

RE: Proposed New Rules: NJAC 2:76-25.1 and 25A.1; "Soil Protection Standards"
Proposal Number: PRN-2023-079
Public Comment

Director Payne and Members of the State Agriculture Development Committee:

During the rulemaking period, individual County Agriculture Development Boards (CADB) submitted comments to the State Agriculture Development Committee (SADC) expressing their significant concerns with the Soil Protection Standards draft proposals and the impact it would have on the NJ Farmland Preservation Program and the existing preserved farmland throughout the State. However, in response to the SADC Soil Protection Standards Rule Proposal, published in the NJ Register on August 7, 2023, this letter is respectfully submitted on behalf of the following County Agriculture Development Boards:

- Atlantic CADB
- Cape May CADB
- Cumberland CADB
- Hunterdon CADB
- Mercer CADB
- Middlesex CADB
- Morris CADB
- Salem CADB
- Somerset CADB
- Sussex CADB

While we appreciate the work done by the SADC to develop the proposed Soil Protection Standards following the NJ Supreme Court Decision in *State of New Jersey, State Agriculture Development Committee vs. Quaker Valley Farms, LLC, 235 N.J. 37 (2018)*, and further commend the SADC staff in gathering stakeholder comments throughout the process, we strongly object to the Soil Protection Standards as proposed. As feared, the proposed rules retroactively modify the provisions of the deed of easements of preserved farms throughout the State, undermining and eroding the trust the SADC and CADBs have built within the agricultural community since the inception of the State's Farmland Preservation Program in 1983.

Preserved farm owners agreed to restrict their land for agricultural purposes in consideration of the deed of easement provisions in place at the time the property was preserved. The Quaker Valley decision states that "The deeds' terms must be read reasonably to achieve their aims, so that one is not sacrificed for another. That requires that the terms be reconciled in a manner that a reasonable person would have understood at the time the parties agreed to the deed of easement, (page 29, *State of New Jersey, State Agriculture Development Committee vs. Quaker Valley Farms, LLC, 235 N.J. 37 (2018)*)." The Proposed Rules restrict and regulate generally accepted agricultural practices and activities on preserved farms to such a degree that no reasonable person would have understood that the terms of the deed of easement would include the Proposed Rules as written. While farmers who participate in the State's Farmland Preservation Program today will be aware of these new restrictions, farmers who preserved their farms, or those who purchased a preserved farm prior to 2021, could not reasonably anticipate the additional restrictions now placed on their agricultural operations.

The Proposed Rules mention that the rulemaking supports the State's business climate by providing predictability to preserved farm landowners so that they can adequately prepare and properly effectuate their agricultural business plans. We disagree. When preserving farms, the SADC and the CADBs purchased only the non-agricultural development rights from preserved farmland owners - neither the SADC nor the CADBs purchased the agricultural development rights. As such, the additional restrictions proposed in this rule take away the agricultural development rights from existing preserved farm owners without just compensation. In selling their development easement for farmland preservation purposes, the landowner surrendered the right to develop the land for any nonagricultural purposes in

return for just compensation - they did not surrender the right to develop the land for agricultural purposes. Current preserved farm landowners made a monetary judgment of value based on the current deed of easement terms. For these reasons, we recommend the Proposed Rules apply to new applications only. Landowners would be well aware of the standards prior to entering the program. New applicants would be free to consider the benefit of the program versus the costs, while having the ability to modify their farming practices that conform to these new standards.

The dual goals of the ARDA are to promote and strengthen the agricultural industry and to preserve farmland. As such the ARDA and easement terms encourage the agricultural use of preserved farmland, which include the construction of roads and buildings for agricultural purposes, N.J.A.C. 2:76-6:15(a)(12), (14). We feel that the Proposed Rules directly conflict with the purposes of the ARDA and the general intent of the deed of easement language, which specifically permits "the construction of any new buildings for agricultural purposes" and further allows the grantor "the right to construct any roadway necessary to service crops, bogs, agricultural buildings or reservoirs." We understand that these easement provisions do not supersede the rights of other equally important easement terms, but the Proposed Rules as written, will negatively impact the economic viability of preserved farms and place soil disturbance over agricultural viability.

In addition, we feel that the proposed rules as written are unnecessary. Paragraph 7 states that any activity which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation is prohibited. The deed further states that the farm owner shall obtain a farm conservation plan approved by the local soil conservation district and that the landowner's long term objectives shall conform with the provisions of the farm conservation plan. The SADC's own data shows that only 3.5% of preserved farms have utilized more than half the disturbance allocated. That the majority of our preserved farms already comply, shows that Paragraph 7 of the deed of easement is sufficient to address soil conservation issues. Therefore enforcement of the provisions of Paragraph 7 should sufficiently address soil conservation concerns on a site-specific case-by-case basis.

It is also important to note that upon review of the individual farm maps we have found significant inconsistencies regarding disturbance calculations. Additionally, the satellite layer used to calculate existing disturbance is from 2020 and is already outdated. In some cases, the satellite layer does not align with the survey so that exception areas and property boundaries are misaligned, sometimes by up to 50', while in other cases, tree lines and shadows of structures were calculated as disturbed soil. It is overly burdensome for CADB staff to review, calculate, & verify this data year after year, not to mention the burden the rules place on individual property owners to verify, measure, and obtain the proposed waivers. If the Proposed Rules are part of terms of the deed of easements and the property survey graphically depicts the land on which the deed restrictions apply, then survey plats and/or metes and bounds descriptions should be used to calculate areas of "soil disturbance" for enforcement purposes. Aerial imagery and GIS spatial data are used for informational purposes only and are not legally acceptable depictions of boundaries. How can new restrictions be applied to land based on outdated aerial photo calculations instead of official surveys?

Finally, the agriculture industry in New Jersey is particularly threatened by rising costs, decreased land access, and urbanization and has had to continually evolve to maintain its viability. We feel that these Proposed Rules will not only restrict future agricultural development on preserved farms, but they will cause serious harm to NJ's agricultural industry and viability. We further believe these new rules will severely curtail interest in the farmland state preservation program and will instead steer landowners towards development, rather than preservation - accomplishing the exact opposite of the ARDA's purpose.

On behalf of our Boards, thank you for your time and attention.

Atlantic County CADB

Atlantic County CADB

Middlesex County CADB

Middlesex County CADB

Cape May County CADB

Cape May County CADB

Morris County CADB

Morris County CADB

Cumberland County CADB

Cumberland County CADB

Salem County CADB

Salem County CADB

Hunterdon County CADB

Hunterdon County CADB

Somerset County CADB

Somerset County CADB

Mercer County CADB

Mercer County CADB

Sussex County CADB

Sussex County CADB

Hunterdon County Agriculture Development Board

Hunterdon County Administration Building #1

314 Route 12, Hunterdon County Complex

PO Box 2900

Flemington, New Jersey 08822-2900

(908)788-1490

cadb@co.hunterdon.nj.us

August 7, 2023

RE: Proposed New Rules: NJAC 2:76-25.1 and 25A.1; "Soil Protection Standards"
Proposal Number: PRN-2023-079

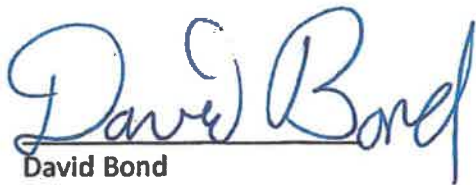
Director Payne and Members of the State Agriculture Development Committee:

The Hunterdon County Agriculture Development Board (HCADB) supports farmland preservation as a public/private working lands initiative. Family farms are a historical and viable \$92 million industry in Hunterdon County. Farmland easements in Hunterdon County cover almost 36,500 acres at a public cost approaching \$305 million. 30% of the Farm Assessed acreage in Hunterdon County is permanently restricted for agricultural use. An additional 1,164 acres are currently in the process of preservation.

The HCADB appreciates the work done by the State Agriculture Development Committee (SADC) on the Soil Protection Standards and commends the SADC Staff in gathering stakeholder comments throughout the process.

The HCADB objects to the retrospective nature of the Soil Protection Standards as they serve to modify the terms of easements that have been previously agreed to by easement holders. Roughly half of the 483 easements in Hunterdon are at least 15 years old. Many easements are no longer held by the original applicant and farm purchasers have made a monetary judgement of value based upon an understanding of the agreed terms. Once a permanent easement has been agreed upon the terms should not be amended. Confidence in the Preservation Program relies on landowners understanding what they are agreeing to. Those terms cannot change over time or with subsequent owners. The HCADB is concerned that the proposed Standards set a precedent to undermine a popular program that has been beneficial to continued viable agriculture in Hunterdon County.

On behalf of the Board, thank you for your time and attention,



David Bond

Hunterdon CADB Chair

Cc: Hunterdon Board of County Commissioners



COUNTY OF MERCER
DEPARTMENT OF PLANNING

McDade Administration Building, Room 412
640 South Broad Street, PO Box 8068
Trenton, NJ 08650-0068
Phone 609-989-6545 Fax 609-989-6546

BRIAN M. HUGHES
County Executive

KELVIN S. GANGES
Chief of Staff
LESLIE R. FLOYD
Planning Director

LILLIAN L. NAZZARO, ESQ.
County Administrator

October 19, 2023

Ms. Susan Payne, Executive Director
State Agriculture Development Committee
Department of Agriculture
P.O. Box 330
Trenton, NJ 08625

Dear Ms. Payne and Members of the SADC:

In response to the request for comments on the proposed Soil Protection Standards, the Mercer County Agriculture Development Board provides the following:

The Soil Protection Standards, as currently described, limit the agricultural development of preserved farms beyond what was reasonably understood at the time of conservation. The retroactive nature of these standards erodes landowner trust in farmland preservation. Additionally, these standards could decrease the future economic viability of farms as current common farming practices (ie. row crops) yield to more controlled growing conditions that require suspended surfaces. As the demands on the farming industry change due to climate, technology, and public need, it is important that preserved lands have the flexibility to adapt.

With this in mind, we recommend that farms preserved prior to the adoption of soil protection standards should not have a soil disturbance limit and that the language of the Deed of Easement with respect to soil conservation is sufficient to accomplish these goals.

Respectfully submitted,

Leslie R. Floyd
Planning Director and Acting Secretary, Mercer County Agricultural Development Board

Cc: Mercer CADB
Susan Bacso, Esq., Mercer CADB Counsel

Ronald G. Rios
County Commissioner Director

Shanti Narra
County Commissioner Deputy Director

Claribel A. Azcona-Barber
Charles Kenny
Leslie Koppel
Chanelle Scott McCullum
Charles E. Tomaro
County Commissioners



DEPARTMENT OF TRANSPORTATION
Office of Planning
Agriculture Development Board

Charles Kenny
Chairperson,
Transportation

John A. Pulomena
County Administrator

Khalid Anjum
Department Head

Linda B. Weber, AICP, PP
Planning Director

James Giamarese
Chairman

October 3, 2023

**RE: Proposed New Rules: NJAC 2:76-25.1 and 25A.1; "Soil Protection Standards"
Proposal Number: PRN-2023-079**

Dear Director Payne and Members of the State Agriculture Development Committee:

Please accept this letter on behalf of the Middlesex County Agriculture Development Board ("MCADB") members as comments to the State Agriculture Development Committee's ("SADC") draft Soil Protection Standards proposals. The MCADB joins in and supports the comments submitted by the joint letter of ten county agriculture development boards ("Joint CADB Letter") including the MCADB.

Overall, the MCADB highlights the concern that the proposed provisions of the Soil Protection Standards were not in place at the time current preserved farm owners agreed to restrict their land for agricultural purposes. Imposing new restrictions on existing preserved farms offers no benefit to promoting their viability, as it imposes additional restrictions on their agricultural operations.

Specifically, there is a concern with the rules as they apply to the criteria for the determination of exemptions for hoopouses and temporary structures. The proposed rules would consider a structure a soil disturbance based on failing one criterion regardless of the ability to till the ground under the structure.

The MCADB appreciates the work the SADC has done in developing the proposed Soil Protection Standards, however, the MCADB submits the above and joins the comments contained in the Joint CADB Letter.

Thank you very much for your time and consideration.

Sincerely,

DocuSigned by:

A handwritten signature in black ink that reads "Jim Giamarese".

James Giamarese, CADB Chairman

75 Bayard Street, New Brunswick, NJ 08901
Phone: 732-745-4014 | Fax: 732-745-8443
www.middlesexcountynj.gov



MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD

Martin Bullock
Chairman



Hall of Records Annex 2nd Floor
One East Main Street
Freehold, New Jersey 07728
731-431-7460

October 4, 2023

Susan Payne
Executive Director
SADC
PO Box 330
Trenton, NJ 08625

Dear Ms. Payne,

The Monmouth County Agriculture Development Board held its monthly meeting last evening and voted to co-sign the attached Soil Protection Standards comment letter that was submitted last week by numerous CADBs across the state. Mr. Bullock recused himself from the matter.

Please accept this submission on behalf of the Monmouth CADB.

Sincerely,

Harriet Honigfeld
Supervising Planner



RE: Proposed New Rules: NJAC 2:76-25.1 and 25A.1; "Soil Protection Standards"
Proposal Number: PRN-2023-079
Public Comment

Director Payne and Members of the State Agriculture Development Committee:

During the rulemaking period, individual County Agriculture Development Boards (CADB) submitted comments to the State Agriculture Development Committee (SADC) expressing their significant concerns with the Soil Protection Standards draft proposals and the impact it would have on the NJ Farmland Preservation Program and the existing preserved farmland throughout the State. However, in response to the SADC Soil Protection Standards Rule Proposal, published in the NJ Register on August 7, 2023, this letter is respectfully submitted on behalf of the following County Agriculture Development Boards:

- Atlantic CADB
- Cape May CADB
- Cumberland CADB
- Hunterdon CADB
- Mercer CADB
- Middlesex CADB
- Morris CADB
- Salem CADB
- Somerset CADB
- Sussex CADB

While we appreciate the work done by the SADC to develop the proposed Soil Protection Standards following the NJ Supreme Court Decision in *State of New Jersey, State Agriculture Development Committee vs. Quaker Valley Farms, LLC, 235 N.J. 37 (2018)*, and further commend the SADC staff in gathering stakeholder comments throughout the process, we strongly object to the Soil Protection Standards as proposed. As feared, the proposed rules retroactively modify the provisions of the deed of easements of preserved farms throughout the State, undermining and eroding the trust the SADC and CADBs have built within the agricultural community since the inception of the State's Farmland Preservation Program in 1983.

Preserved farm owners agreed to restrict their land for agricultural purposes in consideration of the deed of easement provisions in place at the time the property was preserved. The Quaker Valley decision states that "The deeds' terms must be read reasonably to achieve their aims, so that one is not sacrificed for another. That requires that the terms be reconciled in a manner that a reasonable person would have understood at the time the parties agreed to the deed of easement, (page 29, *State of New Jersey, State Agriculture Development Committee vs. Quaker Valley Farms, LLC, 235 N.J. 37 (2018)*)." The Proposed Rules restrict and regulate generally accepted agricultural practices and activities on preserved farms to such a degree that no reasonable person would have understood that the terms of the deed of easement would include the Proposed Rules as written. While farmers who participate in the State's Farmland Preservation Program today will be aware of these new restrictions, farmers who preserved their farms, or those who purchased a preserved farm prior to 2021, could not reasonably anticipate the additional restrictions now placed on their agricultural operations.

The Proposed Rules mention that the rulemaking supports the State's business climate by providing predictability to preserved farm landowners so that they can adequately prepare and properly effectuate their agricultural business plans. We disagree. When preserving farms, the SADC and the CADBs purchased only the non-agricultural development rights from preserved farmland owners - neither the SADC nor the CADBs purchased the agricultural development rights. As such, the additional restrictions proposed in this rule take away the agricultural development rights from existing preserved farm owners without just compensation. In selling their development easement for farmland preservation purposes, the landowner surrendered the right to develop the land for any nonagricultural purposes in

return for just compensation - they did not surrender the right to develop the land for agricultural purposes. Current preserved farm landowners made a monetary judgment of value based on the current deed of easement terms. For these reasons, we recommend the Proposed Rules apply to new applications only. Landowners would be well aware of the standards prior to entering the program. New applicants would be free to consider the benefit of the program versus the costs, while having the ability to modify their farming practices that conform to these new standards.

The dual goals of the ARDA are to promote and strengthen the agricultural industry and to preserve farmland. As such the ARDA and easement terms encourage the agricultural use of preserved farmland, which include the construction of roads and buildings for agricultural purposes, N.J.A.C. 2:76-6:15(a)(12), (14). We feel that the Proposed Rules directly conflict with the purposes of the ARDA and the general intent of the deed of easement language, which specifically permits "the construction of any new buildings for agricultural purposes" and further allows the grantor "the right to construct any roadway necessary to service crops, bogs, agricultural buildings or reservoirs." We understand that these easement provisions do not supersede the rights of other equally important easement terms, but the Proposed Rules as written, will negatively impact the economic viability of preserved farms and place soil disturbance over agricultural viability.

In addition, we feel that the proposed rules as written are unnecessary. Paragraph 7 states that any activity which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation is prohibited. The deed further states that the farm owner shall obtain a farm conservation plan approved by the local soil conservation district and that the landowner's long term objectives shall conform with the provisions of the farm conservation plan. The SADC's own data shows that only 3.5% of preserved farms have utilized more than half the disturbance located. That the majority of our preserved farms already comply, shows that Paragraph 7 of the deed of easement is sufficient to address soil conservation issues. Therefore enforcement of the provisions of Paragraph 7 should sufficiently address soil conservation concerns on a site-specific case-by-case basis.

It is also important to note that upon review of the individual farm maps we have found significant inconsistencies regarding disturbance calculations. Additionally, the satellite layer used to calculate existing disturbance is from 2020 and is already outdated. In some cases, the satellite layer does not align with the survey so that exception areas and property boundaries are misaligned, sometimes by up to 50', while in other cases, tree lines and shadows of structures were calculated as disturbed soil. It is overly burdensome for CADB staff to review, calculate, & verify this data year after year, not to mention the burden the rules place on individual property owners to verify, measure, and obtain the proposed waivers. If the Proposed Rules are part of terms of the deed of easements and the property survey graphically depicts the land on which the deed restrictions apply, then survey plats and/or metes and bounds descriptions should be used to calculate areas of "soil disturbance" for enforcement purposes. Aerial imagery and GIS spatial data are used for informational purposes only and are not legally acceptable depictions of boundaries. How can new restrictions be applied to land based on outdated aerial photo calculations instead of official surveys?

Finally, the agriculture industry in New Jersey is particularly threatened by rising costs, decreased land access, and urbanization and has had to continually evolve to maintain its viability. We feel that these Proposed Rules will not only restrict future agricultural development on preserved farms, but they will cause serious harm to NJ's agricultural industry and viability. We further believe these new rules will severely curtail interest in the farmland state preservation program and will instead steer landowners towards development, rather than preservation - accomplishing the exact opposite of the ARDA's purpose.

On behalf of our Boards, thank you for your time and attention.

Atlantic County CADB

Atlantic County CADB

Middlesex County CADB

Middlesex County CADB

Cape May County CADB

Cape May County CADB

Morris County CADB

Morris County CADB

Cumberland County CADB

Cumberland County CADB

Salem County CADB

Salem County CADB

Hunterdon County CADB

Hunterdon County CADB

Somerset County CADB

Somerset County CADB

Mercer County CADB

Mercer County CADB

Sussex County CADB

Sussex County CADB



SOMERSET COUNTY AGRICULTURE DEVELOPMENT BOARD

Dedicated to our Friend and Founding Chairman Thomas R. Everett

County Administration Building • 20 Grove Street • P.O. Box 3000 • Somerville, N.J. 08876-1262

"Committed to Preserving Farmland & Enhancing the Industry of Agriculture in Somerset County"

Board Members

Mark W. Kirby
Chairperson

W. Peter Staats
Vice Chairperson

Sandra D. Rhue
Secretary / Treasurer

Laura DePrado

Bob Schultz

Kenneth Osterman

Debbie Norz

Commissioner Liaison

Paul M. Drake
Commissioner

Melonie Marano
Commissioner, Alternate

Ex-Officio/Non-Voting

Christopher Kelly
County Planning Board

Nicholas Polanin
County Agriculture Agent

Matthew D'Alessandro
Somerset / Union
Soil Conservation
District Manager

Somerset County Agriculture Development Board Staff

Walter C. Lane, AICP/PP
Director of Planning, Policy
and Economic Development

Katelyn A. Katzer
Principal Planner

Tom Boccino, PP/ LLA
Supervising Planner

Patrice Brown
Administrative Assistant
Office: (908) 231-7021
Fax: (908) 707-1749
TDD: (908) 704-6359

October 23, 2023

New Jersey State Agriculture Development Committee

Susan E. Payne, Executive Director

State Agriculture Development Committee

PO Box 330

Trenton, NJ 08625-0330

**RE: Proposed New Rules: NJAC 2:76-25.1 and 25A.1; "Soil Protection Standards"
Proposal Number: PRN-2023-079**

Dear Ms. Payne:

The Somerset County Agricultural Development Board (SCADB) strongly object to the proposed rules as written. That is a staggering point that should showcase how deeply these proposed rules are flawed. We are aware that the rules, as proposed, will have an adverse impact to the health and well-being of the farms we work to preserve. We are all well aware that farmland is quickly disappearing in the State of New Jersey, and it is disheartening to hear that an agency entrusted with the protection and preservation of these resources would develop rules that would constrict the ability for preserved farms to grow, change, and remain economically competitive with their non-preserved counterparts.

Additionally, it is concerning that the documentation sent to each individual farm in Somerset County about their current soil disturbance was designed to appear as if it came from the SCADB and caused our staff to field numerous calls from upset and angry farmers. Additionally, the maps included in those packets are deeply flawed aerial imagery and GIS spatial data – both of which should only be utilized for informational purposes and are not legally acceptable depictions of boundaries or buildings. The aerial images are outdated, and in many cases the satellite imagery does not align with the survey boundaries causing severe misalignment up to 50'.

While we appreciate the work done by the SADC to develop standards following the NJ Supreme Court Case decision in *State of New Jersey, State Agriculture Development Committee vs. Quaker Valley Farms, LLC, 235 N.J. 37 (2018)*, we strongly object to the Soil Protection Standards as proposed. As feared, the proposed rules retroactively modify the provisions of the deed of easements of preserved farms throughout the State, undermining and eroding the trust the SADC and CADBs across the State have built within the agricultural community since the inception of the State's Farmland Preservation Program in 1983.

When agreeing to restrict their land, preserved farm owners only restricted their land for agricultural purposes in consideration of the deed of easement provisions at the time the property was preserved. The decision from the Supreme Court states that “The deeds’ terms must be read reasonable (sic) to achieve their aims, so that one is not sacrificed for another. That requires that the terms be reconciled in a manner that a reasonable person would have understood at the time the parties agreed to the deed of easement, (page 29, *State of New Jersey, State Agriculture Development Committee vs. Quaker Valley Farms, LLC, 235 N.J. 37 (2018)*).”

In selling their development easement for farmland preservation purposes, the landowner surrendered the right to develop the land for any nonagricultural purposes in return for just compensation - they did not surrender the right to develop the land for agricultural purposes. Current preserved farm landowners made a monetary judgment of value based on the current deed of easement terms. For these reasons, we recommend the Proposed Rules apply to new applications only. Landowners would be well aware of the standards prior to entering the program. New applicants would be free to consider the benefit of the program versus the costs, while having the ability to modify their farming practices that conform to these new standards.

Furthermore, the purpose of the Agriculture Retention and Development Act (ARDA) is to promote and strengthen the agricultural industry and to preserve farmland. The ARDA and the easements terms encourage the agricultural use of preserved farmed – including the construction of roads and buildings for agricultural purposes as stated in N.J.A.C. 2:76-6:15(a)(12), (14). It is clear to our Board that the proposed rules would be in direct conflict with the purpose of the ARDA and the intent of the deed of easement language which specifically permits the “construction of any new buildings for agricultural purposes” and allows the grantor “the right to construct any roadway necessary to service crops, bogs, agricultural buildings or reservoirs.” The proposed rules will negatively impact the viability of these preserved farms and make it impossible for their operations to flourish. Soil disturbance should not be deemed more important than agricultural viability. Farmers are natural stewards of the land; and have proven themselves as advocates for soil health and wellbeing.

The proposed rules are unnecessary as Paragraph 7 of the deed of easement is sufficient to address soil conservation. Paragraph 7 clearly states that any activity which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation is prohibited. The SADC, through their own documentation, states that only 3.5% of all preserved farms in the state have utilized more than half the disturbance allocated via the proposed rules. This clearly shows that paragraph 7 of the deed is more than sufficient and shows that enforcement of the provisions of the deed should be sufficient to address any violations that should arise on a case by case, site by site basis.

Somerset County’s Preservation Plan and our Comprehensive Economic Development Strategy, both elements of our County Master Plan, contain goals and strategies to ensure

have over 2,400 acres across 35 farms in our preservation pipeline. This is most amount of farms the County has ever had in the pipeline at one time. The rules, as proposed, will force these farmers to reconsider participating in the Farmland Preservation Program. These rules as proposed will hinder the viability of the farms already in our Farmland Preservation Program. Please consider revising the proposed rules to address the concerns that have been raised through the CADB Administrators joint letter, Somerset County Planning Board's letter, and the points raised in this letter.

The SCADB respectfully suggests that the SADC refer back to the genesis of the problem which was the destruction of the viability of topsoil. Somerset County suggests the best way to ensure the protection of the soils on preserved farms would be to give farmers the ability to stockpile any soil for the future agricultural purposes by following the guidelines and plans developed with Natural Resource Conservation Service or the Soil Conservation District to ensure there is no loss of the soils through erosion, consistent with the provisions found in Paragraph 7 in the deed of easement. The rules as proposed are a 'one size fits all' regulation for operations and does not take into account the variations in farming operations found throughout the State. The future and the viability of our State's farmland hinges on the revision of these proposed rules. Thank you for the opportunity to comment on the proposed Soil Protection Standards, and your consideration is appreciated.

Please feel free to contact Kate Katzer, Principal Planner – SCADB Administrator at 908.231.7021 or via email at katzer@co.somerset.nj.us, if you have any questions.

Sincerely,



Mark W. Kirby

Somerset County Agriculture Development Board Chairman

cc: Walter Lane, AICP/PP, Director, Office of Planning, Policy and Economic Development
Kate Katzer, Principal Planner – SCADB Administrator, Office of Planning, Policy and Economic Development
Tom Boccino, Supervising Planner – Preservation, Office of Planning, Policy and Economic Development
Alyssa Puccio, Esq., Deputy County Counsel, Somerset County
Somerset County Board of County Commissioners
Members of the Somerset County Agricultural Development Board
Members of the Somerset County Board of Agriculture
Members of the Somerset County Planning Board
Members of the State Agricultural Development Committee
All Somerset County Preserved Farms

Enclosures: Somerset County Planning Board Letter 10.18.23
CADB Administrators Joint Letter 9.26.23



SOMERSET COUNTY AGRICULTURE DEVELOPMENT BOARD

Dedicated to our Friend and Founding Chairman Thomas R. Everett

County Administration Building • 20 Grove Street • P.O. Box 3000 • Somerville, N.J. 08876-1262

"Committed to Preserving Farmland & Enhancing the Industry of Agriculture in Somerset County"

Board Members

Mark W. Kirby
Chairperson
W. Peter Staals
Vice Chairperson
Sandra D. Rhue
Secretary / Treasurer
Laura DePrado
Bob Schultz
Kenneth Osterman
Debbie Norz

Commissioner Liaison

Paul M. Drake
Commissioner
Melonie Marano
Commissioner, Alternate

Ex-Officio/Non-Voting

Christopher Kelly
County Planning Board
Nicholas Polanin
County Agriculture Agent
Matthew D' Alessandro
Somerset / Union
Soil Conservation
District Manager

Somerset County Agriculture Development Board Staff

Walter C. Lane, AICP/PP
Director of Planning, Policy
and Economic Development
Katelyn A. Katzer
Principal Planner
Tom Boccino, PP/ LLA
Supervising Planner
Patrice Brown
Administrative Assistant
Office: (908) 231-7021
Fax: (908) 707-1749
TDD: (908) 704-6359

January 26, 2024

New Jersey State Agriculture Development Committee
Susan E. Payne, Executive Director
State Agriculture Development Committee
PO Box 330
Trenton, NJ 08625-0330

RE: Proposed New Rules: NJAC 2:76-25.1 and 25A.1; "Soil Protection Standards"
Proposal Number: PRN-2023-079

Dear Ms. Payne:

As a follow-up to our letter dated October 18, 2023, the Somerset County Agriculture Development Board (SCADB) is providing this supplemental letter to share additional comments and suggestions for your consideration. The Board continues to strongly object to the proposed rules as written.

During the presentation you made at the October 26, 2023, Somerset County Board of Agriculture, there was a reoccurring theme during the discussion which revolved around how best to ensure the protection of topsoil on preserved farmland. We would like to propose that the farmer to have the ability to stockpile the topsoil, following Natural Resource Conservation Services and/or Soil Conservation District regulations for stockpiling, after a review and approval by the local County Agriculture Development Board. This would allow the topsoil to remain protected and available for future agricultural production while allowing farmers to develop areas of their land as needed for their operations.

Farmland is quickly disappearing in the State of New Jersey, and it is disheartening to see an agency which is entrusted with the protection and preservation of these resources would develop rules that would constrict the ability for preserved farms to grow, change, and remain economically competitive with their non-preserved counterparts. The future and the viability of our State's farmland hinges on the revision of these proposed rules.

Please feel free to contact Kate Katzer, Principal Planner – SCADB Administrator at 908.231.7021 or via email at katzer@co.somerset.nj.us , if you have any questions.

Thank you for the opportunity to comment on the proposed Soil Protection Standards, and your consideration is appreciated.

Sincerely,

Mark W. Kirby

Mark W. Kirby
Somerset County Agriculture Development Board Chairman

Cc: Walter Lane, AICP/PP, Director, Office of Planning, Policy and Economic Development
Kate Katzer, Principal Planner – SCADB Administrator, Office of Planning, Policy and Economic Development
Tom Boccino, Supervising Planner – Preservation, Office of Planning, Policy and Economic Development
Alyssa Puccio, Esq., Deputy County Counsel, Somerset County
Somerset County Board of County Commissioners
Members of the Somerset County Agricultural Development Board
Members of the Somerset County Board of Agriculture
Members of the Somerset County Planning Board
Members of the State Agricultural Development Committee
All Somerset County Preserved Farms

Enclosures: Somerset County Agricultural Development Board Letter 10.23.23
Somerset County Planning Board Letter 10.18.23
CADB Administrators Joint Letter 9.26.23