



DEPARTMENT OF ENGINEERING AND PLANNING
Division of Planning and Economic Development
Sussex County Administrative Center
One Spring Street
Newton, N.J. 07860
Tel. 973-579-0500
FAX 973- 579-0513

County of Sussex

Dear Applicant,

Thank you for your interest in the Sussex County Farmland Preservation Program. Before filling out the application, please read the following informational documents, *N.J. Farmland Preservation Program Overview* and *Farmland Preservation: Frequently Asked Questions*. Pay particular attention to the minimum eligibility criteria required for preservation. After reading the two documents, fill out and sign the *Application and Offer to Sell a Development Easement* along with the following forms: *Exception Areas*, *Nonagricultural Uses* and *Division of Premises*. Return the completed application, forms and supporting documents to the Farmland Preservation Program Administrator at the above address. Note that all parties whose names appear on the deed(s) for the property(s) must sign the application(s) for preservation and the accompanying documents.

If you have any questions, need assistance with filling out the application or have difficulties gathering the necessary documents, please feel free to contact our office.

Thank you, again, for your interest,

*The Farmland Preservation
Program Administrator
and Staff*

N.J. Farmland Preservation Program Overview

The state Farmland Preservation Program is administered by the State Agriculture Development Committee (SADC), which preserves farmland directly and provides grants to County Agriculture Development Boards (CADBs), municipalities and nonprofit organizations for the preservation of farmland. (www.nj.gov/agriculture/sadc)

How Is Farmland Preserved?

Sale of Development Rights: If you would like to preserve your farm and continue to own it, you can sell the nonagricultural development rights—also known as a development easement—on your land. You can apply to preserve your farm to the SADC, your CADB, your municipality if it participates in the Farmland Preservation Program, or a nonprofit organization. Most counties and many municipalities have developed comprehensive farmland preservation plans that enable them to participate in the program. You can find a listing and copies of the plans at www.nj.gov/agriculture/sadc/home/genpub/comprehensiveplans.html.

Donation: In certain situations, you may want to consider donating your development rights, or your land, to one of the preservation agencies above, particularly if you could be eligible for significant tax savings. You should contact a tax professional to fully understand the tax implications of a donation as they apply to your personal situation.



How Does the Process Work?

Land is eligible for the Farmland Preservation Program if it meets the SADC's minimum eligibility criteria and is eligible for farmland tax assessment. In most cases, your farm also must be located in an agricultural development area (ADA) an area where the CADB has determined that farming is viable over the long term and be a "targeted" farm in a county or municipal comprehensive farmland preservation plan.

CADBs are responsible for approving most applications to the Farmland Preservation Program. Therefore, they are the starting point for most interested landowners. CADBs review and approve applications and then forward them to the SADC, coordinating with State and local municipalities throughout the process.



NEW JERSEY
State Agriculture Development Committee
P.O. Box 330
Trenton, NJ 08625-0330

phone: 609-984-2504
email: sadc@ag.nj.gov
web: www.nj.gov/agriculture/sadc

N.J. Farmland Preservation Program Overview

How Is Value Determined?

The value of a farm or development easement is established through two independent appraisals. The price you will be paid for a development easement will be based on the difference between your land's value before preservation and its value after preservation - generally the difference between what someone would pay for the raw land as is, and its value as a deed-restricted farm. For example, if your farm would be worth \$10,000 per acre before preservation, and \$4,000 per acre after it has been preserved, the value of your development easement would be \$6,000 per acre. Once a value has been determined and agreed upon, the process of finalizing approval and the sale can proceed.

What Happens After Preservation?

When your farm is preserved, a Deed of Easement will be recorded with the County Clerk's office that will run with the land and forever protect it for agricultural use. You are allowed to erect barns and other agricultural structures in accordance with the Deed of Easement, however most nonagricultural uses are not permitted unless they were recognized in the Deed of Easement at the time of preservation.

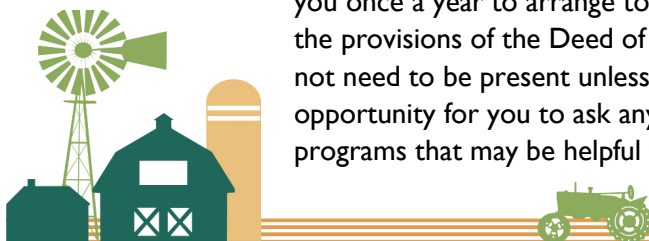
Within one year of preserving your farm, you will need to obtain a farm conservation plan approved by your local soil conservation district. The plan, which will be developed in cooperation with the U.S. Department of Agriculture's Natural Resources Conservation Service, will detail practices that will assist you in managing soil, water and other natural resources on your farm. The preservation of your farm does not make your land public property. The public has no right to access or use your preserved farm without your consent.

A representative of the agency that purchased the development rights on your farm will contact you once a year to arrange to visit your farm to ensure you are maintaining it in accordance with the provisions of the Deed of Easement. The visit typically takes less than an hour, and you do not need to be present unless you choose to do so. You may find the annual visit a good opportunity for you to ask any questions you have about farmland preservation or about related programs that may be helpful to you and your agricultural operation.

Incentives for Farmland Preservation

Farmland preservation can:

- Provide you with capital that you can use to expand your existing operation or meet other financial goals;
- Help you reduce your debt load;
- Further your estate or retirement planning, e.g., by allowing you to leave the land to an heir who is interested in farming and a monetary inheritance to other heirs;
- Allow you to apply for up to 50 percent State cost-sharing grants for eligible soil and water conservation projects on your farm, subject to available funding;
- Help protect your land from government acquisition through eminent domain, or emergency restrictions on the use of water and energy supplies;
- Provide you with the personal satisfaction of knowing your farm will be preserved in perpetuity.



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Farmland Preservation: Frequently Asked Questions



Minimum Eligibility Criteria

What Are the Minimum Criteria for State Farmland Preservation Funding?

Land must be eligible for Farmland Assessment, be in an agricultural development area and meet the following minimum eligibility criteria to qualify for State farmland preservation funding.

For farms less than or equal to 10 acres:

- The land must produce agricultural or horticultural products of at least \$2,500 annually;
- At least 75 percent of the land, or a minimum of five acres, must be tillable;
- At least 75 percent of the land, or a minimum of five acres, whichever is less, must consist of soils that are capable of supporting agricultural or horticultural production; and
- the land must exhibit development potential based on a finding that a number of standards have been met (including that the municipal zoning ordinance allows additional development, and the land does not exceed standards regarding extent of wetlands and steep slopes), or the land must be eligible for allocation of development credits under an authorized transfer of development rights program.

For farms greater than 10 acres:

- At least 50 percent of the land, or a minimum of 25 acres, whichever is less, must be tillable;
- At least 50 percent of the land, or a minimum of 25 acres, whichever is less, must consist of soils that are capable of supporting agricultural or horticultural production; and
- the land must exhibit development potential based on a finding that a number of standards have been met (including that the municipal zoning ordinance allows additional development, and the land does not exceed standards regarding extent of wetlands and steep slopes), or the land must be eligible for allocation of development credits under an authorized transfer of development rights program.

Lands that do not meet the minimum eligibility criteria are not eligible for a State cost-share grant.

[N.J.A.C. 2:76-6.20]

Photo by Stefanie Miller

N.J. State Agriculture Development Committee
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web: www.nj.gov/agriculture/sadc

Applying to the Farmland Preservation Program

Key Issues for Consideration

You and your family's goals and objectives for your farmland are important considerations when contemplating an application to the Farmland Preservation Program (FPP). Once a FPP easement is sold you still own the land, but it will be forever restricted to agricultural use, with the potential for a limited number of residences as may be permitted in the final easement document (the Deed of Easement).

Issues that should be considered *as soon as possible in the application process* include, but are not limited to:

- How will the owners of the farm:
 - pay off debt?
 - fund their retirement?
 - purchase more land?
 - invest in equipment?
- Is there a succession plan for the farm?
 - Do one or more of the owners' heirs want to farm?
 - Are their multiple heirs, some who farm but others who don't? How can one generation be "fair" to the farmer and non-farmer heirs?
 - Are there no heirs who want to farm the property?

In order to properly address the above issues, we strongly encourage you to seek advice from **one or more qualified financial professionals**, *as early as possible in the application process*, regarding a FPP easement sale. These professionals have the expertise and personal familiarity with your individual circumstances to help you make informed decisions.

We also recommend that the financial offer you receive for the purchase of a FPP easement on your farm be brought to the attention of your professionals to determine how to maximize the net financial gain from the sale.

Examples of questions to ask your financial professionals:

1. How much (if any) will I pay in taxes as a result of the sale?
2. What (if any) will be the net gain from the sale?
3. What are the implications if the farm is or was part of an estate?
4. Should I make a "bargain sale"?
5. Should I do a "like-kind exchange"?
6. Should I get paid in installments?
7. Should I donate the farmland easement?



Applying to the Farmland Preservation Program

Key Issues for Consideration

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as of 03/30/2022

For further reference on some of the prior questions and ideas, please see:

<http://farmlandinfo.org/selling-an-agricultural-easement-capital-gains-tax-implications-and-opportunities/>

<https://www.state.nj.us/treasury/taxation/inheritance-estate/inheritance.shtml>

<http://2020 AFT overview bargain sale taximplication.pdf>

<https://www.irs.gov/businesses/like-kind-exchanges-real-estate-tax-tips>

<http://s3.amazonaws.com/landtrustalliance.org/ConservationEasementTaxIncentiveBrochure2016.pdf>

We recommend that you provide the following documents when first meeting with your financial team:

1. Original property deed from time of purchase and current deed, if different
2. Last year's tax return
3. If you inherited the property, all estate documents
4. If the property is held by a Corporation, Limited Liability Company, Partnership, or Trust, all related business documents to ensure they are accurate and up to date
5. Any mortgage documents – be sure to discuss if the intent is to pay off the mortgage or obtain a subordination of the mortgage to the Deed of Easement (document signed at closing). *It is also important to begin discussions with the lender early in the process if you will not be paying the mortgage off in full at closing, as not all lenders are willing to subordinate their mortgage to a Farmland Preservation Program deed of easement.*

After settlement, we recommend you provide your financial team with copies of:

1. Certification of market value report (if you didn't get a copy at settlement, request it from the easement holder)
2. A property appraisal if you are declaring a bargain sale. Please consult with your financial professional regarding the filing of other necessary tax documents.
3. SADC final approval resolution.
4. Documents received at closing, including the HUD statement and 1099 form

Note: Nothing contained in this document is intended to provide legal or tax advice



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Sussex County Agriculture Development Board Farmland Preservation Program

Application and Offer to Sell a Development Easement

FARM INFORMATION

Date: _____

Landowner Name(s): _____

Mailing Address: _____

Farm Address: (If different) _____

Email: _____

Phone: _____ Alternate Phone: _____

Muni _____ Block & Lot _____ Acres _____

Muni _____ Block & Lot _____ Acres _____

Muni _____ Block & Lot _____ Acres _____

Muni _____ Block & Lot _____ Acres _____

Muni _____ Block & Lot _____ Acres _____

Total Farm Acreage: _____

Primary Contact: Same as Above Other: Please fill in primary contact information below.

Name: _____ Relation: _____

Phone: _____ Email: _____

Mailing Address: _____

Contact for Farm Visits: Primary Contact Landowner Other: List below

Name: _____ Relation: _____

Phone: _____ Email: _____

LANDOWNER ELIGIBILITY

Pursuant to N.J.A.C. 2:76-6.18(z) an applicant or the applicant's immediate family defined as applicant's spouse, child, parent, or sibling residing in the same household cannot be a current SCADB board member or Municipal Agriculture Advisory Committee member at the time of application to sell their development easement.

1. Are you or anyone in your immediate family a current member of the SCADB? **YES** **NO**
2. Are you or anyone in your immediate family a current member of a Municipal Agriculture Advisory Committee (AAC)? **YES** **NO**
3. Are you or anyone in your immediate a current member of the Township Committee or Board of County Commissioners? **YES** **NO**

If Yes, Position _____ Term _____

If you said YES to any of the above questions, please stop and contact the Farmland Preservation Program Administrator at (973) 579-0500.

AGRICULTURAL PRODUCTION

-
1. Is the farmland rented or leased? **YES** **NO** **If Yes,** please provide a copy of the lease or, if verbal, describe the terms of the lease _____

 2. Are there horses on the farm? Please contact the Program Administrator to see if you need to complete an equine questionnaire. Check all that apply: **none** **personal use** **breeding** **boarding** **Other:** _____
 3. Do you have livestock? **YES** **NO**
If Yes, do you have an Animal Waste Management Plan? **YES** **NO**
 4. Are there greenhouses/hoop houses on the farm? **YES** **NO** **If Yes,**
 - a. What is the composition of the floor of the greenhouse/hoop house? **soil** **gravel** **weed block over soil** **concrete** **other** _____
 - b. Are agricultural/horticultural products grown **in the ground** **in pots** **hydroponics** **in something else?** _____
 - c. How many months of the year are the greenhouses/hoop houses covered? _____ months
 - d. Was any grading done to level the ground for the greenhouse/hoop house? **YES** **NO**
 5. Is any part of the farm enrolled in a Federal Program (e.g., EQIP, CREP, CRP, WRE)?
 YES **NO** **If Yes,** describe & please provide map of restricted areas: _____

6. Is there any agricultural production currently taking place on the farm that is not covered on the current Farmland Assessment Form you provided with this application? **YES** **NO**

If **Yes**, please describe _____

7. The Farmland Preservation Deed of Easement protects the farm from activities which would be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, and continued agricultural use. To avoid unnecessary delays in the process, please let us know so we can be of assistance to address any resource concerns:

- Are there areas of the farm that have been or are being mined? **YES** **NO**
- Are there areas of the farm that have or have a history of erosion? **YES** **NO**
- Are there existing conservation practices on the farm? If Yes, please describe.

What year were they installed? _____

NON-AGRICULTURAL ACTIVITIES

It is important to identify existing non-agricultural uses so they can continue after preservation. Examples of non-agricultural uses are:

- An existing business, not related to your farm's agricultural production, located in your barn or home.
- A facility used to process or sell items not produced on the farm.
- A portion of the farm or structure on the farm that is rented or used by someone else for a use or business not related to the production of your farm (e.g., equipment storage, vehicle parking, office).

Because non-agricultural uses on the easement area **CANNOT be expanded or intensified** after the farm is preserved, it is important to document details to protect the activity. Landowners should consider taking an exception area instead, to provide the most flexibility. Exception areas are explained on Page 7 and in the guidance documents on Exception Areas and Non-Agricultural Use.

Appraisers must be aware of non-agricultural uses and determine the impact on the development easement value in their reports pursuant to the SADC Appraiser's Handbook (State Agricultural Development Committee). If you have any questions regarding non-agricultural uses, please address them with the Program Administrator prior to submission of the application.

1. Are there existing non-agricultural uses on the farm? **YES** **NO**

If **Yes**, please answer the following. If **No**, please skip to the next page.

Please describe the non-agricultural use and the frequency it occurs: _____

2. Please provide a map or list the approximate dimensions and locations of any structures and/or areas utilized for a non-agricultural use.

3. Does the non-agricultural use involve a lease with another party? **YES** **NO**

If **Yes**, please provide a copy of the lease.

4. Describe how the non-agricultural use is and will be accessed on the farm: _____

RESIDENTIAL INFORMATION & IMPROVEMENTS

The “Easement Area” is the area of the farm that will be covered by the Deed of Easement and preserved for agricultural use and production. Existing residences may remain on the easement area.

A “Residential Opportunity” means any existing or future residential unit on the easement area of the farm and/or those to be located inside a severable or non-severable exception area.

Residential opportunities include:

- **Existing or future residential units and ancillary improvements (garage, pool, utilities, etc.) in the Exception Areas**
 - An Exception Area is an area not covered by the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved.
 - Ancillary improvements must stay within the exception area, unless additional SADC policies apply.
 - Non-agricultural uses may occur within the exception, subject to municipal ordinances.
- **Existing residential units and ancillary residential structures (garage, pool, utilities, etc.) on the Easement Area**
 - May be improved, subject to municipal ordinances. They also may be relocated subject to SADC, SCADB and municipal approval.
 - Non-agricultural uses may not occur within the structures, unless additional policies apply.

Residential units for agricultural labor can be designated at the time of application and/or requested after the farm is preserved. There must be a need shown for the labor residences and the units cannot be rented to a family member, of lineal descent, or someone not working on the farm.

RESIDENCES ON THE EASEMENT AREA

Are there any residences on the farm within the easement area (outside of any exception areas)?

YES **NO** **If Yes**, please describe how many, the type of residences (single-family, duplex, apartment(s), trailer, etc.) and if there are accessory structures (garages, barns, pools, etc.) within the easement area. _____

1. Are any of the existing residences used for agricultural labor? **YES** **NO**

If Yes:

a. Which and how many units are used for agricultural labor? (apartment, single-family, etc.) _____

b. How many occupants? _____

c. When and how many months of the year are the units occupied? _____ months

d. Do all the occupants work on this farm? **YES** **NO** **If No**, please explain: _____

2. Are any of the existing residences rented or leased? **YES** **NO**

If Yes, please provide copy of the lease.

3. Do you want to or has the county or municipality placed a size limitation on any of the residences?

YES **NO** **If Yes**, please list: _____

4. Do any of the residences also contain a non-agricultural use? **YES** **NO**

If Yes, please describe: _____

OTHER BUILDINGS ON THE EASEMENT AREA

Are there any other buildings on the farm outside the exception area? **YES** **NO**

If No, please skip to the next section.

If Yes,

1. Please describe any non-residential structures (barn, run-in sheds, garage, trailer, etc.) on the area to be preserved.

2. Do any of the structures also contain a non-agricultural use? **YES** **NO**

If Yes, please describe and provide copies of any written leases for any buildings.

EASEMENTS AND RIGHTS OF WAY

Are there any easements or rights of way associated with the land being preserved? **YES** **NO**

If No, please skip to the next section.

If Yes, please check all easements that apply:

- Power Lines Water Lines Sewer Lines
 Gas Lines Sight Triangle Telephone Lines
 Bridge/Road ROW Other: _____ Other: _____

1. Are there access easements on or for the farm? **YES** **NO** **If Yes**, please describe:

2. Do you have existing or approvals for solar, wind, or biomass energy generating installations?

Existing **Approvals** **None** **If Existing or Approvals**, please describe:

EXCEPTION AREA INFORMATION

Why should I take an exception area?

- Do you wish to give or sell a building lot to someone?
- Do you have a barn where you might want to operate a business that might not be permitted under the farmland Deed of Easement (i.e. a non-agricultural use)?
- Do you want the flexibility to replace your home without farmland preservation program approvals?
- Are you entertaining the idea of operating a small business in the house or barns someday?

These are just a few common reasons why landowners choose to take exception areas. If your plans for future use of the farm includes any non-agricultural commercial uses, you should consider an exception area.

Exception Areas are not covered by the Deed of Easement or restricted to agricultural use. Primary residential development rights retained for an exception area must be specified and considered in the appraisal process. Ancillary residential and non-residential uses are not restricted, unless requested, but such uses are subject to applicable municipal, county, state, and federal laws and regulations.

Landowners will not be paid for acreage within severable or non-severable exception areas. Exception areas cannot be moved or expanded once the farm is preserved.

There are two kinds of exception areas:

- **Non-severable exception:** an area of the farm which is not covered by the Deed of Easement and remains tied to the farm. It cannot be subdivided, transferred, or conveyed separately.
- **Severable Exception:** an area that can be subdivided and sold separately from the farm provided it meets local subdivision requirements. It is not necessary to sever (subdivide) a severable exception prior to preservation, but it is recommended since it cannot be changed once the farm is preserved.

Exception areas shall be permitted only if they do not cause a substantially negative impact on the continued use of the farm for agricultural purposes. Factors for determining if there is an adverse effect to the agricultural operation are as follows: location, severability, number requested, size, percent of farm, Right to Farm language, and potential uses. Adjustments can be made to an exception area up until the Deed of Easement is signed. If the exception is for a future residence, you are encouraged to do perc tests and other due diligence to make sure the area will accommodate a future residence.

Sample Residence in Easement and Non-Severable Exception Area



Sample Non-Severable and Severable Exception Area



EXCEPTION AREAS

If you are requesting exception areas, please answer the following and indicate the location on an aerial map. Contact the Program Administrator if you need a copy of an aerial map.

It is recommended that the acreage and frontage of **severable exceptions** should meet local zoning minimum area, bulk, and dimension requirements for the proposed use. Road frontage and driveway access must be included within the severable exception area. We suggest that a severable exception(s) not exceed 5% of the total acreage.

Since **non-severable exceptions** cannot be sold separately from the preserved farm, the zoning for minimum lot size is based on the entire farm. Driveway access to non-severable exceptions do not need to be included in the exception area. Driveways for future residences must be approved either at the time of application or by SCADB and SADC staff after preservation. Please review the policy on Access to Exception areas in the reference section.

Please be aware that the number of permitted residences within an exception can impact the appraisal values.

Exception Area I: Block/Lot _____ # _____ Acres Non-severable Severable

1. Is the exception area for existing residences, future residences or not for residential use.
2. Please describe any existing residences: _____

3. If the exception is for future residences, please describe what number and type of primary residences are being requested: _____

4. The exception area will be restricted to:
 One single-family residence or # _____ residences / type of residence _____
 Zero single-family residences: this exception is for flexibility of use.
 I do not wish to restrict the number of primary residences. If so, please explain: _____

5. Does the exception contain the existing/proposed septic & utilities for the residence(s) or other uses?
 YES **NO** Please review the Septic Policy in the reference section for additional information.
6. Does the exception contain any other buildings? **YES** **NO** If Yes, please describe: _____

7. Is the Exception area for a Trail or Open Space? **YES** **NO** If Yes, please provide maps showing how it connects to a trail system or an open space plan within the municipality or county. Provide detail on width, buffers, improvements, and maintenance. _____

8. What is the site specific zoning and minimum lot size? _____

ADDITIONAL EXCEPTION AREAS

Copy page as needed

Exception Area 2: Block/Lot _____ # _____ Acres Non-severable Severable

1. Is the exception area for existing residences, future residences or not for residential use.
2. Please describe any existing residences: _____

3. If the exception is for future residences, please describe what number and type of primary residences are being requested: _____

4. The exception area will be restricted to:
 One single-family residence or # _____ residences / type of residence _____
 Zero single-family residences: this exception is for flexibility of use.
 I do not wish to restrict the number of primary residences. If so, please explain: _____

5. Does the exception contain the existing/proposed septic & utilities for the residence(s) or other uses?
 YES **NO** Please review the Septic Policy in the reference section for additional information.
6. Does the exception contain any other buildings? **YES** **NO** If Yes, please describe:

7. Is the Exception area for a Trail or Open Space? **YES** **NO** If Yes, please provide maps showing how it connects to a trail system or an open space plan within the municipality or county. Provide detail on width, buffers, improvements, and maintenance. _____

8. What is the site specific zoning and minimum lot size? _____

FARM HISTORY

Has this farm been the subject of an application for subdivision? Major Minor None

If **None**, please skip to the next page.

If **Major** or **Minor**, **COPIES OF THE RESOLUTIONS & MEETING MINUTES ARE REQUIRED.**
Supporting documentation should be submitted (surveys, municipal ordinances applicable at time of approval, etc.).

1. If approved, the subdivision application was Preliminary Final
2. Type of development (residential, commercial, office, mixed): _____
units or square footage _____
Preliminary Approval Date: _____ Expiration _____
Final Approval Date: _____ Expiration _____
3. Are all the parcels included in the final subdivision approval in the preservation application?
 YES NO
4. Have any extensions been obtained? YES NO If Yes, please describe:

5. Are there any outstanding and/or expired permits needed to perfect the approvals and/or build?
 YES NO If Yes, please describe and provide supporting documentation:

6. What conditions of approval have not been addressed? How likely are they to be resolved and what are the obstacles and costs involved?

7. List and discuss any past, current and/or ongoing litigation involving this project, including bankruptcy and foreclosure, or "builder's remedy" actions. Any litigation that needs resolution in order to proceed with the project.

8. Are there any conservation easements other than what was already provided in the application?

9. Please provide details & estimates to remediate/clean up all environmental contamination and materials in order to build housing, if applicable:

10. Please provide any sewer/septic information, capacity, status, costs, soil logs, or related documents.
11. Please provide any NJDEP approvals.
12. Please provide any water permits and capacity.

PER ACRE ASKING PRICE

After all applications are ranked and approved by the SCADB and the Board of Commissioners, two independent appraisals are done on each property. The SCADB requests that the applicant fill in the following so that the Board knows whether the landowner's request will be "in the ball park" of current fair market values. As landowner(s) of the premise described above, I/we are willing to make an offer to sell a development easement to the Board in the amount of \$ _____ per acre. (The amount being requested here is for the easement value, not the fair market value. The easement value is the difference between the Fair Market value and the Agricultural value.) I/we realize that this figure is non-binding and the final per acre value will be determined after two independent appraisals are done on the subject property and forwarded to the SADC. The SADC's Review Appraiser will then arrive at a value not to be less than the lower of the two appraisals or higher than the greater of the two appraisals.

ADDITIONAL APPLICANT INFORMATION

1. Is the farm for sale? **YES** **NO**

2. Is the owner of the farm involved in an estate situation? **YES** **NO**
If the land is held by an Estate, please provide:
 Will Probate and Tax Waiver **or** statement that no waiver is needed and why
If the land is held in a Trust please provide: Will **and** Trust Documents

3. Has the landowner filed for bankruptcy? **YES** **NO**
If Yes, provide documentation from the Court authorizing the application for farmland preservation.

4. Is the farm involved in a foreclosure? **YES** **NO**

5. Is there a mortgage on the farm? **YES** **NO** Please note that if the farm proceeds to preservation, any mortgages or liens will have to be paid off or subordinated to the deed of easement prior to closing. Please contact the Program Administrator with questions.

6. Is the landowner a Corporation? **YES** **NO** If **Yes**, please provide:
 Corporate Resolutions (authorizing application and contact person(s))
 Copy of Certificate of Incorporation
 Copy of By-Laws any amendments and schedules

7. Is the landowner an LLC? **YES** **NO**
If **Yes**, please provide Operating Agreement **and** Certificate of Formation

***Changes can be made throughout the preservation process.
However, changes may result in delays and changes to the easement offer.***

All applicants must sign here to acknowledge submission of the application and to confirm you've received and signed copies of the Guidance Documents on Exception Areas, Non-Agricultural Uses, and Division of the Premises.

Signature: _____

Date: _____

Signature: _____

Date: _____

Signature: _____

Date: _____

Signature: _____

Date: _____

QUESTIONS? Please contact the Program Administrator.

FARM CONSERVATION PLAN

Pursuant to paragraph 7 of the Farmland Deed of Easement, every farm preserved must obtain a Conservation Plan within a year of closing on the easement purchase.

A Farm Conservation Plan is a FREE site-specific plan developed by the Natural Resources Conservation Service (NRCS) that guides you through a variety of conservation and environmental farming practices and explains how each practice helps improve your land. They help you inventory the resources on your land and consider which conservation practices could contribute to an environmentally and economically sound farm. The implementation of these conservation practices is voluntary, although the NRCS may have grants available to implement the conservation practices and enhance the viability of your farm operation. More detail on Conservation Plans can be found in the reference section following this application.

Does the farm currently have a Conservation Plan? YES NO Please sign the release below even if you do not currently have a conservation plan. This release is necessary to allow SCADB staff access to the current or future plan.

AUTHORIZATION TO RELEASE CONSERVATION PLAN TO THE SCADB

I request and authorize the USDA - Natural Resource Conservation Service (NRCS), the USDA - Farm Service Agency (FSA) and/or a Technical Service Provider (TSP) to provide the Sussex County Agriculture Development Board (SCADB), with a copy of my conservation plan and all associated documents, including geospatial data, as needed. I further understand that the SCADB will not release these documents to any person or organization without my permission. I understand from time to time, the SCADB may request additional or updated information, if available, from NRCS, FSA, or a TSP for the Block and Lots or Farm and Tracts listed.

This request and authorization applies to the blocks and lots contained within this application and the surrounding lands that may be part of the same conservation plan, which may include, but is not limited to:

- The following Farm/Tracts: _____
- All Farms/Tracts on record with NRCS in my name.
- Other: _____

Name and address of TSP, if applicable:

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

References

CONTACTS

Please don't hesitate to contact Autumn Sylvester, Program Administrator, with any questions

(973) 579-0500 or by email at asylvester@sussex.nj.us

Mailing Address: Sussex County Division of Planning
Sussex County Administrative Center
One Spring St.
Newton, NJ 07860

REFERENCES

SADC REGULATIONS AND POLICIES <https://www.nj.gov/agriculture/sadc/rules/>

- Minimum Eligibility Criteria N.J.A.C. 2:76-6.20(c), -6.23 (a), 6.20(d), -17.4(a)
- SADC Guidance Library: <https://www.nj.gov/agriculture/sadc/publications/guidance/>

GUIDANCE DOCUMENTS

- Septic Policy (P-49): <https://www.nj.gov/agriculture/sadc/documents/rules/pol49.pdf>
- Access to Exception Areas_ https://www.nj.gov/agriculture/sadc/documents/rules/P41%20_Access%20to%20Exception%20Areas_.pdf

MAPPING RESOURCES

<https://www.njmap2.com/>

Exception Areas

An exception is an area free from the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved. It is very important to consider exception areas prior to preservation because they will not be granted, moved or expanded once the farm is preserved.

Types of Exceptions

There are two types of exceptions: non-severable and severable.

Non-severable Exceptions:

A non-severable exception is an area of the farm which is excepted from the easement restrictions but remains tied to the farm and cannot be subdivided, transferred or conveyed separately from the farm.

Severable Exceptions:

A severable exception is an area that can be subdivided and sold separately from the farm provided it meets local subdivision requirements. It is not necessary to sever (subdivide) a severable exception prior to preservation. A landowner will not be paid for areas designated as a severable or non-severable exception because the Deed of Easement restrictions will not apply to the area(s).

Why should I take an exception area?

- Do you wish to provide a building lot for a child?
- Do you have a barn where you might want to operate a business that might not be permitted under the farmland Deed of Easement (i.e. a nonagricultural use)?
- Would you like to have the flexibility to replace your home without farmland preservation program approvals?
- Perhaps you are entertaining the idea of operating a Bed & Breakfast in the main farmhouse someday?

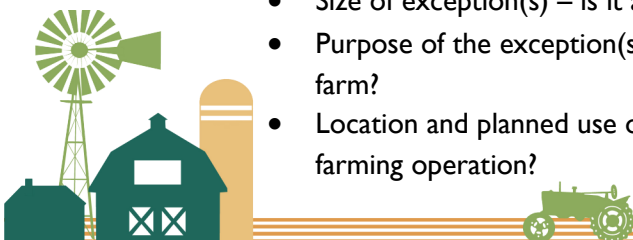
These are just a few common reasons why landowners choose to take exception areas. If your plans for future uses of the premises include any nonagricultural production based activity you should consider an exception area.

Although nonagricultural uses existing and recognized at the time of preservation are allowed, did you know they cannot be expanded in the future unless they are within an exception area?

Locating an Exception Area

It is very important to consider the number, size and location of exception areas. Exception area requests which negatively impact the farm or are found to allow excessive housing around the agricultural operation may not be approved. Therefore, balancing landowners' needs with a sensitivity to the agricultural operation, now and into the future, is important. The SADC considers the following in evaluating exceptions:

- Number of exceptions requested – is it excessive?
- Size of exception(s) – is it a very large area of the farm?
- Purpose of the exception(s) – will future uses negatively impact the farm?
- Location and planned use of the exception area – sensitive to the farming operation?



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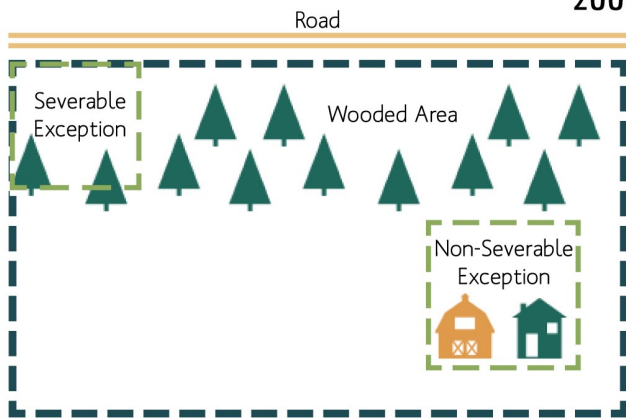
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Exception Areas

Locating an Exception Area continued...

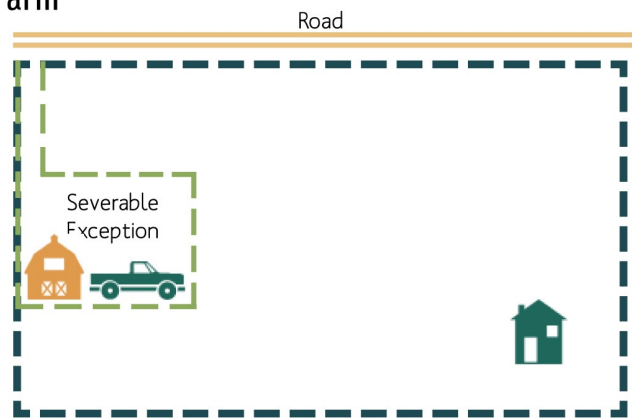
If you are requesting an exception for a future housing opportunity, you are strongly encouraged to thoroughly explore the feasibility of that location including septic suitability, ability to obtain water, road access, wetlands, wetland buffers and special regulations that may apply in your area, such as the Highlands or Pinelands. If the access to an exception area is used exclusively for nonagricultural purposes, the access must also be included in the exception area. Residential use is not considered a nonagricultural purpose, so, if the exception is being used for a residential use the driveway does not have to be included within the exception area. Remember - you must make decisions about exceptions at the time of application, prior to appraisals being conducted. If you change your mind during the preservation process, this could result in delays in processing your application.

Sample Exception Area Layouts 200 Acre Farm



Example #1

A 200 acre farm with a non-severable exception around an existing barn and house and a severable exception along the road for the landowner's child to subdivide and own separate from the farm.



Example #2

A farm with a severable exception around a nonagricultural use and driveway, and a house on the farm outside of an exception area.



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Exception Areas

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Division of the Premises

The Deed of Easement sets forth the legal restrictions that will apply to your farm once it is preserved. The survey metes and bounds description of your farm has the effect of tying all of your lots together as one preserved “premises”.

Although your farm may consist of multiple lots, after preservation they cannot be divided, transferred individually or conveyed to other owners without written approval of the State Agriculture Development Committee (SADC) and the easement holder, which may be the County Agriculture Development Board (CADB) or a non-profit agency.

The SADC’s objective is to retain large masses of viable agricultural land. Agricultural parcels may become less viable if reduced in size. Therefore, the SADC will carefully consider the criteria to evaluate whether a permanently preserved farm should be divided.

Diagram of a Non-Contiguous Division

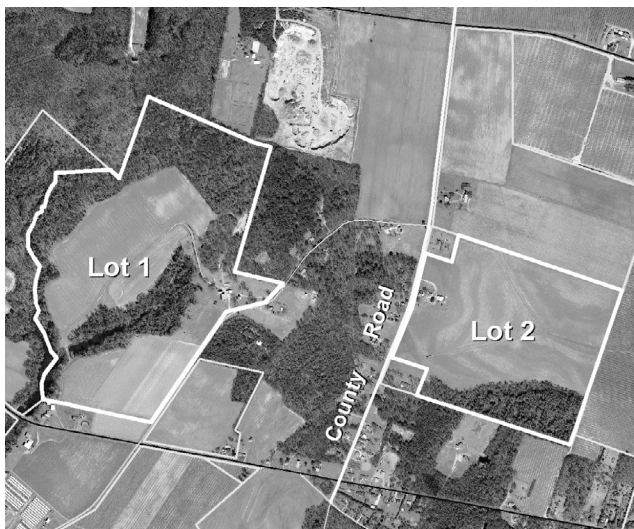
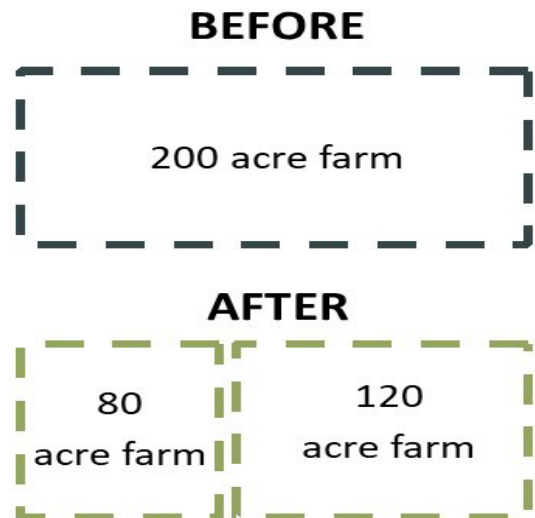


Diagram of a Contiguous Division



Major SADC Considerations

- Total Tillable Acreage
- Quality of Soils
- Configuration of New Parcels
- Historical Agricultural Uses
- Existing Agricultural Infrastructure
- Proximity to Other Farms/ Preserved Farms
- Proposed Agricultural Uses
- Benefit to Production Agriculture



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Division of the Premises

To request approval to divide the preserved premises, you need to submit an application to the easement holder demonstrating that the division would meet both of the following tests:

The Agricultural Purpose Test

First, the proposed division must be for an agricultural purpose. The SADC considers enhanced agricultural production activities, such as agricultural expansion, diversification and/or intensification resulting from a division as typically meeting the agricultural purpose test.

The Agricultural Viability Test

Second, the division must result in agriculturally viable parcels, each capable of sustaining a variety of agricultural operations that produce a reasonable economic return under normal conditions, solely from the parcel's agricultural production. So, the SADC would need to be confident that each newly created farm has sufficient agricultural resource value (soil quality, tillable land, size, etc.) to support a variety of agricultural operations into the future. Additionally, any parcel not meeting the minimum eligibility criteria for new applications to the program set forth in the SADC regulations will not be approved.

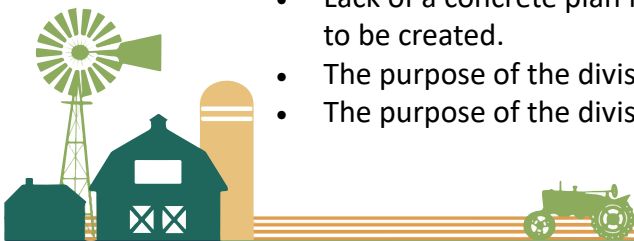
Division Procedure

1. Submit completed application and required maps to the easement holder.
2. The easement holder will ensure that the application is complete and evaluate it based on the Deed of Easement and the agricultural purpose and viability tests.
3. If approved, the easement holder will forward the application to the SADC for its review based on the Deed of Easement and the agricultural purpose and viability tests.
4. If approved by the SADC, new surveys and legal descriptions may be required as a condition of approval. In addition, the SADC may request to review any deed which transfers a portion of the Premises to a new owner. Upon review and approval of all necessary documents, the SADC will record its approval resolution with the appropriate County Clerk's office.

Application and additional information can be found under Policies at <http://www.nj.gov/agriculture/sadc/rules/>

Why might an application for a division of the Premises be denied?

- Each parcel does not meet the minimum eligibility criteria on its own – For example, the newly created farms may not be of sufficient size or may have a lack of tillable acres on at least one parcel.
- Large wooded areas or areas of marginal soils render the tillable land of one parcel insufficient or unable to support a variety of agricultural production activities.
 - Lack of a concrete plan for agricultural production for one or both of the new parcels to be created.
 - The purpose of the division is speculative resale of one or multiple preserved parcels.
 - The purpose of the division is to accomplish estate planning.



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Division of the Premises

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Nonagricultural Uses

The restrictions in the Deed of Easement limit a preserved farm to agricultural uses. Once your farm has been preserved, no nonagricultural uses will be allowed, except if otherwise outlined in the Deed of Easement or if they occur within an exception area. Because nonagricultural uses are not related to agricultural production, they cannot continue unless recorded in a Schedule B in the Deed of Easement or contained within an exception area. Both of these options are designed to protect you and allow you to continue your nonagricultural use into the future.

Do you have a nonagricultural use on your farm?

Some examples of a nonagricultural use include:

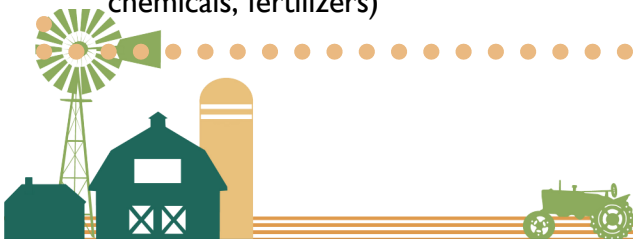
- An existing business, not related to your farm's agricultural production, located in your barn or home
- A lumber processing business that uses timber produced/grown by other farmers
- A facility used to process or sell agricultural products not raised on the farm or by the owner's farming operation
- A portion of your farm or structure on your farm that is rented or used by someone else for a use or business not related to the production of your farm (e.g., equipment, vehicle parking, office)
- A portion of your farm or structure on your farm that is used for the storage of agricultural products or materials not derived from or intended for use on your farm (e.g., grain/cold storage, parts, chemicals, fertilizers)

Schedule B Nonagricultural Use

This option allows you to continue your nonagricultural use following the preservation of your farm at the same scale and location it is at the time of preservation.

Before appraisals and surveys are conducted, you will be asked to identify and describe any nonagricultural uses occurring on your farm. Details of the use(s), such as the type, frequency, intensity, size and location, will be recorded as a Schedule B and attached to the Deed of Easement. This document binds your use to its current parameters so that you cannot expand or change it in the future.

Although you will still be paid for the land under the use, this option provides you with little flexibility and no opportunity to expand the use, change the use, or start a new use in the future. Additionally, if the current nonagricultural use ceases at some point, you are not permitted to resume it in the future.



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Nonagricultural Uses

Nonagricultural Uses in Exception Areas

You also have the option of excepting out some of your land under and surrounding a nonagricultural use(s) from the Deed of Easement. This option provides you with maximum flexibility for your use in the future since the land in exception areas is not subject to the restrictions of the Deed of Easement. Although you will not be paid for the land in an exception area, you will be able to change, improve and expand your use within the exception area as you wish, subject to all applicable local and state regulations.

An exception area around a nonagricultural use is ideal if you can foresee the use or an area of your farm changing in the future. For instance, you may have an older barn that is becoming too small for modern tractors and your agricultural operation. Rather than razing it or allowing it to go into disrepair, you may want to rent this space out to a carpenter or other small business. By including the structure in an exception area, you maintain the flexibility to repurpose an agricultural structure and adapt to the changes of your farm.



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Special Occasion Events - Overview

Special Occasion Events on Preserved Farmland – P.L. 2023, c.9.

Introduction

P.L. 2023, c.9 became law on February 3, 2023. The law recognizes the positive effects that holding special occasion events (SOEs) on preserved farms can have, under certain conditions. Among these are helping sustain the agricultural industry, enhancing the growing demand for agritourism activities on farmland, and improving the viability of the state’s farm operations without displacing agricultural or horticultural use of the land, or disrupting neighborhoods that surround preserved farms.



What an SOE Is

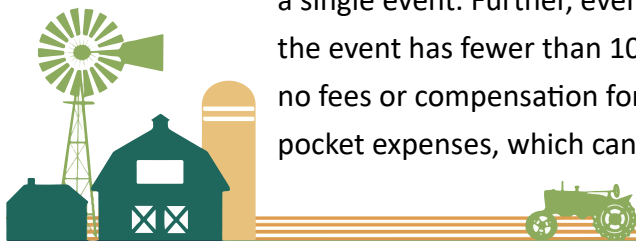
An SOE is a cultural or social event, including a wedding, held on preserved farmland. For the purposes of P.L. 2023, c.9., SOEs do not include the following: activities eligible for Right to Farm Act protection; recreational uses already permitted under the farmland preservation deed of easement; and weddings held for the owner, operator, or employee of the commercial farm or weddings held for certain family members of the commercial farm owner.

Who May Apply to Hold SOEs

The owner or operator of a preserved farm that is also a “commercial farm” may apply to hold SOEs. The preserved farmland must produce agricultural or horticultural products worth \$10,000 or more annually to qualify to hold SOEs. If the applicant to hold SOEs is a farm operator, and not the farm owner, the operator must obtain written authorization from the owner to apply.

How Many SOEs May be Held

Farm owners or operators can receive approval to hold up to twenty-six (26) SOEs per calendar year on the preserved farm. Up to six of the SOEs may have 250 or more guests in attendance at any time during the event. If a farm holds more than one SOE on the same day, only one of the SOEs on that day may have 100 or more guests. An event is considered a single SOE if the event lasts not more than two consecutive days and is marketed as a single event. Further, events held by or for a nonprofit entity do not count as an SOE if the event has fewer than 100 guests and the permittee does not charge for and receives no fees or compensation for hosting the event, other than for reimbursement of out-of-pocket expenses, which cannot exceed \$1,000.



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Special Occasion Events - Overview

Area Used to Hold SOE's

The area used to host the SOEs is referred to as the "occupied area", and includes all areas needed for structures, parking, and other infrastructure. The occupied area may be up to 10 acres or 10% of the preserved farmland acreage, whichever is less. SOEs may not interfere with the use of the preserved farm for agricultural or horticultural production and shall have only minimal effects on the occupied area and ensure that the land can be readily returned to productive agricultural or horticultural use after the event.

SOEs can be held outside, or inside a building that is at least 5 years old at the time of application for the SOE. No new permanent structures may be constructed or used to host SOEs, and improvements to existing structures are limited to the minimum required for the protection of health and safety. Temporary structures or tents may be used, provided they comply with applicable construction and fire codes and are limited to use between April 1 to November 30.

No public utilities other than electric and water service may be extended to the preserved farm for holding SOEs. Parking areas for SOEs must use existing parking areas and land around existing buildings to the extent possible. Additional temporary, on-site parking areas are required to follow standards previously adopted by the SADC in regulation (N.J.A.C. 2:76-2A.13).

How it Works

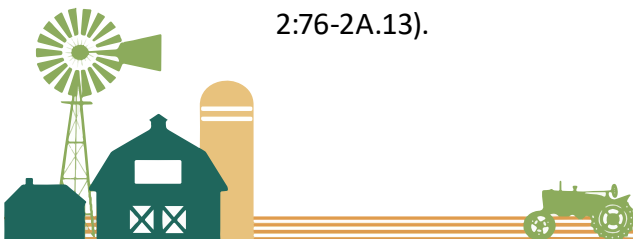
Farm owners, or farm operators with written authorization from the owner, can submit an SOE application to the holder (grantee) of the Farmland Preservation Program (FPP) deed of easement.

The easement holder, typically a county agriculture development board (CADB), board of county commissioners, nonprofit organization, or State Agriculture Development Committee (SADC), will review the application. The grantee must first confirm that the farm complies with its FPP deed of easement in order for it to be eligible to hold SOEs.

The grantee has 90 days in which to review the application and "shall" approve the application if it adheres to the requirements in the law and to forthcoming regulations promulgated by the SADC.

If the grantee does not respond to the application within 90 days, the application is deemed approved. A nonprofit grantee can approve, approve with conditions, or deny the application. A grantee cannot require a farm to submit an application to hold SOEs more than once annually.

Once an applicant receives approval to hold SOEs, the applicant is required to report annually to the grantee information about the SOEs held in the prior calendar year, including information on the dates, type of SOEs, and number of attendees of each event held. The Grantee is required to send a copy of this information to the SADC.



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Special Occasion Events - Overview

County, Nonprofit, and SADC Roles

Counties and nonprofit partners are responsible for accepting, reviewing, and acting on SOE applications from farms for which they hold the FPP deed of easement. No additional approval by the SADC is required; the SADC, like its partners, only reviews and acts on SOE applications from those farms on which it holds the easement. Partners must forward a copy of all SOE approvals and annual reporting information received from farms holding SOEs to the SADC.

The SADC is directed to develop and adopt regulations governing the SOE program, however, applications may be submitted to and processed by the easement holder prior to the SADC adopting SOE rules. The SADC also is required to regularly report to the legislature on implementation of the program.

Municipal Role

All applicable State and local laws and regulations apply to the holding of SOEs, including but not limited to those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety. If the SOEs proposed by a farm would generate parking or traffic flow that could unreasonably interfere with normal traffic or emergency vehicle movement, or require the expenditure of municipal resources or inspections from agencies or authorities of the municipality, a municipality may require the submission of a municipal SOE application to review compliance of a farm's proposed SOEs with local laws. Municipalities may not charge more than a \$50 application fee and may not require more information than would be required for similar events conducted at a public park or another public venue.



For More Information

Please see the SADC website, www.nj.gov/agriculture/sadc, for a copy of the SOE law and an SADC Q&A document. Farm owners and operators, as well as farmland preservation partners, also can contact the SADC at (609) 984-2504 and ask for David Kimmel.



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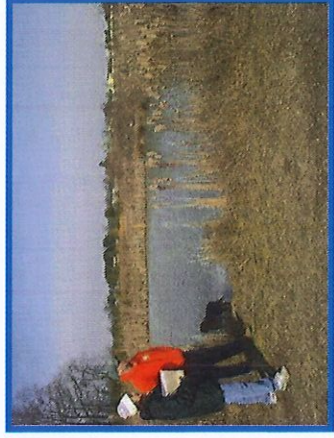
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What will it cost?

It will cost you **nothing** to get your conservation plan. This service is provided by the U.S. Department of Agriculture Natural Resources Conservation Service in cooperation with your local Soil Conservation District.

Some conservation practices, such as changing your crop rotation, stripcropping and contour farming may only require a change in the way you operate your farm. Other conservation practices, such as grassed waterways and terraces, may require additional investment. But part of the cost of these practices may be shared through federal, state and local cost-sharing programs.

For other practices, such as conservation tillage, you may need to invest in different tillage or planting equipment. In some cases, you may be able to adapt your existing equipment for conservation tillage.

Identify Cost Share Opportunities

A conservation plan can help you decide which state or federal cost share assistance programs would be suitable for your operation. Your local NRCS or Soil Conservation District office can assist you.

Maintaining and Updating Your Plan

After you have made your decisions and the conservation plan is complete, you will receive your copy. Another confidential copy will remain on file at your NRCS office.

Changes in markets, weather, or technology may cause you to reconsider some of the choices you made in your plan. If something happens that would force you to change your decisions, you need to revise your plan. Contact your local Natural Resources Conservation Service office to discuss any changes you propose.



If you participate in USDA programs or the state Farmland Preservation Program, it is very important that you keep your conservation plan up to date. As a program participant you are required to certify every year that you are following your schedule.

To learn more about conservation planning, contact USDA, Natural Resources Conservation Service or the Soil Conservation District that serves your county. Trained conservationists are available to meet with you.

NRCS office locations, updated program information and applications are available online at

<http://www.nj.nrcs.usda.gov>.

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What's in a Conservation Plan?

A conservation plan includes:

- an aerial photo or diagram of your fields;
- a list of your management decisions;
- the location of and schedule for applying new conservation practices;
- a soil map and soil descriptions;
- information sheets explaining how to carry out your specific management decisions;
- a plan for operation and maintenance of practices, if needed.

Benefits of a Conservation Plan

Following your conservation plan has many benefits:

- You will protect your soil and your farm's productivity;
- You will help improve quality of the water in your area;
- You will improve your soil's fertility and manage soil moisture;
- You may attract desirable wildlife by creating nesting sites and winter cover;
- You will protect the productive value of your land for future generations;
- You can more readily comply with environmental regulatory requirements;
- You may be eligible for USDA farm programs.

You make the decisions. The NRCS conservationist can show you many good alternatives and make some economic comparisons, but you decide what you want to do, when and how.

What is a Conservation Plan?

A conservation plan is a tool designed to help you better manage the natural resources on your farm. An NRCS conservationist will meet with you to evaluate the soil, water, air, plant and animal resources on your property and offer several alternatives to address the resource conditions. The alternatives you decide to use are recorded in your conservation plan which includes a schedule for installation.

Implementing the conservation plan will help you protect the environment on and off your farm.

NRCS technical experts can help you develop a conservation plan for your farm.

February 2010

Example Conservation Plan For a Grain-Beef Farm

What will you need to do?
You will need to know your crop sequence – what crops you plan to grow in each field. You'll also need to provide information on how your land is farmed, what kind of tillage equipment you use, existing conservation practices, and your crop and livestock plans for the future.

How is a plan developed?

With the soil conservationist, you will analyze your farm, field by field. You will learn the soil types on your farm, the slope and slope lengths of each field. The Revised Universal Soil Loss equation will be used to find out how much soil is eroding on each field.

You make the decisions

With your help, the conservationist will inventory the resource conditions existing on your farm. They will help you interpret the information about your land, its soil, and production capability. You can discuss resource concerns and solutions, field by field.

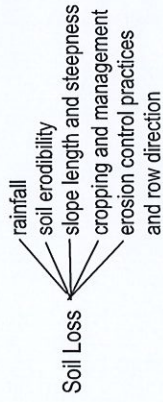
Then you will decide what changes you can make to protect and improve your land. The soil conservationist will help you by offering a variety of choices, based on the NRCS Field Office Technical Guide for your county.

Next, you will set up a reasonable schedule for applying any needed conservation practices. It may be several years before all your practices are installed. In addition to controlling soil erosion, you can get assistance on other resources concerns, such as **pasture and woodland improvement, managing animal waste, wildlife habitat, irrigation water management, and stream bank protection.**

You raise corn and soybeans and maintain a herd of beef cattle. You moldboard plow and disk in the spring, and plan to continue growing cash grain on most of your acreage. There are several fields on your farm and you want to control soil erosion.

Calculating soil loss on your field

The Revised Universal Soil Loss Equation estimates the amount of soil erosion caused by water. Five factors are used to figure soil loss:

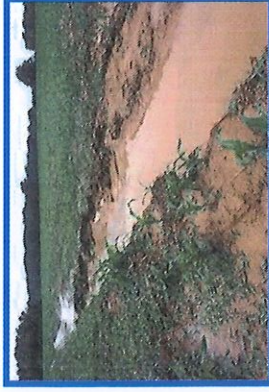


Notice that only the last two factors, cropping and management and erosion control practices, are in your complete control. These are things you can change to reduce soil erosion.

Options to reduce erosion

After working the Revised Universal Soil Loss Equation, you realize that excessive soil erosion occurs on a field.

1. You could farm close to the contour instead of up and down hill, chisel plow instead of moldboard plow, and install a grassed waterway. The waterway will stop the gully in the lower part of the field.
2. You could use no-till planting and install a grassed waterway.
3. You could construct tile outlet terraces and moldboard plow on the contour.
4. You could add a close-grown crop, such as winter wheat, to your corn-soybean rotation, chisel plow on the contour, and install a grassed waterway.



Before:
Corn-soybean rotation
Moldboard plow
Up and down hill
Erosion = 8 tons/acre/year

RECORD OF COOPERATOR DECISIONS

Field	Date	Narrative Record
1,2	2010	CROPLAND Conservation Crop Rotation – Corn 3 yr – Soybean 2 yr
1	2010	Stripcropping - 86' wide strips to fit equipment
2	2011	Residue Management – No till - 60% residue left after planting
1	2011	Grassed Waterway
3	2010	Contour Farming – Grain crops planted on the contour
1,2,3	2012	Nutrient Management – Apply nutrients according to soil test results and yield goals
		PASTURE
5	2010	Prescribed Grazing – Maintain optimum forage quality through rotational grazing system.
		WOODLAND
4	2010	Wildlife Upland Habitat Management – Create openings for quail habitat
		FARMSTEAD
6	2011	Waste Storage Facility



After:
Corn-soybean rotation
Chisel plow
Contour farming
Grassed waterway
Erosion = 2 tons/acre/year

Conservation planning makes a difference.
If your field had a 5% slope and a slope length of 200 feet, a tolerable soil loss might be 3 tons per acre per year. But, you and the NRCS professional assess the field and calculate that 8 tons per acre per year are being lost. A few adjustments in your practices can improve your operation by significantly reducing soil loss.