

# RULE PROPOSALS

## INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

## AGRICULTURE

### (a)

#### STATE AGRICULTURE DEVELOPMENT COMMITTEE

#### County Planning Incentive Grants and Municipal Planning Incentive Grants

**Proposed Amendments: N.J.A.C. 2:76-17.1 through 17.14, 17A.2 through 17A.7, 17A.9, 17A.10, 17A.12, 17A.13, 17A.14, 17A.15, and 17A.16**

**Proposed Repeal and New Rule: N.J.A.C. 2:76-17A.8**

**Proposed Repeal: N.J.A.C. 2:76-17A.17**

Authorized By: Susan E. Payne, Executive Director.

Authority: N.J.S.A. 4:1C-43.1.

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

Proposal Number: PRN 2019-148.

Submit written comments by January 31, 2020, electronically to [Committee@ag.state.nj.us](mailto:Committee@ag.state.nj.us) or by regular mail to:

Brian D. Smith, Esq., Chief of Legal Affairs  
State Agriculture Development Committee  
PO Box 330  
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The agency proposal follows:

#### Summary

The State Agriculture Development Committee (“SADC” or “Committee”) proposes amendments to the Planning Incentive Grant (PIG) program rules for both the county (N.J.A.C. 2:76-1) and municipal (N.J.A.C. 2:76-17A) programs, authorized pursuant to N.J.S.A. 4:1C-43.1.h.

The SADC’s PIG programs award grants to eligible counties and municipalities for farmland preservation purposes following a comprehensive planning process. The rules describe the eligibility, submission, and review requirements for county and municipal PIG grants and the review, appraisal, and approval of applications for funding of individual farm applications. N.J.A.C. 2:76-17 and 17A.1 were last amended in July 2007, to emphasize a more comprehensive planning approach to farmland preservation, reward active county farmland preservation programs with additional funding, and adopt minimum standards for selecting and preserving higher quality farms. The proposed amendments make additional State monies available when program demand outstrips base grant eligibility, thus benefiting landowners and the public by expediting the preservation of farmland.

With over 10 years of experience with the existing PIG program rules, the SADC is proposing the following amendments to N.J.A.C. 2:76-17 and 17A. The SADC’s experience with the program rules has also been informed by ongoing input from county and municipal officials and nonprofit organizations responsible for farmland preservation. These officials and organizations were also provided a more formal opportunity to provide pre-proposal comments, and they expressed to the SADC a shared desire to make the rules more streamlined and administratively efficient. The proposed amendments set forth a planning mechanism that is more rational and more relevant to the needs of the SADC and its funding partners.

The proposed additions to the requirements for comprehensive farmland preservation plans include the review and re-adoption of county and municipal comprehensive farmland preservation plans at least once every 10 years. This timeline is consistent with the required periodic reexamination of municipal master plans set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-89, and ensures the program goals and policies set forth are kept up-to-date.

Other amendments would reduce the amount of information required to be submitted as part of the annual application submission requirements and allow the inventory of targeted farms and preserved properties within the project area to be submitted in the form of electronic spatial data (GIS) files, as opposed to cumbersome lists.

It is proposed that annual applications be accompanied by a resolution of support from the governing body and documentation of the agricultural advisory committee’s (AAC’s) review. A requirement that AACs meet at least two times per year was also added to the grant eligibility prerequisites. This meeting requirement attempts to ensure that the advisory committees remain engaged in the planning, application, and funding process while municipal PIG programs are active in their communities.

The most significant change to the municipal rules relates to funding. To maximize a municipality’s access to funds when needed and to encourage performance-based competition for funding, the proposed amendments reflect utilization of both an annual base grant and a competitive fund. The county PIG program has been funded in this manner since 2007, and has been successful in both distributing funds among all eligible applicants and allowing active counties to draw down additional funding from a competitive fund, on a “first come, first served” basis, up to an established maximum. Employing the same base grant/competitive fund mechanism in the municipal PIG program would encourage municipalities to submit applications when they are received, rather than delay submission until sufficient funds have been accumulated by the municipality through local government appropriations, thus expediting the farmland preservation process for the benefit of landowners and the public, and would incentivize performance by allowing access to additional funding.

County Planning Incentive Grant Program

The SADC proposes amendments at N.J.A.C. 2:76-17.1(b) to clarify that annual planning applications are submitted by county agriculture development boards based on a funding cycle rather than on a fiscal year basis.

Amendments are also proposed to the definitions pertinent to the county PIG subchapter at N.J.A.C. 2:76-17.2. "An application for the sale of a development easement" is redefined as "individual farm application" and "application" is redefined as "annual planning application." These amendments seek to distinguish the two types of PIG program applications so that the public is clear which application is being referenced. The definition of "base grant" is proposed for amendment to delete "preliminary" because, as a practical matter, the SADC's ongoing administration of the county PIG program never tied a county's access to farmland preservation grant funds to a preliminary approval process. The SADC has separated the definitions of "Board" and "county" in order to more clearly reference county agriculture development boards and county boards of chosen freeholders, each of which are distinct governmental entities in the county PIG program. The phrase "annual planning" has been added to "application" in the definitions to formally recognize longstanding SADC administration of the county PIG program in which access to the competitive grant fund is available to counties that not only have encumbered all previously allocated base grant funding, but also have submitted an annual planning application that has been approved by the SADC. Additional language in the definition of "eligible farm" is proposed to include SADC minimum eligibility standards at N.J.A.C. 2:76-6.20. A definition of "funding cycle" is being added; this term is replacing the reference to "fiscal year" throughout the subchapter to reflect that program funding appropriations may not follow a cycle based on the fiscal year. Paragraph 2 under the definition of "project area" changes "application for the sale of a development easement" to "individual farm application" in order to eliminate any confusion between a county's annual planning application and an application to preserve a specific farm; the definition also clarifies the reference to a county agriculture development board, not the county board of chosen freeholders. With regard to the changes in paragraph 5 under the definition of "project area," the SADC previously referred to land enrolled in a farmland preservation program, the duration of which was at least eight years, but not permanently preserved, as an "eight-year farmland preservation program or municipally approved farmland preservation program." Farmland preservation restrictions in deeds of easement greater than eight years' duration, but not permanent, have always been available under Agriculture Retention and Development Act (ARDA), N.J.S.A. 4:1C-11 et seq., are increasingly being employed by landowners, and are now referred to as "term" easements.

A condition of PIG funding eligibility is the adoption and submission of a comprehensive farmland preservation plan. Additions to the mapping requirements for county comprehensive farmland preservation plans are proposed at N.J.A.C. 2:76-17.4 to ensure the rule reflects requirements in the SADC's adopted 2007 guidelines for developing comprehensive farmland preservation plans. N.J.A.C. 2:76-17.4(c) was added to require review and re-adoption of county comprehensive farmland preservation plans at least once every 10 years, a time period consistent with the periodic reexamination of municipal master plans required in the Municipal Land Use Law, N.J.S.A. 40:55D-89.

Amendments are proposed at N.J.A.C. 2:76-17.5 to reduce the amount of information required for annual submissions, while still requiring an update on the status of properties within a county farmland preservation project area. Requirements for calculation of the aggregate size of the project area, project area preservation density, and soil productivity of targeted farms were removed. This information is needed to obtain a priority ranking score during final Committee review at N.J.A.C. 2:76-17.14(e); however, that data is burdensome to generate for counties. Accordingly, and when necessary, the SADC will perform this analysis, rather than a county. Additional information regarding target farm development easement cost estimates, cost sharing plans, and farmland preservation funding was also determined unnecessary at the project area level and was deleted. As a result of these changes, reference to "project area summary" is amended to "project area inventory." The proposed

amendments would also allow the inventory of targeted farms and preserved properties within the project area to be submitted in the form of electronic spatial data (GIS) files, as opposed to cumbersome lists. The revision to N.J.A.C. 2:76-17.5(a)4 is consistent with paragraph 5 under the definition of "project area," discussed above, by recognizing that there are "term" farmland preservation easements greater than eight years' duration but not permanently restricting a farm property.

N.J.A.C. 2:76-17.6 outlines the annual application submission procedures and requirements. Data elements requested in the SADC's annual application form were added to the reporting requirements at N.J.A.C. 2:76-17.6(a)2iii.

The amendment at N.J.A.C. 2:76-17.7(a)4i is proposed to assist county agricultural development boards in the preparation of annual planning applications. The amendment not only provides that the SADC will advise the board of any deficiencies in the annual planning application, but also that the SADC will set forth the information the board will need to resolve the deficiencies.

Existing N.J.A.C. 2:76-17.11(b), (c), and (d) were applicable to the appraisals of farmland up to and including fiscal year 2009, and are now being deleted as expired and, therefore, unnecessary.

The references to the county PIG regulation (N.J.A.C. 2:76-17.11) and to the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., at N.J.A.C. 2:76-17.13(c) have been deleted, as the correct statutory citation is N.J.S.A. 4:1C-31.h.

A county agriculture development board's access to competitive grant funds is based, in part, on ranking criteria that considers the ratio of existing preserved properties to the total area of the county's project area and the ratio of important farmland soils on targeted farms to the total area of those farms, with higher ratios resulting in a higher rank score. N.J.A.C. 2:76-17.14(e)1 and 2 more clearly describe how those calculations will be made, cross-referencing N.J.A.C. 2:76-17.4 and 17.5. N.J.A.C. 2:76-17.14(f) has been revised to insert "Garden State Preservation Trust Act" before the public law and statutory cite, to insert the Preserve New Jersey Act because that 2016 law is now the source of funding for State farmland preservation efforts, and to accommodate the potential for other legislative appropriations to the SADC for farmland preservation purposes in the future. N.J.A.C. 2:76-17.14(g)2 has been revised for the same reasons.

Additions at N.J.A.C. 2:76-17.8(a)2 allow for adjustment of a county's base grant eligibility based on factors beyond expenditure of previously allocated grant funding. N.J.A.C. 2:76-17.8(a)3 increased from two years to three years, the period within which a county must expend appropriated funds or risk losing the monies through re-appropriation. N.J.A.C. 2:76-17.8(b)2i was added to clarify the availability of competitive grant funds to counties with an approved annual planning application regardless of base grant eligibility.

Municipal Planning Incentive Grant Program

The SADC proposes amendments to definitions pertinent to the municipal PIG subchapter at N.J.A.C. 2:76-17A.2. A definition for "Agricultural Advisory Committee" is being added. "An application for the sale of a development easement" is redefined as "individual farm application," and "application" is redefined as "annual planning application." These amendments seek to create an appropriate distinction between the two types of PIG program applications. "Base grant" and "competitive grant fund" are being defined due to changes to the municipal PIG funding structure at N.J.A.C. 2:76-17A.8 and 17A.14. The SADC has separated the definitions of "Board" and "county" at N.J.A.C. 2:76-17A.2 in order to more clearly reference county agriculture development boards and boards of chosen freeholders, each of which are distinct governmental entities in the municipal PIG program. A definition of "funding cycle" is being added; this term is replacing reference to "fiscal year" throughout the subchapter to reflect that program funding appropriations may not follow a cycle based on the fiscal year. The proposed amendment at paragraph 2 under the definition of "project area" changes "application for the sale of a development easement" to "individual farm application" in order to eliminate any confusion between a municipality's annual planning application and an application to preserve a specific farm; the definition also clarifies the reference to a county agriculture development board, not the county board of chosen

freeholders. With regard to the changes in paragraph 5 under the definition of “project area,” the SADC previously referred to land enrolled in a farmland preservation program, the duration of which was at least eight years, but not permanently preserved, as an “eight-year farmland preservation program or municipally approved farmland preservation program.” Farmland preservation restrictions in deeds of easement greater than eight years’ duration, but not permanent, have always been available under ARDA, are increasingly being employed by landowners, and are now referred to as “term” easements.

A requirement that agricultural advisory committees meet at least two times per year was also added to the grant eligibility prerequisites at N.J.A.C. 2:76-17A.3(a)1iii. This meeting requirement ensures that once established, the agricultural advisory committees stay active in the implementation of the municipal PIG programs.

Reference to the 2016 Preserved New Jersey Act, N.J.S.A. 13:8C-43 et seq., was added to N.J.A.C. 2:76-17A.3(iii), along with “any appropriation to the Committee for farmland preservation purposes” to accommodate the potential for other legislative appropriations to the SADC in the future. Existing N.J.A.C. 2:76-17A.3(a)3iv and v are deleted because those provisions are more completely addressed in the proposed revisions to N.J.A.C. 2:76-17A.4.

N.J.A.C. 2:76-17A.3 details the criteria a municipality must satisfy to be eligible for a planning incentive grant, including the preparation and adoption of a farmland preservation plan element in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-28.b(13) (MLUL). Eligibility for a planning incentive grant is also contingent on the municipality adopting and submitting to the SADC a farmland preservation plan comprised of additional information to assist municipalities in formulating preservation and agricultural economic strategies. N.J.A.C. 2:76-17A.4(a)1 provides that the municipal farmland preservation plan must contain the MLUL plan element referred to at N.J.A.C. 2:76-17A.3; and 17A.4(a)2 sets forth that the plan shall map and describe farmland soils bearing upon agricultural production. The proposed amendment to N.J.A.C. 2:76-17A.4(a)5 calls for a description of the local agricultural industry, incorporating a requirement in the SADC’s 2007 guidelines for developing comprehensive farmland preservation plans.

N.J.A.C. 2:76-17A.4(b) was added to require review and re-adoption of municipal comprehensive farmland preservation plans at least once every 10 years, the time period for the periodic reexamination of municipal master plans required in the Municipal Land Use Law, N.J.S.A. 40:55D-89. Specific plan elements necessary for the PIG program to function, and the project area inventory, must be updated as part of the re-adoption of the municipal comprehensive farmland preservation plans.

Amendments at N.J.A.C. 2:76-17A.5 are proposed to reduce the amount of information required for annual submission while still requiring an update on the status of properties within a municipal farmland preservation project area. Requirements for calculation of the aggregate size of the project area, project area preservation density, and soil productivity of targeted farms were removed. This information is needed to obtain a priority ranking score during final Committee review at N.J.A.C. 2:76-17.14(e); however, that data is burdensome to generate for municipalities. Accordingly, and when necessary, the SADC will perform this analysis rather than a municipality. As a result of these changes, the reference at N.J.A.C. 2:76-17A.5(a) to “project area summary” is amended to “project area inventory.” The proposed amendments would also allow the inventory of targeted farms and preserved properties within the project area to be submitted in the form of electronic spatial data (GIS) files, as opposed to cumbersome lists. As to the proposed amendment at N.J.A.C. 2:76-17A.5(a)5, the SADC previously referred to land enrolled in a farmland preservation program, the duration of which was at least eight years, but not permanently preserved, as an “eight-year farmland preservation program or municipally approved farmland preservation program.” Farmland preservation restrictions in deeds of easement greater than eight years’ duration, but not permanent, have always been available under ARDA, are increasingly being employed by landowners, and are now referred to as “term” easements. Requirements for calculation of the aggregate size of project areas, project area preservation density, soil productivity of targeted farms, target farm development easement cost estimates, and cost share sharing plans were deemed unnecessary at the project area level and were deleted.

N.J.A.C. 2:76-17A.6 outlines the annual application submission procedures and requirements. Data elements requested in the SADC’s annual application form were added to the reporting requirements at N.J.A.C. 2:76-17A.6(a)2iii. A requirement that copies of agricultural advisory committee (AAC) minutes be furnished to the SADC serves as confirmation that the AAC met, one of the conditions of planning incentive grant eligibility, in accordance with N.J.A.C. 2:76-17A.3(a)1iii. Proposed new N.J.A.C. 2:76-17A.6(a)3 would require annual applications be accompanied by a resolution of support from the governing body and by documentation of the AAC’s review.

Existing N.J.A.C. 2:76-17A.7 outlines a process by which the Committee grants preliminary approval of the annual planning grant application. A secondary review of the preliminary approval is conducted the following year pursuant to N.J.A.C. 2:76-17A.17 to determine whether modifications of funding eligibility are warranted. With the recent availability of recurring annual appropriations provided in the Preserve New Jersey Act, N.J.S.A. 13:8C-43 et seq., the SADC has been annually evaluating the funding allocations to PIG municipalities. The proposed amendment at N.J.A.C. 2:76-17A.7(c)1 is designed to assist municipalities in the preparation of annual planning applications. The amendment not only provides that the SADC will advise the municipality of any deficiencies in the annual planning application, but also that the SADC will set forth the information needed to resolve the deficiencies.

Existing N.J.A.C. 2:76-17A.8 contemplated an annual preliminary funding allocation to accommodate 75 percent of the cost of acquisition for all of municipally targeted farms, with a cap of \$1.5 million per municipality. In practice, municipal comprehensive farmland preservation plans have identified as targeted for acquisition all the farms municipalities seek to preserve. The rate of allocated funds expended is determined by State funding availability, landowner interest, and municipal support and funding. Accordingly, N.J.A.C. 2:76-17A.8 is proposed for replacement to base annual State funding allocations on the degree to which all previously allocated grant funding was spent, as is done in the county PIG program. This approach recognizes the long-term planning horizon contemplated in municipal comprehensive farmland preservation plans and encourages municipalities to spend down allocated funding in a timely manner, thus increasing the rate of preservation.

N.J.A.C. 2:76-17A.8 is proposed for repeal and replacement to codify the criteria by which the SADC may adjust or withhold a municipality’s base grant eligibility, thus obviating the need for a two-step process. N.J.A.C. 2:76-17A.17 is, therefore, proposed for repeal, and references to “preliminary” at N.J.A.C. 2:76-17A.7 are deleted. Changes are proposed in replaced N.J.A.C. 2:76-17A.8, pertaining to annual funding eligibility, to create a competitive grant fund to augment municipal base grant funding. The county PIG program has been funded in this manner since 2007, and has been successful in both distributing funds between all eligible applicants and allowing high-achieving counties to draw down additional funding, on a first come, first served basis, up to an established maximum. Employing the same base grant/competitive fund mechanism in the municipal PIG program would encourage municipalities to submit applications when they are received rather than delay submission until sufficient funds have been accumulated by the municipality through local government appropriations and would incentivize performance by allowing access to additional funding. Additions at proposed new N.J.A.C. 2:76-17A.8(a)2 allow for adjustment of a municipality’s base grant eligibility based on factors beyond the expenditure of previously allocated grant funding. N.J.A.C. 2:76-17A.8(b)2i clarifies the availability of competitive grant funds to municipalities with an approved annual planning application regardless of base grant eligibility.

Proposed new N.J.A.C. 2:76-17A.9(a)6 is added to require that a municipality provide written notice to the county when an individual farm application is submitted. The municipality must confirm that the application meets county minimum eligibility criteria if county funding is sought.

Reference to the 2016 Preserved New Jersey Act, N.J.S.A. 13:8C-43 et seq., is proposed to be added to N.J.A.C. 2:76-17A.12(b)3.

The proposed amendments to N.J.A.C. 2:76-17A.13(a)1 clarify the circumstances under which the county or SADC will hold title to the development easement and the process for notification of individual farm application final approval and title transfer. The references to the county

PIG rule, N.J.A.C. 2:76-17A.11, and to the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., at N.J.A.C. 2:76-17A.13(c) are proposed for deletion, as the correct statutory cross-reference is N.J.S.A. 4:1C-31.h.

Additions to N.J.A.C. 2:76-17A.14 outline the procedure by which the municipality may request additional funding from the competitive grant fund for a farm being submitted for final approval. Proposed new N.J.A.C. 2:76-17A.14(e) and (f) outline prioritization of applications for the competitive grant fund. Proposed new N.J.A.C. 2:76-17A.14(i) makes clear that information on the availability of funds is shared by the SADC with the public on the agency's website.

An addition to the terms, contingencies, and conditions of purchase subchapter was added as proposed new N.J.A.C. 2:76-17A.16(b) to require eligible ancillary cost reimbursement documents be submitted to the SADC within 120 days of the development easement purchase. This is necessary to assist the SADC in issuing cost share grant reimbursements promptly and codifies existing SADC policy.

N.J.A.C. 2:76-17A.17 is proposed for repeal. The current rule outlines a process by which the Committee grants preliminary approval to an annual PIG application at N.J.A.C. 2:76-17A.7 and conducts a secondary review of this preliminary approval the following year to determine whether modifications of funding eligibility are warranted. In practice, the SADC has been evaluating funding allocations annually, so the two-step process set forth in existing N.J.A.C. 2:76-17A.17 is unnecessary.

As the SADC 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, new rule, and repeals will have a positive social impact. To date, more than 2,600 farms totaling over 233,000 acres have been preserved under the New Jersey Farmland Preservation Program. The preservation of farms is vital to the continuation of the agricultural industry in the State. The proposed amendments, new rule, and repeals will ensure that high-quality, productive farms will continue to be enrolled in the program. Farms are not only important to the economy of the State but provide other social benefits. Such benefits include the availability of a fresh local food source, productive open space, scenic landscapes, educational opportunities, appropriate agritourism opportunities, groundwater recharge, and wildlife habitat areas.

The proposed amendments, new rule, and repeals establishing a competitive grant fund is intended to reward active municipal farmland preservation programs municipalities by making additional State monies available when program demand outstrips base grant availability. This will benefit landowners and the public by expediting the preservation of farmland.

Requiring periodic review of comprehensive farmland preservation plans and regular involvement of agricultural advisory committees helps to assure the continued effectiveness of the farmland preservation program, coordination with other public planning and conservation goals, and accountability for how tax dollars are spent.

#### **Economic Impact**

The proposed amendments, new rule, and repeals will have a positive economic impact on the State and on local economies. New Jersey's agricultural industry, which produces products with an annual market value exceeding \$1 billion, is dependent on a stable land base. The proposed amendments, new rule, and repeals will further strengthen that land base by encouraging additional farms to be preserved. The farmland preservation program has permanently protected more than 233,000 acres in 18 counties. Removing these lands from development has helped communities stabilize excessive nonagricultural growth. Many studies have shown that low density residential growth, in particular, results in higher property taxes associated with the cost of constructing new schools, providing local police and fire rescue services, providing road maintenance, and other costly infrastructure needs. Preserved farmland remains in private ownership and, therefore, landowners maintain the property and continue to pay property taxes.

The proposed amendments, new rule, and repeals include a requirement that comprehensive farmland preservation plans be reviewed

and readopted at least once every 10 years. Since the initial adoption of these plans as required in the 2007 PIG rules, numerous counties and municipalities have already recognized the need to review and to readopt their existing comprehensive farmland preservation plans. N.J.S.A. 40:55D-89 of the Municipal Land Use Law requires re-examination of municipal master plans once every 10 years; comprehensive farmland preservation plans are municipal master plan elements. For counties, however, this would be a new requirement that may necessitate additional staff resources and, possibly, the employment of professional planning consultants. Keeping comprehensive farmland preservation plans updated, however, would result in more effective implementation of the farmland preservation program and help ensure that preservation is coordinated with local, State, and regional planning efforts and infrastructure investments. An associated reduction in the submission requirements for the annual planning application that may offset this plan review and re-adoption requirement is proposed at N.J.A.C. 2:76-17.5 and 17A.5.

The proposed amendments, new rule, and repeals will have no impact on the overall State budget, but should have a positive impact on the expenditure of dedicated funding by assisting the SADC in achieving its annual expenditure goals. The proposed amendments, new rule, and repeals provide a financial incentive to municipalities that have acquired development easements in a timely manner. The faster a municipality closes on the purchase of a preservation easement on farmland and utilizes its base grant eligibility, the sooner it is able to compete for additional funds. In addition, faster closings result in less financial stress and uncertainty for farm owners participating in the program.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the subject matter of the proposed amendments, new rule, and repeals is not subject to any Federal requirements or standards.

#### **Jobs Impact**

Aside from the potential need by counties to employ professional planning consultants referred to in the Economic Impact above, the proposed amendments, new rule, and repeals will neither create, nor cause a loss of, any jobs.

#### **Agriculture Industry Impact**

The proposed amendments, new rule, and repeals will have a positive impact on the agricultural industry by encouraging landowners to participate in the farmland preservation program, which is critical to maintaining the stable land base that the agriculture industry needs. Proceeds from farmland preservation program transactions are often used by landowners to purchase additional farmland or farm equipment, restructure or eliminate debt, help with intergenerational farm succession or otherwise invest in their agricultural operations. Competitive grant funding for the municipal PIG program attempts to maximize State funding availability when landowners are willing to participate.

Requiring at least two meetings of the agricultural advisory committee occur each year as a condition of planning incentive grant eligibility will help encourage agricultural viability. Agricultural advisory committees were established pursuant to N.J.S.A. 4:1C-43.1b(2) so that the needs and concerns of farmland owners and operators are understood and a positive business climate for agriculture may be maintained within the municipality. In addition to assisting with and guiding local farmland preservation efforts, these committees also are intended to advocate the interests of farmers when a municipality contemplates new or revised plans, policies, and ordinances. Requiring agricultural advisory committee activity as a condition of PIG grant eligibility is designed to facilitate farmland preservation funding to municipalities supportive of agriculture within their jurisdictions.

#### **Regulatory Flexibility Analysis**

The majority of farms that are enrolled in the SADC's farmland preservation programs are owned by small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments, new rule, and repeals will not, however, impose any reporting, recordkeeping, or other compliance requirements on farm businesses. The proposed amendments, new rule, and repeals amend the counties' and municipalities' application process for applying for a cost

share grant from the SADC for the preservation of farmland. Generally, no additional application information will be necessary.

**Housing Affordability Impact Analysis**

The proposed amendments, new rule, and repeals would have an insignificant impact on the affordability of housing in New Jersey. Farmland preservation does reduce the availability of land for residential development Statewide; however, there is an extreme unlikelihood that the proposed amendments, new rule, and repeals would evoke a change in the average costs associated with housing. Through the development of comprehensive plans, the SADC and its county and municipal partners will be able to balance farmland preservation while not frustrating a municipality’s ability to fulfill affordable housing obligations.

**Smart Growth Development Impact Analysis**

The proposed amendments, new rule, and repeals would have a positive impact on smart growth as the required comprehensive farmland preservation plans maintain consistency with local, county, and regional planning efforts and State Plan designations.

Farmland preservation has played an integral part in implementation of the goals and policies of the State Development and Redevelopment Plan. To date, over 95 percent of the 233,000 acres of farmland preserved in the State is located within Planning Areas 4, 4B, 5, or within the Highlands or Pinelands jurisdictions. Requiring readoption of comprehensive farmland preservation plans at least once every 10 years helps ensure that farmland preservation does not unreasonably limit housing production in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan, and promotes State, county, and local planning coordination.

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

The SADC has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 2:76-17A.8 and 17A.17.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 17. COUNTY PLANNING INCENTIVE GRANTS

2:76-17.1 Applicability

(a) (No change.)

(b) A board [or county] that submits an **annual planning** application [or a renewal application] to the Committee pursuant to this subchapter shall not be eligible to apply for a grant under the county easement purchase program pursuant to N.J.A.C. 2:76-6, for the same [fiscal year] **funding cycle**.

2:76-17.2 Definitions

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

“**Agricultural Advisory Committee**” (AAC) means the committee established pursuant to N.J.S.A. 4:1C-43.1.

...  
 [“An application for the sale of a development easement” means a standard form, as developed and identified by the Committee, to be submitted to the county from a landowner interested in selling his or her development easement, in which the landowner shall provide parcel-specific information to the county.]

[“Application] **Annual planning application**” means the formal submission of a planning incentive grant program application by the [county] **board** to the Committee [which]. **The application shall include[s]** a copy of the county’s adopted comprehensive farmland preservation plan and a project area [summary] **inventory** for each project area submitted for approval, and other information required by the Committee.

“Base grant” means the minimum amount of SADC funding that will be allocated to each county that has received [preliminary] approval of an **annual planning** application submitted pursuant to N.J.A.C. 2:76-17.7.

“Board [or county]” means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a sub-regional agricultural retention board established pursuant to N.J.S.A. 4:1C-12.

...  
 “Competitive grant fund” means an amount of money identified by the Committee each [fiscal year] **funding cycle**, which the SADC may award on a competitive basis to counties that have **received approval of an annual planning application and** obligated all of their previously allocated base grant funding.

“**County**” means a body corporate and politic of the State of New Jersey governed by a board of chosen freeholders.

“Eligible farm” means a targeted farm that qualified for grant funding under this subchapter by achieving an individual rank score pursuant to N.J.A.C. 2:76-6.16 that is equal to or greater than 70 percent of the county’s average quality score of all farms granted preliminary approval by the Committee through the county easement purchase program and/or the county planning incentive grant program within the previous three [fiscal years] **funding cycles**, as determined by the Committee, **and which meets the criteria set forth at N.J.A.C. 2:76-6.20.**

“**Funding cycle**” means the time period beginning on the date the Committee receives an appropriation for the county planning incentive grant program and ending on the date the Committee receives a subsequent appropriation for the county planning incentive grant program.

...  
 “**Individual farm application**” means a standard form, as developed and identified by the Committee, to be submitted to the board from a landowner interested in selling his or her development easement.

“Project area” means [an] a **discrete** area [identified by] a [county agriculture development] board [that] identifies [discrete areas] within the county’s farmland preservation plan that constitutes a separate, significant area[s] of reasonably contiguous farmland that will promote the long-term viability of agriculture as an industry in the county, and which consists of the following lands, and lands that are within one mile of any of the following lands:

1. (No change.)
2. Lands [from] **for** which an **individual farm** application [for the sale of a development easement] has been granted final approval by the municipality, [county] **board**, and/or the Committee pursuant to the Agriculture Retention and Development Act, as amended, and the Garden State Preservation **Trust Act**;
- 3.-4. (No change.)
5. Lands enrolled in [an eight-year] **a term** farmland preservation program or municipally approved farmland preservation programs; or
6. (No change.)

“Targeted farm” means a specific property contained within an approved project area that a [county] **board** may seek to solicit for preservation through the county planning incentive grant program. In the event **that** a landowner requests **such, the board shall remove** his or her land [to be removed] from consideration as a targeted farm[, the county agriculture development board shall remove the targeted farm from its project area].

2:76-17.3 Prerequisites for grant eligibility

(a) A county seeking to establish its eligibility for a [base] grant under this subchapter shall establish or develop the following:

1. A [county agriculture development] board that shall serve as the agricultural advisory committee;
- 2.-3. (No change.)
- (b) (No change.)

2:76-17.4 County comprehensive farmland preservation plan

- (a) (No change.)
- (b) A comprehensive farmland preservation plan shall include, either in the body of the plan, or as an addendum to the plan, the following:
  1. A detailed map of, and [county] **board** resolution approving, the adopted ADA of the county;

**2. A map of the proposed farmland preservation project areas, and the location and extent of the following important farmland soils:**

**i. Prime soils identified by the United States Department of Agriculture, Natural Resources Conservation Service;**

**ii. Soils of Statewide importance as identified by the New Jersey Department of Agriculture, State Soil Conservation Committee; and**

**iii. Unique soils, identified by the United States Department of Agriculture, Natural Resources Conservation Service, which are especially suited for the production of specialty crops and are being used, or intended to be used, for that purpose;**

Recodify existing 2.-3. as 3.-4. (No change in text.)

[4.] **5.** The minimum eligibility criteria or standards as adopted by the [county] **board** for solicitation and approval of [farmland preservation program] **individual farm** applications considered by the [county] **board**, which [at a minimum] shall include:

**i. At a minimum**, the criteria at N.J.A.C. 2:76-6.20[, subject to the following.]; **and**

[i.] **ii.** [The] **If Committee funds are requested**, the criteria to qualify as an eligible farm [if Committee funds are requested];

[5.] **6.** The adopted ranking criteria that the [county] **board** will use to prioritize farms for county farmland preservation funding, which shall address the factors included in the criteria at N.J.A.C. 2:76-6.16; and

[6.] **7.** Any other policies, guidelines, or standards used by the [county] **board** that affect [farmland preservation] **individual farm** application evaluation or selection.

**(c) The board shall review and readopt the comprehensive farmland preservation plan pursuant to (a) and (b) above at least every 10 years.**

2:76-17.5 Project area [summary] **inventory**

(a) [The county shall prepare a project area summary containing the following information for] **For** each project area designated within the county's comprehensive farmland preservation plan for which the county intends to seek Committee funding[.], **the board shall prepare a project area inventory. The inventory, which may be submitted as electronic spatial data files, shall identify** [1. An inventory showing] the number of farms or properties, and their individual and aggregate acreage, for each of the following categories of land within the project area:

[i.] **1.** (No change in text.)

[ii.] **2.** Lands [from] **for** which an **individual farm** application [for the sale of a development easement] has been granted final approval by the municipality, [county] **board**, and/or the Committee pursuant to the Agriculture Retention and Development Act, as amended, and the Garden State Preservation Trust Act;

[iii.] **3.** (No change in text.)

[iv.] **4.** Other **land** permanently deed restricted [farmlands] **for agricultural use;**

[v.] **5.** Lands enrolled in [an eight-year] **a term** farmland preservation program or [municipally-approved] **municipally approved** farmland preservation program; and

[vi.] **6.** (No change in text.)

[2. Aggregate size of the entire project area;

3. Density of the project area expressed as the ratio between the total area of the properties listed in (a) i, ii, iii, iv, v and vi above and the total area of the project area;

4. Description of soil productivity of the targeted farms in the project area expressed as the ratio between the total area of the following important farmland soils and the total area of the targeted farms:

**i.** Prime soils identified by the U.S.D.A. Natural Resources Conservation Service;

**ii.** Soils of Statewide importance as identified by the New Jersey Department of Agriculture, State Soil Conservation Committee; and

**iii.** Unique soils which are specially suited for the production of specialty crops and are being used, or intended to be used, for that purpose;

5. An estimate of the cost of purchasing development easements on the targeted farms in the designated project area, which shall be determined through existing appraisal data, or an appraisal for the entire project area; and

6. The county's multi-year plan for the purchase of development easements on targeted farms in the project area, indicating the county's and, if appropriate, any other funding partner's share of the estimated purchase price.

**i.** If a county intends to leverage monies made available through N.J.S.A. 13:8C-1 et seq., P.L. 1999, c. 152, the county shall provide an accounting of such leveraging, including, but not limited to the estimated percentage of leveraged State funds in the application, and the time period of installment purchase agreements.]

2:76-17.6 [County] **Annual planning** application procedures **and requirements**

(a) All **annual planning** [incentive grant] applications shall be received by the Committee no later than December 15 of each year preceding the [fiscal year in] **funding cycle** for which [the county seeks to participate in the] planning incentive grant program[,subject to the following:] **funding is sought.**

1. The [county's] **board's** initial **annual planning** application shall include a copy of the county's comprehensive farmland preservation plan and all applicable project area [summaries] **inventories pursuant to N.J.A.C. 2:76-17.4 and 17.5.**

2. In any subsequent year, the [county's] **board's annual planning** application shall include the following:

**i.** (No change.)

**ii.** Project area [summaries for any new or amended project areas] **inventories; and**

**iii.** A report summarizing [the]:

**(1) The** status of the purchase of development easements [on farms identified in prior year's] **from all active individual farm** applications [and];

**(2) The** expenditure of Committee funds previously [available] **allocated** pursuant to N.J.A.C. 2:76-17.8[.];

**(3) Amendments to board farmland preservation policies, county funding availability, and estimates of easement purchase cost on all targeted farms; and**

**(4) Updates to contact information for the planning incentive grant administrator and board members.**

(b) To improve county and municipal farmland preservation program coordination, the [county] **board** shall notify all municipalities in which targeted farms are located within a project area no later than 90 days prior to the date on which it submits its **annual planning** application to the Committee, and no less than 90 days prior to the December 15 application deadline.

1. The municipality shall have 60 days from receipt of the application to provide written comments to the [county].

2. The municipality shall provide any comments and] **board, which shall identify**, if appropriate, [identify] the level of funding that the municipality is willing to provide to assist in the purchase of development easements on targeted farms.

(c) A [county] **board** may enhance its **annual planning** application by submitting a joint proposal with one or more contiguous counties resulting in the preservation of a more significant area of reasonably contiguous farmland.

(d) The [county] **board** shall consider the municipality's comments before submitting the **annual planning** application to the Committee. If the [county] **board** approves the application, it shall forward the approved application to the Committee within the time provided [by] **under** (b) above.

(e) Any **annual planning** application submitted after December 15 shall be considered by the Committee as an application for the subsequent [program year] **funding cycle.**

2:76-17.7 Committee review of [planning incentive grant] **annual planning** applications

(a) Within 60 days of receipt thereof, the Committee shall review and evaluate the [county's] **board's annual planning** application submitted pursuant to N.J.A.C. 2:76-17.6 as follows:

1. (No change.)

2. The Committee shall determine for each designated project area, whether the project area [summary] **inventory** is complete and technically accurate;

3. [If the] **The Committee shall approve the annual planning application if it finds that the application is complete and accurate, and that it is designed to preserve a significant area of reasonably contiguous farmland that will promote the long-term economic viability of agriculture as an industry[, it shall approve the application].**

i. (No change.)

ii. The Committee shall notify the [county] **board** of its decision in writing; and

4. If the Committee finds that the comprehensive farmland preservation plan and/or the project area [summary] **inventories** are not complete and accurate, it may grant conditional approval of the **annual planning** application.

i. The Committee shall notify the [county] **board** of its decision in writing [of], **setting forth** the deficiencies in the application **and the information required to cure the deficiencies.**

ii. The [county] **board** shall [respond with] **provide** the required information to the Committee within 60 days of receiving notification of the submission deficiencies.

iii. Upon receipt of the required information, the Committee shall review the information within 60 days of receipt thereof[,] and, if appropriate, grant [preliminary] approval pursuant to [N.J.A.C. 2:76-17.7] **this section.**

(b) The [county's] **board's** failure to provide the requested information within 60 days of receiving notification of the submission deficiencies shall result in a rejection of the **annual planning** application by the Committee.

1. An application rejected by the Committee shall not be resubmitted by the [county] **board** until the following [fiscal year] **funding cycle.**

#### 2:76-17.8 Annual funding eligibility

(a) For each [fiscal year] **county planning incentive grant funding cycle,** the Committee shall establish the amount of the base grant available to each county that has received approval of an **annual planning** application [submitted] pursuant to [N.J.A.C. 2:76-17.7.] **the following:**

[1. The Committee may adjust any county's base grant eligibility, or withhold a base grant entirely, if the county's projected expenditures, as described in its application, do not demonstrate sufficient need for a full base grant allocation.

2. The county shall expend funds within two years of the date the funds are appropriated or risk the loss of those funds or funding eligibility in subsequent funding cycles.]

[3.] **1.** The Committee shall review the county's performance over the previous [two fiscal years] **three funding cycles** to determine if the county has expended State cost share funds on a timely basis. The degree to which the county has expended all previously allocated grant funding will determine to what extent the county is eligible to receive the minimum annual base grant for the next [fiscal year] **funding cycle** according to the following:

i. If the county has expended at least 50 percent of the total grant funds appropriated to the county in the previous [two fiscal years] **three funding cycles,** the county is eligible for 100 percent of the maximum base grant available to it;

ii. If the county has expended at least 25 percent, but less than 50 percent of the total grant funds appropriated to the county in the previous [two fiscal years] **three funding cycles,** the county is eligible for 50 percent of the maximum base grant available to it; or

iii. If the county has expended less than 25 percent of the total grant funds appropriated to the county in the previous [two fiscal years] **three funding cycles,** the county is ineligible for a base grant award.

**2. The Committee may adjust any county's base grant eligibility, or withhold a base grant entirely, based on factors including, but not limited to, projected expenditures as described in its annual planning application, availability of unexpended grant balances, past performance, and sufficient need.**

**3. The county shall expend funds within three years of the date the funds are appropriated or risk the loss of those funds and funding eligibility in subsequent funding cycles.**

(b) For each [fiscal year] **funding cycle,** the Committee shall establish a maximum combined amount of planning incentive grant funds that any

county may receive from both its base grant and from the competitive grant fund.

1. The SADC shall identify the total amount of funds available for expenditure in the competitive grant fund for each [fiscal year] **funding cycle.**

2. If at any time during the [fiscal year] **funding cycle,** a [county] **board** seeks final approval for an eligible farm for which there are insufficient funds remaining in the county's base grant [for that fiscal year], the request for final approval will be applied to the funding available in the competitive grant fund pursuant to N.J.A.C. 2:76-17.14.

**i. Competitive grant funds will be available to counties having received approval of an annual planning application submitted pursuant to N.J.A.C. 2:76-17.7, regardless of base grant eligibility.**

3. (No change.)

#### 2:76-17.9 Committee review of an individual farm application [for the sale of a development easement] from an eligible farm

(a) At any time during the year, but subsequent to the Committee's approval of [a] **an annual planning** [incentive grant] application, and prior to commencement of any appraisals to be submitted to the Committee for review and certification, the [county] **board** shall submit to the Committee the following information for any eligible farm that the [county] **board** intends to commence processing for purchase:

1. A completed **individual farm** application [for the sale of a development easement];

2.-3. (No change.)

4. Confirmation that the farm meets the minimum eligibility criteria established by the [county] **board** in [its] **the county** comprehensive farmland preservation plan developed in accordance with N.J.A.C. 2:76-17.4(b)4, and further provided as follows:

i. (No change.)

5. Rank score of the farm based on the [county's] **board's** adopted ranking criteria;

6. (No change.)

7. Confirmation that each farm's individual rank score pursuant to N.J.A.C. 2:76-6.16 meets the requirements of an eligible farm [as defined by N.J.A.C. 2:76-17.2], provided that:

i. If a farm fails to meet the minimum rank score in (a)5 and 6 above and the [county] **board** wishes to preserve the farm using Committee funds provided for pursuant to this subchapter, the [county] **board** may request from the Committee a waiver of the minimum score criteria.

(1) (No change.)

(b) The Committee shall conduct a review of the **individual farm** application[(s) for the sale of a development easement] and confirm that it is complete and accurate and that it otherwise meets the criteria of (a) above.

1. If an **individual farm** application [for the sale of a development easement] is determined to be complete and meets the criteria as set forth in (a) above, the Committee shall notify the [county] **board** in writing that the application is approved and that appraisals may commence pursuant to N.J.A.C. 2:76-17.10.

2. If an **individual farm** application [for the sale of a development easement] is determined to be incomplete, the Committee shall notify the [county] **board** in writing to address the deficiencies.

i. Upon receipt and review of an amended **individual farm** application [for the sale of a development easement] that is determined to be complete and meets the criteria as set forth in (a) above, the Committee shall notify the [county] **board** in writing that the application is approved and that appraisals may commence pursuant to N.J.A.C. 2:76-17.10.

#### 2:76-17.10 Appraisal of eligible farms

(a) Upon Committee approval of an **individual farm** application [for the sale of a development easement] pursuant to N.J.A.C. 2:76-17.9(b), the county shall select two appraisers from the list of appraisers approved by the Committee pursuant to N.J.A.C. 2:76-6.22 to conduct independent appraisals of each farm to determine the market value of the development easement for which funding is requested.

1. The county shall provide to the appraisers a completed appraisal order checklist as required by the Committee and a copy of the **individual farm** application [for the purchase of a development easement] including, but not limited to, residential opportunities, exceptions, soils, wetlands,

and any other factors that may affect the market value of the development easement to the appraisers.

- 2. (No change.)
- (b)-(d) (No change.)
- (e) The [county] **board** shall forward the completed appraisals to the Committee.

2:76-17.11 Committee certification of development easement values

(a) (No change.)  
 [(b) For purposes of funding eligible farms through fiscal year 2009 appropriations only, an appraisal submitted in compliance with the provisions set forth below shall be deemed a current market value appraisal:

- 1. An appraisal conducted, or relied upon, by counties having a valuation date of August 1, 2006 or thereafter;
- 2. In the event that a county has preacquired lands in fee simple title for farmland preservation purposes within three years of filing an application with the Committee for a cost share grant for the purchase of a development easement as a partial interest in the fee simple title, the Committee shall accept the original appraisal conducted in support of the preacquisition, conditioned upon the following:

- i. The valuation date of the appraisal is August 1, 2006 or thereafter or the valuation date is not more than 18 months prior to the date of the county's preacquisition; and
- ii. The county did not acquire the fee simple interest for an amount greater than the highest appraised value at the time of preacquisition; or
- 3. In the event that a county has preacquired a development easement within three years of filing an application with the Committee, the Committee shall accept the original appraisal conducted in support of the preacquisition, conditioned upon the following:

- i. The valuation date of the appraisal is August 1, 2006 or thereafter or the valuation date is not more than 18 months prior to the date of the county's preacquisition, and
- ii. The county did not acquire the development easement for an amount greater than the highest appraised value at the time of preacquisition.

(c) At the county's request, the Committee shall accept new appraisals which provide "before" (unrestricted) and "after" (restricted) values based on the valuation date contained in the original appraisals conducted in support of the preacquisition, subject to (b)2 and 3 above.

(d) For the purpose of (b) above, "preacquisition" shall mean the date of settlement on the county's purchase of fee simple title or a development easement.]

[(e)] (b) The Committee shall appoint a review appraiser to evaluate the appraisals submitted by the [county] **board** and to recommend a market value of the development easement for each farm. The review appraisal shall be conducted in accordance with the appraisal standards contained [in] at N.J.A.C. 2:76-10.

Recodify existing (f), (g), and (h) as (c), (d), and (e) (No change in text.)

2:76-17.12 Landowner offer

(a) Within 30 days of receipt of the Committee's certification of the market value of the development easement, the [board] **county** shall report the certified value to the landowner.

- 1.-2. (No change.)

(b) Within 60 days of the landowner's receipt of the Committee's certification of the market value of the development easement, the landowner shall submit, in writing, an acceptance or rejection of the offer. A copy of the acceptance or rejection shall be provided to the Committee.

- 1. (No change.)

2. If the landowner accepts the county's offer, the county shall enter into an agreement with the landowner contingent upon the [county's] **board's** final review pursuant to N.J.A.C. 2:76-17.13 and the Committee's final review pursuant to N.J.A.C. 2:76-17.14 and, if requested, shall provide a copy of the agreement to the Committee, and in the event municipal funds are provided, to the municipality.

3. If a landowner rejects an offer for an amount equal to or greater than the certified market value, the Committee shall not accept for processing any **individual farm** application [for the sale of a development easement] or **application** for sale of land in fee simple pursuant to the planning incentive grant program or any other farmland preservation program

authorized pursuant to N.J.S.A. 4:1C-11 et seq., or 13:1C-1 et seq., for two years from the date that the [county] **board** originally submitted an **individual farm** application [for the sale of a development easement] to the **Committee**. This provision applies only to an application from the same landowner for the same farm property.

2:76-17.13 Final [county] **board** review

(a) The [county] **board** shall approve or disapprove the acquisition of a development easement on an eligible farm based on total available funding and provide the following to the Committee:

- 1.-3. (No change.)
- (b) (No change.)

(c) No development easement shall be purchased at a price greater than the higher of the two independent appraised values determined pursuant to [N.J.A.C. 2:76-17.11 and] N.J.S.A. 4:1C-31[(c)],h [and 13:8C-1 et seq., P.L. 1999, c. 152].

(d) In the event that there are insufficient county, municipal, or other non-SADC funds to acquire development easements on all of the eligible farms, the [county] **board** shall establish a priority ranking of farms pursuant to its ranking criteria and N.J.A.C. 2:76-6.10(a)1i and shall forward, to the Committee, requests for final approval only for those farms for which there is a sufficient local funding commitment.

2:76-17.14 Final committee review

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

(d) In the event that there are insufficient funds available in a county's base grant to acquire a development easement on the farm(s) being submitted for final approval by any [county] **board**, the [county] **board** may request additional funding from the competitive grant fund.

(e) The Committee shall establish a priority ranking that will prioritize applications for grants from the competitive grant fund based on the number of cumulative points awarded according to the following criteria, subject to a county's maximum funding eligibility and available funding:

1. The density score of the project area, [as identified in N.J.A.C. 2:76-17.5(a)3] **expressed as the ratio between the total area of the properties listed at N.J.A.C. 2:76-17.5(a)2, 3, 4, and 5 and the total area of the project area**, is determined as follows:

Density ratio

90 to 100 percent	50 points
80 to <90 percent	40 points
60 to <80 percent	30 points
40 to <60 percent	20 points
20 to <40 percent	10 points
<20 percent	0 points

2. The soil productivity score of the important farmland soils present on targeted farms within the project area, [as identified in N.J.A.C. 2:76-17.5(a)4] **expressed as the ratio between the total area of the important farmland soils listed at N.J.A.C. 2:76-17.4(b)2i, ii, and iii and the total area of the targeted farms within the project area**, is determined as follows:

Soil productivity ratio

90 to 100 percent	50 points
80 to <90 percent	40 points
60 to <80 percent	30 points
40 to <60 percent	20 points
20 to <40 percent	10 points
<20 percent	0 points

3. The proximity score of the eligible farm in relation to lands from which development easements have already been purchased or other permanently deed restricted farmlands within the project area, as identified [in] at N.J.A.C. 2:76-17.5(a)[1ii, iii, iv, v]2, 3, 4, and [vi] 5, is determined as follows:



Distance

Contiguous	50 points
<500 feet	40 points
500 to 1000 feet	30 points
>1000 to 2500 feet	20 points
>2500 to 5000 feet	10 points
>5000 feet	0 points

4. (No change.)  
 5. The total score for the eligible farm is equal to the sum of (e)1, 2, 3, and 4 above.

(f) If further prioritization is necessary, the Committee shall give funding priority to those farms that utilize option agreements, installment purchases, donations, or other methods for the purpose of leveraging monies made available by **the Garden State Preservation Trust Act, P.L. 1999, c. 152 (N.J.S.A. 13:8C-1 et seq.), the Preserve New Jersey Act, P.L. 2016, c. 12 (N.J.S.A. 13:8C-43), or by any appropriation to the Committee for farmland preservation purposes.**

(g) In the event that the approval requires a schedule of installment payments, the Committee shall enter into an agreement for the provision of grant funds with the county subject to the following:

1. The provisions of N.J.S.A. 4:1C-32, as amended; **and**
2. The approval of funding by the Garden State Preservation Trust; and
3. The appropriation of funds.]

**2. The Garden State Preservation Trust Act, P.L. 1999, c. 152 (N.J.S.A. 13:8C-1 et seq.), the Preserve New Jersey Act, P.L. 2016, c. 12 (N.J.S.A. 13:8C-43 et seq.), or by any appropriation to the Committee for farmland preservation purposes.**

- (h) The Committee shall inform the [county] board of its decision.
- (i) (No change.)

SUBCHAPTER 17A. MUNICIPAL PLANNING INCENTIVE GRANTS

2:76-17A.2 Definitions

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

**“Agricultural Advisory Committee” (AAC) means the committee established pursuant to N.J.S.A. 4:1C-43.1.**

...  
 [“An application for the sale of a development easement” means a standard form, as developed and identified by the Committee, to be submitted to the municipality from a landowner interested in selling his or her development easement, in which the landowner shall provide parcel-specific information to the municipality.]

[“Application] **Annual planning application**” means the formal submission of a planning incentive grant program application by the municipality to the Committee[, which]. **The application shall include[s] a copy of the [municipality’s] county’s adopted comprehensive farmland preservation plan and a project area [summary] inventory for each project area submitted for approval, and other information required by the Committee.**

**“Base grant” means the minimum amount of SADC funding that will be allocated to each municipality that has received approval of an annual planning application submitted pursuant to N.J.A.C. 2:76-17A.7.**

“Board [or county]” 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].

...  
**“Competitive grant fund” means an amount of money identified by the Committee each funding cycle, which the SADC may award on a competitive basis to municipalities that have received approval of an annual planning application and obligated all of their previously allocated base grant funding.**

“Eligible farm” means a [property] **targeted farm** included within an SADC-approved project area that is deemed eligible by the municipality

to be preserved through the municipality’s farmland preservation program[,] **and** which, at a minimum, meets the criteria at N.J.A.C. 2:76-6.20.

**“Funding cycle” means the time period beginning on the date the Committee receives an appropriation for the municipal planning incentive grant program and ending on the date the Committee receives a subsequent appropriation for the municipal planning incentive grant program.**

...  
**“Individual farm application” means a standard form, as developed and identified by the Committee, to be submitted to the municipality from a landowner interested in selling his or her development easement, in which the landowner shall provide parcel-specific information to the municipality.**

...  
 “Project area” means [an] **a discrete** area [identified by] a municipality [that] identifies [discrete areas] within the municipality’s farmland preservation plan that constitutes a separate, significant area[s] of reasonably contiguous farmland that will promote the long-term viability of agriculture as an industry in the municipality, and which consists of the following lands and lands that are within one mile of any of the following lands:

1. (No change.)
2. Lands [from] **for** which an **individual farm** application [for the sale of a development easement] has been granted final approval by the municipality, the [county] board, and/or the Committee pursuant to the Agriculture Retention and Development Act, as amended, and the Garden State Preservation Trust Act;
3. (No change.)
4. Other **land** permanently deed restricted [farmlands] **for agricultural use;**
5. Lands enrolled in [an eight-year] **a term** farmland preservation program or [municipally-approved] **municipally approved** farmland preservation programs; [and] **or**
6. (No change.)

“Targeted farm” means a specific property, contained within an approved project area, that a municipality may seek to solicit for preservation through the municipal planning incentive grant program. In the event of a landowner request[s] his or her[,], **the municipality shall remove the landowner’s land** [to be removed] from consideration as a targeted farm[, the municipal agricultural advisory committee shall remove the targeted farm from its project area].

2:76-17A.3 [Grant] Prerequisites for grant eligibility

(a) A municipality seeking to establish its eligibility for a grant under this subchapter shall [establish or develop the following]:

1. [An] **Establish an agricultural advisory committee** [shall be] appointed by the mayor with the consent of the municipal governing body. The municipal agricultural advisory committee shall report to the municipal planning board.

**i.** A municipal agricultural advisory committee shall be composed of[; i. At] **at least three, but not more than five, residents of the municipality[; ii. A], with a majority of the members actively engaged in farming and owning a portion of the land they farm; and**

[iii.] **ii.** A member of the **agricultural advisory** committee or a member of his or her immediate family, is prohibited from selling or applying to sell a development easement on his or her property or from selling or applying to sell his or her property in fee simple title pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq., **if such property is located in the municipality for which the landowner serves as a member of the agricultural advisory committee.**

(1) “Member of the immediate family” means a member’s spouse, child, parent, or sibling, residing in the same household; **and**

**iii. The agricultural advisory committee shall meet at least two times annually in compliance with the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.**

2. (No change.)

3. Prepare and adopt a farmland preservation plan element pursuant to paragraph 13 of section 19 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-28b(13)) in consultation with the municipal agriculture advisory committee. The plan shall include, at a minimum, the following:

- i.-ii. (No change.)
- iii. A plan for preserving as much farmland as possible in the [short term] **short-term** by leveraging monies made available by the Garden State Preservation Trust Act, **P.L. 1999, c. 152** (N.J.S.A. 13:8C-1 et seq.), **P.L. 1999, c. 152**], **the Preserve New Jersey Act, P.L. 2016, c. 12** (N.J.S.A. 13:8C-43 et seq.), **or by any appropriation to the Committee for farmland preservation purposes** through a variety of mechanisms including, but not limited to, utilizing:
  - (1)-(2) (No change.)
  - (3) Encouraging donations for permanent development easements; and
  - [iv. A statement of farming trends, characterizing the type(s) of agricultural production in the municipality; and
  - v. A discussion of plans to develop the agricultural industry in the municipality; and]
  - iv. Additional requirements set forth at N.J.A.C. 2:76-17A.4; and**

2:76-17A.4 Municipal farmland preservation plan

(a) A comprehensive farmland preservation plan shall include, at a minimum, the following components:

- 1. The adopted farmland preservation plan element of the municipal master plan **pursuant to N.J.A.C. 2:76-17A.3(a)3;**
- 2. A map and description of the municipality's agricultural resource base including, at a minimum, the proposed farmland preservation project areas[;], **and the location and extent of the following important farmland soils:**
  - i. Prime soils identified by the United States Department of Agriculture, Natural Resources Conservation Service;**
  - ii. Soils of Statewide importance, as identified by the New Jersey Department of Agriculture, State Soil Conservation Committee; and**
  - iii. Unique soils, identified by the United States Department of Agriculture, Natural Resources Conservation Service, that are especially suited for the production of specialty crops and are being used, or intended to be used, for that purpose;**

- 3.-4. (No change.)
- 5. A **description of the local agricultural industry and** discussion of actions the municipality has taken, or plans to take, to promote agricultural economic development in order to sustain the agricultural industry;
- 6. (No change.)
- 7. A description of the policies, guidelines, or standards used by the municipality in conducting its farmland preservation efforts including the following:

- i. Any minimum eligibility criteria or standards used by the municipality for solicitation and approval of [farmland preservation program] **individual farm** applications, which, **at a minimum**, shall [address] **include** the criteria at N.J.A.C. 2:76-6.20;
- ii. The adopted ranking criteria that the municipality will use to prioritize farms for farmland preservation funding, which, at a minimum, shall address the factors included in the criteria at N.J.A.C. 2:76-6.16; **and**
- iii. Any other policies, guidelines, or standards used by the municipality that affect [farmland preservation] **individual farm** application evaluation or selection;

8.-9. (No change.)

**(b) The municipal planning board, in consultation with the municipal agricultural advisory committee, shall review and readopt the comprehensive farmland preservation plan at least every 10 years. The readopted plan shall, at a minimum, provide updates to the elements required at (a)2, 3, 4, and 7 above and to the project area inventory described at N.J.A.C. 2:76-17A.5.**

2:76-17A.5 Project area [summary] **inventory**

(a) [The municipality shall prepare a project area summary containing the following information for] **For** each project area designated within the municipality's farmland preservation plan for which the municipality intends to seek Committee funding[:

1. An inventory showing], **the municipality shall prepare a project area inventory. The inventory, which may be submitted as electronic spatial data files, shall identify** the number of farms or properties, and their individual and aggregate acreage, for each of the following categories of land within the project area:

- [i.] **1.** (No change in text.)
- [ii.] **2.** Lands [from] **for** which an **individual farm** application [for the sale of a development easement] has been granted final approval by the municipality, [county] **board**, and/or the Committee pursuant to the Agriculture Retention and Development Act, as amended, and the Garden State Preservation Trust Act;
- [iii.] **3.** (No change in text.)
- [iv.] **4.** Other **lands** permanently deed-restricted [farmlands] **for agricultural use;**
- [v.] **5.** Lands enrolled in [an eight-year] **a term** farmland preservation program or [municipally-approved] **municipally approved** farmland preservation program; and
- [vi.] **6.** (No change in text.)

[2. Aggregate size of the entire project area;

3. Density of the project area expressed as the ratio between the total area of the properties listed (a)1ii, iii, iv, v and vi above and the total area of the project area;

4. Description of soil productivity of the targeted farms in the project area expressed as the ratio between the total area of the following important farmland soils and the total area of the targeted farms:

- i. Prime soils identified by the U.S.D.A. Natural Resources Conservation Service;
- ii. Soils of Statewide importance as identified by the New Jersey Department of Agriculture, State Soil Conservation Committee; and
- iii. Unique soils which are specially suited for the production of specialty crops and are being used, or intended to be used, for that purpose;

5. An estimate of the cost of purchasing development easements on the targeted farms in the designated project area, which shall be determined through existing appraisal data, or an appraisal for the entire project area; and

6. The municipality's multi-year plan for the purchase of development easements on the targeted farms in the project area, indicating the municipality's and, if appropriate, any other funding partner's share of the estimated purchase price.

i. If a municipality intends to leverage monies made available through N.J.S.A. 13:8C-1 et seq., P.L. 1999, c. 152, the municipality shall provide an accounting of such leveraging, including, but not limited to, the estimated percentage of leveraged State funds in the application, and the time period of installment purchase agreements.]

2:76-17A.6 [Municipal] **Annual planning** application procedures **and requirements**

(a) All **annual** planning [incentive grant] applications shall be received by the Committee no later than December 15 of each year [for] **preceding** the [following fiscal year in] **funding cycle** for which [the municipality seeks to participate in the] planning incentive grant program **funding is sought**, subject to the following:

1. The municipality's initial **annual planning** application shall include a copy of the municipality's comprehensive farmland preservation plan and all applicable project area [summaries] **inventories, pursuant to N.J.A.C. 2:76-17A.4 and 17A.5.**

2. In any subsequent year, the municipality's **annual planning** application shall include the following:

- i. (No change.)
- ii. Project area [summaries for any new or amended project areas] **inventories; [and]**

iii. A report summarizing [the]:

(1) **The status of the purchase of development easements on [farms identified in prior year's] all active individual farm applications [and];**

(2) **The expenditure of Committee funds previously available pursuant to N.J.A.C. 2:76-17A.8[.];**

(3) **Amendments to municipal farmland preservation policies, funding availability, and estimates of easement purchase cost on all targeted farms;**

(4) **Updates to contact information for the planning incentive grant administrator and agricultural advisory committee members; and**  
 iv. **Copies of minutes of the agricultural advisory committee meetings held in compliance with N.J.A.C. 2:76-17A.3(a)iv.**

3. **Each year's annual planning application shall be accompanied by a resolution of support from the governing body, and documentation of the agricultural advisory committee's review of the proposed application.**

(b) To improve municipal and county farmland preservation program coordination, the municipality shall forward its **annual planning** application to the [county] **board** for review no later than 90 days prior to the date on which it submits its application to the Committee, and no less than 90 days prior to the December 15 **application** deadline.

1. If county funding is sought, the [county] **board** shall review the **annual planning** application and provide comments within 60 days [of] from receipt of the application to ensure that the application is consistent with the county's comprehensive farmland preservation plan.

i. The [county] **board** shall provide any comments and, if appropriate, identify the level of funding that the county is willing to provide to assist in the purchase of development easements on targeted farms.

ii. The municipality shall consider the [county's] **board's** comments before submitting the **annual planning** application to the Committee, amend the application, if appropriate, and forward the approved application to the Committee.

2. If county funding is not sought, the [county] **board** shall review the **annual planning** application and provide comments to the municipality within 60 days of receipt of the application to determine to what extent the municipality's application is consistent with the county's comprehensive farmland preservation plan.

(c) A municipality may enhance its **annual planning** application by submitting a joint proposal with one or more contiguous municipalities resulting in the preservation of a more significant area of reasonably contiguous farmland and submit it to the board pursuant to the provisions in (b) above.

(d) Any **annual planning** application submitted after December 15 shall be considered by the Committee as an application for the subsequent [program year] **funding cycle**.

#### 2:76-17A.7 Committee review of [municipal] **annual planning** [incentive grant] applications

(a) Within 60 days of receipt thereof, the Committee shall review and evaluate the municipality's **annual planning** application submitted pursuant to N.J.A.C. 2:76-17A.6 as follows:

1. (No change.)

2. The Committee shall determine, for each designated project area, whether the project area [summary] **inventory** is complete and technically accurate.

(b) [If the] **The Committee shall approve the annual planning application if it finds that the application is complete [and], accurate, and [that it] is designed to preserve a significant area of reasonably contiguous farmland that will promote the long-term economic viability of agriculture as an industry[, it shall approve the application].**

1.-2. (No change.)

(c) If the Committee finds that the comprehensive farmland preservation plan and/or the project area [summary] **inventories** are not complete and accurate, it may grant conditional [preliminary] approval of the **annual planning** application.

1. The Committee shall notify the municipality of its decision, in writing [of], **setting forth** the deficiencies in the application **and the information required to cure the deficiencies**.

2. The municipality shall [respond with] **provide** the required information to the Committee within 60 days of receiving notification of the submission deficiencies.

3. (No change.)

(d) The municipality's failure to provide the requested information within the 60 days of receiving notification of the submission deficiencies shall result in a rejection of the **annual planning** application by the Committee.

1. An application rejected by the Committee shall not be re-submitted by the municipality until the following [fiscal year] **funding cycle**.

#### 2:76-17A.8 Annual funding eligibility

(a) For each **municipal planning incentive grant funding cycle**, the Committee shall establish the amount of the base grant available to each municipality that has received approval of an **annual planning** application, pursuant to the following:

1. The Committee shall review the municipality's performance over the previous three **funding cycles** to determine if the municipality has expended State cost share funds on a timely basis. The degree to which the municipality has expended all previously allocated grant funding will determine to what extent the municipality is eligible to receive the minimum annual base grant for the next **funding cycle** according to the following:

i. If the municipality has expended at least 50 percent of the total grant funds appropriated to the municipality in the previous three **funding cycles**, the municipality is eligible for 100 percent of the maximum base grant available to it;

ii. If the municipality has expended at least 25 percent, but less than 50 percent of the total grant funds appropriated to the municipality in the previous three **funding cycles**, the municipality is eligible for 50 percent of the maximum base grant available to it; or

iii. If the municipality has expended less than 25 percent of the total grant funds appropriated to the municipality in the previous three **funding cycles**, the municipality is ineligible for a base grant award.

2. The Committee may adjust any municipality's base grant eligibility, or withhold a base grant entirely, based on factors including, but not limited to, projected expenditures as described in its **annual planning** application, availability of unexpended grant balances, past performance, and sufficient need.

3. The municipality shall expend funds within three years of the date the funds are appropriated or risk the loss of those funds and **funding eligibility** in subsequent **funding cycles**.

(b) For each **funding cycle**, the Committee shall establish a maximum combined amount of **planning incentive grant funds** that any municipality may receive from both its base grant and from the competitive grant fund.

1. The SADC shall identify the total amount of funds available for expenditure in the competitive grant fund for each **funding cycle**.

2. If at any time during the **funding cycle**, a municipality seeks final approval for an eligible farm for which there are insufficient funds remaining in the municipality's base grant, the request for final approval will be applied to the funding available in the competitive grant fund pursuant to N.J.A.C. 2:76-17A.14.

i. Competitive grant funds will be available to municipalities having received approval of an **annual planning** application submitted pursuant to N.J.A.C. 2:76-17A.7 regardless of base grant eligibility.

3. **Municipalities may continue to qualify for funds available in the competitive grant fund up to the total maximum grant eligibility established pursuant to this subsection.**

#### 2:76-17A.9 Committee review of an **individual farm** application [for the sale of a development easement] **from an eligible farm**

(a) At any time [after] **during** the [Committee has granted] **year, but subsequent to the Committee's approval of an annual planning** application, and prior to commencement of any appraisals to be submitted to the Committee for review and certification, the municipality shall submit to the Committee the following information for any eligible farm that the municipality intends to commence processing for purchase:

1. A completed **individual farm** application [for the sale of a development easement];

2. (No change.)

3. Clear delineation of all **proposed** exception areas, whether severable or non-severable, all housing opportunities and all pre-existing nonagricultural uses that shall identify the information in (a)3i and ii below. Exception areas shall be permitted only if they do not cause a substantially negative impact on the continued use of the land for agricultural purposes.

i.-ii. (No change.)

4. Confirmation that the farm meets the minimum eligibility criteria established by the municipality in its comprehensive farmland preservation plan developed in accordance with N.J.A.C. 2:76-17A.4(a)7; [and]

5. Rank score of the farm based on the municipality’s adopted ranking criteria[.]; **and**

**6. Written notice of the individual farm application to the board.**

**i. If county funding is sought, the municipality shall confirm that the application meets board minimum eligibility criteria.**

(b) The Committee shall conduct a review of the **individual farm** application[(s) for the sale of a development easement submitted] and confirm that it is complete and accurate and that it otherwise meets the criteria of (a) above.

1. If an **individual farm** application [for the sale of a development easement] is determined to be complete and meets the criteria as set forth in (a) above, the Committee shall notify the municipality, in writing, that the application is approved and that appraisals may commence pursuant to N.J.A.C. 2:76-17A.10.

2. If an **individual farm** application [for the sale of a development easement] is determined to be incomplete, the Committee shall notify the municipality, in writing, to address the deficiencies.

i. Upon receipt and review of an amended **individual farm** application [for the sale of a development easement] that is determined to be complete and meets the criteria as set forth in (a) above, the Committee shall notify the municipality, in writing, that the application is approved and that appraisals may commence pursuant to N.J.A.C. 2:76-17A.10.

2:76-17A.10 Appraisal of [an] eligible farms

(a) Upon Committee approval of an **individual farm** application [for the sale of a development easement] pursuant to N.J.A.C. 2:76-17A.9(b), the municipality shall select two appraisers from the list of appraisers approved by the Committee pursuant to N.J.A.C. 2:76-6.22 to conduct independent appraisals of each farm to determine the market value of the development easement for which funding is requested.

1. The municipality shall provide to the appraisers a completed appraisal order checklist as required by the Committee and a copy of the **individual farm** application [for the purchase of a development easement] including, but not limited to, residential opportunities, exceptions, soils, wetlands, and any other factors that may affect the market value of the development easement.

2. (No change.)

(b)-(e) (No change.)

2:76-17A.12 Landowner offer

(a) (No change.)

(b) Within 60 days of the landowner’s receipt of the Committee’s certification of market value of the development easement, the landowner shall submit, in writing, an acceptance or rejection of the offer. A copy of the acceptance or rejection shall be provided to the Committee.

1. An offer by a landowner **requesting** to sell his or her development easement for a value that is greater than the higher of the two independent appraised development easement values determined pursuant to N.J.S.A. 4:1C-[31(c)]**31.c**, and 13:8C-1 et seq., P.L. 1999, c. 152, and N.J.A.C. 2:76-17A.11 shall be deemed a rejection of the offer.

2. If the landowner accepts the municipality’s offer, and the development easement is to be held by the county, the municipality shall cause the preparation of an agreement between the landowner and the municipality and/or county, contingent upon the municipality’s final review pursuant to N.J.A.C. 2:76-17A.13, the Committee’s final review pursuant to N.J.A.C. 2:76-17A.14, and the [county’s] **board’s** final

approval. A copy of the agreement shall be provided to the Committee, **if requested**, and to the [county] **board**.

i. (No change.)

3. If a landowner rejects an offer for an amount equal to or greater than the certified market value, the Committee shall not accept for processing any **individual farm** application [for the sale of a development easement] or **application** for sale of land in fee simple pursuant to the planning incentive grant program or any other farmland preservation program authorized pursuant to N.J.S.A. 4:1C-11 et seq., [or] 13:1C-1 et seq., **or 13:8C-43 et seq.**, for two years from the date that the municipality originally submitted an **individual farm** application [for the sale of a development easement]. This provision applies only to an application from the same landowner for the same farm property.

2:76-17A.13 Final municipal review

(a) The municipality shall approve or disapprove the acquisition of a development easement on an eligible farm based on total available funding and provide the following to the Committee:

1. A commitment of funding by the municipality and each level of government that is providing funding, as evidenced by an adopted resolution of each governing body.

i. In the event that the [municipality] **county** is [acquiring the development easement, it] **providing funding, the individual farm application** shall [adopt the appropriate ordinance pursuant] **initially be submitted** to the [local lands and building law at N.J.S.A. 40A:12-1 et seq.] **board. In such event, the county shall hold title to the development easement.**

ii. In the event that the county is not providing funding, the [county] **municipality** must [be notified] **notify the board, in writing**, that an **individual farm** application [for the purchase of the development easement] was granted final approval and submitted to the Committee for final review[.]. **In such event, the Committee shall hold title to the development easement.**

iii. **In the event that the municipality is pre-acquiring the development easement, it shall adopt the appropriate ordinance pursuant to the Local Lands and Building Law, N.J.S.A. 40A:12-1 et seq. The municipality shall transfer title to the development easement to the county in the event the county is providing funding, or shall transfer title to the development easement to the Committee in the event the county is not providing funding;**

2. (No change.)

3. In the event that a donation or other method of leveraging monies authorized pursuant to **the Garden State Preservation Act, P.L. 1999, c. 152** (N.J.S.A. 13:1C-1 et seq.), [P.L.1999, c. 152] is being utilized, a commitment of funding **as required to purchase the easement.**

(b) Nothing in this subchapter shall be construed to require that any eligible farm in a project area shall receive a price per acre that is the same as any other **eligible** farm in that project area or that any eligible farm must be purchased with installment payments because other **eligible** farms in the project area are so purchased.

(c) No development easement shall be purchased at a price greater than the higher of the two independent appraised values determined pursuant to [N.J.A.C. 2:76-17A.11,] N.J.S.A. 4:1C-[31(c)] and 13:8C-1 et seq., P.L.1999, c. 152]**31.h**.

(d) In the event that [the municipality submits a request for a cost share grant] **there are insufficient county, municipal, or other non-SADC funds to acquire development easements** on [more than one farm at a time in excess] **all** of [its] **the** eligible [funds] **farms**, the municipality shall establish a priority ranking of farms pursuant to its ranking criteria and N.J.A.C. 2:76-6.10(a)1i and shall forward to the Committee requests for final approval [for] **only for those farms for which there is a sufficient local funding commitment.**

(e) (No change.)

2:76-17A.14 Final committee review

(a) The Committee shall review all requests for funding for the purchase of a development easement on an eligible farm approved by the municipality for compliance with all applicable statutes, rules [and], regulations, **and policies.**

1.-3. (No change.)

[(b) The Committee shall approve a cost share grant for any farm that qualifies for final approval and for which there are sufficient State funds available.]

[1.] (b) The Committee’s cost share for the purchase of the development easement shall be consistent with the provisions of N.J.A.C. 2:76-6.11(d). **The Committee may approve a cost share grant for any farm that qualified for final approval and for which there are sufficient funds available in the municipality’s base grant.**

(c) In the event that there are insufficient funds available in a municipality’s base grant to acquire a development easement on the farm(s) being submitted for final approval by the municipality, the municipality may request additional funding from the competitive grant fund.

(d) The Committee shall, if necessary, establish a priority ranking that will prioritize applications for grants from the competitive grant fund based on the number of cumulative points awarded according to the following criteria, subject to a municipality’s maximum funding eligibility and available funding:

1. The density score of the project area expressed as the ratio between the total area of the properties listed at N.J.A.C. 2:76-17A.5(a)2, 3, 4, 5, and 6 and the total area of the project area, is determined as follows:

<u>Density ratio</u>	
90 to 100 percent	50 points
80 to <90 percent	40 points
60 to <80 percent	30 points
40 to <60 percent	20 points
20 to <40 percent	10 points
<20 percent	0 points

2. The soil productivity score of the important farmland soils present on targeted farms within the project area expressed as the ratio between the total area of the important farmland soils identified at N.J.A.C. 2:76-17A.4(a)2i, ii, and iii and the total area of the targeted farms within the project area, is determined as follows:

<u>Soil productivity ratio</u>	
90 to 100 percent	50 points
80 to <90 percent	40 points
60 to <80 percent	30 points
40 to <60 percent	20 points
20 to <40 percent	10 points
<20 percent	0 points

3. The proximity score of the eligible farm in relation to lands from which development easements have already been purchased or other permanently deed restricted farmlands within the project area, as identified at N.J.A.C. 2:76-17A.5(a)1ii, iii, iv, v, and vi, is determined as follows:

<u>Distance</u>	
Contiguous	50 points
<500 feet	40 points
500 to 1000 feet	30 points
>1000 to 2500 feet	20 points
>2500 to 5000 feet	10 points
>5000 feet	0 points

4. The relative best buy score of the farm is determined as follows:

$$\frac{\text{nonagricultural development value} - \text{agricultural value}}{\text{landowner's asking price}} = \text{Formula Index}$$

Formula Index X 200 = Total points

5. The total score for the eligible farm is equal to the sum of (d)1, 2, 3, and 4 above.

(e) If further prioritization is necessary, the Committee shall give funding priority to those farms that utilize option agreements, installment purchases, donations, or other methods for the purpose of leveraging monies made available by the Garden Preservation Trust Act, P.L. 1999, c. 152 (N.J.S.A. 13:8C-1 et seq.), the Preserve New Jersey Act, P.L. 2016, c. 12 (N.J.S.A. 13:8C-43), or by any appropriation to the Committee for farmland preservation purposes.

[(c)] (f) In the event that the approval requires a schedule of installment payments, the Committee shall enter into an agreement for the provision of grant funds with the municipality and, if appropriate, the county, pursuant to N.J.A.C. 2:76-[17.20(c)]17A.20(c), subject to the following:

1. The provisions of N.J.S.A. 4:1C-32, as amended; and
2. The [approval of funding by the] Garden State Preservation Trust[; and

3. The appropriation of funds.] Act, P.L. 1999, c. 152 (N.J.S.A. 13:8C-1 et seq.), the Preserve New Jersey Act, P.L. 2016, c. 12 (N.J.S.A. 13:8C-43 et seq.), or by any appropriation to the Committee for farmland preservation purposes.

[(d)] (g) The Committee shall inform the municipality[,] and, if appropriate, the [county] board, of its decision.

(h) The Committee shall post on its website the status of available funds following the Committee’s issuance of final approval.

2:76-17A.15 Deed restrictions

- (a) (No change.)
- (b) [A] The development easement shall be held by the Committee, or by the appropriate county if county funds are utilized, in the purchase of a development easement[s] on a farm.

2:76-17A.16 Terms, contingencies, and conditions of purchase

- (a) (No change.)
- (b) Submissions for eligible ancillary cost reimbursement, pursuant to N.J.A.C. 2:76-6.11(d)3, must be submitted within 120 days of the purchase of a development easement.

## COMMUNITY AFFAIRS

(a)

### DIVISION OF CODES AND STANDARDS

Carnival-Amusement Rides

Uniform Construction Code

Electrical Systems for Carnivals and Fairs

Proposed Amendments: N.J.A.C. 5:14A-9.2 and 9.7; and 5:23-2.14 and 2.20

Proposed New Rule: N.J.A.C. 5:23-2.18D

Authorized By: Lieutenant Governor Sheila Y. Oliver,  
Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-119 et seq., and 5:3-36.

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

Proposal Number: PRN 2019-158.