

STATE AGRICULTURE DEVELOPMENT COMMITTEE

Interim Policy for applications pending adoption of the Statewide Farmland Preservation Formula

I. Purpose

P.L. 2023 c.245 was enacted on January 8, 2024, revising the method for valuation of farmland to be acquired for Farmland Preservation Program (FPP) purposes and directing the State Agriculture Development Committee (SADC or committee) to adopt rules establishing a Statewide Farmland Preservation Formula (“Statewide Formula”).

It is the policy of the SADC to continue processing applications for farmland preservation that are pending as of the date of enactment of P.L. 2023, c.245 and prior to the effective date of a notice of rulemaking establishing the Statewide Formula.

This Interim Policy is essential to avoid time-consuming interruptions in the processing of farmland preservation applications, negative economic consequences to landowners who have applied for, or may be in the process of, preservation, the potential for claims of breach of contract and litigation, and the creation of a potential backlog of applications that would cause negative impacts to program administration.

Subject to the concurrence of the applicable funding partner, the Committee encourages those interested in farmland preservation not to wait to apply for preservation until after the Statewide Formula is adopted. The continued submission of applications will enable eligibility reviews and approvals, traditional appraisals to be completed, and the certification of market values. In some cases, offers and contracts may enable additional due diligence that will speed up the process to closing once the Statewide Formula is adopted.

II. Authority

N.J.S.A. 4:1C-5e.

III. Policy

Nothing herein shall be construed as a **requirement** for participation in the Farmland Preservation Program by any municipality, county, or nonprofit organization (“grant partners”). All applicants and SADC grant partners may proceed under existing FPP regulations and procedures, and prior to the adoption of the Statewide Formula.

A landowner or grant partner seeking consideration under this Interim Policy must submit a written request to the Committee.

It is important to note that all extensions, approvals and amendments authorized herein are subject to the availability of all funds necessary for the purchase of a development easement on or fee simple title to farmland.

Notwithstanding procedures in place prior to passage of the Statewide Formula, the Committee will accept applications and provide for the following prior to adoption of regulations establishing a Statewide Formula Value:

A. Applications with SADC Certified Market Values (CMV)

The SADC shall allow for the extension of applicable deadlines to account for the SADC's implementation of a Statewide Formula Value (SFV) and the issuance of a certified formula value for the acquisition of a development easement on or fee simple title to farmland.

- i. N.J.A.C. 2:76-17.12(a) and 17A.12(a) provide that within 30 days of receipt of the Committee's certification of market value (*CMV*) of the development easement, the county and municipality, respectively, shall report the certified market value to the landowner.
The interim policy shall allow the report to be submitted to the landowner within 30 days from the receipt of the CMV or certified SFV, whichever is later.
- ii. N.J.A.C. 2:76-17.12(b) and 17A.12(b) provide that within 60 days of the landowner's receipt of the Committee's certification of market value (*CMV*) of the development easement, the landowner shall submit, in writing, an acceptance or rejection of the offer.
The interim policy shall allow for the landowner's written acceptance or rejection of the offer within 60 days from the receipt of CMV or certified SFV, whichever is later.
- iii. N.J.A.C. 2:76-15.2(a) provides that within 60 days after the nonprofit receives from the Committee the statement of eligible land cost or negotiated offer (*CMV*) pursuant to N.J.A.C. 2:76-15.1, the nonprofit shall submit to the Committee a letter stating that the nonprofit has reviewed and accepts the eligible land cost or negotiated offer of the parcel and that the nonprofit has the ability and intention to finance the cost of the parcel, should such cost exceed the amount of Committee funding.
The interim policy clarifies that the 'statement of eligible land cost' includes the certified SFV, and shall allow the nonprofit's letter to the Committee to be submitted within 60 days from the receipt of CMV or certified SFV, whichever is later.
- iv. For applications in the SADC direct easement (N.J.A.C. 2:76-11, et seq.) and fee simple programs (N.J.A.C. 2:76-8, et seq.), **landowners shall have 60 days from receipt of CMV or certified SFV, whichever is later, in which to submit, in writing, an acceptance or rejection of the SADC's offer.**
- v. P.L.2015, c.5, which permits dual appraisal zoning consideration for eligible applications in the Highlands region, is scheduled to expire on June 30, 2024. Applications submitted to the SADC **prior to June 30, 2024, will remain eligible for the dual appraisal provision through the duration of that application and pending the receipt of a CMV or certified SFV, whichever is later.**

B. SADC Resolutions of Final Approval

The SADC shall allow for the amendment of SADC resolutions of Final Approval to account for the SADC's adoption of a Statewide Formula Value (SFV) and the issuance of a revised SADC certification of value to include the SFV for the acquisition of a development easement on or fee simple title to farmland.

- i. At the request of the landowner and grant partner, the SADC shall amend final approvals granted prior to the adoption of this policy to reflect the opportunity for issuance of a certified SFV for the farm application and potential acceptance of the certified SFV.
- ii. For SADC final approvals issued after the adoption of this interim policy in which landowners and grant partners wish to move forward and preserve the farm based on, ***at least***, the traditional appraised certified market value (or Pinelands formula value, if applicable), the SADC shall include a provision in the resolution of final approval that such approval may be later amended to reflect the offer and acceptance of the certified SFV.

- iii. SADC final approvals will continue to be conditioned upon the availability of funds. This may require partners to reevaluate SADC grant funds available to their program and to prioritize applications based on funding availability.

C. SADC Agreements of Sale

- i. The SADC shall allow for a time extension to its existing and future Agreements of Sale with landowners who request to delay closing in order to consider a revised easement or fee offer based on the certified SFV, as applicable.

D. Rejected Offers

N.J.A.C. 2:76-17.12(b)3 and 17A.12(b)3 provide that if a landowner rejects an offer for an amount equal to or greater than the certified market value (*CMV*), the Committee shall not accept for processing any individual farm application or application for sale of land in fee simple pursuant to the planning incentive grant program or any other farmland preservation program authorized pursuant to N.J.S.A. 4:1C-11 et seq., 13:1C-1 et seq., or 13:8C-43 et seq., for two years from the date that the county and municipality, respectively, originally submitted an individual farm application, and that this provision applies only to an application from the same landowner for the same farm property. **This policy shall allow landowners who rejected an offer subsequent to the introduction of the Statewide Formula Value legislation on October 22, 2022, to reapply at any time pending the adoption of the Statewide Formula.**