



**FAXED**  
8/3/09

## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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MARK N. MAURIELLO  
*Acting Commissioner*

JON S. CORZINE  
*Governor*

August 3, 2009

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Mr. John Glover, Acting Director  
Easements Programs Division  
Department of Agriculture  
Natural Resources Conservation Service  
Farm and Ranch Lands Protection Program Comments  
P.O. Box 2890  
Washington, DC 20013  
Fax: (202) 720-9689

Dear Acting Director Glover:

I am writing to share with you the New Jersey Department of Environmental Protection's (Department) comments on the Farm and Ranch Lands Protection Program (FRPP) Interim Final Rule, Docket Number NRCS-IFR-08013.

The Department applauds the Natural Resources Conservation Service (NRCS) for placing a 2% cap on impervious cover. We also support inclusion of language that states, "NRCS reserves the right to impose greater deed restrictions on the property than allowable under..." a "...State definition of agriculture in order to protect agricultural use and related conservation values."

However, because topsoil is so important to sustainable agriculture in addition to the natural resource benefits it provides, we recommend that NRCS change the maximum impervious cover waiver limit from 10% to 6% to better protect soils. The 10% waiver would encourage more permanent greenhouses buildings, built ponds, lagoons and other infrastructure that irrevocably harm prime farmland soils. We also recommend requiring landowners to demonstrate a documented need if requesting a waiver of the 2% limit, rather than allowing for blanket waivers.

Since the purpose of FRPP is to protect the agricultural use "and related conservation values" of eligible land, we suggest NRCS retain "saving prime soils" – a precious resource – as one of the critical related conservation values, which is consistent with the historic mission of the agency. By acknowledging that a primary goal of the FRPP is the protection of topsoil, federal dollars will continue to promote the total resource management system approach to conservation promoted by NRCS.

Topsoil protection in the FRPP also complements topsoil protections within the Conservation Reserve Program, Conservation Stewardship Program and the Environmental Quality Incentive Program. Soil quality is a priority resource concern in these programs and as such should have strong protections across every Farm Bill Program. We hope NRCS will continue to use conservation program funding to reward the integrated farming and conservation systems that are most sustainable and that encourage long-term maximum natural resource and environmental benefits.

Listed below are points that outline the importance of adherence to a 2-6% impervious cover limit.

- Maintenance of soil permeability is critical to watershed protection. Soil permeability provides for groundwater recharge critical for both water supply and the maintenance of stream base flow as well as ameliorating flooding impacts associated with higher rates and volumes of runoff.
- Topsoil is extremely valuable, and provides valuable natural resource protections. Protecting topsoil is consistent with the historic mission of the NRCS and the enormous taxpayer contribution to fulfilling that mission. Because so much of our nation's most productive soils and open farmland have already been lost to development causing negative impacts to natural resources, it is particularly important to protect what remains. It is integral to the future of agriculture.
- A 2-6% limit on structures and other impervious cover protects the public's interest in long-term food production and food security. Extensive impervious coverage on a farm limits future agricultural flexibility for a given property since it is not economically practical, and may not be scientifically possible to return highly compacted soils to soil-dependent agricultural production. The consensus among soil scientists is that alleviating soil compaction is very difficult. Article 37, *Technical Note #108 from Watershed Protection Techniques. 1(4): 666-669* notes that, "once a soil is compacted, it is extremely difficult to restore its original structure, particularly if the compaction extends several feet below the surface."
- Public support for Farm Bill conservation programs comes with an expectation that soils and other natural resources are being protected.
- The public spends substantial amounts of tax dollars on Farm Bill conservation programs in exchange for benefits including the environmental protections afforded by open land, the preservation of scenic views, the provision of ancillary wildlife habitat and the protection of prime soils to meet a variety of agricultural needs in the future. These public benefits are supported by limiting the building coverage and other types of impervious cover on farms.
- The Department agrees with the findings of Rutgers University's Soil Testing and Plant Diagnostic Services and Department of Environmental Sciences which concluded, "soil compaction has a negative impact on soil quality for agricultural

compaction for engineering purposes has much greater impact than incidental compaction resulting from agricultural operations; and the effects of soil compaction are long-term and contrary to the concept of agricultural sustainability. And because the "prime farmland"..... soil took thousands of years to develop, it should be considered a non-renewable resource. Destruction of soil quality - such as.....drastic soil disturbance and compaction - is an antithesis of environmental stewardship and agricultural sustainability."

Thank you for your considering our comments. I may be contacted at (609) 984-0058.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence J. Baier". The signature is written in dark ink and is positioned above the printed name and title.

Lawrence J. Baier, Director  
Division of Watershed Management