

# The New Jersey Right to Farm Program

Millstone Agricultural Advisory Board  
November 8, 2007

# Right to Farm Protections

- Nuisance complaints from neighbors
- Onerous municipal/county regulations



# Criteria To Receive Protections

- Is it a “commercial farm?”
- Is area zoned for agriculture or was farm in operation as of July 2, 1998?
- Is operation consistent with “generally accepted agricultural management practices” or AMPs adopted by SADC?
- Is operation in violation of any federal or State laws or regulations?
- Does operation pose a direct threat to public health & safety?

# Definition of Commercial Farm

If greater than 5 acres:

- produce agricultural or horticultural products worth **\$2,500** or more annually
- satisfy eligibility requirements of Farmland Assessment Act

If less than 5 acres:

- produce agricultural or horticultural products worth **\$50,000** or more annually
- satisfy eligibility requirements of Farmland Assessment Act (other than size requirement)

# Right to Farm Procedures

- Conflict Resolution
  - Complaint against a farmer is filed with CADB
- Site-Specific AMP Request
  - Application made by farmer to CADB



# The more informal way to resolve conflicts - Mediation

## Right to Farm Program

### Agricultural Mediation

- How It Works** Mediation is a voluntary process in which a trained, impartial mediator helps disputing parties examine their mutual problems, identify and consider options, and determine if they can agree on a solution. A mediator has no decision-making authority. Successful mediation is based on the voluntary cooperation and participation of all the parties.
- Benefits** Mediation can save landowners both time and costly legal fees. It is a free service, is confidential and generally takes only a few meetings to complete.
- Eligibility** Mediation can be used to resolve right-to-farm disputes, credit disputes with the Farm Service Agency or private lenders, and other conflicts involving U.S. Department of Agriculture programs.
- Right to Farm** The Right to Farm Act protects commercial farm owners and operators from restrictive municipal ordinances and public and private nuisance actions, provided that they operate responsibly and in accordance with federal and state laws, and meet certain other criteria. In the event of disputes, formal complaints must be filed with the appropriate County Agriculture Development Board or the State Agriculture Development Committee before any court actions can be taken. Complaints are addressed through a series of formal public hearings in which testimony is presented and witnesses may be called.
- Mediation is an alternative to the more lengthy public hearing process and should be requested before public hearings begin.
- Credit, USDA Appeals** Landowners should request mediation immediately after receiving notices of adverse determinations they would like to appeal.
- Special Considerations** In all cases, all parties in a dispute must agree to mediation.
- For More Information** Contact the State Agriculture Development Committee at (609) 984-2504.



# Municipal Regulations

- Agricultural activities can preempt municipal regulations

## During CADB/SADC review:

- Appropriate consideration and deference given to municipal standards
- Balance agricultural needs against municipal public health and safety concerns
- Farmer has to show “legitimate agriculturally-based reason” for not complying with municipal regulations

# Protected Activities

- Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry
- Process and package agricultural *output of farm*
- Farm markets – buildings and parking areas to be in conformance with municipal standards
- Control pests, predators and diseases of plants and animals
- On-site disposal of organic agricultural wastes
- Agriculture-related educational and farm-based recreational activities – related to marketing of agricultural output of farm



# Activities Not Protected

- Landscaping business and activities
- Processing agricultural products not grown on the farm
  - Example: processing firewood from trees grown on someone else's property
- Agricultural labor housing
- Equine service activities
  - The current equine rule proposal would amend this in some ways

# Current Issues

- Equine Rules (proposed)
  - Goals are to provide RTF protection to equine service activities and to clarify farmland preservation policy
  - Equine AMP simultaneously proposed
- Agritourism AMP (pending)
- Greenhouses AMP (pending)
- Farm markets AMP (pending)



# Proposed Equine Rules

1. N.J.A.C. 2:76-2B.3  
Eligibility of Equine Activities  
for RTF Protections
2. N.J.A.C. 2:76-2A.10  
Agricultural Management Practice (AMP) for  
Equine Activities on Commercial Farms
3. N.J.A.C. 2:76-6.24  
Permissible Equine Activities  
on Preserved Farms



# Activities Currently Eligible for RTF Protection:

- Breeding
- Raising
- Pasture
- Hay Production



# Activities proposed to be added to the list of protected activities:

- Boarding
- Keeping
- Training
- Rehabilitation of horses
- Complimentary activities...



- Complementary equine activities, including but not limited to: clinics, open houses, demonstrations, educational camps, farm events, competitions, and rodeos, as long as these activities are related to the marketing of horses that are raised, bred, kept, boarded, trained, or rehabilitated on the farm, and are in compliance with municipal requirements

# To be eligible for RTF protections:

- Equine farms would still need to meet the Act's eligibility criteria, including:
  - Definition of commercial farm (production requirement)
  - Generally accepted AMP standards (as established in the new Equine AMP)
  - Compliance with relevant state and federal laws and regulations (such as the Animal Waste rules, if eventually proposed and adopted)
- Equine farms would also need to meet the new rule's equine-related infrastructure coverage criteria

# Equine AMP

- Establishes the generally accepted standards for equine activities, for example:
  - Farm stocking rates
  - Manure management (must be in compliance with a farm conservation plan)
  - Riding and training areas
  - Dust management
  - Fencing



# Equine-related infrastructure criteria

Ensuring that farms eligible for RTF protection retain a reasonable agricultural production component or capacity

- Area occupied by equine-related infrastructure may not exceed 15-25% of the farm's total usable area
- CADB determines % based on the level of, or proximity of the farm to, non-agricultural development



- **Total usable area =** Gross farm size
  - Freshwater wetlands acres
  - Land assoc'd with farm house



- **Equine-related infrastructure =** buildings, structures, and parking/driveway areas used in support of equine activities, and appurtenant non-production areas

- **Farms with total usable area  $\leq$  150 acres**
  - Area occupied by equine-related infrastructure may not exceed 15-25% of total usable area (as determined by CADB)
  
- **Farms with total usable area  $>$  150 acres**
  - Area occupied by equine-related infrastructure may not exceed 15-25% of the first 150 acres of total usable area (as determined by CADB), plus 10% of all additional acres of total usable area beyond the first 150 acres
  
- **All farms**
  - “Concrete and asphalt” cover may not exceed 15% of total usable area

N.J.A.C. 2:76-6.24

Permissible Equine Activities On Preserved Farms



# Permissible Equine Activities On Preserved Farms

- Currently, the SADC's informal policy regarding equine activities on preserved farms is that equine activities (boarding, training, rehab, etc.) are permitted as long as they are “ancillary” to the equine production activities on the farm, and are considered “common farmsite activities”.
- The question is what does “ancillary” really mean???
- The proposed rule would replace the word “ancillary” with a new and specific definition of “common farmsite activities” as they relate to equine uses on preserved farmland.

## The term “common farm-site activities” shall include the following agricultural activities:

- The breeding, raising, boarding, keeping, rehabilitation and training of horses and horse riding/driving lessons, if:
  - The farm receives farmland assessment; and
  - Equine-related infrastructure occupies no more than 15% of the farm’s total usable area; and
  - The Premises is in compliance with a farm conservation plan
  
- Complementary activities (such as clinics, open houses, demonstrations, educational camps, farm events, and competitions) only if such activities do not interfere with the actual use of the land for agricultural production and they utilize the Premises in its existing condition

# For more information:

- Visit the Right to Farm Program website:  
[nj.gov/agriculture/sadc/rtfprogram.htm](http://nj.gov/agriculture/sadc/rtfprogram.htm)
- Contact David Kimmel at the SADC:  
(609) 984-2504