

STATE AGRICULTURE DEVELOPMENT COMMITTEE

POLICY

**SOIL AND WATER CONSERVATION PROJECT COST-SHARING PROGRAM
STATE COST-SHARE FUNDING AND APPLICATION PRIORITIZATION**

I. PURPOSE

In order to respond to limited funding availability and substantial program demand, the State Agriculture Development Committee (SADC) has determined the percentage of state cost-share funding provided for soil and water conservation projects approved pursuant to the Soil and Water Conservation Cost-Sharing Program to be no greater than 50% of the actual cost of installing these projects, not to exceed the 75% cost estimate prepared at the time of application. Further, given the competition for funds, it is necessary to clarify how Soil and Water Conservation Cost-Sharing Program applications are prioritized for funding by the SADC and how payments are awarded when the units of a project installed are less than the units estimated at the time of application.

II. AUTHORITY

N.J.S.A. 4:1C-24
N.J.S.A. 4:1C-36
N.J.A.C. 2:76-3.1 et seq.
N.J.A.C. 2:76-4.1 et seq.
N.J.A.C. 2:76-5.1 et seq.
N.J.A.C. 2:76-6.15
N.J.A.C. 2:76-6.17
N.J.A.C. 2:76-6.19
N.J.A.C. 2:76-6.20
N.J.A.C. 2:76-12.1 et seq.
N.J.A.C. 2:76-17.1 et seq.
N.J.A.C. 2:76-17A.1 et seq.
N.J.A.C. 2:77-1.1 et seq.
N.J.A.C. 2:90-2.1 et seq.
N.J.A.C. 2:90-3.1 et seq.
N.J.A.C. 7:50-5.41 et seq.
N.J.A.C. 7:70-4.1 et seq.
N.J.S.A. 13:8C-43 et seq.

III. POLICY

1. At the time of application, the SADC shall obligate cost-share grants based on a 75% cost estimate approved by the New Jersey Department of Agriculture State Soil Conservation Committee and the SADC pursuant to N.J.S.A. 4:1C-24, N.J.A.C. 2:76-5.1 et seq., N.J.A.C. 2:90-2.1 et seq., and N.J.A.C. 2:90-3.1 et seq., subject to available funds.

2. SADC shall reimburse farmers for up to 50% of the actual cost of installing soil and water conservation projects, not to exceed the total funds obligated at the time of application.
3. The SADC shall prioritize applications for soil and water conservation projects for the receipt of limited funding by granting priority as follows:
 - a. **First priority (Priority 1)** shall be given to farms that are permanently preserved through enrollment in one of the following programs:
 - (1) The SADC's development easement programs (SADC fee simple, county easement purchase, direct easement purchase, county and municipal planning incentive grants, or nonprofit program);
 - (2) The Burlington County and State Transfer of Development Rights (TDR) programs pursuant to N.J.S.A. 40:55D-113 and N.J.S.A. 40:55D-137, respectively;
 - (3) Agricultural land subject to an agricultural restriction approved by the SADC as part of a municipal cluster development pursuant to N.J.S.A.40:55D-39.1. If not approved pursuant to N.J.S.A. 40:55D-39.1, the premises is enrolled for a minimum period of 16 years in one of the term farmland preservation programs (N.J.A.C. 2:76-3.1 et seq. or N.J.A.C. 2:76-4.1 et seq.), and the original deed restrictions imposed on the premises through a municipal cluster development are consistent with the restrictions at N.J.A.C. 2:76-6.15 and approved by the SADC;
 - (4) Agricultural land acquired by a county for farmland preservation purposes under the Local Lands and Buildings Law pursuant to N.J.A.C. 40A:12-4 that is subsequently approved by the SADC for enrollment in a development easement program pursuant to N.J.S.A. 4:1C-11 et seq. and N.J.A.C. 2:76-6.19. If not approved pursuant to N.J.S.A. 4:1C-11 et seq. and N.J.A.C. 2:76-6.19, the premises is enrolled for a minimum period of 16 years in one of the term farmland preservation programs (N.J.A.C. 2:76-3.1 et seq. or N.J.A.C. 2:76-4.1 et seq.), and the original deed restrictions imposed on the premises through a county farmland preservation program are consistent with the restrictions at N.J.A.C. 2:76-6.15 and approved by the SADC;
 - (5) Agricultural land on which Pinelands Development Credits (PDC) allocated to the premises have been severed and deed restrictions recorded pursuant to N.J.A.C. 13:18A-30, et seq., N.J.A.C. 7:50-5.41 et seq., and N.J.S.A. 13:8C-43 et seq, provided the SADC approves the recorded deed restrictions as being consistent with the deed restrictions at N.J.A.C. 2:76-6.15;
 - (6) Agricultural land on which Highlands Development Credits (HDC) allocated to the premises have been severed and deed restrictions recorded pursuant to N.J.S.A. 13:20-13, N.J.A.C. 7:70-4.1 et seq., and N.J.S.A. 13:8C-43 et seq., provided the SADC approves the recorded deed restrictions as being consistent with the deed restrictions at N.J.A.C. 2:76-6.15;

- (7) A conservation restriction acquired on agricultural land by a charitable conservancy provided the SADC approves the recorded deed restrictions as being consistent with the deed restrictions at N.J.A.C. 2:76-6.15 and the subject premises is enrolled for a minimum period of 16 years in one of the term farmland preservation programs (N.J.A.C. 2:76-3.1 et seq. or N.J.A.C. 2:76-4.1 et seq.).
 - b. **Second priority (Priority 2)** shall be given to farms that are enrolled in the term farmland preservation programs (N.J.A.C. 2:76-3.1 et seq.; N.J.A.C. 2:76-4.1 et seq.), if enrolled for a period of 16 years pursuant to N.J.S.A 4:1C-24.
 - c. **Third priority (Priority 3)** shall be given to farms that are enrolled in the term farmland preservation programs (N.J.A.C. 2:76-3.1 et seq.; N.J.A.C. 2:76-4.1 et seq.), if enrolled for a period of 8 years pursuant to N.J.S.A 4:1C-24.
4. Enrollment in the programs listed in 3a., 3b., and 3c. above shall be deemed valid and complete upon the following:
 - a. For the SADC fee simple program, the SADC has acquired fee simple title;
 - b. For the county easement purchase, county and municipal planning incentive grants, or nonprofit program, the SADC has issued a grant and the deed of easement, or the cost-sharing grant agreement has been recorded;
 - c. For the direct easement purchase program, the SADC has acquired and recorded a deed of easement;
 - d. For the TDR programs, the deed restrictions have been recorded and the SADC approves the recorded deed restrictions for consistency with N.J.A.C. 2:76-6.15;
 - e. For cluster development, the SADC has prepared or approved an agricultural restriction template for use by a municipality pursuant to N.J.S.A. 40:55D-39.1 and the agricultural restriction has been recorded;
 - f. For independent county easement purchases subsequently enrolled in a development easement program pursuant to N.J.S.A. 4:1C-11 et seq., the SADC has reviewed and approved the enrollment application and executed and recorded an Enrollment Agreement pursuant to N.J.A.C. 2:76-6.19;
 - g. For the term farmland preservation programs, all requirements for the creation of a farmland preservation program or a municipally approved farmland preservation program pursuant to N.J.A.C. 2:76-3.1 et seq. and N.J.A.C. 2:76-4.1 et seq. have been met, including approval of the petition by the local board, certification of the petition by the SADC, and recording of an agreement; and
 - h. For the PDC and HDC programs, the deed restrictions have been recorded and the SADC approves the recorded deed restrictions for consistency with N.J.A.C. 2:76-6.15.
5. Where the premises is subject to both a term agreement and a permanent easement

and there are conflicting terms, the stricter terms will prevail. Notwithstanding the prior sentence, the SADC's first right and option to purchase the premises in fee simple absolute pursuant to N.J.A.C. 2:76-3.12(a)(17) will not be exercised when a premises is encumbered by any of the permanent easements referenced in this policy. The requirement for the Grantor to provide written notice to the SADC that a contract of fee simple sale has been executed for the premises pursuant to N.J.A.C. 2:76-3.12(a)(17) shall remain in effect.

6. Within the Priority 1, Priority 2, and Priority 3 categories, individual project applications may be further prioritized should program demand be greater than available funding. In such cases, the SADC shall further prioritize projects according to the following operative dates:
 - a. Date of State Soil Conservation Committee (SSCC) approval;
 - b. Date SSCC received the application;
 - c. Date of local Soil Conservation District (SCD) approval; and
 - d. Date of local United States Department of Agriculture, Natural Resources Conservation Service approval.
7. For farms enrolled in the term farmland preservation programs (N.J.A.C. 2:76-3.1 et seq. and N.J.A.C. 2:76-4.1 et seq.), for a period of 8 years pursuant to N.J.S.A 4:1C-24 prior to December 6, 2018, a Priority 2 designation will be grandfathered until the next renewal or reformation date after December 6, 2018, at which time the farm will receive a Priority 3 designation unless enrolled for a period of 16 years pursuant to III.3.b. of this policy.
8. For agricultural land enrolled in a program listed in 3a., 3b., and 3c. above, the total eligible amount of cost-share funds shall be determined using the formula specified in N.J.A.C. 2:76-5.4(a).
 - a. The total eligible amount shall remain in effect for a period of eight years from the date on which the following was recorded on the land:
 - (1) Development easement
 - (2) TDR instrument of transfer
 - (3) Agricultural restriction
 - (4) Enrollment agreement
 - (5) PDC or HDC deed restriction
 - (6) Conservation restriction
 - b. After the end of each eight-year period, the eligibility of cost-share funds shall reset based on the formula current at the time in N.J.A.C. 2:76-5.4(a) and begin anew for a subsequent eight-year period.
9. To determine the acreage of land enrolled in a program listed in 3a., 3b, and 3c, the legal metes and bounds description attached to the recorded enrollment instrument will be used. If a legal metes and bounds description was not prepared during enrollment, the metes and bounds description attached to the most recent recorded fee transfer deed will be used to determine acreage of the premises.

10. Projects originally obligated at 50% of the estimated cost may have their approved obligations revised to a 75% obligation under the following conditions:
 - a. The project has not been terminated or canceled.
 - b. The project is not already completed and paid for.
 - c. The funds obligated based on a 50% cost-share estimate under the prior policy will result in the applicant receiving less than 50% of the actual cost of installing the project.
 - d. Notwithstanding the foregoing, any increase in the approved obligation is subject to the availability of funds as determined by the Committee.

Maximum payment shall be based upon the actual number of units (e.g., feet, acres) installed multiplied by the estimated cost per unit, not to exceed the total obligation as approved or revised subject to 10. a.-d. above.