Proposed Agricultural Management Practice (AMP) for On Farm Direct Marketing (OFDM)

NJ State Agriculture Development Committee (SADC)
April 2013
OFDM-AMP Details

Definitions
Hours of operation
Lighting
Sanitary facilities
Safety
Signs
Parking areas
Buffers
Outdoor sales areas
Use of structures & improvements
Use of land
OFDM activities
Event management plan
Overnight lodging (NO)
Approval of site plan elements
Relevant federal & state laws & regulations
Additional provisions
AMP Development

Overall purpose, intent, goals

- Develop consistent AMPs that farmers, the public, municipalities, and CADBs can rely on
- Have standards that are performance-based rather than prescriptive - to give reliable, statewide guidance to farmers, towns, and others without being overly rigid
- Add clarity to the RTF Act - to better define the Act’s numerous terms and what’s protected
AMP: Of Farm Direct Marketing (OFDM)

- Facilities
- Activities
- Events
Definitions: **OFDM**

**Goal:** Create a broad umbrella for Farm Markets and Agritourism: “On Farm Direct Marketing”

“On-Farm direct marketing” (OFDM) means the on-farm **facilities, activities and events** that are used to facilitate and provide for direct, farmer-to-consumer sales of the agricultural output of the commercial farm and products that contribute to farm income”.

Definitions: FACILITIES

- OFDM Facilities: “On-farm direct marketing facility” – any type of farm market, including the permanent & temporary structures, improvements, equipment, and apparatuses necessary to facilitate direct market sales...

Includes farm stands, farm stores, CSAs and PYOs
The Right to Farm Act Context - What’s Protected

Currently, the RTF Act (N.J.S.A 4:1C-9) protects:

- **Farm markets**: “Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards”
The Right to Farm Act Context - What’s Protected

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The Right to Farm Act Context - What’s Protected - Farm markets

RTF Act (N.J.S.A 4:1C-3) definition of farm market:

- “A facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income”

- If used for retail marketing: At least 51% of the annual gross sales is from the farm's output, or at least 51% of the sales area is devoted to the farm's output
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Definitions

“Products that contribute to farm income” - means “complementary” or “supplementary” products that are sold to help attract customers to the farm market through a broadening of the range of products available and an enhancement of the experience of purchasing the farm’s agricultural output.

“Complementary products” - items commonly used to facilitate the use or consumption of the farm’s ag output, and promotional items that help market the farm.

“Supplementary products” - the ag output of other farms, and additional customary food and drink items.
Other Definitions

“Agricultural output of the commercial farm” - means the items produced by the commercial farm and the value-added or processed products produced from those items, provided that the primary and predominant ingredients used to produce such product area grown or raised by the commercial farm.
Definitions

- **Sales area** - the indoor, outdoor, covered, and uncovered areas whose primary use is the display, marketing, and selling of products;

- doesn’t include PYO fields, pastures with animals, or farm-based recreational activity areas
The Right to Farm Act Context - What’s Protected

Currently, the RTF Act protects:

- **Activities and events**: “Conduct agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm”
The Right to Farm Act Context - What’s Protected

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Definitions: ACTIVITIES

- **“On-Farm Direct Marketing (OFDM) Activities”**
  Means Ag-related happenings that are accessory to, and serve to increase, the direct market sales of the agricultural output of the farm;

- Activities are designed to attract customers to the farm by enhancing the experience of purchasing ag products;

- OFDM Activities include, but are not limited to:
  1. Agriculture-related educational activities
  2. Farm-based recreational activities
  3. Ancillary entertainment-based activities
“Ag-related educational activities” means on-farm educational offerings that have an ag’l focus and are related to marketing the ag or hort output of the farm... accessory to, and serve to increase, the direct-market sales of the ag output of the farm by enhancing the experience of purchasing ag products for the purpose of attracting customers to the farm.

Examples:
- school trips
- hands-on farming activities
- educational displays
- farm tours
- farm-task experiences
- wine tastings
- agriculture-related lectures and classes (canning, freezing, cooking with fresh produce, pie making, pruning, beekeeping, animal care, gardening, etc.)
- farm open houses
Definitions: Farm-Based Recreational Activities

- “Farm-Based Recreational Activities” - means recreational offerings that are uniquely suited to occurring on a farm, and may also include common outdoor recreation activities that are compatible with the ag’l use of the farm. Such activities are accessory to, and serve to increase, the direct-market sales of the ag output of the farm by enhancing the experience of purchasing ag products for the purpose of attracting customers to the farm.

Examples of Farm-Based Rec’n Activities:
- Corn, sunflower mazes
- Ag’l animal display areas
- Hayrides and wagon rides
- Horse/pony riding

Examples of Common Outdoor Rec’n Activities:
- Bird watching
- Sleigh rides
- Hunting & fishing
- Bonfires
Definitions: Ancillary Entertainment-Based Activ’s

- “Ancillary entertainment-based activities” means non-agricultural offerings commonly used as incidental components of OFDM activities, that are accessory to, and serve to increase, the direct-market sales of the ag’l output of a commercial farm (e.g., background live or recorded music; face painting; story-telling; sandbox area; small swing set or playground equipment; pedal carts for children; picnic tables)

- if fees are associated with the activities, then such fees are de minimus compared to the income from the sale of the farm’s ag output
Definitions: EVENTS

- “On-Farm Direct Marketing Events” - means ag-related functions that are accessory to, and serve to increase, the direct market sales of the agricultural output of the farm.

- Events are designed to attract customers to the farm by enhancing the experience of purchasing agricultural products.
  - May include OFDM activities as components;
  - Are either product-based or farm-based;
  - Occur seasonally or periodically.
Definitions:  **EVENTS**

- Some examples of OFDM events, provided they demonstrate the required relationship to marketing the farm’s output, may include but are not limited to:
  - Ag product festival at a farm producing that particular product (e.g., apple, pumpkin, wine)
  - Seasonal harvest festival at a farm producing such seasonal products
  - Farm open house events
  - CSA membership meetings
  - Farm-to-table events that showcase the farm’s agricultural output
AMP General Provisions
For Facilities, Activities, and Events

- Hours of operation – 6 am - 10 pm
  (may be extended to 11 pm)

- Lighting – Need to provide when open after dark

- Safety
  Provide visitors with any OFDM-related rules/safety procedures; may include notice that visitors should also use common sense, be aware of inherent risks, and wear farm-appropriate attire
Sanitary Facilities

- Must provide facilities (restrooms/porta-potties) if providing seating for eating, if activities/events promote people staying on-site for more than 90 minutes, or if required by state retail food code or UCC

- Number of facilities must be sufficient to accommodate volume of visitors
Signs

- Generally permits use of permanent and temporary signs to promote facilities, activities, events

- Includes advance signs along the farm’s road (up to 1/2 mile away); off-site signs, e.g., directional signs; farm business signs; other signs

- Sign standards for:
  - Maximum size (16 sq. ft.)
  - Overall combined square footage (160 sq. ft.)
  - Above size standards do not apply to primary farm business sign(s); commercial billboards; TODS; FPP signs; traffic signs; and interior signs not intended to be visible from road
  - Primary farm business sign(s) standards - maximum size
  - (32 sq. ft.); maximum height of top of the sign above the ground (15 ft.); setback from the road (10 ft.)
Parking

- Parking areas
  - Because of strong language in RTFA noted earlier, construction of parking areas (for farm markets) must be in conformance with municipal standards
  - AMP – still includes general standards for parking areas (for facilities, activities, and events); says that in the absence of municipal standards applicable to facilities, AMP’s standards apply to facilities’ parking areas

- General parking area standards in AMP
  - Safe, off-road parking shall be provided
  - Ingress/egress, driveways, parking areas arranged to provide safe traffic circulation
  - May have areas permanently and temporarily devoted to parking
  - Parking area surfaces and improvements need not involve greater than the minimum level of improvements necessary to protect public health and safety
Buffers

- Buffers (setbacks and screening) may be used as effective tool to mitigate impacts on adjacent properties (noise, dust, light)
- Screening may consist of vegetation or structures, such as trees, bushes, fences, or walls
- AMP’s setback numbers (next slide) are NOT for existing OFDM facilities, activities, and events, but for new or expanded ones
Buffers  
(for new or expanded operations)

<table>
<thead>
<tr>
<th>New or expanded facilities’ permanent structures</th>
<th>New or expanded activities and events</th>
<th>New or expanded areas permanently devoted to parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>50-foot setback from road</td>
<td>25-foot setback from road</td>
<td>25-foot setback from road</td>
</tr>
<tr>
<td>50-foot side-yard setback</td>
<td>50-foot side-yard setback</td>
<td>50-foot side-yard setback</td>
</tr>
<tr>
<td>50-foot rear-yard setback</td>
<td>50-foot rear-yard setback</td>
<td>50-foot rear-yard setback</td>
</tr>
<tr>
<td>If the distance between the new/expanded facility and an existing, occupied residence not located on the farm is less than 100 ft., screening shall be installed</td>
<td>100-foot setback from an existing, occupied residence not located on the farm</td>
<td></td>
</tr>
</tbody>
</table>

- Setbacks of a lesser distance permissible if screening is considered (and installed if appropriate) and if farm gets site-specific AMP determination
- Existing OFDM facilities, activities, and events are not subject in current layout and configuration to above standards; if situated as lesser distances than standards above, consider screening
Additional Provisions

- Existing and new structures or improvements may be used for activities and events
  - Existing – as long as use does not adversely affect continued use for ag production
  - New – as long as construction and use has negligible impact on continued use of land for ag production

- Land Use – Activities/events shall have negligible impact on continued use of land for ag production

- Overnight lodging – not protected

- Site-specific AMPs – Farms may request SSAMPs; SSAMP determinations must be consistent with the AMP
Specific Activity Standards

- PYO
- Choose-and-cut Xmas trees
- Corn, sunflower, other crop mazes
- Hayrides and wagon rides
- Livestock and animal activities
- Bonfires
Events

- **Event Management Plans for Events**
  - If having a large event with significantly more traffic/visitors, need a plan for addressing potential public health and safety issues (emergency vehicle access, traffic management, and public health management)
  
  - Plan must be in writing and provided to municipality at least 30 days in advance as an advisory notice and to enable any coordination that may be necessary
  
  - Alternatively, a farm could also get a special events permit from the town, if the town has a provision for such permits
Relevant Federal and State Laws and Regulations

- **Including but not limited to:**
  
  - New Jersey Uniform Fire Code, N.J.A.C. 5:70-1.1, et seq.
  - Stormwater Management rules, N.J.A.C. 7:8-1.1, et seq.
  - Sanitation in Retail Food Establishments and Food and Beverage Vending Machines, N.J.A.C. 8:24-1.1, et seq.
  - Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1, et seq.