

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.

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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) 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.

APPENDIX A

SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS

PROPERTY LOCATION

PROPERTY TYPE

LAND SIZE

ZONING

PAGE #'S

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:	_____	_____

PROPERTY VALUATION AFTER DEVELOPMENT
EASEMENT ACQUISITION (MARKET VALUE RESTRICTED)

Subject Property Description00
Highest and Best Use00
Valuation Methods00
Sales Grid00
Value Conclusion00

FINAL ESTIMATE OF DEVELOPMENT EASEMENT VAL-
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ADDENDUM

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APPENDIX C

LAND SALE COMPARATIVE RATING GRID

	Sale No.	1	2	3
Sale Price	\$	_____	\$	_____
Reflects in Units	\$	_____/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