

CHAPTER 76

**STATE AGRICULTURE DEVELOPMENT
COMMITTEE**

Authority

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

Source and Effective Date

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

Executive Order No. 66(1978) Expiration Date

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

Chapter Historical Note

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER TABLE OF CONTENTS

**SUBCHAPTER 1. AGRICULTURAL DEVELOPMENT
AREAS**

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

SUBCHAPTER 2. RIGHT TO FARM

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

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

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

**SUBCHAPTER 2B. SUPPLEMENTAL AGRICULTURAL
ACTIVITIES**

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

**SUBCHAPTER 3. CREATION OF FARMLAND
PRESERVATION PROGRAMS**

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

SUBCHAPTER 4. CREATION OF MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAMS

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

SUBCHAPTER 5. SOIL AND WATER CONSERVATION PROJECT COST-SHARING

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

SUBCHAPTER 6. ACQUISITION OF DEVELOPMENT EASEMENTS

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

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

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

SUBCHAPTER 8. ACQUISITION OF FARMLAND IN FEE SIMPLE

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

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

SUBCHAPTER 9. EMERGENCY ACQUISITION OF DEVELOPMENT EASEMENTS

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

SUBCHAPTER 10. APPRAISAL HANDBOOK STANDARDS

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

SUBCHAPTER 11. COMMITTEE ACQUISITION OF FARMLAND DEVELOPMENT EASEMENTS

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

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

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

SUBCHAPTER 13. NONPROFIT ACQUISITION PROJECTS: APPLICATION PROCESS

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

SUBCHAPTER 14. NONPROFIT ACQUISITION PROJECTS: AWARD CRITERIA

- 2:76-14.1 Project award criteria

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

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

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

- 2:76-16.1 Project agreement

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

SUBCHAPTER 17. PLANNING INCENTIVE GRANTS

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

SUBCHAPTER 18. AGRICULTURAL MEDIATION PROGRAM

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

SUBCHAPTER 19. VALUATION OF DEVELOPMENT EASEMENTS IN THE PINELANDS AREA

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

- APPENDIX A. SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS
- APPENDIX B. TABLE OF CONTENTS
- APPENDIX C. LAND SALE COMPARATIVE RATING GRID

SUBCHAPTER 1. AGRICULTURAL DEVELOPMENT AREAS

2:76-1.1 Applicability

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

2:76-1.2 Definitions

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

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

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

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

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

2:76-1.3 Statutory criteria

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

(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	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
Town or Regional Growth Area					
or Pinelands Area Boundary	15%	15%	10%	5%	0%
Village	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	Distance to Highways and Roads in Miles				
	.5mi.	.5-2 mi.	2-4 mi.	4-6 mi.	6-8 mi.
Highway	20%	20%	15%	10%	5%
Federal or State Highway	15%	10%	5%	0%	0%
County Road	10%	5%	0%	0%	0%
Municipal Road	5%	0%	0%	0%	0%
Unpaved	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.

	<u>Prime</u>	<u>Statewide Importance</u>	<u>Unique</u>
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.