, a county which is the record owner of a development easement acquired pursuant to N.J.S.A. 4:1C-34 and this subchapter and subsequent to the acquisition of the development easement, applies to the SADC for a grant under the Agriculture Retention and Development Act, shall:

1. Provide a copy of the initial survey of the property certified to the SADC, county and title company which has been performed in accordance with N.J.S.A. 45:8-27 et seq. and N.J.A.C. 13:40-1.1 through 10.1.

i. The county is encouraged to require the surveyor to delineate internal features such as residential units, agricultural labor units, other agricultural buildings or structures and easements of record. This information will be extremely helpful in setting baseline data for future enforcement of the deed restrictions by the county;

2. Coordinate the initial onsite investigation of the property identified in Schedule A of the agreement with the SADC staff to establish the necessary baseline information for completing the Deed of Easement and for future inspection and monitoring purposes;

3. Provide a copy of the title policy for the county's original acquisition of the development easement ensuring clear, valid record title marketable, and insurable by a title company authorized to do business in New Jersey;

4. Provide a copy of the recorded Deed of Easement used to acquire the original development easement which at a minimum contained the restrictions found at N.J.A.C. 2:76-6.15(a) which were in effect at the time the development easement was acquired;

5. Identify the county's initial purchase price of the development easement;

6. Identify, if applicable, the municipal percent cost share and cost share grant amount for the purchase of the initial development easement;

7. Identify if the initial landowner provided a donation to the county concerning the sale of the development easement pursuant to N.J.S.A. 4:1C-35;

8. Provide an affidavit from the county that no new encumbrances have been imposed on the Deed of Easement subsequent to the county's acquisition;

9. Provide an affidavit from the current record owner of the premises that no new encumbrances have been imposed on the premises subsequent to the sale of the development easement;

10. In the event an affidavit cannot be provided pursuant to (c)8 and 9 above, the county shall provide a copy of an updated title commitment to the SADC which provides for a clear, valid record title, marketable, and insurable by a title company authorized to do business in New Jersey;

11. Reimburse the SADC for its respective cost share grant in the event any encumbrance(s) was placed on the property subsequent to the date the original development easement was acquired which was not disclosed by the County and/or landowner in the Affidavits provided in (c)8 and 9 above;

12. Prepare a new Deed of Easement which contains the provisions of N.J.A.C. 2:76-6.15 which were in effect at the time the development easement was acquired by the county. The document shall provide for execution by the county and current landowner of the restricted premises if necessary; and

13. Provide the SADC with an accounting of the county's ancillary costs pursuant to N.J.A.C. 2:76-6.11(d)3.

(d) During the monitoring phase the county shall:

1. Conduct an onsite inspection and monitor, at least once a year, all land from which a development easement has been acquired by the county and for which the SADC has provided a cost share grant to the county to ensure compliance with the terms of the Deed of Easement;

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

ii. The county shall provide a written summary to the SADC 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;

2. Inform the SADC if any of the terms and conditions of the Deed of Easement were violated within 30 days of identifying such violation;

3. Take appropriate action within the county's authority to ensure that the terms and conditions of the Deed of Easement are enforced;

4. Maintain a data base of all lands from which a development easement was acquired listing at least the following:

- i. Record owner;
- ii. Record owner's address;
- iii. Phone number;
- iv. Tax map block and lots of the premises;
- v. Acres;
- vi. Title policy;

vii. Final survey;

viii. Inspection dates;

ix. Copy of the recorded Deed of Easement;

x. Subsequent amendments to the Deed of Easement; and

xi. Subsequent issues impacting the premises;

5. Annually inform the SADC of any record ownership changes which occur on lands from which development easements have been acquired; and

6. Inform the SADC of any actions which require the SADC's review and/or approval pursuant to N.J.A.C. 2:76-1, and the Deed of Easement.

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

2:76-6.18B SADC grant agreement with county: SADC responsibility

(a) In furtherance of an agreement for a grant for the purchase of a development easement by a county the SADC shall:

1. Conduct a base line inspection of the properties designated in Schedule A of the agreement in cooperation with the county;

2. Review the title commitment, final survey, and other necessary closing documents deemed to be complete and accurate by the county prior to the formal purchase of a development easement;

3. Attend the formal closing for the purchase of a development easement to ensure that the SADC's interests and obligations are fully protected;

4. Provide a grant to the county for the purchase of a development easement on the properties designated in Schedule A of the agreement subject to available funds, pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. and N.J.A.C. 2:76-6.11, within 18 months of the SADC's final approval, but not prior to the closing for the purchase of the development easement;

5. Consider a request by the county pursuant to N.J.A.C. 2:76-6.18A(b)11, to extend the 18 month period to provide a grant to the county as follows:

i. The SADC may extend the 18 month period for one additional six month period when it has determined that extenuating circumstances which are beyond the county's or landowner's control have caused the delay;

6. Enforce the provisions of the Deed of Easement pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. and N.J.A.C. 2:76; and

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

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

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

2:76-7.1 Applicability

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

2:76-7.2 Definitions

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

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

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

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

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

“Notice of intent” means the written notification by a public body or public utility to the Committee and the board

and the supporting documents and information pursuant to N.J.A.C. 2:76-7.3(c) and 2:76-7.4(d).

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

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

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

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

“Secretary” means the Secretary of Agriculture.

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

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

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

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

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

(c) The notice of intent shall include:

1. A statement of the reasons for the proposed action;
2. An evaluation of alternatives which would not include action in the agricultural development area;

3. Information about the project and its impact as outlined in N.J.A.C. 2:76-7.4.

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

2:76-7.4 Information about the project

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

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

(c) If a draft environmental impact statement prepared in connection with the proposed action or project does not contain all of the information required in (d) below, including the information required in N.J.A.C. 2:76-7.3(c), then that statement, together with all additional information necessary and a cover letter to the board and the Committee stating that the enclosed statement is intended to serve as a notice of intent to undertake an action within an agricultural development area, shall fully comply with the notice requirement, provided that such statement is served upon the board and the Committee at least 30 days prior to the undertaking of the proposed action.

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

1. The name of the public body or public utility involved, its address, telephone number and the name of a contact person.

2. The location and land use of the project as follows:

i. The location of the project, including:

(1) The municipality(ies), block and lot number(s) to the extent known;

(2) A key map adequately locating the site or proposed route of the project;

(3) The current use of the site; and

(4) The land use of area adjacent to the site, including:

(A) Current buffers between the project and farmland; and

(B) The proposed use of buffers between the project and farmland.

(C) Land use on adjacent lots.

ii. A description of the project, including:

(1) The type of project (utility, residential, commercial, industrial, etc.);

(2) The purpose of the project;

(3) The total area of the project;

(4) The phases of the project;

(5) The infrastructure required, including roads and utilities (water, electric, gas, etc.); and

(6) The alternatives considered, if any.

(7) The site plan, if available.

3. A discussion of farm activities impacts on the project through consideration of the following issues from the public body or public utility's perspective and identification of feasible solutions to these potential problems:

i. Potential complaints concerning noise from use of farm machinery, irrigation pumps or other equipment;

ii. Potential complaints concerning odors associated with livestock, poultry, crops or manure spreading;

iii. Potential complaints concerning use of herbicides, pesticides and fertilizers; and

iv. Potential dust problems.

4. A discussion of project impacts on farm activities, including:

i. Prevention of access to an actively farmed area;

ii. Potential increase in vandalism of farm equipment, buildings and/or crops;

iii. Potential increase in farm trespass;

iv. Potential increase in vehicle traffic;

v. Potential increase in litter (glass, plastic and/or paper) that may affect the farm operation; and

vi. Potential impact on aesthetics of the area.

5. A discussion of the project's impact on water resources with respect to the agricultural operation, including:

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

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

2:76-8.4 Board and municipal comments

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

2:76-8.5 Committee evaluation

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

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

SUBCHAPTER 8. ACQUISITION OF FARMLAND IN FEE SIMPLE

2:76-8.1 Applicability

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

2:76-8.2 Definitions

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

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

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

“Committee” means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4. “Agricultural deed restrictions for farmland preservation purposes” means a statement containing the conditions of the conveyances and the terms of the restrictions set forth in P.L. 1983, c.32 and as additionally determined by the committee on the use and development of the land which shall be recorded with the deed in the same manner as originally recorded.

2:76-8.3 Landowner offer

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

2:76-8.6 Appraisals

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

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

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

2:76-8.7 Final Committee action

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

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

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

SUBCHAPTER 9. EMERGENCY ACQUISITION OF DEVELOPMENT EASEMENTS

2:76-9.1 Scope

This subchapter sets forth the emergency conditions under which the State Agriculture Development Committee (SADC) may provide up to 100 percent funding for the

purchase of development easements on farmland pursuant to N.J.S.A. 4:1C-31(c)-(e) as amended.

2:76-9.2 Emergency purchase conditions

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

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

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

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

SUBCHAPTER 10. APPRAISAL HANDBOOK STANDARDS

2:76-10.1 Applicability

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

2:76-10.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

2:76-10.3 Appraisal report format

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

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

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

2:76-10.4 Summary

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

1. A letter of transmittal which shall include the development easement value expressed as a per acre value and a total value;
2. A certification of appraisal which shall include the market value unrestricted, market value restricted, development easement value, date of valuation and the signature of the appraiser responsible for the report;
3. A summary of salient facts and important conclusions which shall include any other information which the appraiser deems relevant. The format shall conform with the sample, Appendix A of this subchapter, incorporated herein by reference; and
4. A table of contents which shall include the topic listings contained in the appraisal report with corresponding page numbers. The format shall conform with the sample, Appendix B of this subchapter, incorporated herein by reference.

2:76-10.5 General information

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

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

2:76-10.6 Property valuation before development easement acquisition (market value unrestricted)

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

1. A description of the subject property including all physical attributes and improvements which shall include, but not be limited to:
 - 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 residual dwelling site opportunities allocated to the subject property pursuant to N.J.A.C. 2:76-6.17. (The appraiser shall not incorporate the effect of the value of residual dwelling site opportunities into the valuation);
 - iv. Any exceptions to the subject property. (The appraiser shall incorporate the effect of the value of exceptions into the valuation); and
 - v. 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.

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 restrictions. 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 and financing.

- (1) The appraiser shall provide a land sale comparative rating grid in conformance with the sample in Appendix C.
- (2) 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.

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.

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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 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

APPENDIX B

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