



## New Jersey State Agriculture Development Committee (SADC)

### Farmland Preservation Planning

### Summary of Statutes, Regulations and Practices

The following is an introduction to the statutory and regulatory framework for developing agricultural development areas (ADAs) and comprehensive farmland preservation plans. Given New Jersey's diverse landscape it is important that county agriculture development boards (CADBs or boards), and municipal agricultural advisory committees (AACs) and planning boards, develop strategies for retaining farmland appropriate to their respective regions. SADC planning staff is available to assist in this process, provide available data and answer questions.

#### I. Agricultural Development Areas

An ADA is an area a CADB identifies that includes lands currently in agricultural use or that have the potential for future agricultural use, and in which agriculture is zoned as a permitted use. ADAs document where agriculture is the preferred, but not necessarily the exclusive, use of the land. Inclusion in an ADA is required for a farm to be eligible for farmland preservation and benefits, such as soil and water cost share grants, under the Agriculture Retention and Development Act (ARDA), N.J.S.A. 4:1C-1, et seq.

CADB's determine the geographic extent of the ADA using the statutory criteria contained in ARDA (N.J.S.A. 4:1C-18) and considering factors identified in SADC rules (N.J.A.C. 2:76-1.4). Each CADB adopts its own local criteria for identifying ADA boundaries with the goal of ensuring the adopted ADA encompasses lands which have the potential for long term agricultural viability. Once identified by the CADB, the ADA is certified by the SADC in accordance with agency regulations.

An ADA amendment may be necessary when the CADB determines that modification of its county-specific criteria is warranted, or when updates to the data applied to the ADA policy to create the ADA map become available.

##### A. Legislative Authority:

##### **Agriculture Retention and Development Act (N.J.S.A. 4:1C-18)**

For ease of reference, here is the statutory language from ARDA related to ADAs:

**4:1C-18. Agricultural development area; recommendation and approval**

*A board may, after public hearing, identify and recommend an area as an agricultural development area, which recommendation shall be forwarded to the county planning board. The board shall document where agriculture shall be the preferred, but not necessarily the exclusive, use of land if that area;*

- a. Encompasses productive agricultural lands which are currently in production or have a strong potential for future production in agriculture and in which agriculture is a permitted use under the current municipal zoning ordinance **(Emphasis Added)** or in which agriculture is permitted as a nonconforming use;*
- b. Is reasonably free of suburban and conflicting commercial development;*
- c. Comprises not greater than 90% of the agricultural land mass of the county;*
- d. Incorporates any other characteristics deemed appropriate by the board.*

*Approval of the agricultural development area by the board shall be in no way construed to authorize exclusive agricultural zoning or any zoning which would have the practical effect of exclusive agricultural zoning, nor shall the adoption be used by any tax official to alter the value of the land identified pursuant hereto or the assessment of taxes thereon.*

**B. SADC Regulation Summary (N.J.A.C. 2:76-1.1, et seq.)**

SADC regulations outline the statutory and regulatory criteria used to identify ADAs and describe the process the CADB must follow to recommend an area as an ADA and request SADC certification.

The regulations identify the statutory criteria from N.J.S.A. 4:1C-18 and, at N.J.A.C. 2:76-1.4, list additional factors that shall be considered **(Emphasis Added)** by the board in developing criteria for the identification of ADAs including, but not necessarily limited to **(Emphasis Added)**:

- 1. Soils;
- 2. Current and anticipated local land use plans and regulations;
- 3. Farmland assessment status;
- 4. Anticipated approvals for non-agricultural development;
- 5. Accessibility to publicly funding water and sewer systems;
- 6. Compatibility with comprehensive and special purpose county and State plans;

7. Proximity and accessibility to major highways and interchanges;
8. Minimum size of an ADA;
9. Landowner sign-up;
10. Land within boroughs, towns or cities;
11. Inclusion of entire or partial lots and blocks;
12. Land ownership;
13. Natural and special features;
14. Type and distribution of agriculture.

The regulations require the CADB to hold a public hearing at which the CADB identifies the criteria used to identify the ADA and recommends an area as an ADA based on application of that criteria. This recommendation is to be forwarded to the county planning board to determine consistency with county planning objectives.

N.J.A.C. 2:76-1.5 outlines submission requirements for the CADB to request SADC certification of its recommended ADA.

### **C. ADA Development Practices**

ADA designation is one of the most important policy decisions to be made during development of the comprehensive farmland preservation plan. The ADA is a statement of where the CADB would like to see agriculture retained in the long term and a determination of the geographic extent of where farmland preservation efforts may occur.

The ADA also delineates where the SADC and CADB have authority to review non-agricultural development projects pursuant to N.J.S.A. 4:1C-19. The review of non-agricultural development projects within an ADA will be an increasingly important, and common, role the CADB plays in the protection of agricultural land and operations. Regulations outlining the responsibilities of the public bodies or public utilities proposing to exercise eminent domain or advance funds for the construction of non-agricultural development in the ADA can be found at N.J.A.C. 2:76-7.1, et seq.

Precise boundary delineation is important to assure the ADA remains a meaningful planning tool. The accessibility of spatial data via geographic information systems has allowed CADBs to adopt ADA criteria permitting delineation of ADA boundaries to the parcel level.

CADBs are encouraged to examine available data and design an ADA identification strategy that clearly and accurately reflects the CADB's intentions. CADBs have used minimum eligibility criteria to designate specific parcels or created additional criteria to ensure only those parcels intended for ADA inclusion are mapped as such. This may include limiting ADA inclusion to farms of a particular size, or soil quality, or clarifying that, within the boundaries of the ADA, parcels used for purposes other

than agriculture, or those beyond a specified distance from agricultural parcels, are excluded.

## **II. Planning Incentive Grants**

N.J.S.A. 4:1C-43.1 (P.L. 1999, c. 180) established the SADC's Planning Incentive Grant (PIG) program. This program provides "block grants" to counties and municipalities that perform the upfront planning necessary to strategically target preservation efforts and provide the support necessary to retain agricultural operations on that land.

The goal of the PIG program is to preserve significant areas of reasonably contiguous farmland that will promote the long-term viability of agriculture as an industry in the municipality or county. Through the comprehensive planning process, counties and municipalities identify, within the ADA, both project areas and individual farms from which to solicit applications for preservation.

### **A. Legislative Authority: Planning Incentive Grants (N.J.S.A. 4:1C-43.1)**

For ease of reference, here is the key statutory language related to establishment of the PIG program:

**4:1C-43.1 Farmland preservation planning incentive grant program.**

- a. *There is established in the State Agriculture Development Committee a farmland preservation planning incentive grant program, the purpose of which shall be to provide grants to eligible counties and municipalities for farmland preservation purposes as authorized pursuant to this act.*
- b. *To be eligible to apply for a grant, a county or municipality shall:*
  - (1) *Identify project areas of multiple farms that are reasonably contiguous and located in an agriculture development area authorized pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.); (Emphasis Added)*
  - (2) *Establish an agricultural advisory committee. In the case of a county, the county agriculture development board shall serve this function. In the case of a municipality, members of a municipal agricultural advisory committee shall be appointed by the mayor with the consent of the municipal governing body, and the committee shall report to the municipal planning board. A municipal agricultural advisory committee shall be composed of at least three, but not more than five, members who shall be residents of the municipality, with a majority of the members actively engaged in farming and owning a portion of the land they farm. For the purposes of this paragraph, "mayor" shall mean the same as that term is defined pursuant to section 3.2 of P.L.1975, c.291 (C.40:55D-5);*
  - (3) *Establish and maintain a dedicated source of funding for farmland preservation pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.), or an alternative means of funding for farmland preservation, such as, but not limited to, repeated annual appropriations or repeated issuance of bonded indebtedness, which the State Agriculture Development Committee deems to be, in effect, a dedicated source of funding because of a demonstrated commitment on the part of the county or municipality; and*
  - (4) *In the case of a municipality, prepare a farmland preservation plan element pursuant to paragraph (13) of section 19 of P.L.1975, c.291 (C.40:55D-28) in consultation with the agriculture advisory committee (Emphasis Added) established pursuant to paragraph (2) of this subsection.*

## **B. SADC Regulation Summary (N.J.A.C. 2:76-17.1 and 17A.1 et seq.)**

SADC regulations address comprehensive farmland preservation plans, and identification of project areas and target farms as follows:

*“Project area” is defined at N.J.A.C. 2:76-17.2 as “a discrete area a board identifies within the county’s farmland preservation plan that constitutes a separate, significant area 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. Targeted farms located within an ADA (Emphasis Added);*
- 2. Lands for which an individual farm application has been granted final approval by the municipality, board and/or the Committee pursuant to the Agriculture Retention and Development Act, as amended, and the Garden State Preservation Trust Act;*
- 3. Lands from which development easements have already been purchased;*
- 4. Other land permanently deed restricted for agriculture use;*
- 5. Lands enrolled in a term farmland preservation program or municipally approved farmland preservation programs; or*
- 6. Other permanently preserved lands dedicated for open space purposes that are compatible with agriculture, as approved by the SADC.”*

The term “targeted farm” is defined at N.J.A.C. 2:76-17.2 as *“a specific property contained within an approved project area (Emphasis Added) that a 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 from consideration as a targeted farm.”*

Project areas and targeted farms are similarly defined for the municipal PIG program at N.J.A.C. 2:76-17A.2.

The SADC regulations at N.J.A.C. 2:76-17.4 and 17A.4 outline the basic structure of the comprehensive farmland preservation plans; the requirements are more thoroughly detailed in adopted SADC guidelines:

<https://www.state.nj.us/agriculture/sadc/farmpreserve/programs/pigcountyplanguidelines.pdf>

<https://www.state.nj.us/agriculture/sadc/farmpreserve/programs/pigmunicipalplanguidelines.pdf>

### **C. PIG Plan Guidance**

County and municipal comprehensive farmland preservation plans establish the policy framework for preserving farmland and retaining agricultural resources and operations.

The PIG program requires the identification of project areas that delineate separate areas of focus for preservation activities within the ADA. PIG program participants are encouraged to be strategic in delineating project areas, with the goal of creating contiguous blocks of preserved land.

Identification of targeted farms within the project areas is also a key element of farmland preservation plans. CADBs and municipal AACs are encouraged to:

- Focus on the physical qualities of the farm. This includes the size of the farm, presence of important farmland soils (as identified by the Natural Resources Conservation Service), amount of tillable land and environmental constraints.
- Consider the farm's relation to surrounding land uses. Is the farm located adjacent or in proximity to other agricultural operations, preserved farms or open space? Are adjacent land uses compatible with the maintenance of agricultural operations on the farm?
- Ensure the preservation of a targeted farm is consistent with local and regional planning efforts. This review should occur during identification of the ADA; however, administrators are encouraged to closely review local plans as they relate to specific targeted farms. For example, is a targeted farm identified by the municipality for the provision of affordable housing or for future commercial or industrial "ratable" development?
- Consider the extent of agricultural land within the county or municipality, availability of preservation funding, and administrative resources when determining how much farmland and which farms to target. Focus should remain on outreach and preservation of properties that best fit the agricultural retention strategy outlined in the plan. This can be accomplished by adoption of minimum eligibility criteria that exceed the minimum standards the SADC has set at N.J.A.C. 2:76-6.20, or by adjusting the size and extent of project areas.

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