

STATE AGRICULTURE DEVELOPMENT COMMITTEE

POLICY

**TRANSITION FROM EXISTING FARMLAND PRESERVATION PROGRAM
RULES TO NEW AND AMENDED RULES GOVERNING FARMLAND
PRESERVATION PROGRAM PROCEDURES**

I. PURPOSE

To identify how the State Agriculture Development Committee (SADC) intends to transition program operations from existing regulatory provisions to new and amended regulations, particularly in relation to changes proposed within the County and Municipal Planning Incentive Grant programs.

II. AUTHORITY

Proposed Amendments: N.J.A.C. 2:76-6.3, 6.5, 6.6, 6.7, 6.8, 6.11, 8.1, 8.2, 8.5, 8.10, 11.2, 11.5, 11.7, 11.10 and 12.3

Proposed New Rules: N.J.A.C. 2:76-6.20, 6.21, 6.22, 6.23, 8.6, 8.8, 8.9, 8.11, 11.9 and 17A

Proposed Repeal and New Rules: N.J.A.C. 2:76-11.6 and 17

III. POLICY

In anticipation of adoption of new and amended SADC program rules in early June 2007, the State Agriculture Development Committee (SADC) is instituting the following policies/procedures to provide guidance to effected counties and municipalities on:

- How provisions of the new and amended rules become effective programmatically; and
- What impact the new and amended rules will have on existing, versus future, PIG appropriations.

A. Implementation of New and Amended Rules:

1. For all programs, the application for sale of a development easement may proceed under the existing rules if both of the following conditions apply:
 - the two appraisals were authorized to commence prior to the effective date of the proposed new and amended rules (as

- evidenced by a resolution of the governing body and a fully executed contract); and
- the current valuation date of both appraisals is prior to the effective date of the proposed new and amended rules.
2. If both of these conditions are not met, the application shall proceed under the provisions of the new and amended rules as adopted.
 3. With respect to County Easement Purchase applications, the existing rules shall not pertain to any application submitted to the SADC subsequent to the 2008 County Easement Purchase Round.

B. Minimum Eligibility Criteria:

Minimum eligibility criteria are effective to all programs upon rule adoption, *subject to "A" above.*

C. Eligibility of Use of 1998 Zoning Provisions under the Planning Incentive Grant Program

Pursuant to the Garden State Preservation Trust Act (NJSA 13:8C-1 et seq), numerous farms are still eligible to be appraised using 1998 zoning under the Planning Incentive Grant (PIG) program by virtue of the fact that the "lists of farms" included in the PIG applications had received Garden State Preservation Trust prior to June 30, 2004. All other farms in the state are eligible to be appraised using January 2004 zoning pursuant to amendments to the Garden State Trust Act enacted pursuant to the Highlands Water Protection and Planning Act (NJSA 13:20-1 et seq).

Because the proposed County and Municipal Planning Incentive Grant program rules (NJAC 2:76-17 and 2:76-17A, respectively) will require a submission of a new Planning Incentive Grant application for all counties and municipalities wishing to participate in the PIG program, these applications are recognized as being separate and apart from those approved in the past.

As such, it shall be the Policy of the SADC that all Planning Incentive Grant applications approved by the SADC under the proposed new and amended rules, and all funds that may be appropriated to them commencing in FY09, shall not be eligible to utilize 1998 zoning and appraisal provisions.

Pre-existing Planning Incentive Grant applications that currently are eligible to use the 1998 zoning provisions may continue to do so until all

appropriations made through FY08 are exhausted or reallocated by the SADC, subject to “A” above.

D. Expenditure Timeline for Planning Incentive Grant Program Appropriations

Pursuant to existing Planning Incentive Grant regulations, the SADC annually conducts a review of each applicant’s total appropriations to date in light of expenditures, contracts and overall program activity. The results of this review are integral to the formation of staff recommendations related to approving new appropriations, or in reallocating funds to other projects.

Because of the “dual” nature of the Planning Incentive Grant program during the transition from the existing regulations to the new proposed regulations, particularly in light of the 1998 zoning provisions discussed in point “C” above, it is important to bring to a close all projects associated with Planning Incentive Grant appropriations granted through FY08. Achieving a “close-out” of such appropriations in a timely manner will allow the SADC to have clarity in moving forward under the new Planning Incentive Grant Program rules, and minimize confusion associated with some farms being eligible for 1998 zoning provisions.

As such, it shall be the policy of the SADC to strongly encourage that closing on all easement purchase applications associated with existing Planning Incentive Grant Program appropriations granted through FY08 be accomplished by the June 30, 2008. Further, the SADC will continue to conduct its annual review of PIG appropriations each April (2007 and 2008) and make recommendations for re-appropriation as needed. Any funds still available within a PIG appropriation in April of 2008 that are not associated with a transaction as evidenced by a contract of sale or SADC final approval, should be considered at risk of loss through the re-appropriation process.