
FARMLAND ASSESSMENT 101

A REFRESHER ON THE BASICS OF FARMLAND ASSESSMENT

GOALS OF THIS COURSE

- Learn the origins of the Farmland Assessment Act
- Understand the Constitutional requirements of the program
- Understand common issues seen in compliance checks on the application packets
- Learn the policy concerning cannabis and hemp production

HISTORY

- In the 1950s, assessors all had their own methods of valuing farmland less than other properties
- The Legislature formalized this practice in P.L. 1960, c.51
 - Valuation based on agricultural production
- Switz v. Kingsley
 - NJ Supreme Court finds valuation of farm property at a different standard of value violated Uniformity Clause
- Constitution amended in 1963 general election
- Farmland Assessment Act enacted in 1964

CONSTITUTIONAL REQUIREMENTS

- These are immutable provisions
- The Legislature can amend the Farmland Assessment Act as they see fit
- The Division of Taxation can amend the regulations necessary
- But neither can contradict what's in the New Jersey Constitution
- Need a ballot measure to amend these requirements

CONSTITUTIONAL REQUIREMENTS

- Land not less than 5 acres
 - Five acres is the hard-limit minimum on qualification
 - Five acres actually farmed
 - Farmhouse and other areas not used for agriculture/horticulture not included
- Actively devoted to agricultural or horticultural use
 - Active devotion is defined legislatively
 - But courts look to "predominant use" of the property under this provision

CONSTITUTIONAL REQUIREMENTS

- For at least the 2 successive years immediately preceding the tax year at issue
 - These are January to December calendar years
 - While you may not be planting/harvesting, there should be something being done in winter
 - Cannot start everything in June for the "year" to count
- On application of the owner
 - Farmland-assessed status does not carry-over from year to year

CONSTITUTIONAL REQUIREMENTS

- Be that value which such land has for agricultural or horticultural use
 - Unless the assessor has developed productivity values, must use the FEC values
 - Must use the values for the current year
 - May change from year to year
 - Not on the same base-year assessment as market value, this is a different standard of value

GENERAL POINTS ON THE PROGRAM

- The courts have held that this "differential assessment" is held akin to an exemption
 - Exception to the general rule that "all real property bear its just share of the local tax burden"
- Burden of proof of qualification is on the applicant
- No one has a right to Farmland Assessment
 - Must balance with not over-burdening applicants who meet the qualifications

WOODLAND MANAGEMENT PLANS AND FOREST STEWARDSHIP PLANS

- If the agricultural use is to harvest tree or forest products or devotion to sustainable forestry, the landowner must also
 - Develop and submit a Woodland Management Plan or Forest Stewardship Plan in accordance with DEP regulations
 - Annually submit a WD-1 form signed by the landowner and approved forester
 - Includes activities for the pre-tax year, products harvested, income received, and an attestation that the WMP/FSP is being followed



WOODLAND MANAGEMENT PLANS AND FOREST STEWARDSHIP PLANS

- Basic Rule:
 - If the property is more than 50% wooded, then a WMP/FSP is needed to qualify
 - If the whole parcel is woodlands, then there can be no appurtenant woodlands
 - Taxpayer may have more than half the acres as appurtenant woodlands/wetlands if able to prove it's necessary for the type of crop being harvested
 - e.g., marshes next to cranberry bogs to control flooding for harvest
 - On the FA-1 Section 2, Line 5 (appurtenant woodlands/wetlands) must be less than or equal to the sum of Lines 1 (cropland harvested), 2 (cropland pastured), and 3 (permanent pasture)
 - $\text{Line 5} \leq (\text{Line 1} + \text{Line 2} + \text{Line 3})$

WOODLAND MANAGEMENT PLANS AND FOREST STEWARDSHIP PLANS

- WMP/FSP Approvals
 - Copies of FA-I and WD-I also submitted to DEP
 - DEP reviews for compliance
 - This is shown on the compliance report received from DEP each October
 - If DEP determines non-compliance, the assessor **must** disapprove the application
 - If DEP determines compliance, assessor may approve or disapprove based on his/her determination of compliance with the Farmland Assessment Act generally

WOODLAND MANAGEMENT PLANS AND FOREST STEWARDSHIP PLANS

- More WMP/FSP Issues
 - If you do not have a copy of a WMP/FSP and/or there was no WD-1 submitted with the application, you should not approve an application with values in Line 4 of Section 2 (Non-Appurtenant Woodland)
 - Ensure there is not a transposition of Line 4 and Line 5 (looks to be a common error)
 - Nor should the taxpayer be claiming firewood, lumber, or any other tree or forest product as being harvested and counted toward the gross sales criterion
 - After the WMP/FSP expires, a new one must be prepared
 - If no new WMP/FSP provided after expiration, application should be denied



RENEWABLE ENERGY QUALIFICATION

- Renewable energy systems may also qualify for Farmland Assessment
- Must be:
 - On land that had received Farmland Assessment in the prior tax year
 - The energy/heat generated must be for on-farm use (no selling electricity back to the grid)
 - Approval from the Soil Conservation District
 - Less than 2 megawatt hours generated
 - Must be at a ratio of 1-to-5 in land use (1 acre of renewable energy for every five of qualified farmland) up to 10 acres total

RENEWABLE ENERGY QUALIFICATION

- All acres above the number allowed for the size of the property will be assessed regularly
- The "solar farms" that exist to generate electricity for the grid do not qualify
- Only the limited on-farm use counts as "agricultural or horticultural use"
- So a conversion to a "solar farm" would be a change in use and subject to roll-back taxes

- The five-acre minimum must be met by contiguous properties under common ownership
- Common ownership means the SAME legal owner for all properties being aggregated
 - A husband alone is a different legal owner than a husband and wife
 - And a single-owner legal entity is not the same as the natural person owning it
 - If you arrange your affairs for certain legal benefits, you may lose out on others as a result
 - But you do not need to make someone re-record deeds where the same person is the legal owner but the name is slightly different on each
 - And each separate farm requires a separate FA-I G.S.
 - Cannot combine income if you cannot combine acreage

OWNERSHIP AND CONTIGUITY ISSUES

- Change in ownership for a woodland property
 - When a property under a WMP/FSP sells, the new owner must amend the plan (or at least the cover sheet) to reflect the new ownership
 - Plans covering multiple parcels should be amended when individual lots are sold to new owners
 - Cannot combine parcels under different ownership into one WMP
 - DEP usually will not approve these, but sometimes they slip through the cracks
- Contiguity
 - Parcels must be contiguous (sharing at least a few feet of border)
 - Contiguity met if a roadway or railroad is in between
 - Cannot aggregate non-contiguous parcels onto one FA-I

OWNERSHIP AND CONTIGUITY ISSUES

- If there is a contiguous property in another municipality, the owner must mark the appropriate line on the FA-I
 - Otherwise, some parcels may appear to be non-qualifying due to lack of acreage
- Only one FA-I is required for contiguous parcels
 - We state on the form that only one is required to reduce paperwork and remove issues of minimum acreage
 - The assessor's office cannot **require** separate FA-I's for each lot
 - But a taxpayer who continually submits separate FA-I's cannot be penalized for it
 - Encourage them to consolidate to one FA-I

OWNERSHIP AND CONTIGUITY ISSUES

SOIL CONSERVATION PROGRAMS

- Must be a **Federal** soil conservation programs
 - State programs will not qualify
- Per Department of Agriculture, the following are qualifying programs:
 - Conservation Reserve Program
 - Conservation Reserve Enhancement Program
 - Conservation Stewardship Program
 - Agricultural Management Assistance Program
 - Environmental Quality Incentive Program

SOIL CONSERVATION PROGRAMS

- BUT be careful before denying an application with a non-qualifying program
 - If the only activity on the property is the soil conservation program, then you can deny if it doesn't qualify
 - There may be multiple uses on the property, and the non-qualifying program could be for buffer areas, appurtenant woodlands/wetlands
 - Some farmers are also listing commodity payment programs but should just list the crop
 - e.g., the Federal government purchases the whole of the corn crop, that could qualify as sales of corn

HORSE FARMS

- Boarding/Training/Rehabilitating livestock may only qualify "if contiguous to acres that otherwise qualify"
 - This means that there must be at least five acres of non-boarding/training/rehabilitation activity on the property
 - i.e., no five-acre farm can qualify if it has boarding/training/rehabbing
- At this point, at least seven acres of grazing are necessary for property to qualify on imputed grazing value in every county
 - Farms with less than seven acres of pasture should have some other activity to get the additional income needed

HORSE FARMS

- Boarding/Training/Rehabilitating acreage would include:
 - Stables
 - Training areas
 - Buildings for rehabilitation
 - Areas for riding the animals generally
- If all horses on the property belong to the owner, and are not bred or sold, then that is not a qualifying use of the property

GENERAL APPLICATION ISSUES

- Assessor approval/denial should be on or before November 1
 - However, if the property is under a WMP/FSP, do not approve or deny until DEP provides their compliance report
- Late applications must be denied unless a medical extension is requested
 - Have the taxpayer fill out Form FA-X to have a paper record that the extension was granted and met the legal requirements
- FA-1 G.S. Gross Sales form must have an income amount, even if estimated
 - That is the document being submitted in lieu of an oath, they must attest to an amount of income
 - While the IRS Schedule F can help, it can include income that may not meet the legal requirements

GENERAL APPLICATION ISSUES

- Income averaging
 - The taxpayer may, under the law, **AVERAGE** the minimum income over the two prior years
 - Allows for bad weather/crop failure to not affect eligibility
 - But must compare income reported in the prior year to ensure qualification
 - Also allows for "proof of income in a reasonable period of time"
 - Reasonable is dependent on the product
 - Example: Breeding horses, generally not sold until 2 years old, so proof that horse is being raised may allow qualification until the sale happens if the income will be sufficient to average

GENERAL APPLICATION ISSUES

- Sketch and Descriptive Narrative
 - Doesn't need to be a novel
 - But does need to be sufficient to aid in on-site inspection
 - Sketch should delineate uses of the property
- If you have questions about specific farming practices, Department of Agriculture can provide assistance

APPLICATION FOR FARMLAND ASSESSMENT

N.J.S.A. 54:4-23.1 et seq.; N.J.A.C. 18:15-1.1 et seq. SEE INSTRUCTIONS

FILE ANNUALLY BY AUGUST 1 OF THE PRE-TAX YEAR

COUNTY _____ MUNICIPALITY _____ TAX YEAR _____

Check if ALL farmland assessed acres are woodlands under a: Woodland Management Plan
 NJ Forest Stewardship Plan (Effective 2019)
(DO NOT CHECK IF MIX USE)

SECTION 1 – IDENTIFICATION INFORMATION (Please print or type all information)

- (1) Owner's Name _____ (9) Farm operator(s) other than owner:
(a1) Name _____
- (2) Mailing Address _____ (b1) Address _____

- (3) Telephone _____ (c1) Telephone (____) _____
- (4) Email Address _____ (a2) Name _____
- (5) Land Location _____ (b2) Address _____

- (6) Block(s), Lot(s), Qual. No. _____

- (7) The land is farmed solely by owner
 rented to farmer
 farmed by owner and tenant (c2) Telephone _____
- (8) Is farm deed restricted to agriculture?
Yes No # of Acres _____

SECTION 2 – BREAKDOWN OF LAND USE CLASSES (All entries and totals must be accurate)

Insert the current year's acreage in the appropriate land use class. Indicate acres to the nearest 100th– DO NOT USE DIMENSIONS

REFER TO DEFINITIONS OF LAND USE CLASSES UNDER <i>INSTRUCTIONS</i>			
<u>ACTIVELY DEVOTED LAND</u>	<u>Acreage</u>	<u>LAND NOT ACTIVELY DEVOTED</u>	<u>Acreage</u>
(1) Cropland harvested	(1) _____	(9) Land under and land used in connection with farmhouse.	(9) _____
(2) Cropland pastured <i>(Don't include acreage in #6)</i>	(2) _____	(10) All other land not devoted to agricultural / horticultural use	(10) _____
(3) Permanent pasture	(3) _____	(11) Total <u>NOT</u> devoted to agricultural or horticultural use (Sum of lines 9 & 10)	(11) _____
(4) Non-appurtenant woodland (See instructions before making entry)	(4) _____	(12) TOTAL ACREAGE OF ALL LAND (Sum of lines 8 & 11)	(12) _____
(5) Appurtenant woodland or wetland (See instructions before making entry)	(5) _____	*If fewer than five acres are located in this municipality, list the municipality, block(s) & lot(s) of contiguous acreage _____	
(6) Acres used for: <i>(don't include pastured acres)</i> (a) _____ (b) _____ (c) _____ <small>boarding rehabilitating training</small>	(6) _____ Total a, b & c	(13) Is there a claim for land under: • Seasonal farm markets? Yes <input type="text"/> No <input type="text"/> • Seasonal agricultural labor housing? Yes <input type="text"/> No <input type="text"/>	
(7) Acres used for renewable energy	(7) _____	(14) Is there a claim for land under: • solar <input type="text"/> wind <input type="text"/> biomass <input type="text"/>	
(8) Total ACRES to Agricultural OR Horticultural use (Sum of lines 1 to 7)	(8) _____		

This form is prescribed by the Director, Division of Taxation, as required by law, and may not be altered without the approval of the Director.
Form: FA-1 Rev: Mar. 2018

SECTION 3 – CURRENT YEAR FARMING ACTIVITY– *Indicate acres to nearest 10th. Include Double Cropping. For example, two plantings on 50 acres should be reported as 100 acres.*

INSERT CURRENT YEAR HARVESTED OR TO BE HARVESTED ACRES FOR LAND ONLY IN SECTION 2

A. FIELD CROPS (Harvested Acres)	Acres	C. ORNAMENTAL CROPS	Acres	E. VEGETABLE CROPS (Harvested Acres)	Acres	G. ANNUAL HARVEST OF WOODLAND PRODUCTS	Cords, Board Feet etc.
Irrigated Acres.....	(80)	Irrigated Acres.....	(82)	Irrigated Acres.....	(83)	Fuelwood (cords).....	(67)
Barley (grain).....	(11)	Bedding plants.....	(28)	Asparagus.....	(46)	Pulpwood (cords).....	(68)
Corn for grain.....	(12)	Flowers (cut).....	(29)	Beans, lima.....	(47)	Timber (Bd. Ft.).....	(69)
Corn for silage.....	(13)	Trees & shrubs (nursery).....	(30)	Beans, snap.....	(48)	Other:	
Hay(alfalfa).....	(15)	Sod (cultivated).....	(31)	Cabbage.....	(49)	(specify).....	
Hay (other excluding salt hay).....	(16)	Christmas trees.....	(32)	Carrots.....	(50)		
Oats (grain).....	(17)	Other:		Corn, sweet.....	(51)		
Rye (grain).....	(18)	(specify).....		Cucumbers.....	(52)	H. LAND IN FEDERAL GOVERNMENT PROGRAM	
Sorghum.....	(19)			Eggplant.....	(53)	Name of Program.....	
Soybeans.....	(20)	D. LIVESTOCK	Avg. # of Livestock	Lettuce.....	(54)	Program Number.....	
Wheat.....	(21)	All beef cattle.....	(33)	Onions.....	(55)	Acres in Program.....	(70)
Cover Crops Planted: (specify).....		Dairy.....	(34)	Peas.....	(56)		
Other Field Crops: (specify).....		Dairy (young).....	(35)	Peppers (bell).....	(57)	I. RENEWABLE ENERGY	Acres
		Horses & ponies.....	(36)	Potatoes (white).....	(58)	Solar.....	(71)
		Sheep.....	(37)	Potatoes (sweet).....	(59)	Wind.....	(72)
B. FRUIT CROPS (Bearing Acres)	Acres	Swine.....	(38)	Pumpkins.....	(60)	Biomass.....	(73)
Irrigated Acres.....	(81)	Bees (Hives).....	(39)	Spinach.....	(61)		
Apples.....	(22)	Ducks.....	(40)	Squash.....	(62)	J. NJ FOREST STEWARDSHIP	Acres
Blueberries.....	(23)	Fur animals.....	(41)	Tomatoes.....	(63)	Forested Woodland/Wetland.....	(74)
Cranberries.....	(24)	Goats.....	(42)	Melons.....	(64)		
Grapes.....	(25)	Chickens (meat).....	(43)	Mixed & other vegetable.....	(65)		
Nectarines.....	(86)	Chickens (layers).....	(44)	Other:			
Peaches.....	(26)	Turkeys.....	(45)	(specify):.....			
Strawberries.....	(27)	Other:		F. AQUACULTURE	Acres		
Other fruit crops: (specify).....		(specify).....		Fresh water, food fish or plants for harvest or sale.....	(66)		
Non-bearing fruit: (specify).....				Other:			
				(specify).....			

SECTION 4 – SIGNATURE & VERIFICATION OF OWNER(S)

The undersigned declares that this form, including any accompanying schedules and statements, has been examined by him (her) and to the best of his (her) knowledge and belief is true and correct. Filing of this form is also a representation that the land will continue to be devoted to an agricultural or horticultural use during the year for which farmland assessment is requested. Under N.J.S.A. 54:4-23.14(b), this certification shall be considered as if made under oath and is subject to the same penalties as provided by law for perjury. In addition, for a gross and intentional misrepresentation on this form, the landowner shall be subject to a civil penalty of up to \$5,000.

Signature of Individual Owner or Co-owner **Date** **OR** _____
Signature of Corporate Officer **Date** **Corporate Name**

RESERVED FOR OFFICIAL USE	
This application is:	<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED
_____ Date	_____ ASSESSOR

**FILE THIS FA-1 APPLICATION IN DUPLICATE AND ONE SUPPLEMENTAL FA-1 GROSS SALES FORM WITH YOUR ASSESSOR.
 TAXPAYER SHOULD RETAIN COPIES FOR OWN RECORDS.
 (IF ENTRY MADE IN SECTION 2, LINE 4, FILE A COPY OF FA-1, AWD-1 FORM, AND AN ACTIVITY MAP
 WITH THE NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION.)**

FARMLAND VALUATION

- Farmland Assessed property valued at its agricultural/horticultural productivity value
- Per the regulations, the assessor may develop own values but have to have the methodology approved by the Director, Division of Taxation
- If no approval, must use the FEC values
- Since this is not market value, the base-year and maintenance does not apply
 - Update the values for Farmland every year based on FEC values
- Talk to your MODIV vendor about farmland valuation function

FARMLAND VALUATION

- Specific valuation issues
 - If the taxpayer has provided a soil map, must use the soil classifications and value appropriate to use
 - Determine if the acres are under Cropland Harvested, Cropland Pastured, Permanent Pasture, Non-appurtenant Woodlands, or Appurtenant Woodlands
 - Then determine how many acres of each are Soil Class A, B, C, D, and/or E
 - Value will be total of the acres in each use for each soil class on the property

FARMLAND VALUATION

- Specific valuation issues
 - How do I value....?
 - Lines 6 (acres for boarding/training/rehabilitating livestock) and 7 (renewable energy) acres are considered Cropland Harvested
 - Farm buildings are valued at market value, but there is a section in the appraisal manual specific to agricultural buildings
 - Buildings meeting the definition of "single-use, readily dismantable" not assessed

Certain land uses shall be in the categories below:

APPURTENANT WOODLAND	CROPLAND HARVESTED		NON-APPURTENANT WOODLAND
Swampland, Wetland	Land under farm buildings	Nurseries, Christmas Trees	Wood and forest products
Lakes, Ponds, Stream	Land in government programs	Crops grown under glass	NJ Forest Stewardship
Irrigation Ditches	Agricultural labor housing	Renewable energy	Forested Wetlands
	Seasonal Farm Markets		

FARMLAND VALUATION EXAMPLE

- Property located in Hopewell Township, Mercer County
- 12 acres are used for growing corn, 7 acres are used for tomatoes, 1 acre is for boarding horses, 10 acres are pasture (not rotated to crops), and 4 acres are wooded wind breaks
 - So that's 20 acres of Cropland Pastured, 10 acres of Permanent Pasture, and 4 acres of Appurtenant Woodland



FARMLAND VALUATION EXAMPLE

- Based on the soil map provided by the taxpayer and the uses of the property, the acreage for the Soil Classes in each use are:
 - Cropland Harvested: 3 Class A, 15 Class B, 2 Class C
 - Permanent Pasture: 7 Class B, 2 Class C, 1 Class D
 - Appurtenant Woodlands: 4 Class C
- Using the FEC Values per acre, that's $3 \times \$912 + 15 \times \$760 + 2 \times \$532 + 7 \times \$152 + 2 \times \$122 + 1 \times \$106 + 4 \times \$34 = \$16,050$

County	Soil Group	Cropland Harvested		Cropland Pastured		Permanent Pasture		Non-Appurtenant Woodland		Appurtenant Woodland		Imputed Grazing Values
		Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6					
		Soil Rating	Value Per Acre	Soil Rating	Value Per Acre	Soil Rating	Value Per Acre	Soil Rating	Value Per Acre	Soil Rating	Value Per Acre	Value Per Acre
Mercer	A	120	912	120	456	110	167	110	146	110	42	157
	B	100	760	100	380	100	152	100	133	100	38	155
	C	70	532	70	266	80	122	90	120	90	34	152
	D	40	304	40	152	70	106	80	106	80	30	151
	E	10	76	10	38	60	91	70	93	70	27	149

CANNABIS AND HEMP CULTIVATORS

- Just posted a memo to the Assessor Portal with an info sheet to be sent to Farmland Assessment recipients with FA-Is
- Law had been silent on whether medical cannabis qualified for Farmland Assessment
 - Our interpretation had been that it was a "plant...useful to man" and so would qualify
 - Assessors who had inquired about potential medical cannabis operations had been advised the same in prior tax years

CANNABIS AND HEMP CULTIVATORS

- The “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act”, P.L. 2021, c. 16 was enacted on February 22
 - Specifically prohibits:
 - Clinical registrants providing cannabis to academic medical centers
 - Medical cannabis cultivators
 - Recreational cannabis cultivators
 - From operating or being located on property that is receiving Farmland Assessment

CANNABIS AND HEMP CULTIVATORS

- Our policy until the regulations can be amended:
 - New applicants for Farmland Assessment who are operating as "cannabis growers" should be denied
 - Existing farms under Farmland Assessment that begin operating as "cannabis growers" will cease to receive Farmland Assessment when the cannabis operation starts
 - But will not be assessed roll-back taxes, as we still consider this an agricultural/horticultural use of the property, even if not qualifying

CANNABIS AND HEMP CULTIVATORS

- Farmers licensed by the Department of Agriculture under the "New Jersey Hemp Farming Act" may continue to receive Farmland Assessment
- New applications for Farmland Assessment for hemp farming operations may be approved so long as all other eligibility criteria are met
- If you have questions about a particular licensee, you can contact Department of Agriculture at:
 - NJHemp@ag.nj.gov
 - Via telephone at (609) 406-6941

THE FUTURE OF FARMLAND ASSESSMENT

- News reporting on “fake farming” and direct conversations with the Administration
 - Possible legislative changes down the road
 - But current focus on application review and oversight
- Dedicated Division of Taxation audit team
 - Ongoing, rolling audits
 - Comparison to initial document review
 - Major issues should have been addressed

THE FUTURE OF FARMLAND ASSESSMENT

- Other modernization ideas
 - FEC exploring more regular revisions to Gross Sales Minimum
 - Try to avoid arbitrary doubling every 50 years
 - More assistance for on-site inspections
 - Department of Agriculture has expertise to assist if requested
 - Online application portal
 - Streamline the process
 - Reduce confusion from the current layout of the FA-1
 - Decrease administrative hours on approvals
 - Increase time for on-site inspections

QUESTIONS ABOUT FARMLAND ASSESSMENT

- If you need any clarification on this presentation or have questions about Farmland Assessment law, you can contact:
 - Division of Taxation
 - Email: taxation.propadmin@treas.nj.gov
 - Telephone: (609) 292-7974, (609) 292-7975