

tobacco-related products, including electronic cigarettes[,] and advertisements that are obscene, false, political in nature, disparaging, unsafe, controversial, deceptive or misleading, or promote illegal goods, services, or activities on facilities, vehicles, equipment, electronic and digital equipment and media, and other property (collectively, “property”) owned or controlled by the New Jersey Transit Corporation or its subsidiaries (collectively “NJ TRANSIT”).

(b)-(c) (No change.)

16:86-1.2 Limitation upon advertisements

(a) No advertisement located on property owned or controlled by NJ TRANSIT shall be displayed or maintained that falls within one or more of the following categories:

1. (No change.)
2. The advertisement or information contained in it promotes unlawful or illegal goods, services, or activities;
3. The advertisement or information contained therein declares or implies an endorsement by NJ TRANSIT of any service, product, or point of view without prior written authorization of NJ TRANSIT;
4. The advertisement contains obscene material as defined [by] at N.J.S.A. 2C:34-3;
- 5.-7. (No change.)
8. The advertisement proposes the use of, or promotes, tobacco or tobacco-related products, including electronic cigarettes;
- 9.-10. (No change.)
11. The advertisement promotes or opposes a political party, the election of a candidate, or any group of candidates for Federal, state, or local government offices, or initiatives, referendums, or other ballot measures;
- 12.-13. (No change.)

SUBCHAPTER 2. PROCEDURES

16:86-2.1 Advertising Standards Committee

The **President and Chief Executive [Director] Officer** shall establish a [three member] **three-member** Advertising Standards Committee ([“Committee”]) comprised of representatives from NJ TRANSIT subunits, with expertise in real estate and economic development, communications and customer service, and government and community relations. Such Committee shall be independent and its determinations shall constitute NJ TRANSIT’s final agency determinations.

16:86-2.2 Review of advertisements

(a) NJ TRANSIT’s advertising contractor or advertising sales entity (collectively “advertising provider”) shall review each advertisement submitted for installation, display, and maintenance on NJ TRANSIT property to determine whether the advertisement falls within, or may fall within, one or more of the categories set forth [in] at N.J.A.C. 16:86-1.2. NJ TRANSIT may also review such advertisement for compliance with N.J.A.C. 16:86-1.2. If NJ TRANSIT or its advertising provider determines that an advertisement falls within, or may fall within, one or more of the categories set forth [in] at N.J.A.C. 16:86-1.2:

1.-4. (No change.)

SUBCHAPTER 3. SEVERABILITY

16:86-3.1 Severability

If any category set forth [in] at N.J.A.C. 16:86-1.2 is determined to be invalid as applied to any particular type of NJ TRANSIT property, the category shall remain applicable to other types of NJ TRANSIT property. If any category set forth [in] at N.J.A.C. 16:82-1.2 is determined to be invalid as applied to all NJ TRANSIT property, the remaining categories shall remain valid.

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

Farmland Assessment Act

**Proposed Amendments: N.J.A.C. 18:15-1.1, 2.2, 2.3, 2.4, 2.5, 2.7, 2.10, 2.13, 3.5, 3.6, 4.5, 5.1, 5.3, 6.1, 6.2, 6.3, and 6.5**

Authorized By: John J. Ficara, Acting Director, New Jersey Division of Taxation.

Authority: N.J.S.A. 54:4-23.21.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-068.

Submit written comments by September 15, 2023, to:

Allison Sheppard  
 Administrative Practice Officer  
 Division of Taxation  
 PO Box 269  
 3 John Fitch Way  
 Trenton, NJ 08695-0269  
 Email: [Tax.RuleMakingComments@treas.nj.gov](mailto:Tax.RuleMakingComments@treas.nj.gov)

The agency proposal follows:

**Summary**

The Division of Taxation (Division) is proposing amendments to the Farmland Assessment Act (Act), N.J.A.C. 18:15. The proposed amendments incorporate changes required pursuant to P.L. 2009, c. 256. These statutes govern the administration of farmland assessments. P.L. 2009, c. 256 was implemented to create a forest stewardship program in order to develop and promote the long-term active management of the State’s forest resources. The Division is also proposing amendments to make technical changes, such as grammar and formatting, as well as substantive changes in order to properly reflect current statutory provisions. The following summarizes the proposed amendments:

N.J.A.C. 18:15-1.1 is proposed for amendment to modify or add the following definitions: the definition of “agricultural use” is proposed for amendment to include land that is devoted to sustainable forestland in compliance with a written forest stewardship plan approved by the State Forester. The definition of “devoted to agricultural or horticultural use” is proposed for amendment to include land that is devoted to sustainable forestland. The definition of “forest stewardship plan” is added to require that such plan satisfy the eligibility requirements in accordance with N.J.A.C. 7:3-5. To qualify for farmland assessment treatment, the owner must file a forest stewardship plan with the assessor in accordance with N.J.A.C. 18:15-2.7 and the Commissioner of the Department of Environmental Protection, in accordance with N.J.A.C. 7:3-5.9, if the owner has not filed a woodland management plan. The definition of “mixed-use property” is proposed for amendment to include acreage devoted to non-appurtenant woodlands under an “approved forest stewardship plan,” in addition to acreage devoted to non-appurtenant woodlands under an approved woodland management plan or other agricultural/horticultural use. The definition of “non-appurtenant woodland” is proposed for amendment to include certain woodland that can only qualify for farmland assessment on the basis of being in compliance with a forest stewardship plan. The definition of “sustainable forestland” is proposed to be added. The definition of “woodland management plan” is proposed for amendment to clarify the filing requirements if the owner has not filed a forest stewardship plan.

N.J.A.C. 18:15-2.2 is proposed for amendment to add forest stewardship activity in addition to woodland management with reference to the annual filing requirements of an FA-1 application.

N.J.A.C. 18:15-2.3 is proposed for amendment to state that when a woodland management plan “or forest stewardship plan” is filed, there is no need to resubmit a soil map.

N.J.A.C. 18:15-2.4 is proposed for amendment to delete subsection (c), as it applies to non-income-producing acres.

N.J.A.C. 18:17-2.5 is proposed for amendment to delete subsection (a) and to set forth the form and submission requirements. The proposed amendment states that the FA-X is to be filed by the owner of the land by August 1 of the pre-tax year. However, the assessor may, at his or her discretion, allow filing of Form FA-X on or before September 1 of the pre-tax year.

N.J.A.C. 18:15-2.7 is proposed for amendment to set forth the regulatory requirements for an owner of woodland “devoted to sustainable forestland” that seeks the farmland assessment in conjunction with N.J.S.A. 54:4-23.3 and N.J.A.C. 7:3-5. The proposed amendment also clarifies that the assessor shall not approve an application unless the owner has managed the woodland in accordance with the approved woodland management plan or forest stewardship plan for at least the two successive “full calendar” years immediately preceding the tax year for which valuation, assessment, and taxation pursuant to the Farmland Assessment Act is requested.

N.J.A.C. 18:15-2.10 is proposed for amendment to clarify the specific criteria for management plan information required to meet the documentation standards at N.J.S.A. 54:4-23.14(a).

N.J.A.C. 18:15-2.13 is proposed for amendment to add forest stewardship plans in addition to woodland management plans with reference to on-site inspections.

N.J.A.C. 18:15-3.5 is proposed for amendment to add records of forest stewardship activity as additional proof that an assessor may require to support an application of farmland assessment.

N.J.A.C. 18:15-3.6 is proposed for amendment to set forth the statutory basis for roll-back taxes, as it applies to the denial of farmland assessment for a change in use.

N.J.A.C. 18:15-4.5 is proposed for amendment to clarify an example of the term “functional obsolescence.” The section is also proposed for amendment to update where on the Division’s website reference materials regarding how to assess, appraise, and value farm structures may be found.

N.J.A.C. 18:15-5.1 is proposed for amendment to clarify the valuation procedure. The valuations will be determined separately for each tax year and are not established in the base-year following revaluation or reassessment.

N.J.A.C. 18:15-5.3 is proposed for amendment to clarify recordation guidelines for the taxable value of land that qualifies for farmland assessment.

N.J.A.C. 18:15-6.1 is proposed for amendment to add new paragraph (a)3, which defines land actively devoted to agricultural or horticultural use with respect to certain property subject to an approved forest stewardship plan. The proposed amendment to subsection (c) amends an example to correct imputed value. New subsection (e) is proposed to clarify the treatment of mixed-use parcels subject to an approved forest stewardship plan that have non-appurtenant woodlands in addition to land used for agricultural or horticultural use. New subsection (e) is also proposed to clarify what constitutes active devotion for the non-woodland acres. The proposed amendment offers guidance, including examples to address such parcels. Paragraph (f)5 is proposed for amendment to further clarify the process for applying for an exception from the gross sales requirement.

N.J.A.C. 18:15-6.2(a)17 is proposed for amendment to include in the definition of “devoted to agricultural or horticultural use” land on which woodlands and/or wetlands are managed in compliance with a written forest stewardship plan approved by the State Forester.

N.J.A.C. 18:15-6.3 is proposed for amendment to update where on the Division’s website reference materials for generally accepted agricultural/horticultural practices under farmland assessment may be found.

N.J.A.C. 18:15-6.5 is proposed for amendment to delete subsection (a), which deals specifically with land that previously qualified as actively devoted to agricultural or horticultural use, but fails to meet the additional requirement on acreage above five acres. Such land that fails to meet the additional requirement was not subject to the roll-back tax.

As the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The proposed amendments codify and clarify changes required pursuant to P.L. 2009, c. 256, to N.J.S.A. 54:4-23.1 et seq. The proposed amendments help to facilitate the care and management of forest lands through the establishment of a forest stewardship program.

#### **Economic Impact**

The proposed amendments are expected to have no adverse economic impact because they implement the requirements at P.L. 2009, c. 256, and clarify existing rules.

#### **Federal Standards Statement**

The proposed amendments do not include requirements that exceed any requirements imposed by Federal law. The proposed amendments represent policies of the State of New Jersey regarding implementation of the New Jersey Farmland Assessment Act, N.J.S.A. 54:4-23.1 through 23.16 that are independent of Federal requirements or standards. Accordingly, no Federal standards analysis is required.

#### **Jobs Impact**

The proposed amendments are not expected to result in the creation or loss of jobs in New Jersey.

#### **Agriculture Industry Impact**

The proposed amendments are not expected to have an adverse impact on the agriculture industry. The proposed amendments conform to existing statutory provisions and set forth the guidelines for the agriculture industry to follow in obtaining and maintaining land actively devoted to agricultural and horticultural use, so as to qualify for farmland assessment within a forest stewardship program.

#### **Regulatory Flexibility Analysis**

The Division, consistent with its mission, reviews its rule proposals with a view to minimizing the impact of the rules on small businesses to the extent permissible by law. The Division is required to administer the State’s tax laws uniformly, equitably, and efficiently to maximize State revenues to support public services, and to ensure voluntary compliance with tax statutes without creating an impediment to economic growth.

The proposed amendments are based on P.L. 2009, c. 256, which creates a forest stewardship program allowing reduced property taxes for qualified farmers and is generally positive for small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, there are no additional direct compliance costs.

The proposed amendments continue to impose some recordkeeping, reporting, and compliance requirements that affect small businesses, as discussed in the Summary above. However, none of the requirements impose provisions that do not easily derive from normal business practices and are, therefore, not so burdensome as to necessitate differing standards based on business size. The type of information required and compliance sought are necessary to ensure the integrity of the farmland assessment program and to insure that those receiving the tax benefit are truly entitled to it. The proposed amendments facilitate the application and appeal procedures in the Act. These procedures apply to all taxpayers seeking farmland designation, including small businesses.

The Division has reviewed the application of the Regulatory Flexibility Act to the proposed amendments. The tax rules must be applied uniformly and equitably, therefore, the Division cannot develop and apply special rules for small businesses that would be different from the rules applied to other applicants and taxpayers.

The Division anticipates that the proposed amendments will not increase the capital costs of small businesses or their need for certain professional services.

#### **Housing Affordability Impact Analysis**

The proposed amendments will not result in a change in the average cost associated with housing. The proposed amendments would have no impact on any aspect of housing because the proposed amendments involve reduced property tax for woodlands and wetlands that qualify under the forest stewardship program.

#### **Smart Growth Development Impact Analysis**

The proposed amendments will not result in a change in housing production within Planning Areas 1 or 2, or within designated centers,

under the State Development and Redevelopment Plan. The basis for this finding is that the proposed amendments do not involve housing production, either within Planning Area 1 or 2, or within designated centers, or anywhere else in the State of New Jersey. The proposed amendments involve a forest stewardship program, including assessment of woodlands and wetlands for real property tax purposes.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Division of Taxation has evaluated this rulemaking and determined that the proposed amendments will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State because the proposed amendments involve farmland assessment of woodlands and wetlands for real property tax purposes. Accordingly, no further analysis is required.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. DEFINITIONS

18:15-1.1 Words and phrases defined

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

“Agricultural use” means land that is devoted to the production for sale of plants and animals useful to man, including, but not limited to:

1.-10. (No change.)

**“Agricultural use” also means land that is devoted to sustainable forestland in compliance with a written forest stewardship plan approved by the State Forester.**

“Devoted to agricultural or horticultural use” refers not only to the land that produces agricultural and horticultural products for sale at wholesale or retail **or is devoted to sustainable forestland**, but also to the land that is supportive and has a relationship to the agricultural and horticultural products produced for sale. See also, N.J.A.C. 18:15-6, Actively Devoted to Agricultural Use or Horticultural Use, for further guidelines.

**“Forest stewardship plan” means a plan prepared in accordance with criteria set forth at N.J.A.C. 7:3-5 and which is required to be filed by an owner of non-appurtenant woodland with the assessor, as set forth at N.J.A.C. 18:15-2.7, and the Commissioner of the Department of Environmental Protection, as set forth at N.J.A.C. 7:3-5.9, if the owner has not filed a woodland management plan.**

“Mixed-use property” means farm property that meets the criteria to qualify for farmland assessment and contains both acreage devoted to non-appurtenant woodlands under an approved woodland management plan **or an approved forest stewardship plan** and acreage devoted to other agricultural/horticultural use.

“Non-appurtenant woodland” means woodland that is neither supported nor subordinate to other farmland and which can only qualify for farmland assessment on the basis of being in compliance with a woodland management plan **or a forest stewardship plan** filed with the Department of Environmental Protection. Non-appurtenant woodland is actively devoted to the production for sale of tree and forest products **or to sustainable forestland.**

**“Sustainable forestland” means non-appurtenant woodlands and wetlands, if applicable, managed in a sustainable manner, as that term is defined at N.J.A.C. 7:3-1.3.**

“Woodland management plan” means a plan prepared in accordance with criteria set forth [in] at N.J.A.C. 18:15-2.10 and which is required to be filed with the assessor and the Commissioner by an owner of non-appurtenant woodland as set forth [in] at N.J.A.C. 18:15-2.7, **if the owner has not filed a forest stewardship plan.**

SUBCHAPTER 2. APPLICATION FOR FARMLAND ASSESSMENT

18:15-2.2 Forms FA-1 and FA-1 G.S. required; descriptive narrative for farms under seven acres

(a) Application for assessment under the Act may be made only upon completion of the form prescribed by the Director, identified as Form FA-1. Copies of the form may be obtained, from the assessor of each taxing district who is required to provide said form for use by applicants, upon request. The application must be filed on or before August 1 of the pre-tax year. Late applications will be denied **unless an extension pursuant to N.J.A.C. 18:15-2.5 is granted.** Land in a farmland preservation program must also meet the criteria and filing requirements of the Farmland Assessment Act for land to be taxed at its productivity value.

(b) (No change.)

(c) The annual filing of an FA-1 application reflects the extent of any changes in farming or the woodland management **or forest stewardship** activity from year-to-year and any revisions to cropland, pasture, or woodland acreage, or the number of livestock. The annual filing of Form FA-1 G.S. reflects the amount of gross sales generated, or anticipated to be generated, from the production of plants or animals useful to man, sold at retail or wholesale, or income imputed pursuant to N.J.S.A. 54:4-23.5, to meet the minimum income criteria for the property. It is the responsibility of the landowner to complete the application by following the instructions on the back of [the] Form FA-1, Form FA-1 G.S., and Form WD-1, if applicable, and to submit an activity map and to sign the application. An incomplete application is grounds for denial.

(d) (No change.)

(e) Approval or denial of [the] Form FA-1 and Form FA-1 G.S. is the responsibility of the tax assessor. Determination of compliance or non-compliance with the woodland management plan **or forest stewardship plan, through a review of Form WD-1**, is the responsibility of the State Forester.

(f) For farmland management units that have fewer than seven acres that qualify for farmland assessment, that is, excluding the homestead or acreage not receiving farmland assessment, a descriptive narrative describing the agricultural and/or horticultural uses on the acreage and a sketch of the location of the activity must be submitted with the application for farmland assessment.

1. (No change.)

2. The sketch of the property should be sufficiently detailed for use in conjunction with the descriptive narrative for the assessor to verify that the activities on the property are as represented when conducting an inspection of the farm. A landowner who has already submitted a map for a woodland management plan pursuant to N.J.S.A. 54:4-23.3 and N.J.A.C. 18:15-[2.8]**2.10 or for a forest stewardship plan pursuant to N.J.S.A. 54:4-23.3 and N.J.A.C. 7:3-5.2** is not required to submit an additional sketch of the property for the purposes of this section.

18:15-2.3 Form FA-1, signature and verification

(a) (No change.)

(b) Where an application is filed for lands not previously qualified for farmland assessment, unless the owner has submitted a woodland management plan **or forest stewardship plan** pursuant to N.J.A.C. 18:15-2.7, the owner shall also submit a map of land use classes and soil groups, as described in the most recent Report of the State Farmland Evaluation Committee published annually each October 1.

18:15-2.4 Form FA-1 G.S.; signature; verification; income reporting

(a)-(b) (No change.)

[c] In reporting the activities and the acreage on which those activities occur, the applicant should not include non-income-producing acres, such as fallow acres, land sown with cover crops, appurtenant woodlands, and appurtenant wetlands. However, non-income-producing acres should be included in the section for total acreage despite not producing income themselves.]

18:15-2.5 Extension of time for filing

(a) The owner of land in horticultural or agricultural use may file an application after August 1, but before December 1 of the pre-tax year if the taxing district in which the land is located completes a revaluation of

all real property in time to be reflected in the assessments for the next succeeding tax year, but not in sufficient time to permit applications to be made prior to the deadlines established pursuant to N.J.S.A. 54:4-23.13a.]

[(b)] (a) The assessor may grant an extension of time for filing the application for farmland assessment, which shall terminate no later than September 1 of the year immediately preceding the tax year, [where it appears to the satisfaction of the assessor that failure to file by August 1 was due to] **provided that the following conditions are met:**

**1. The landowner makes a reasonable attempt to inform the assessor prior to August 1 that he or she will be applying for a filing extension, through Form FA-X; and**

**2. The landowner files Form FA-1, Form FA-X, and supporting documentation with the assessor by September 1.**

(b) The assessor is satisfied that failure to file by August 1 was due to:

1.-3. (No change.)

[4. Form FA-X is to be filed by the owner of the land by August 1 of the pre-tax year.]

(c) **If the property is subject to a woodland management plan or forest stewardship plan, the following conditions must also be met:**

**1. The landowner made a reasonable attempt to inform the Commissioner of the landowner's intent to request an extension of the August 1 farmland assessment application deadline.**

**2. The assessor shall send a copy of Form FA-X with his or her approval or disapproval to the Commissioner. Failure of the assessor to provide a copy of his or her approval or disapproval to the Commissioner is not grounds for reconsideration or approval of a request for a filing extension.**

(d) In cases of multiple ownerships, except corporate co-owners, one of the owners may sign **Form FA-X** on behalf of the other co-owners, and such signer will be presumed to have authority to sign on behalf of the other owners. In the case of a corporate owner or owners, the full name of the corporation must be provided on the application, and accompanied by the signature and title of the corporate officer authorized to sign the application on its behalf.

18:15-2.7 Additional conditions to be fulfilled by an owner of woodland that is **devoted to sustainable forestland or is devoted exclusively to the production for sale of trees and forest products, other than Christmas trees, and that is not appurtenant woodland**

(a) The owner of land that is **devoted to sustainable farmland** or is devoted exclusively to the production for sale of trees and forest products, other than Christmas trees, and that is not appurtenant woodland shall annually submit to the assessor, in addition to a completed and timely filed application for farmland assessment (Form FA-1) and gross sales verification form (Form FA-1 G.S.), the following information:

1. A copy of the current woodland management plan for the landowner's woodlands prepared in accordance with the criteria set forth at N.J.A.C. 18:15-2.10 **or a copy of the landowner's forest stewardship plan prepared in accordance with the criteria set forth at N.J.A.C. 7:3-5.** Unless the assessor requests such re-submission, re-submission of the current **woodland management plan or forest stewardship plan** is not required if the plan was previously submitted to the assessor and the owner indicates on Form WD-1 that there is no change in the plan as initially submitted or, if applicable, when it was most recently revised and re-submitted. However, any new or amended plan not yet on file with the assessor must be submitted.

2. A completed woodland data form (Form WD-1), as prescribed by the Director of the Division of Taxation. The information provided on such form must apply to the entire pre-tax year and include the following:

i. A description of all woodland management **or forest stewardship** activities and practices carried out or to be carried out;

ii.-iii. (No change.)

iv. A certification in lieu of an oath signed by both the landowner and an approved forester stating that the land is woodland, actively devoted to agricultural use, that the activities and practices reported on Form WD-1 have been or will be carried out in the pre-tax year, their implementation represents compliance with the filed woodland management plan **or**

**forest stewardship plan**, and that the information provided on the form is true and correct; and

v. (No change.)

(b)-(c) (No change.)

(d) The assessor shall not approve an application **for farmland assessment** that includes woodland that is not appurtenant woodland until a woodland management plan **or forest stewardship plan** has been prepared and approved by the State Forester and the owner has managed the woodland in accordance with the approved plan for at least the two successive **full calendar** years immediately preceding the tax year for which valuation, assessment, and taxation under the Farmland Assessment Act is requested.

18:15-2.10 Criteria of a woodland management plan

(a) An owner of land subject to the additional conditions set forth [in] **at N.J.A.C. 18:15-2.7, but which is not subject to the Forest Stewardship Program rules at N.J.A.C. 7:3-5,** shall submit a woodland management plan prepared in accordance with the following criteria:

1.-7. (No change.)

8. [In addition to the map required pursuant to N.J.A.C. 18:15-2.7, a] **A map of the property must be provided that includes, but is not necessarily limited to, the following:**

i.-ix. (No change.)

(b) An owner of land that includes freshwater wetlands or is located in a flood hazard area [who wants to utilize a plan to qualify for an exemption from the permit requirements of the Freshwater Wetlands Protection Act rules at N.J.A.C. 7:7A or for a permit-by-rule under the Flood Hazard Area Control Act rules at N.J.A.C. 7:13, must in addition to meeting the criteria set forth in (a) above, meet the additional plan requirements set forth in N.J.A.C. 7:7A or 7:13, as applicable.] **must address the applicable requirements of the Freshwater Wetlands Protection Act rules (N.J.A.C. 7:7A) and the Flood Hazard Area Control Act rules (N.J.A.C. 7:13). Specifically, see N.J.A.C. 7:7A-2.4 for an exemption for certain forestry management activities in freshwater wetlands and N.J.A.C. 7:13-7.26 for a permit-by-rule for certain forestry maintenance activities within flood hazard areas and riparian zones.**

18:15-2.13 On-site inspections

(a) The Commissioner, in addition to providing for review of each application, shall provide for an on-site inspection of the property to determine whether the land is in compliance with the filed woodland management plan **or forest stewardship plan.**

(b)-(c) (No change.)

SUBCHAPTER 3. PROOF TO SUPPORT APPLICATION FOR FARMLAND ASSESSMENT

18:15-3.5 Additional proof may be required by the assessor

(a) (No change.)

(b) The applicant, on request of the assessor, shall furnish proof of all the prerequisites necessary to show the land is eligible for farmland assessment, such as:

1.-7. (No change.)

**8. Records of activity in compliance with an approved forest stewardship plan that are required to be produced and maintained, pursuant to N.J.A.C. 7:3-5.11.**

(c) (No change.)

18:15-3.6 Notice of disallowance of claim

(a)-(c) (No change.)

**(d) If the denial of farmland assessment is due to the land being applied to a use other than agricultural or horticultural, the land will be subject to roll-back taxes, pursuant to N.J.S.A. 54:4-23.8, 23.9, and 23.16, and N.J.A.C. 18:15-7.**

SUBCHAPTER 4. VALUE OF LAND QUALIFYING FOR FARMLAND ASSESSMENT

18:15-4.5 Structures

(a) (No change.)

(b) In the valuation and assessment of farm structures, the assessor shall consider those attributes of value which such structures have,

utilizing the same standard of valuation applicable to all other real property. Assessors should utilize the same methodologies and considerations for valuing farm structures as they would for other improvements within the taxing district, as appropriate for the nature of the structures at issue. Assessors shall take into consideration the following criteria for the establishment of value:

1.-4. (No change.)

5. Obsolescence: This is a loss in value due to internal or external deficiencies.

i. Functional obsolescence is a loss in value due to the instability of the structure to perform adequately the function it is used for. Functional obsolescence would result if a building has limited contribution to a farming operation by [seeing] being technologically obsolete, such as a dairy barn with 30 tie-stall stanchions when the technological standard is for larger free-stall structures with milking parlors, or being totally unusable for the purpose for which it was built;

ii. (No change.)

6.-7. (No change.)

(c) Examples of how to assess, appraise, and value farm structures using the methods described [in] at (b) above can be found in the Real Property Appraisal Manual for New Jersey Assessors, available on the Division of Taxation’s website at [<http://www.state.nj.us/treasury/taxation/lpt/referencematerials.shtml>] <https://nj.gov/treasury/taxation/lpt/referencematerials.shtml>.

SUBCHAPTER 5. TAXABLE VALUE OR ASSESSED VALUE OF FARMLAND

18:15-5.1 Taxable value defined

The taxable or assessed value of land qualifying for farmland assessment is its value in agricultural or horticultural use as determined annually by the Farmland Evaluation Committee or the assessor’s alternate standards as approved by the Director of the Division of Taxation pursuant to N.J.A.C. 18:15-14.6. **These values in agricultural or horticultural use will be the values determined separately for each tax year.**

18:15-5.3 Recordation of taxable value

(a) The taxable value of land [which] **that** qualifies for farmland assessment is to be recorded on the assessor’s tax list and duplicate in the same manner as that of other taxable lands in the taxing district. **The taxable value of land that qualifies for farmland assessment recorded on the assessor’s tax list and duplicate will reflect the Farmland Evaluation Committee’s determined value for that tax year or the assessor’s alternate standards for that tax year as approved by the Director of the Division of Taxation, pursuant to N.J.A.C. 18:15-14.6. The assessor shall annually update the value on the tax list to reflect the agricultural productivity value for each tax year. The assessor shall not establish a base year agricultural productivity value in the year of a revaluation or reassessment and continue to use that value on subsequent tax lists until the next revaluation or reassessment occurs in the taxing district.**

(b) (No change.)

SUBCHAPTER 6. ACTIVELY DEVOTED TO AGRICULTURAL USE OR HORTICULTURAL USE

18:15-6.1 Actively devoted to agricultural or horticultural use defined

(a) Land, five acres in area, is considered to be actively devoted to agricultural or horticultural use when it is used for any of the purposes described in the Act and as set forth [in] at N.J.A.C. 18:15-1.1 and 6.2 and:

1. The amount of gross sales of agricultural or horticultural products produced, any payments received under a soil conservation program, fees received for breeding, raising, or grazing livestock, income imputed to land used for grazing in the amounts determined by the State Farmland Evaluation Committee, and fees received for boarding, rehabilitating, or training livestock where the land under the boarding, rehabilitating, or training facilities is contiguous to land otherwise qualified for farmland assessment, have averaged at least \$1,000 per year on the first five acres, \$5.00 per acre per year on any additional acres of farmland other than

woodland and wetland. Woodlands under an approved woodland management plan and wetlands, must have averaged \$500.00 per year for the first five acres and \$0.50 per acre per year on any additional acres constituting woodland and wetland during the two-year period immediately preceding the tax year in issue; [or]

2. There is clear evidence of anticipated yearly gross sales, payments, and fees of at least \$1,000 per year on the first five acres, except for woodlands under a woodland management plan, for which there must be clear evidence of at least \$500.00 per year for the first five acres, \$5.00 per acre per year on any additional acres of farmland other than woodland and wetland, and \$0.50 per acre per year on any additional acres of woodland and wetland within a reasonable period of time[.]; or

**3. For land that is devoted to sustained forestland, including woodlands and/or wetlands that is subject to an approved forest stewardship plan, the forest stewardship plan must have been in effect and its prescriptions followed for the two full calendar years immediately preceding the tax year in issue. Income may be produced on these acres, but it is not required in order for them to be considered actively devoted.**

(b) (No change.)

(c) The minimum gross sales for active devotion is calculated as \$1,000 (\$500.00 for woodlands under an approved woodland management plan) for the first five acres and \$5.00 for each additional acre of agricultural/horticulture and \$0.50 for each additional acre of woodlands/wetlands. Where a farm consists of more than five acres, the minimum income for active devotion may be produced from the whole property. A specific five-acre section of the farm does not need to be designated to produce \$1,000 (\$500.00 for woodlands under an approved woodland management plan) for the first five acres and \$5.00 for each additional acre of agricultural/horticulture and \$0.50 for each additional acre of woodlands/wetlands. Instead, the minimum income, as calculated from the acreage and nature of those acres must come from the property as a whole without regard to which acre produces what amount of income, as long as the total produced on the property exceeds the minimum, as calculated. However, appurtenant woodlands and wetlands cannot produce income to meet the gross sales requirement of active devotion.

Examples:

Example 1: (No change.)

Example 2: On a 10-acre parcel of land, two acres are used for boarding horses which produce fees of \$3,200 and the remaining eight acres are utilized for grazing the boarded horses at an imputed grazing value of \$145.00 per acre. Income imputed to grazing is determined to be \$1,160. Since the eight acres used for grazing have an imputed value for such use that exceeds the gross sales requirement for active devotion of [\$1,040] **\$1,015** for those eight acres, it would qualify for farmland assessment, despite the income imputed to grazing on five acres being less than \$1,000. The two-acre portion used for boarding and training is also eligible because it is contiguous to land that otherwise qualifies for farmland assessment.

Example 3: (No change.)

(d) (No change.)

**(e) Where a parcel is subject to an approved forest stewardship plan and contains acres in non-woodland agricultural/horticultural use, active devotion for the woodland and non-woodland acres is determined independently. Active devotion for the woodland acres is met if the forest stewardship plan’s prescriptions have been followed. Active devotion for the non-woodland acres would be determined as follows:**

**1. If the property contains five or more acres in non-woodland agricultural/horticultural use, it must produce \$1,000 per year for the first five acres and \$5.00 per acre for each additional acre of non-woodland agriculture/horticulture.**

**2. If the property contains fewer than five acres in non-woodland agricultural/horticultural use, the landowner must keep the non-woodland acres devoted to agricultural/horticultural use as defined at N.J.S.A. 54:4-23.3 and/or 23.4 and N.J.A.C. 18:15-1.1 and 6.2, but is not required to produce a specific amount of income from the non-woodland agricultural/horticultural acres for them to be considered actively devoted.**

3. Examples:

i. **Example 1:** On a 30-acre parcel of land subject to an approved forest stewardship plan, one acre is reserved for the farmhouse, seven acres are woodlands managed in accordance with the forest stewardship plan, and 22 acres are devoted to the raising of pigs. The seven acres of woodlands will qualify if the prescriptions of the forest stewardship plan are followed. Because the property has at least five acres in non-woodland agricultural/horticultural use, the landowner must produce at least \$1,085 from the acres devoted to raising pigs (\$1,000 for the first five acres plus 17 x \$5.00 for the remaining acres) for those acres to qualify.

ii. **Example 2:** On a 43-acre parcel of land subject to an approved forest stewardship plan, 35 acres are woodlands managed in accordance with the forest stewardship plan and eight acres are devoted to the growing of soybeans. The 35 acres of woodlands will qualify if the prescriptions of the forest stewardship plan are followed. Because the property has at least five acres in non-woodland agricultural/horticultural use, the landowner must produce at least \$1,015 from the acres devoted to growing soybeans (\$1,000 for the first five acres plus 3 x \$5.00 for the remaining acres) for those acres to qualify.

iii. **Example 3:** On a 12-acre parcel of land subject to an approved forest stewardship plan, 10 acres are woodlands managed in accordance with the forest stewardship plan and two acres are devoted to beekeeping and the production of honey. The 10 acres of woodlands will qualify if the prescriptions of the forest stewardship plan are followed. Because there are fewer than five acres in non-woodland agricultural/horticultural use, the honey harvested does not have to produce a specific amount of income, but the landowner must still fully devote those acres to beekeeping and the production of honey.

[(e)] (f) Where the income requirements for farmland assessment are not met due to an injury, illness, or death of the person responsible for performing the income-producing activities necessary to meet the income eligibility requirements, the assessor shall[, upon request by the owner of the land,] exempt the owner from the income requirements **upon the request by the owner of the land and upon the owner’s provision of the following:**

1.-4. (No change.)

5. Form FA-X is to be filed by the owner of the land by August 1 of the pre-tax year. **The landowner should make a reasonable attempt to inform the assessor prior to August 1 that he or she will be applying for an exemption from the gross sales requirement through Form FA-X. The assessor may, at his or her discretion, allow filing of Form FA-**

**X by September 1 of the pre-tax year where it appears to his or her satisfaction that the circumstances listed at (f)1, 2, and 3 above, occurred such that it would be impracticable to submit Form FA-X on August 1.**

6. In the case of multiple ownerships, except corporate co-owners, one of the owners may sign on behalf of the other co-owners, and such signer will be presumed to have authority to sign on behalf of the other owners. In the case of corporate owner or owners, the full name of the corporation must be provided on the application and accompanied by the signature and title of the corporate officer authorized to sign the application on its behalf.

[(f)] (g) (No change in text.)

18:15-6.2 Devoted to agricultural or horticultural use defined

(a) “Devoted to agricultural or horticultural use” means:

1.-14. (No change.)

15. Land under greenhouses or poultry or livestock facilities in which animals or their products are sold; [or]

16. Land used for biomass, solar, or wind energy generation is considered land actively devoted to agricultural or horticultural use as long as it meets the qualifications set forth [in] at N.J.A.C. 18:15-6.1(d), except that the energy generated from such use is not considered an agricultural or horticultural product[.]; **or**

**17. Land on which woodlands and/or wetlands are managed in compliance with a written forest stewardship plan approved by the State Forester.**

18:15-6.3 Guidelines for generally accepted agricultural/horticultural practices

The Department of Agriculture, pursuant to N.J.S.A. 54:4-23.3d, has provided the Division of Taxation with Guidelines for Generally Accepted Agricultural/Horticultural Practices Under Farmland Assessment. These guidelines may be found on the Division of Taxation website at [<http://www.state.nj.us/treasury/taxation/lpt/referencematerials.shtml>] <https://nj.gov/treasury/taxation/lpt/lpt-farmland.shtml>.

18:15-6.5 Failure to meet additional gross sales income requirements on acreage—roll-back

[(a) Land previously qualified as actively devoted to agricultural or horticultural use under the Act but failing to meet the additional requirement on acreage above five acres will not be subject to the roll-back tax because of such disqualification, but will be treated as land for which an annual application has not been submitted.]

Recodify existing (b)-(d) as (a)-(c) (No change in text.)