

Atlantic County Board of Agriculture

Jennifer LaMonaca, President
Brandon Raso, Vice-President
Renee Merlino, Secretary
Edward Gaine, Treasurer

6260 Old Harding Highway
Mays Landing, NJ 08330
Phone: 609/625-0056
Fax: 609/625-3646

October 10, 2023

Susan Payne
Executive Director, SADC
PO Box 330
Trenton, NJ 08625

Dear Ms. Payne,

The Atlantic County Board of Agriculture would like to express our concerns regarding the proposed soil protection standards and the subsequent viability of the farmland preservation program. In its current form, we oppose the proposed rule as written; it is improper, too complicated, and precise. We feel that the SADC's measures on this are extreme, and we need this to come to a standstill. We suggest that the SADC develop a stewardship plan with all parties of interest to mitigate this situation.

We understand that standards must be established for preserved farms, but we cannot go backwards on this. The proposed rule is a unilateral change to a previously executed legal contract. Farmer support for farmland preservation is diminishing, and we feel the proposed rule will escalate this case. Farmers will lose trust in the process and will not sign up for the program, therefore the program will not survive. The SADC has gone too far with over regulation, essentially acting as co-owners of the original deed. As written, the proposed rule takes away the liberty of a property owner who has not forfeited the original contractual agreement. This is unacceptable.

We believe there is an easier and simpler means to addressing the concerns of the soil protection standards on preserved farms, and we would like the opportunity to participate in such discussions to help fix this and maintain good relationships within the agricultural community.

Thank you for your consideration.

Jennifer LaMonaca, Atlantic County Board of Agriculture, President
Brandon Rasso, Atlantic County Board of Agriculture, Vice-President
Edward Gaines, Atlantic County Board of Agriculture, Treasurer

BERGEN COUNTY BOARD OF AGRICULTURE

Darry Secor, President
James Spollen, Vice President
Josh Abma, Treasurer

Correspondence:
Emily Secor, Secretary
21 Hines Ave.
Mahwah, NJ 07430

To the State Agriculture Development Committee,

The Bergen County Board of Agriculture would like to make it known that we strongly oppose the new rule of Soil Disturbance on Preserved Farmland. We think this proposed new rule is unjust for preserved farms that have already signed their land easement, since the terms were not included in the easement at the time of signing. We also believe that adding a retroactive rule like this will strongly discourage future farmers to be a part of the Farm Preservation Program.

The solution to the issue of soil disturbance on preserved farmland is not simple and our board commends all the hard work the NJ State Board of Agriculture and the SADC have put into finding alternate solutions. In following these great ideas, the Bergen County Board of Ag. has tried to brainstorm some other potential solutions to this problem. A potential solution that was discussed at our last meeting is to follow the Highlands Water Protection and Planning Act, where there are thresholds that need to be met to allow for continued development on preserved farmland. We believe there should not be an arbitrary number that caps off development. If a preserved farm would like to develop their land they will need to follow guidelines provided by the SADC that ensure all environmental standards are met.

We thank you for listening to our concerns and appreciate all that you are doing to solve this issue.

Sincerely,



Emily Secor
Secretary



BURLINGTON COUNTY BOARD OF AGRICULTURE AND FARM BUREAU

c/o Rutgers Cooperative Extension, 2 Academy Drive, Westampton, NJ 08060 • 609-265-5050

Matt Stiles, President • Stephen Specca, Vice President • Fred Wainwright III, Treasurer • Sandra Trossbach, Secretary

February 22, 2024

Susan E. Payne, Executive Director
State Agriculture Development Committee
P.O. Box 330
Trenton, New Jersey 08625-0330

Via: Electronic Mail- SADC@ag.state.nj.us

Re: Public Comment
Proposed New Rules
Soil Disturbance on Preserved Farmland and
Supplemental Soil Disturbance Standards
NJAC 2:76-25 and 2:76-25A

The Burlington County Board of Agriculture offers these comments in opposition to the proposed Soil Disturbance Standards.

We join the criticisms of the proposed Rules previously made by New Jersey Farm Bureau and by the Delegates assembled at the 2024 State Agriculture Convention in their Resolution #5. We have these further comments:

The proposed new Rules were not required by the New Jersey Supreme Court in its *Quaker Valley* decision, which asked the SADC to declare its thresholds for bringing enforcement actions under the existing language of Deeds of Easement, and did not (as misrepresented by SADC outreach) demand that the SADC implement a complex regulatory regime that includes novel changes to existing restrictions in Deeds of Easement.

The proposed new Rules are a fundamental re-ordering of the existing relationship between Grantors¹ and the SADC. Presently, Grantors and the SADC are essentially equals before a neutral judge of Superior Court in any dispute about the meaning of any Deed of Easement or enforcement of specific terms of a Deed of Easement. The SADC brings to any dispute before the judicial branch of our government the SADC's authority as an agency implementing a publicly ed program, and Grantors are able to rely upon the texts of Deeds of Easement and centuries of developed law concerning real estate and textual interpretation.

1. The proposed Rules upend this balance between Grantors and the SADC in two ways. First, the SADC claims through these proposed Rules the power to change the existing restrictions of Deeds of Easement through the adoption of regulations- even after execution of Deeds of Easement. This makes the role of the judiciary meaningless, since if the SADC were to receive a judicial interpretation of a Deed of Easement that the SADC dislikes, it could simply adopt a regulation that conforms to the SADC's desired result-notwithstanding the judicial decision. Second, the Rules move much of the dispute resolution process associated with Deed of Easement compliance from the judicial branch to the SADC itself and the Office of Administrative Law. Together, these two effects are an unjustified arrogation of powers

¹ "Grantors" will be used universally throughout these comments to refer to the initial Grantors of Deeds of Easement, as well as all other affected landowners who may come to own farms subject to Deeds of Easement.

by the SADC that removes judicial protections from Grantors in a way that they never anticipated.

2. The power claimed by the SADC in the proposed Rules to alter Deeds of Easement by adopting regulations after execution of those Deeds of Easement, even when the proposed regulation is contrary to explicit language of the Deed of Easement does not have any inherent limits.

Typically, Deeds of Easement now have paragraphs that say "Grantor may construct any new buildings for agricultural purposes[.]" and "Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary." Notwithstanding this explicit language, the proposed Rules would limit impervious surfaces on preserved farms to explicit percentages of those farms' areas, and this impervious surface limitation thereby places an absolute limit on new agricultural buildings and roadways. That limitation on impervious cover was never part of Deeds of Easement when they were signed. So, we ask two things: are there any limits to what the SADC asserts it can regulate on preserved farms in the name of soil and water conservation, and are there any limits to SADC regulating away other explicit provisions of Deeds of Easement? For instance, may the SADC prescribe or proscribe by regulation in the name of soil and water conservation particular tillage practices, the application of certain pesticides or the growing of particular crops? May the SADC, by regulation do away with the explicit provision in Deeds of Easement that "Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law," and require that preserved farms be made accessible to the public? The Deed of Easement typically says: "Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement." May the SADC require maintenance of particular viewsapes notwithstanding this provision? We think that the power claimed by the SADC to alter the terms of Deeds of Easement by after-adoption of regulations may be construed to enable all of these things.

Even if the proposed Rules are adopted and they then survive the litigation challenges that are highly likely, they are a bad idea. Adoption of the proposed Rules will be bad for New Jersey agriculture, bad for the Farmland Preservation Program and bad for New Jersey's citizens as a whole. For the reasons set forth above, the proposed Rules will make the already-uncertain business of agriculture even more uncertain in New Jersey because the limitations imposed on its preserved farms will be at all times subject to change by the SADC. This will have a negative effect on the entire agriculture industry in New Jersey because so much of the farmland base is now subject to Deeds of Easement. It will be less desirable to enter farms into the Farmland Preservation Program because of this uncertainty, and less desirable to own and farm on preserved farms as well. This will impair the value of already preserved farms and make entry of new farms into the Farmland Preservation Program less likely. None of these effects will be good for the people of New Jersey: the farms they need and want for local food production and relief from the busyness of urban and suburban life will be less productive and less likely to enter the Farmland Preservation Program.

We urge the SADC not to adopt these misguided Rules.



Matt Stiles, President
Burlington County Board of Agriculture

From: [Matt Stiles](#)
To: [SADCPublicComments, NJDA \[AG\]](#)
Subject: [EXTERNAL] Public Comment - Proposal Number PRN2023-079 - Soil Protection Standards Rule Proposal
Date: Thursday, October 5, 2023 7:09:07 AM
Attachments: [09-15-23_Soil Protection Standards Comments.pdf](#)

*** CAUTION ***

This message came from an **EXTERNAL** address (mpstiles3@gmail.com). **DO NOT** click on links or attachments unless you know the sender and the content is safe.

New Jersey State Government Employees Should Forward Messages That May Be Cyber Security Risks To PhishReport@cyber.nj.gov.

On behalf of the Cape May County Board of Agriculture we are respectfully submitting the attached formal public comment letter. This comment letter is offered in response to the Soil Disturbance on Preserved Farmland and Supplemental Soil Disturbance Standards Rule Proposal, Proposal Number PRN2023-079. Thank you for the opportunity to comment on the aforementioned Rule Proposal.

September 15, 2023

State Agricultural Development Committee
P.O. Box 330 Trenton, N.J. 08625-0330
Via: sadc@ag.nj.gov
Attention: Soil Protection Standards Committee

We very much appreciate the opportunity to voice our concerns regarding the proposed Soil Protection Standards advocated by the State Agriculture Development Committee (SADC). Initially, it is quite clear to the Cape May County Board of Agriculture that there exist two types of farms for the purposes of the proposed standards. The first type of farm is one that has been preserved prior to the enactment of the proposed Soil Protection Standards or other similar rule or regulation beyond what is contained in the farm's deed of easement. The second type of farm is one that has yet to sell a development easement.

For farms that have not yet sold their development easements, we generally do not object to the proposed Soil Protection Standards. If enacted, the landowner would be aware of the standards prior to entering the program. The landowner is free to consider the benefit of the program versus the cost and ability to modify their farming practices to conform to these standards. We offer as an observation that the proposed standards do seem somewhat excessive and may lead to a reduction in farmers offering to sell their development easements.

For many reasons, the Cape May County Board of Agriculture objects to these rules being considered for all farms currently in the Farmland Preservation Program. First, we find it completely inappropriate, a breach of contract and a violation of our rights to change or add these rules decades after many farms sold their development easements.

Farmers that are currently in the Farmland Preservation Program sold their development easements. They did not sell their ability to farm their property as they best see fit. Nothing in their respective easement gives the SADC the right to tell the farmer how to farm. That is exactly what these proposed standards are, however. The proposed Soil Protection standards go beyond soil protection and demand farmers operate their farms in a manner that the SADC believes is appropriate. If SADC feels that these proposed standards are critical, they should have included them in the original development easement at the time of sale.

For farms that are already preserved, it is our very strong sense that a number of them would not have entered the program if they were aware of these proposed onerous and excessively restrictive standards. At the very least, many farmers would have required a substantial increase in compensation for the sale of their easement.


According to the New Jersey Farmland Preservation website, "When landowners sell development easements, they still own their land but sell the rights to develop it for anything other than agriculture". These proposed standards will clearly prohibit many farmers from using their land for agricultural purposes.

Many farmers conduct business on a handshake and their word. We learn from our families early on that trust and integrity, while hard to obtain, can be lost in an instant. The SADC is taking advantage of this trust.

Reference:

State of New Jersey. (2006). New Jersey Farmland Preservation Program Overview.
[https://www.nj.gov > agriculture > sadc > preserved](https://www.nj.gov/agriculture/sadc/preserved).

10/3/23
#93



Cumberland County Board of Agriculture

Garden spot of the Garden State

Extension Education Center
291 Morton Avenue
Millville, NJ 08332
856-451-2800

September 25, 2023

State Agricultural Development Committee
Attn: Susan Payne, Executive Director
P.O. Box 330
Trenton, NJ 08625-0330

Dear Ms. Payne:

The Cumberland County Board of Agriculture is writing to you to express our concerns with the proposed rule of the Soil Protection Standard (SPS) that the State Agricultural Development Committee (SADC) published in the New Jersey Register on August 7, 2023. The following is a summary of our thoughts on this matter that is important to owners of preserved farmland in Cumberland County and throughout the State of New Jersey.

- We support the sentiment of being good stewards of our farmland through sound soil conservation practices.
- We recognize that agriculture in New Jersey must adapt and innovate in order to remain competitive. This often means that farmers in New Jersey must incorporate technology and practices that require increased use of infrastructure and facilities on the farm.
- We recognize that a deed of easement for farmland preservation is a contract between the private landowner and the State of New Jersey, as represented by the SADC. This PERMANENT easement is a contract between two parties that cannot be changed or reinterpreted after the fact by one party. As such, the terms of the SPS cannot apply to farms where the deed of easement was in place prior to the adoption of the SPS.
- We submit that if the SPS rule is made to be applicable retroactively to deeds of easement that were in effect prior to adoption, then the SADC must compensate all landowners with farmland preservation deeds of easement for the additional reduction in value of their property which the SPS represents. The SPS if applied retroactively to all existing deeds of easement represents a taking of property value by the SADC.
- We submit that the proposed remedies for farms that exceed the SPS threshold, particularly if applied retroactively do not consider the potential economic damage to the farm businesses that are operating on the preserved farms.

- The proposed solution of allowing contiguous preserved farms to 'cluster' soil disturbance on one parcel is a step in the right direction, however, the requirement to then join the deeds of easement on all parcels will significantly reduce the value of all parcels involved. Landowners should be compensated for this reduction in value.
- Furthermore, the failure to allow for clustering of non-contiguous parcels is a failure to recognize the reality of land ownership structure of many, if not most, farm businesses in New Jersey today. Farm businesses in New Jersey are very rarely situated on multiple contiguous parcels, but rather farm many different parcels of land, often separated by miles.
- We are proud of the history of the Farmland Preservation program and how it has been successful in preserving so much of our farmland in the state, allowing New Jersey to continue to be the Garden State. We fear that if the SPS is adopted as proposed, with retroactive application to all existing deeds of easement, that the effect will be a chilling effect on future participation in the program. Who will be willing to put their farm under easement when it is now known full well that the SADC can change the rules after the fact? We fear that not many will be willing to do so, leading to the demise of such an important program for our state.

Sincerely,

A handwritten signature in black ink, appearing to read 'Maury Sheets', with a long, sweeping horizontal line extending to the right.

Maury Sheets, Vice President

Cumberland County Board of Agriculture

GLOUCESTER COUNTY BOARD OF AGRICULTURE

Shady Lane Complex
254 County House Road
Clarksboro, NJ 08020
856- 224-8040 Ext. 1
Fax 856 224-8027

October 25, 2023

Susan Payne, Director and the SADC
PO Box 330
Trenton, NJ 08625-0330

Dear Ms. Payne and the SADC,

This letter expresses our opposition to the proposed Soil Disturbance - NJ Register rule proposal: PRN 2023-079.

The GCBA supports efforts of protecting soil resources on preserved farmland. However, the proposal rule violates the contract terms in existing deeds of easement by retroactively imposing new terms without the consent of the landowner. Making these significant changes to the contracts goes to the contrary of what landowners believed when entering into the farmland preservation program.

This is a serious breach of faith for the 2,900 easement owners in the state farmland preservation program. By adopting the proposed rule the program will be tainted for future landowners who may realize they could be forced to have new rules at any time that they didn't agree to when they signed the preservation contract. This would likely undermine confidence in the program by the farming community.

Our board is also concerned by the probable negative economic consequences the rule will impose on the future of farms in the program. There may be a loss of asset value from the retroaction as well as an inability in the future to adopt new ag-related innovations on preserved farms.

The GCBA highly encourages the SADC and you to reconsider this proposal and find another alternative and to not honor the intent of existing deed of easement.

Thank you for your consideration.



Robert Muth, President

2023 OFFICERS AND DIRECTORS

Robert Muth (*President*)

Joel Viereck (*Vice President*)

Ann Dorsett (*Secretary/Treasurer*)

Kathy Morris (*non Director*)
Assistant Treasurer

Tammy Suydam (*non Director*)
Recording Secretary

James Rambo (*Past-President*)

Santo Joe Maccherone (*Vegetable*)

Stephanie Exley (*Agritourism*)

Eric Eachus (*Dairy/Beef*)

Amy Weiss (*Equine*)

Mary Lynn Shiles (*Farm Market*)

Wally Eachus (*Field Crops*)

Santo John Maccherone (*Fruit*)

Nate Lucas (*Greenhouse*)

Dr. Ernest Beier (*Livestock*)

Bill Exley (*Nursery/Ornamentals*)

Penni Heritage (*Wineries*)

William Heritage (*Vineyard*)

Alfro Previtera (*At Large*)

Diane Beier (*At Large*)

Jeff Smith (*At Large*)

Tracy Duffield (*Womens Com.*)

Machaela Pool (*Womens Com.*)

Agriculture Keeps New Jersey Green

**HUNTERDON COUNTY BOARD OF AGRICULTURE
PO Box 2327 Flemington, NJ 08822-2327**

**Dave DeFrango
1st Vice President**

**Jeff Bowlby
President**

**Darcy Perehynys
Secretary**

**Scott Bond
2nd Vice President**

**Chuck Bacon
Treasurer**

January 3, 2024

Susan Payne, Director and the SADC
PO Box 330
Trenton, NJ 08625-0330S

Dear Ms. Payne and the SADC,

This letter serves to express our opposition to the proposed Soil Disturbance - NJ Register rule proposal: PRN 2023-079.

The HCBA endorses efforts geared towards protecting soil resources on preserved farmland. However, we have reservations concerning the proposed rule, which violates contract terms in existing deeds of easement by retroactively introducing new terms without the landowner's consent. This significant change to the contract goes against the understanding of landowners when they entered into the farmland preservation program.

Retroactively imposing new rules on the 2,900 easement owners in the state farmland preservation program breaches faith and undermines confidence in the program for future landowners. It would be detrimental to the farming community's trust in the program if they were forced to comply with new rules they didn't agree to when signing the preservation contract.

The HCBA board is also concerned about the potential negative economic impact the rule may have on the future of farms in the program. The retroactive action may result in a loss of asset value, and preserved farms may be unable to adopt new agricultural innovations in the future.

Therefore, the HCBA strongly encourages the SADC to reconsider this proposal and find an alternative that honors the intent of existing deeds of easement.

Sincerely,



Jeff Bowlby
President

Dep
File

Mercer County Board of Agriculture

1440 Parkside Avenue, Ewing, NJ 08638

September 18, 2023

Susan Payne
Executive Director, SADC
P.O. Box 330
Trenton, NJ 08625-0330

Dear Ms. Payne,

This letter is concerning the newly proposed soil protection rules that may affect the use of preserved farmland in the future. The Mercer County Board of Agriculture opposes the proposed rule in its current form. We believe the retroactivity issue still needs to be addressed.

Thank you for your consideration,



Mary Jo Herbert
Mercer County Board of Agriculture, President

MH:dat

9/20/23
SP
BSS ✓

Mercer County Board of Agriculture

1440 Parkside Avenue, Ewing, NJ 08638

February 23, 2024

Susan Payne, Executive Director
State Agriculture Development Committee
P.O. Box 330
Trenton, NJ 08625-0330

Via e-mail: SADC@ag.state.nj.us

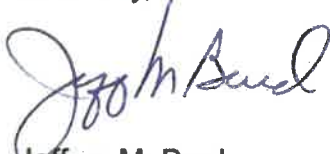
**RE: Soil Disturbance on Preserved Farmland and Supplemental Soil Disturbance Standards
Public Comment on Proposed New Rules**

This letter is written on behalf of the Mercer County Board of Agriculture to oppose the proposed soil protection standards that will have a detrimental effect on preserved farms and future preserved farms in New Jersey.

The New Jersey Supreme Court decision in 'Quaker Valley' did not give the SADC a mandate to unilaterally change the existing Deed of Easements retroactively for existing preserved farmland. These proposed standards will also adversely affect the future of any farmer contemplating going into preservation. If approved, farmers would give much more consideration to selling to a private developer rather than having his/her farm preserved. As a result, there will be fewer farms, which will accelerate the decline of agriculture in New Jersey. The proposed rules, as written, are complex and lack clarity. This would create even more confusion and add to the ambiguity of the standards.

We support and applaud the resolutions concerning the Soil Protection Standards that were unanimously approved by the New Jersey Farm Bureau Convention last November and the New Jersey State Agriculture convention two weeks ago. The Mercer County Board of Agriculture implores the SADC to do the right thing and reject these Rules.

Sincerely,



Jeffrey M. Burd
President



**the Middlesex County
Board of Agriculture**

President: Caroline Etsch email: etschfarms@comcast.net
Vice-President: Dave Chagnon email: freshpondsfarm@gmail.com



42 Riva Ave. North Brunswick, NJ. 08902
Phone: 732-398-5262
Fax: 732-398-5276

September 26, 2023

Susan Payne
Executive Director, SADC
P.O. Box 330
Trenton, NJ 08625-0330

Dear Ms. Payne,

This letter from the Middlesex County Board of Agriculture is to register opposition to the new rules of soil protection that the SADC is proposing, in its current form. The sentiment of this board is that the rules should not be made retroactive.

The board as a whole feels this change will undermine the support for the state's farmland preservation program, as those who enter the program and waive their right to development on their farms in good faith, may be subject to terms in the future that were not agreed upon. The farmers in our county believe this will have unintended consequences and will hinder, not enhance, the viability of a farm.

Sincerely,

Caroline Etsch, President

Middlesex County Board of Agriculture



Farmers Keep Our County Green

4000 Kozloski Road
Box 5033
Freehold, NJ 07728
732.431.7260

October 3, 2023

Ms. Susan Payne
Executive Director, SADC
P.O.Box 330
Trenton, NJ 08625

Re: Monmouth County Board of Agriculture Comments on Proposed Soil Protection Standards Rule

Dear Ms. Payne:

Please accept this letter from the Monmouth County Board of Agriculture concerning the newly proposed soil protection standards rules that may affect the use of preserved farmland in the future. Thank you for the opportunity to comment. The Monmouth County Board of Agriculture opposes the proposed rule in its current form for the following reasons:

1. Retroactivity of the rule to existing preserve farmland.
2. Concerns with the complexity of the rules and some lack of clarity in the impact of these rules.
3. Concerns about the negative impact of the rule on future participation in farmland protection program.
4. Concerns that the proposed rule represents a material change in the contract provisions of the farmland preservation easements and could appear to be a taking of the value of the land without compensation.

The Monmouth County Board of Agriculture also supports the statements made at the public virtual hearing by our members Patricia Butch, Gary DeFelice, Leah McCormack, William McCormack and Pierre Van Mater. We respectfully submit this letter in opposition to the SADC proposed rule on soil protection standards.

Very truly yours,

Meg Whitehouse
President.



Farmers Keep Our County Green

4000 Kozloski Road
Box 5033
Freehold, NJ 07728
732.431.7260

February 22, 2024

VIA EMAIL:

Ms.. Susan Payne
Executive Director,
State Agricultural Development Committee
P.O. Box 330
Trenton, NJ 08625-0330

Re: Monmouth County Board of Agriculture Comments on Proposed Soil Protection Standards Rule

Dear Ms. Payne:

Thank you for the opportunity to comment on the above referenced matter. As you are aware, the Monmouth County Board of Agriculture has previously submitted comments by a letter dated October 3rd, 2023, regarding the proposed soil protection standards regulation. The Monmouth County Board of Agriculture continues its objection to this proposed regulation.

On January 16th, you as the Executive Director of the State Agricultural Development Committee (SADC), presented a summary of the Soil Protection Standards Rule proposal, giving history of the Quaker Valley Farms case and the 2018 New Jersey Supreme Court decision. You further discussed the process of proposing the rule and what the SADC was attempting to accomplish via rule making. Charles Rohr, Deputy Executive Director of the SADC also joined in this presentation regarding the provisions of the rule, the impact on preserved farms and exemptions. Members of the Monmouth County Board of Agriculture were present and asked many questions. The comments that were received from the board members related to the complexity of the 103-page rule., Many were concerned about the retroactivity of the rule. Most expressed continued concerns that the easement agreement entered into by farmers for the preservation of their farms was a contract and cannot unilaterally be changed by one party to the contract. There was expressed concern that this rule making exercise would open the door to potentially more changes to the deeds of easement in the future. Many were concerned about the negative impact of this regulation upon future farmers who may be considering preserving their farmland. There was great unhappiness and a sense of betrayal of the farming community by the perceived imposition of regulations without any attempt to amend them at the request of the farming community. Many stated that the farmland preservation program would suffer if this rule was put in place and that farmers would not participate in that program in the future. It was also expressed that the intent of the rulemaking could be resolved by better enforcement of the existing soil protection standards and conservation requirements that are part of the easement. Finally, it was felt that this proposed rule is an overreach of the SADC's powers to regulate in this area. Essentially, there are concerns that the harsh and egregious behavior by the parties in the Quaker Valley Farm case has led to over regulation on the issue of soil protection which



Farmers Keep Our County Green

4000 Kozloski Road
Box 5033
Freehold, NJ 07728
732.431.7260

could be accomplished via existing soil protection standards implemented through the Farmland Conservation Plan already required in the DOE. These Farm Conservation Plans are developed with the assistance of the Natural Resources Conservation Service (NRCS) office and must conform with the NRCS New Jersey Field Office Technical Guide (NJFOTG). The breakdown in the process seems to be the NRCS having the resources to fulfill the task. The State of New Jersey should provide the resources through a grant or other method to insure NRCS is able to process the Plans in an expeditious time period.

The Monmouth County Board of Agriculture devoted over an hour and a half of its January 2024 meeting time to this issue, the presentation by the SADC, the comments from MCBOA members and the responses from the SADC representatives. Obviously, this rulemaking is of great concern to our members. We also observe that other county boards have expressed similar concerns. We respectfully request the SADC to take all of these concerns and objections into consideration in reviewing its proposed rule and reconsider the need to adopt same.

Thank you for your consideration of the Monmouth County Board of Agriculture's comments. We also remain available to discuss this matter at your earliest convenience. These comments are made on behalf of the Monmouth County Board of Agriculture.

Sincerely,

MEG WHITEHOUSE
President/ Member
Monmouth County Board of Agriculture

October 19th, 2023

To: State Ag Development Board, and New Jersey State Board of Agriculture

: SADC@ag.nj.gov, susan.payne@ag.nj.gov, linda.walker@ag.state.nj.us

From: The Morris County Board of Agriculture

To whom it may concern,

I appreciate your time and attention on this critical issue.

I am writing to you on behalf of Morris County farmers and wish to share their concerns with you. As a county - we represent multiple farmers with legitimate concerns regarding the proposed Soil Protection Standards put forth by the SADC. Since 1987, we have preserved over 8,200 acres in our county and thus, many of our farmers are affected by any retroactive changes to their Deed of Easements.

As a Board of Agriculture we support the longevity of agriculture in our county and farmers embrace this belief by preserving their farmland in this program. Unfortunately, these new proposed Soil protection Standards put the longevity of preserved farming operations at risk. Many of our farmers are multi-generational and fear that future generations would be heavily restricted to grow the business if these rules were to go forward.

Farmers like the ones in our county have no intention of destroying our soil as it simply would not afford us the opportunity to continue farming and making a living. Managing soil and other resources is not a one-size fits all solution. Each farm in New Jersey is unique in its challenges and successes, but are similar in their desire to keep their farms producing for years to come. NRCS recognizes this with their conservation plans being specific to each individual farm. These proposed standards do not.

These proposed standards are retroactive and unfair to the farmers that signed their development rights away with clear terms at that time. What these proposed regulations are trying to do is take away the rights of farmers to develop their land to further support their growing farms and growing generations of farmers without any extra compensation - and additionally change contractual terms that were agreed upon when originally preserved.

We ask the State Board and the SADC to oppose the current standards as proposed and to work together, with the agricultural community, to create regulations that preserve our soil and also allow farmers the opportunity to grow their businesses into the future and for their operations to not only survive, but thrive into the future.

Thank you for your time and attention on this!

– The Morris County Board of Agriculture

November 23rd, 2023

To whom it may concern,

I appreciate your time and attention on this critical issue.

I am writing to you on behalf of Morris County farmers and wish to share their concerns with you. As a county - we represent multiple farmers with legitimate concerns regarding the proposed Soil Protection Standards put forth by the SADC. Since 1987, we have preserved over 8,200 acres in our county and thus, many of our farmers are affected by any retroactive changes to their Deed of Easements.

As a Board of Agriculture we support the longevity of agriculture in our county and farmers embrace this belief by preserving their farmland in this program. Unfortunately, these new proposed Soil protection Standards put the longevity of preserved farming operations at risk. Many of our farmers are multi-generational and fear that future generations would be heavily restricted to grow the business if these rules were to go forward.

Farmers like the ones in our county have no intention of destroying our soil as it simply would not afford us the opportunity to continue farming and making a living. Managing soil and other resources is not a one-size fits all solution. Each farm in New Jersey is unique in its challenges and successes, but are similar in their desire to keep their farms producing for years to come. NRCS recognizes this with their conservation plans being specific to each individual farm. These proposed standards do not.

These proposed standards are retroactive and unfair to the farmers that signed their development rights away with clear terms at that time. What these proposed regulations are trying to do is take away the rights of farmers to develop their land to further support their growing farms and growing generations of farmers without any extra compensation - and additionally change contractual terms that were agreed upon when originally preserved.

We ask the State Board and the SADC to oppose the current standards as proposed and to work together, with the agricultural community, to create regulations that preserve our soil and also allow farmers the opportunity to grow their businesses into the future and for their operations to not only survive, but thrive into the future. We strongly support with the resolution adopted by the 90 delegates at the State Agricultural convention in Atlantic City this past February.

Thank you for your time and attention on this!

— The Morris County Board of Agriculture

From: [Brick Wenzel](#)
To: [SADCPublicComments, NJDA \[AG\]](#)
Subject: [EXTERNAL] SADC Soil Protection Standards rules Comments.
Date: Friday, October 6, 2023 9:42:42 AM

***** CAUTION *****

This message came from an **EXTERNAL** address (saltysllc@gmail.com). **DO NOT** click on links or attachments unless you know the sender and the content is safe.

New Jersey State Government Employees Should Forward Messages That May Be Cyber Security Risks To PhishReport@cyber.nj.gov.

Susan E. Payne, Executive Director,

Ms. Payne,

The State Agriculture Development Committee has NOT provided the appropriate outreach to the nearly 3000 families affected by the SADC Soil Protection Standards rules. Working with the individuals affected by the Soil Protection Standards rules and having a check off process to acknowledge a clear understanding of impacts is appropriate when considering a retroactive contract change. Having a in person meeting in the Northern and Southern parts of the State instead of a 3 hour zoom call would have shown SADC's interest in making sure there was good faith communications with the families SADC has contracted with.

I am not aware of SADC forecasting economic impacts to the individual families or an acknowledgment of additional food security issues with implementation of said rules over the coming years. Restricting the way future farming operations are conducted will impact the opportunity to support the states farm preservation program. I have met multiple farm families that have withdrawn from the application process due to the proposed SADC Soil Protection Standards rules.

Over the 20 plus years in Farm Bureau and the Ocean County Board of Agriculture, I have never received so many lengthy phone calls with vulgarities directed towards the SADC and Farm Bureau.

Please consider extending the public comment period and add additional in person public meetings. I would also request before adopting the rules, in person visits to farm families continue. The rules affect each family differently and greater outreach needs to be conducted to reduce the uncertainty that each individual farmer has prior to adopting the SADC Soil Protection Standards rules.

The Ocean County Board of Agriculture and Ocean County Farm Bureau voted unanimously in September to oppose the SADC Soil Protection

Standards rules as proposed.

Sincerely,

Brick Wenzel

OCBA / OCFB

President / Director

Sent from my iPhone

Passaic County Board of Agriculture

1310 Route 23 North, Wayne, NJ 07470
Telephone 973.305.5740 | Fax 973.305.8865

Rocky Hazelman, President
John Schweininger, Vice-President

Bruce Corbett, Treasurer
David Sisco-Izak, Secretary

10/3/2023

Susane Payne
Executive Director, SADC
P.O. Box 330
Trenton, NJ 08625-0330
SADC@ag.state.nj.us.

Dear Ms. Payne,

This letter is being written concerning the proposed soil protection rules and the potential impact to preserved farmland. The Passaic County Board of Agriculture opposes the rule in its current form. Paramount among the concerns are retroactive application to already preserved farms and ability to preserve future land in Passaic County and beyond.

Passaic County already struggles to find new farmers willing to preserve land. These rules and their retroactive application have the potential to further deepen these challenges while halting future preservation.

Thank You for your time and consideration,



Rocky Hazelman
Passaic County Board of Agriculture, President

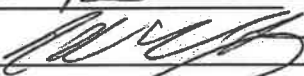
SUSAN E. PAYNE,

The Somerset County Board of Agriculture would like to express our deep concerns with the direction of the SADC. We no longer feel the SADC is an ally to New Jersey Agriculture. In fact, it has become a hinderance. We understand the SADC has the difficult task of balancing the interest of Agriculture, the public good, and the environment. This is NOT an easy task.

Here is our stance on the proposed soil protection standards:

No farm or individual wants our valuable topsoil abused. However, to not grandfather current preserved farms, because of a couple bad actors, is creating distrust. In fact, if the new soil protection standards are enforced on previously preserved farms, it will deter future preservation. A blanket policy will not work with New Jersey's diverse Agricultural landscape. We feel the current legislation is being imposed on us without proper consultation. The new 12% standard may work on some farms, but does not work on many. If the SADC needs to change an existing agreement, then the SADC needs to pay for 100% of the costs to make that farm compliant, because that farm was NOT compensated on its original agreement. If the SADC can alter an existing agreement, then the preserved farms should be allowed to alter when they want to as well.

Matt Puskas, President SCBOA 

Kyle VAN NUYS, Vice President SCBOA 

Christopher D Carnevale, Treasurer SCBOA 



COUNTY OF SOMERSET PLANNING BOARD

County Administration Building
20 Grove Street, P.O. Box 3000
Somerville, New Jersey 08876-1262
(908) 231-7021 • Fax (908) 707-1749
PlanningBd@co.somerset.nj.us
www.co.somerset.nj.us



MEMBERS

Bernard V. Navatto, Jr.
Chairman

Michael Giordano, Jr.
Vice Chairman

Albert Ellis

Christopher Kelly

Erika Inocencio

Sami Shaban

Shanel Y. Robinson
Commissioner Director

Paul Drake
Commissioner / Liaison

Matthew D. Loper
County Engineer/
Board Secretary

ALTERNATE MEMBERS

Ashok Rakhit
1st Alternate

Vacant
2nd Alternate

Adam Slutsky
County Engineer Alternate

STAFF

Walter C. Lane, PP, AICP
Director
Office of Planning, Policy
& Economic Development

Joseph DeMarco, Esq.
County Counsel

October 18, 2023

New Jersey State Agriculture Development Committee
Susan E. Payne, Executive Director
State Agriculture Development Committee
PO Box 330
Trenton, NJ 08625-0330

RE: Proposed New Rules: NJAC 2:76-25.1 and 25A.1; "Soil Protection Standards" Proposal Number: PRN-2023-079

Dear Ms. Payne:

On behalf of Somerset County, thank you for the opportunity to provide comments and share Somerset County's concerns regarding the proposed Soil Protection Standards Rules. For forty years, Somerset County has been working with our planning partners to preserve farmland and ensure agriculture remains a viable industry. Our award-winning Preservation Plan reaffirms the County's commitment to preservation and outlines a series of strategies to promote additional farmland preservation as well as promote economic growth.

The rules as proposed will have an adverse impact to the farmland preservation program as a whole and more importantly limit or decrease the viability of existing preserved farmland properties ability to grow, change, and remain economically competitive with their non-preserved counterparts. The Somerset County Agricultural Development Board (SCADB), along with ten other County Agricultural Development Boards (CADB) around the State have stated that they strongly object to the Soil Protection Standards as proposed. The Somerset County Planning Board is deeply concerned that these new rules will have an immense adverse impact on the future viability of existing preserved farms to continue to operate, as well as severely limit the County from preserving additional farmland properties in the future.

Somerset County's Preservation Plan and our Comprehensive Economic Development Strategy, both elements of our County Master Plan, contain goals and strategies to ensure farming remains a viable industry. The rules as proposed will hinder the County's ability to meet these goals and implement the strategies contained in these plans. Right now, the County has over **2,400 acres across thirty-five (35) farms** in our preservation pipeline. This is the largest number of farms we have ever had in the pipeline at one time. The rules, as proposed, will force these farmers to reconsider participating in the Farmland Preservation Program. These rules as proposed will hinder the viability of the farms already in our Farmland Preservation Program.

- Mission Statement -

The County of Somerset is committed to excellence and innovation in public service, promoting the well-being of all residents and communities by providing effective, efficient and responsive leadership.

Somerset County Is An Equal Opportunity Employer

The Somerset County Planning Board urges the State Agriculture Development Committee to consider revising the proposed rules to address the concerns that have been raised through the CADB Administrators' joint letter, and our Somerset County Agriculture Development Board's letter. The future and the viability of our state's farmland hinges on the revision of these proposed rules.

Please feel free to contact me at 908-231-7021 or via email at lane@co.somerset.nj.us , if you have any questions.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Walter C. Lane". The signature is written in a cursive, slightly slanted style.

Walter C. Lane, PP, AICP
Director, Office of Planning, Policy and Economic Development

cc: Somerset County Board of County Commissioners
Somerset County Planning Board
Somerset County Agricultural Development Board
Somerset County Board of Agriculture
State Agricultural Development Committee
All Somerset County Preserved Farms



COUNTY OF SOMERSET PLANNING BOARD

County Administration Building
20 Grove Street, P.O. Box 3000
Somerville, New Jersey 08876-1262
(908) 231-7021 • Fax (908) 707-1749
PlanningBd@co.somerset.nj.us
www.co.somerset.nj.us



MEMBERS

Bernard V. Navatto, Jr.
Chairman

Michael Giordano, Jr.
Vice Chairman

Albert Ellis

Christopher Kelly

Erika Inocencio

Sami Shaban

Shanel Y. Robinson
Commissioner Director

Paul Drake
Commissioner / Liaison

Matthew D. Loper
County Engineer/
Board Secretary

ALTERNATE MEMBERS

Ashok Rakhit
1st Alternate

Vacant
2nd Alternate

Adam Slutsky
County Engineer Alternate

STAFF

Walter C. Lane, PP, AICP
Director
Office of Planning, Policy
& Economic Development

Joseph DeMarco, Esq.
County Counsel

February 21, 2024

New Jersey State Agriculture Development Committee
Susan E. Payne, Executive Director
State Agriculture Development Committee
PO Box 330
Trenton, NJ 08625-0330

RE: Proposed New Rules: NJAC 2:76-25.1 and 25A.1; "Soil Protection Standards"
Proposal Number: PRN-2023-079

Dear Ms. Payne:

On behalf of Somerset County, thank you for the opportunity to provide additional comments to supplement our original letter dated October 18, 2023. As our previous letter stated, Somerset County has been working with our planning partners to preserve farmland and ensure agriculture remains a viable industry. Our award-winning Preservation Plan reaffirms the County's commitment to preservation and outlines a series of strategies to promote additional farmland preservation as well as promote economic growth.

During the presentation you made at the October 26, 2023, Somerset County Board of Agriculture meeting, there was a recurring theme, which revolved around how to ensure the protection of topsoil on preserved farmland. The Somerset County Planning Board supports the Somerset County Agriculture Development Board's (SCADB) recent suggestion that, following a review by the SCADB, farmers be permitted to stockpile the topsoil, in accordance with Natural Resource Conservation Services and/or Soil Conservation District regulations. This would allow the topsoil to remain protected and available for future agricultural production while permitting farmers to develop areas of their land as needed for their operations.

The Somerset County Planning Board remains deeply concerned that these new rules will have an immense adverse impact on the future viability of existing preserved farms to continue to operate, as well as severely limit the County from preserving additional farmland properties in the future. The Somerset County Planning Board urges the State Agriculture Development Committee to consider revising the proposed rules to address the concerns that have previously been raised.

Please feel free to contact me at 908-231-7021 or via email at lane@co.somerset.nj.us if you have any questions.

- Mission Statement -

The County of Somerset is committed to excellence and innovation in public service, promoting the well-being of all residents and communities by providing effective, efficient and responsive leadership.

Somerset County Is An Equal Opportunity Employer

Thank you for your consideration.

Sincerely,



Walter C. Lane, PP, AICP
Director of Planning

cc: Somerset County Board of County Commissioners
Somerset County Planning Board
Somerset County Agriculture Development Board
Somerset County Board of Agriculture
State Agricultural Development Committee
All Somerset County Preserved Farms

Warren County **BOARD of AGRICULTURE**

James Bischoff, President
Frank VanHorn, Vice President
Tracy Smith, Secretary
Terry Urfer, Treasurer

Office Address:
165 County Route 519 S.
Belvidere, NJ 07823
908-475-6505 Phone
908-475-6514 Fax
e-mail: warrencountyboardofag@gmail.com

October 1, 2023,

To whom it may concern,

Please find written comments from the Warren County Board of Agriculture in regards to the proposed rule.

While we appreciate the work done by the State Agriculture development committee on the proposed soil protection standards, we find the rule objectionable. These rules are retroactive in nature and impose land use regulations beyond the purchase of only the non-agriculture development rights. These proposed changes are undermining support for the state's farmland preservation program.

These new standards, if adopted, should only apply to new applications. The rules as written retroactively impose new terms to the existing easement. Current preserved landowners made a monetary decision based on the current deed of easement. This new rule restricts at minimum eighty-five percent of the agricultural development potential of a preserved farm. As agriculture is an evolving industry this may seriously harm its viability in New Jersey. There hasn't been any consideration given to the economic impact on those farms to which these rules would apply. There should be a comprehensive impact study done to clearly determine the effects these new standards would have. This should include a side-by-side study of projects on farms with the existing requirements versus the requirements set forth in the new standards.

The New Jersey supreme court mandate was to require a clearer definition of what was wrong with the mishandling of soil disturbance in the Den Hollander case. These standards stray way beyond that mandate.

Paragraph seven of the deed easement already addresses soil conservation. It states that any activity which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation is prohibited. The deed further states that the farm owner shall obtain a farm conservation plan accrued by the local conservation district. We do not support the enactment of this rule.

Should you have any questions please feel free to contact us. Thank you in advance for your time.

Sincerely,

Tracy A Smith, Secretary
Warren County Board of Agriculture