



New Jersey Farmland Preservation Connections

July 2011

First Rooftop Solar Energy Projects Approved on Preserved Farms

The SADC at its June 23rd meeting approved three applications from owners of preserved farms to install solar energy generation systems on the rooftops of existing buildings in order to serve the farms' electricity needs. The projects ranged from 17 kw to 40 kw and are the first applications approved by the SADC pursuant to N.J.S.A. 4:1C-32.4, which requires the SADC to review and approve any solar, wind or biomass energy projects on preserved farmland **whether on the preserved land or any exception areas**. Prior to granting approvals, the SADC provided the applications to the respective CADBs for comment. During the review process for these initial applications, SADC staff was able to identify areas where the application process can be streamlined. As a result, the application will be revised to make it easier for landowners to apply. The SADC also will reach out to CADBs to see if they can assist landowners in obtaining copies of required documents they may have on file (e.g., deeds of easement, surveys).

The application for rooftop energy generation systems can be found at <http://www.nj.gov/agriculture/sadc/farmpreserve/postpres/applicationforexistingstructures.doc>. Until the SADC adopts rules specifically for preserved farms, ground-mounted solar or wind energy generation systems cannot be installed on preserved farmland. The SADC hopes to propose those rules in the next few months. Questions regarding renewable energy on preserved farms should be addressed to Chuck Roohr at (609) 984-2504.

Solar Energy AMP to Become Effective

The State Agriculture Development Committee (SADC) in May voted to approve adoption of a rule that establishes an agricultural management practice (AMP) – or standards – for commercial farms to qualify for right-to-farm protection for solar energy generation. The rule will become effective on publication in the New Jersey Register, which could be as early as August. It is important to note that farms seeking right-to-farm protection must not only conform to standards in the AMP but also must meet the eligibility criteria for farmland assessment. These include that for every 1 acre devoted to energy generation, another 5 acres of land must be devoted to agricultural/horticultural operations; the total area devoted to energy generation cannot exceed 10 acres and no more than 2 megawatts of power may be generated. Further, the solar AMP should not be confused with separate rules the SADC is required to develop for solar and wind energy generation on preserved farms. The SADC adopted the proposed solar AMP with minor, nonsubstantive changes. A copy of that proposal is on the SADC's website at www.nj.gov/agriculture/sadc/ruleprop/proposedsolarAMP.pdf.

Once the rule becomes effective, the SADC recommends that landowners seeking to install solar energy generation systems first approach their municipalities, since municipalities must issue building and other related permits. However, if municipalities refuse to issue permits or impose onerous requirements, landowners should contact their CADB for a determination of right-to-farm eligibility (that is, that they meet the standards in the AMP as well as basic right-to-farm eligibility requirements).

On-Farm Direct Marketing AMP Under Development

SADC staff have visited approximately 80 farm markets across the state over the past few months as part of efforts by an SADC working group to develop an On-Farm Direct Marketing Agricultural Management Practice (AMP). The visits are intended to help the working group better understand the types and sizes of retail farm markets and to solicit farmer feedback. The working group hopes to complete a draft AMP for consideration and distribution to interested parties later this year. The AMP will enhance Right to Farm Act protections for farmers engaged in farm market and agritourism activities by setting clear, reliable and generally accepted standards. The working group includes representation from farmers, N.J. Farm Bureau, the N.J. Department of Agriculture, Rutgers Cooperative Extension, a CADB and a professional planner, as well as SADC staff.

Appropriation Bills Clear Legislature

Farmland preservation appropriation bills totaling \$94.4 million have been approved by both the Assembly and Senate. Most of these funds are a result of the voter-approved referendum in November 2009 providing \$400 million to support Farmland Preservation, Green Acres and Historic Preservation programs. If the Governor signs the bills soon, the SADC anticipates having funding available for closings by late August or early September.

Legislative Alerts

SADC staff has concerns regarding two bills under consideration in the Legislature. A3992/S2887 would allow wind turbines to be installed on preserved farmland with no state or county review (including by the SADC and county agriculture development boards) and minimal local review. Concerns include that the bill would open preserved farmland to large, utility-scale wind energy generation unrelated to farm need and, in doing so, allow energy generation to become the primary economic use of these farms – contrary to the intent of the Farmland Preservation Program. In addition, staff is concerned that the bill could erode public support of the program and jeopardize future funding. CADBs and others interested in the bill are encouraged to contact the sponsors, Assemblyman Chivukula or Senator Smith.

A3460 would provide explicit permission to conduct “agritourism” activities and events on preserved farmland. SADC staff concerns are focused on the overly broad language of the bill and the lack of defined terms and conditions. For example, the bill requires no connection between agritourism activities and the agricultural output of the farm, or limits on the construction of new buildings/parking area for these purposes. However, the bill sponsor testified that such a connection and limitations were intended. The bill sponsor committed to working on clarifying language. CADBs that have concerns about the bill are encouraged to contact the sponsor, Assemblyman Dancer.