

**STATE AGRICULTURE DEVELOPMENT COMMITTEE**

**POLICY**

**PREPARING RECORDABLE AGREEMENTS**

**I. Purpose**

To assure state and county accountability when preparing recordable Agreements which deed restrict properties in eight-year farmland preservation programs under the provisions of the Agriculture Retention and Development Act and other rules adopted by the State Agriculture Development Committee.

**II. Authority**

N.J.S.A. 4:1C-20  
N.J.S.A. 4:1C-21  
N.J.S.A. 4:1C-24  
N.J.A.C. 2:76-3.4(b)  
N.J.A.C. 2:76-3.5  
N.J.A.C. 2:76-3.8  
N.J.A.C. 2:76-4.4(b)  
N.J.A.C. 2:76-4.5  
N.J.A.C. 2:76-4.8

**III. Policy**

Participation in the Agriculture Retention and Development Program requires landowners to place a recordable deed restriction on their lands when enrolling in an eight-year farmland preservation program.

**A. RECORDABLE AGREEMENTS**

The Committee has prepared model Agreements for use by CADBs for the purpose of maintaining uniformity throughout the State. The following documents will continue to be used as the means of restricting properties in eight-year farmland preservation programs.

Date: 5/17/94

1. FARMLAND PRESERVATION PROGRAM AGREEMENT - F3-A
2. MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAM AGREEMENT - M5-A

**B. PREPARATION OF AGREEMENTS**

There are two components of the Agreement which are required to properly restrict the land enrolled in a program. The first part is the model Agreement prepared by the Committee which contains all of the pertinent information such as the Grantor, Grantee, deed restrictions, benefits, signatures and respective acknowledgments.

The second part is Schedule A which is attached to the Agreement. This legal metes and bounds description is extremely important because it accurately describes the boundaries of the property.

1. The preparation of the model Agreement portion should be done by the Board unless the landowner is having the Agreement prepared by his or her own attorney. The Agreement should be completed in a professional manner. Information which needs to be completed should be typed, if possible.

When preparing the Agreement it is important to be assured that the name of the Grantor (s) correlates with the record owner (s) identified on the deed (s) of the property.

**Example:** If the Grantor is Acme Fruit Co., Inc., then the deed (s) of the property must be in the name of Acme Fruit Co., Inc.

Deeds under different ownership will require separate Agreements.

**Example:** Four (4) deeds comprising 200 acres have been submitted for enrollment in a program. Two (2) deeds comprising 150 acres are in the names of John and Mary Smith. The other two (2) deeds comprising 50 acres are in the names of their sons James Smith and Joseph Smith. Two separate Agreements would have to be prepared in this case. Each Agreement would contain its own legal description (Schedule A) of the premises.

Before the Board can prepare the Agreement, the owner of

last record search and verification of record owner (s) is necessary. (Refer to section (b) for details.)

Preparing an Agreement for corporation or partnership would require written verification that the corporation or partnership is duly authorized to enter into the eight-year program.

The Board should require the following documentation:

Corporation - A resolution passed by the corporate officers at a regular meeting authorizing the officers or any one of them to sign the Agreement for enrollment in an eight-year program. The resolution should be stamped with the corporate seal.

Partnerships - An affidavit signed by the partners verifying that the partners applying for enrollment in the program are the sole partners of the partnership. In addition, the partnership should provide a copy of its partnerships agreement. If the partnership agreement does not exist, the partnership agreement does not exist, the partnership must state that it is governed by the provisions of the New Jersey Partnership Act.

Whenever possible, the Board should consult with county counsel to resolve any questions.

2. The Committee recommends that the legal description of the tract be prepared by a qualified individual. Anyone of the following is capable of performing this task:

Landowners attorney.

County attorney.

Professional title searcher.

Engineer/surveyor.

For ease of program implementation, the services of a professional title searcher can be utilized to perform this function at the same time an Owner of Last Record Search is performed.

To assist the individual in conducting the deed search, the Board should provide the title searcher with the following information:

- Name (s) of landowner (s) enrolling in the program;
- Tax map with block and lot information clearly identified; and
- Deed book and page reference of the property to be enrolled.

The title searcher should be requested to provide the following information:

- Verification of record owners. Any deviation from the name (s) of the landowner (s) enrolling and deed ownership should be identified. The report should identify any easements or rights-of-way on the subject property;
- A tax map of the property which correlates the deed book and page reference of the legal description with the respective block and lot;
- A deed plotting of the tracts to be enrolled in the program only if the searcher has determined that the tax map does not correlate with the legal description of the property. The Board should be informed of any tracts which do not close within reasonable limits; and
- A legal metes and bounds description of the property to be enrolled in the program (Schedule A). This description should be extracted from the Deed (s). A separate Schedule A should be prepared to correlate with the property owned by each record owner.

Note: Any tracts which the landowner wants to except from the program must be identified by a legal metes and bounds description.

A tract which is described by a legal metes and bounds description which also encompasses lands in an adjacent municipality or county would not have to be resurveyed to determine the boundary of the municipal or county line. If the area in the adjacent municipality or county will not be enrolled in the program, then the person preparing the legal description should be instructed to follow the legal description in question with a statement clarifying that the municipal or county line will be the boundary of the lands to be included in the program.

3. Upon receipt of the requested information, the board, (staff), should review the title searcher's report. The legal description (Schedule A), should be attached to the Agreement. The Agreement should then be

signed by the respective parties and duly notarized. A corporation must stamp the Agreement with the corporate seal. Partners in the partnership must sign as a partner in the respective partnership.

C. Costs

Costs associated with the Owner of Last Record Search and preparation of the legal description and other information can be incurred by the Board or passed on to the landowner (s).

D. Recording

One the eight-year farmland preservation program is certified by the Committee, the fully executed Agreement will be returned to the Board for proper recording with the county clerks office. The Board shall comply with the provisions N.J.A.C. 2:76-3.8 or N.J.A.C. 2:76-4.8.

Note: The prepared by statement on the Agreement must be completed by the person preparing the Agreement in order for the document to be recorded.

E. Verification of Recording

The Committees CERTIFICATION OF THE EIGHT-YEAR PROGRAM forms F4-C and M6-C must be dated, signed and returned to the Committee once the Agreement has been recorded. In addition, once the recorded Agreement has been returned to the Board, a copy must be forwarded to the Committee and other parties identified in N.J.A.C 2:76-3.8 and N.J.A.C. 2:76-4.8

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