

# Farmland Preservation News



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*Governor Corzine and Agriculture Secretary Kuperus shop for apples at Robson Farm Market following the announcement that 150,000 acres of farmland have been preserved.*

## 150,000 Acres Preserved and Counting ...

New Jersey reached a major milestone with the preservation of our 150,000<sup>th</sup> acre of farmland. The achievement was announced by Governor Corzine at a public event on October 16 at Robson Farm Market in North Hanover Township, Burlington County, where he also announced the establishment of an annual award to a New Jersey farmer who makes outstanding contributions to the fight against hunger.

The Neil Robson Farmers Fighting Hunger Award is named in honor of the Burlington County farmer who died in September and was a leading supporter of the Farmers Against Hunger Program. In 2005, Robson and his family donated 20,375 pounds of produce to the program and frequently opened the farm to gleanings, in which schools and other groups are invited to pick surplus produce.

“Almost one in every five acres of New Jersey farmland is protected from development – the highest rate of any state in the nation,” said the Governor. “I am proud of New Jersey’s strong commitment to preserving our farmland and even more proud of how we have used that valuable asset to benefit a greater good.”

Secretary Kuperus recognized the many partners who played a role in the preservation accomplishment, including the nearly 1,500 landowners who made the commitment to preserve their farms for future generations.

“Preserved farmland enhances the quality of life in the Garden State in so many ways, maintaining green and livable communities, helping towns hold the line on property taxes, and providing for a local, secure food supply and other farm products,” he said. “We could not achieve this milestone without the cooperative efforts of our partners at all levels of government, our many dedicated landowners and all New Jerseyans who supported a constitutionally dedicated stable source of funding for farmland preservation.”

The State Agriculture Development Committee, which administers New Jersey’s Farmland Preservation Program, is working toward a goal of ultimately preserving 600,000 acres to ensure an adequate land base for agriculture well into the future.

## SADC Proposes Rules to Streamline Preservation Process

The SADC has proposed new and amended rules that will streamline the farmland preservation process to make it more predictable, efficient and effective in meeting increased demand for the Farmland Preservation Program.

Central to the proposal is the establishment of a new county planning incentive grant program that will enable participating counties to accept and approve applications from landowners year-round rather than once a year. Under this program, each participating county will develop a comprehensive farmland preservation plan and county-specific prioritization criteria for preservation, which will be submitted to the SADC for approval. The SADC will provide each county with a minimum annual allocation that it can use to preserve farms included in its plan. Once a county has expended its annual allocation, it will be eligible to compete for additional funding on a first-come, first-served basis.

The SADC will continue to offer its traditional county grants program, however, the new program is expected to be a popular alternative due to the number of advantages it offers both counties and landowners. These include encouraging a more comprehensive planning approach for farmland preservation at the county level; eliminating duplication of work between the SADC and counties; shortening the timeframe from application to closing; and eliminating

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# Rule Proposal Would Allow Landowners to Apply for Permits for Commercial Nonag Uses, Cell Towers on Preserved Farms

In response to legislation passed in early 2006, the State Agriculture Development Committee (SADC) has proposed rules that would allow owners of preserved farms to apply for special permits to conduct commercial nonagricultural uses and erect cell towers if they meet certain criteria.

The authorizing legislation intended to address a change in the Farmland Preservation Program over time. While landowners today have the option to exempt acreage at the time of preservation to provide for an existing or future nonagricultural business, landowners who preserved their land in the early years of the program did not have this opportunity.

The rules were drafted to meet the Legislature's intent that only small enterprises could qualify for a special permit and that nonagricultural uses are a supplemental, not primary, focus of activity and investment for preserved farms.

At a minimum, farms must meet the definition of a commercial farm under

the Right to Farm Act to qualify for a special permit for either a commercial nonagricultural use or cell tower. That means a farm of five acres or more must produce agricultural or horticultural products worth \$2,500 annually and satisfy the eligibility requirements for farmland assessment. For farms less than five acres, the production requirement is \$50,000 annually.

To qualify for a special permit for a nonagricultural use, a farm must have been preserved prior to January 12, 2006 – the date the legislation was signed – with no land excepted from the deed of easement at the time of preservation. Any landowner of a preserved farm is eligible to apply for a special permit to erect a cell tower, regardless of when the farm was preserved and whether land was excepted from the deed of easement.

Commercial nonagricultural activities may use only structures that existed as of January 12, 2006. Buildings and land must be used in their existing condition, however,

expansions of up to 500 square feet will be permitted. Up to 2,500 square feet of the interior of an existing structure may be converted, or “finished,” to accommodate the use. This includes new walls, insulation, flooring, lighting, HVAC systems, sanitary plumbing and associated wiring.

The proposed new rules contain more details on the eligibility, information required, evaluation criteria, review process and conditions to obtain a special permit. They are expected to be published in the *New Jersey Register* in early 2007. Once they are published, they also will be available on the SADC's website at [www.state.nj.us/agriculture/sadc/sadc.htm](http://www.state.nj.us/agriculture/sadc/sadc.htm).

The proposed new rules will be subject to a 60-day public comment period before returning to the SADC for consideration for adoption.

## Streamlining

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the need to have farms from very different parts of the state, with greatly varying characteristics, competing directly against each other for funding. The new program also provides financial incentives to counties to accelerate their programs to obtain the additional state funds.

Under its state acquisition programs, the SADC has established a new negotiation procedure. Landowners must agree to a 120-day commitment not to market their land to provide enough time for the SADC to conduct two appraisals and make an offer. Previously, the SADC entered into

contracts with landowners prior to conducting appraisals, contingent on subsequent appraisals supporting the contract prices. The proposed rules also establish new county-specific prioritization criteria for state acquisitions to ensure priority consideration will be given to preserving superior quality farms in each county.

The new rules also will establish for the first time minimum statewide criteria for participation in any program under the Farmland Preservation Program.

These include requiring that for land under 10 acres, at least 75 percent of

the land or a minimum of 5 acres must be tillable and the land must produce agricultural or horticultural products of at least \$2,500 or more annually.

For lands greater than 10 acres, at least 50 percent of the land or a minimum of 25 acres must be tillable.

The rules were published in the December 4<sup>th</sup> issue of the *New Jersey Register* and will be subject to a 60-day public comment period before returning to the SADC for consideration for adoption. The proposed rules also are available through the SADC's website at [www.state.nj.us/agriculture/sadc/rulesnotice.htm](http://www.state.nj.us/agriculture/sadc/rulesnotice.htm).

**Cover Photo:** The Paulaitis farm in Pittsgrove Township, Salem County, was preserved in early 2006 through the planning incentive grant program.

## From the Executive Director

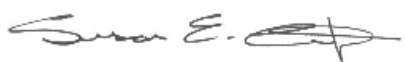
When I arrived at the State Agriculture Development Committee two years ago, one of my major goals was to streamline the Farmland Preservation Program to make it more effective and efficient.

I'm pleased that changes to the program to accomplish this have been formally proposed with their publication in the *New Jersey Register* in early December. The rules will go a long way toward providing counties with more flexibility in planning for preservation and shortening the timeframe from application to preservation for landowners.

I want to thank the Process Review Team appointed by the SADC whose recommendations formed the basis for the rule proposal, as well as all of our funding partners who participated in this process to identify the best solutions to the challenges we face as the program continues to grow.

The SADC and Department of Agriculture are continuing to work as part of the Governor's preservation partnership to identify renewed funding for farmland and open space preservation once the stable source of funding under the Garden State Preservation Trust (GSPT) runs out after next year. We anticipate that 200,000 acres of farmland will have been preserved statewide by the time the last GSPT dollar has been spent. That's an impressive total, but we still have a long way to go toward our goal of preserving the 600,000 acres needed to sustain viable agriculture in New Jersey.

We greatly appreciate the cooperative efforts of all our preservation partners over the past year – the counties, towns and nonprofit groups who worked to advance Farmland Preservation Program goals and the landowners who made the commitment to preservation. We look forward to continuing to work with you in 2007 to preserve more farmland and keep agriculture an important part of the Garden State.



## SADC Clarifies Who Can Live in an RDSO

The State Agriculture Development Committee (SADC) in September adopted amendments to its rules to address the issue of who can live in a house associated with a residual dwelling site opportunity (RDSO) upon the farmer's death, disability or retirement, and clarify the term "regularly engaged in common farmsite activities."

An RDSO is granted at the time of preservation and enables a landowner at some point in the future to construct a house for agricultural purposes with the approval of the county agriculture development board, and if appropriate, the SADC. The SADC's rules have required that at least one person residing in such a house be "regularly engaged" in common farmsite activities on the preserved farm.

The amendments define "regularly engaged" as being actively engaged in the day-to-day agricultural operation on the premises. A landowner cannot establish that he or she is actively engaged in the day-to-day agricultural operation solely by showing that he or she owns the premises, the land is actively farmed or the land is farmland assessed.

A farmer and his or her family may continue living in the house after retiring from farming or suffering a disability as long as he or she was regularly engaged in farming on the preserved farm for at least five years while residing in the house.

After a farmer's death, the farmer's spouse, domestic partner and child may continue living in the house, subject to certain conditions. They must have been living there at the time of the farmer's death, and the child must have been claimed as a dependent on the farmer's most recent federal income tax return and still have a dependent status. A child who loses dependent status may continue living in the house as long as the farmer's spouse or domestic partner resides there. Alternatively, the child may continue living there if he or she becomes actively engaged in farming the preserved farm.

The SADC and county agriculture development boards have the responsibility to decide whether other family members may continue living in the house after the farmer dies. In making that determination, the SADC and county agriculture development boards must consider the financial and health status of the family member making the request and any serious hardships that may warrant the family member living in the house.

For more information on RDSOs, contact your county agriculture development board administrator or the SADC.

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## Soil and Water Funding Update

Landowners who permanently preserve their farms or enroll in eight-year preservation programs are eligible to apply for soil and water conservation cost-sharing grants that help pay eligible project costs. These projects include installation of more water-efficient irrigation systems, protection of soil from erosion, installation of needed animal waste facilities and other practices that help protect the environment and improve the economic viability of farming operations.

Funding for these grants initially was provided through a series of farmland preservation bond issues and more recently through annual state appropriations. Because of state budget constraints, however, no funding currently is available for this program.

The State Agriculture Development (SADC) is working to try to identify alternative sources of funding for this important program. When funding does become available, the SADC will award grants based on its policy adopted May 25, 2006.

Under that policy, cost-share grants will be awarded for up to a maximum of 50 percent of eligible project costs.

First priority for grants will be given to farms preserved under one of the SADC's permanent preservation programs, a Transfer of Development Rights program or an eight-year program where Pinelands Development Credits have been severed. Second priority will be given to farms enrolled in eight-year farmland preservation programs.

The SADC will continue to accept applications for soil and water conservation grants but will not consider them for approval until funding has been secured. Applications for enrollment in eight-year programs also will continue to be accepted, with applicants notified of the short-term lack of funding.



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