

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
- 2:76-2A.8 Agricultural management practice for on-farm compost operations operating on commercial farms
- 2:76-2A.9 Fencing installation agricultural management practice for wildlife control

**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

APPENDIX A. SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS**APPENDIX B. TABLE OF CONTENTS****APPENDIX C. LAND SALE COMPARATIVE RATING GRID****SUBCHAPTER 11. COMMITTEE ACQUISITION OF FARMLAND DEVELOPMENT EASEMENTS**

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

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

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

SUBCHAPTER 13. NONPROFIT ACQUISITION PROJECTS: APPLICATION PROCESS

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

SUBCHAPTER 14. NONPROFIT ACQUISITION PROJECTS: AWARD CRITERIA

2:76-14.1 Project award criteria

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

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

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

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

SUBCHAPTER 17. PLANNING INCENTIVE GRANTS

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

SUBCHAPTER 18. AGRICULTURAL MEDIATION PROGRAM

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

SUBCHAPTER 19. VALUATION OF DEVELOPMENT EASEMENTS IN THE PINELANDS AREA

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

SUBCHAPTER 20. FARMLAND STEWARDSHIP PROGRAM

- 2:76-20.1 Applicability
- 2:76-20.2 Definitions
- 2:76-20.3 Applicant eligibility
- 2:76-20.4 Availability of State farmland stewardship cost-share funds
- 2:76-20.5 Feasibility plan application contents and procedure
- 2:76-20.6 Committee feasibility plan application review
- 2:76-20.7 Committee feasibility plan application approval process
- 2:76-20.8 Committee evaluation process for feasibility plan applications
- 2:76-20.9 Qualifications of technical consultants
- 2:76-20.10 Assignment of technical consultants
- 2:76-20.11 Technical team assemblage
- 2:76-20.12 Duties of the lead coordinator
- 2:76-20.13 Duties of technical consultants
- 2:76-20.14 Preparation and contents of the feasibility plan
- 2:76-20.15 Committee feasibility plan approval process
- 2:76-20.16 Eligible farmland stewardship implementation projects
- 2:76-20.17 Evaluation of implementation projects
- 2:76-20.18 Implementation of approved implementation projects
- 2:76-20.19 Lead coordinator and technical consultant fee payment
- 2:76-20.20 Project completion and payment
- 2:76-20.21 Failure to comply
- 2:76-20.22 Records

SUBCHAPTER 21. ADMINISTRATIVE GRANTS TO COUNTIES

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

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: