

STATE AGRICULTURE DEVELOPMENT COMMITTEE

POLICY

**Guidelines for the Development and Recommendation of Site-Specific
Agricultural Management Practices (“AMPs”) by
County Agriculture Development Boards**

I. PURPOSE

The following guidelines are recommended procedures for County Agriculture Development Board (CADB) for the development and recommendation of site-specific agricultural management practices (“AMPs”). Some of the guidelines are requirements of the Right to Farm Act (Act), N.J.S.A. 4:1C-1 et seq. The regulations that guide the process can be found in N.J.A.C. 2:76-2.3.

II. AUTHORITY

N.J.S.A. 4:1C-1 et seq.
N.J.A.C. 2:76-2.3

III. POLICY

1. INTRODUCTION TO SITE-SPECIFIC AMPS

The recommendation of site-specific AMPs represents one of the most pro-active methods by which a County Agriculture Developments Board (“CADB”) can help define, encourage, and protect commercial agriculture in its county. The purpose of a site-specific AMP recommendation is to establish that a particular agricultural operation or practice on a specific commercial farm is generally accepted in the agricultural industry. The Right to Farm Act provides a commercial farmer protection against municipal ordinances and county resolutions that unnecessarily constrain agricultural operations and against nuisance suits. The request for the development and recommendation of a site-specific AMP must come voluntarily from the commercial farm operator. CADBs should encourage commercial farm operators to request a site-specific AMP recommendation.

As more land is developed for non-agricultural uses, the need for determining site-specific AMPs will increase. Although a commercial farmer’s compliance with adopted AMPs can effectively shorten the Right to Farm conflict resolution process (see N.J.A.C.

2:76-2.10), the State Agriculture Development Committee (“SADC”) will not be able to promulgate AMPs which address each individual variation on agricultural production.

2. REQUEST FOR A SITE-SPECIFIC AMP RECOMMENDATION

The commercial farm operator initiates the recommendation of a site-specific AMP by requesting same in writing to the appropriate CADB.

3. GENERAL ELIGIBILITY

In determining whether a commercial farm owner or operator meets the eligibility criteria pursuant to the Right to Farm Act, the CADB shall request that the commercial farm owner or operator provide the following:

1. Proof that the commercial farm is no less than five acres, produces agricultural/horticultural products worth \$2,500 or more annually, listing said products, and is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964 or, if the commercial farm is less than five acres, produces agricultural/horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964; and
2. Proof that the farm is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or which commercial farm was in operation as of July 2, 1998. (N.J.A.C. 2:76-2.3(b)).

The commercial farm operator is to submit a written certification form to the CADB when requesting a site-specific AMP (see “Forms” section of these guidelines.) Based on the information provided with this form, the CADB determines whether the commercial farm owner or operator meets the eligibility criteria.

The certification requires the commercial farm operator to submit the following:

- **List of agricultural/horticultural products produced;**

These are the products currently being produced on the commercial farm. If the site-specific AMP request addresses expansion into new areas of production, a description of anticipated products should be included.

- **Copy of the most recent filed farmland assessment form(s), if land is farm assessed;**
OR:

- **Copy of the tax map representing the farm acreage, if land is not farm assessed;**

Some farm owners choose not to have their farm acreage tax assessed; however, in order to be entitled to Right to Farm protection, farm property must still satisfy the eligibility criteria for farmland assessment.

- **Proof that the farm is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan;**
OR:
- **Proof that the farm was in operation as of July 2, 1998.**

Documents that may be helpful in establishing the farm as a commercial venture are: IRS 1040 Schedule F, lease agreement(s), crop registration with the local Farm Service Agency (FSA) office, Certificate(s) of Incorporation and partnership agreement(s).

In order to qualify as a commercial farm entitled to Right to Farm protection, the owner or operator must be in compliance with all relevant federal or State laws and regulations.

4. ELIGIBLE ACTIVITIES

To qualify for protection under the Right to Farm Act, the activity in question must be related to the agricultural operation.

An eligible commercial farm owner or operator may apply to a CADB to have the CADB consider a site-specific recommendation relating to any one or a number of the following activities:

- a. Production of agricultural and horticultural crops, trees and forest products, livestock and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping;
- b. Processing and packaging the agricultural output of the commercial farm;
- c. The operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;
- d. Replenishment soil nutrients and improvement of soil tilth;
- e. Control of pests, predators and diseases of plants and animals;

- f. Clearing woodlands using open burning and other techniques, installation and maintenance of vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;
- g. On-site disposal of organic agricultural wastes;
- h. Agriculture-related and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm;
- i. Pick-your-own marketing;
- j. Generating power or heat from biomass, solar or wind energy in accordance with state law; and
- k. Other activities as adopted by the SADC pursuant to the Administrative Procedure Act.

The commercial farmer owner and/or operator must be in conformance with appropriate federal and State regulations, licenses and/or permits, and the activity for which the commercial farm owner and/or operator is seeking protection cannot pose a direct threat to public health and safety. An activity may be protected but may also need approvals from a State or federal agency prior to lawful operation.

Only those agricultural activities expressly protected in the Right to Farm Act or as adopted by the SADC pursuant to the Administrative Procedure Act are appropriate to address in a site-specific AMP recommendation.

5. INELIGIBLE ACTIVITIES

The following activities are examples of those that are not provided protection under the Right to Farm Act:

- Agricultural-related services, such as landscape installation.
- Processing commodities produced off the farm management unit unless recommended by the SADC pursuant to an adopted agricultural management practice.

6. NOTIFICATION

Pursuant to N.J.A.C. 2:76-2.3(c), the CADB must advise the SADC and the municipality in which the commercial farm is located, in writing, of the receipt and nature of the request within 10 days.

7. CONSULTATION WITH PROFESSIONALS

Pursuant to N.J.A.C. 2:76-2.3(d), the CADB may, and is encouraged to, consult with other agricultural agencies, organizations, and persons. Among the agencies most often contacted are:

- The New Jersey Department of Agriculture
- The SADC
- The New Jersey Agricultural Experiment Station, including appropriate county agents
- Other CADBs
- The State Soil Conservation Committee and the local Soil Conservation Districts
- The United States Department of Agriculture, or any other Federal governmental agency
- Other states' Department of Agriculture, land grant institutes or Agricultural Experiment Stations

It is strongly encouraged that a “team” of appropriate agricultural professionals be assembled by the CADB for the task of evaluating a site-specific AMP request. The site visit team should include the County Extension Agent and a representative from the CADB staff.

8. SITE-VISITS

Field verification of both the commercial farm operation and the activity in question is absolutely essential in the development and recommendation of a site-specific AMP. At this first level of review, the CADB is to determine whether a commercial farm activity qualifies for site-specific AMP development. Although the commercial farm certification form requires the farm operator to attest that, to the best of his or her knowledge, the farm meets the definition of a commercial farm and the operation is in compliance with all relevant federal and State statutes, rules, and regulations, the certification may not be conclusive proof of the eligibility of the farmer for Right to Farm protection. The nature of an eligible commercial farm activity will vary from one farm operation to another and must be reviewed by the CADB in the context of the entire operation and on an individual basis.

Ideally, more than one site visit should be made during the process of site-specific AMP development, particularly if the AMP is to address conditions that are subject to the weather or vary throughout the day or season. It is strongly recommended that at least one farm visit be completed prior to the recommendation of the site-specific AMP and that all parties be given at least three days notice of the farm visit. It is important that all members of the team attend the site visit at the same time on the same day.

While on the farm, the commercial farm operator should be encouraged to discuss any future plans. Future projects should be incorporated into the plans being considered as part of the

initial recommendation. A written report of the site visit, supplemented with photographs, should be generated and retained in the applicant's file along with the commercial farm certification.

The findings of the site visit should be presented to the CADB at the next regularly scheduled public meeting so that the board can make an informed decision regarding not only the eligibility of the farm operation for site-specific AMP development, but also whether the AMP is a generally accepted practice. The CADB is not under any time constraints when considering a site-specific AMP request and should fully analyze all available information and question appropriate individuals.

The recommendation of the site-specific AMP should take place at the next regularly scheduled public meeting after the CADB is satisfied that it has sufficient information.

9. FORMAT OF THE SITE-SPECIFIC AMP

The site-specific AMP may be developed according to one of two accepted formats. One method is a regulation-style document similar to the SADC's AMPs; the other method is a resolution-style document, finding that the operation conforms with generally accepted agricultural management practices provided that the activity conforms to a specific set of guidelines set forth in the resolution. Either format is acceptable; however, if the CADB desires to have a regulation-style document developed, it must still approve the recommendations by resolution. The resolution should reference the farm by name and clearly state the activity in question.

The Right to Farm program recommends that for simpler, less technical site-specific AMPs, the CADBs use the resolution-style format. The resolution-style format is also appropriate for site-specific AMPs that rely heavily on references to existing regulations, such as the Uniform Construction Code. The regulation-style format is better suited for site-specific AMPs that involve a greater level of technical detail, such as seasonal agritourism site-plans that require significant investigation into existing conditions and off-site impacts (traffic, pedestrian safety, lighting, etc).

A sample of each format is included in the "Forms" section of the handbook.

10. FOLLOW-UP (POST-RECOMMENDATION)

Upon the CADB's written recommendation of the site-specific AMP, it shall forward the recommendation to the commercial farm operator, the SADC, and any other person or agency deemed appropriate by the CADB within 30 days. (See N.J.A.C. 2:76-2.3(e))

11. APPEALS OF A SITE-SPECIFIC AMP

Pursuant to N.J.A.C. 2:76-2.3(f), any person aggrieved by any decision of a CADB regarding a site-specific AMP may appeal the CADB's decision to the SADC within 45 days of receipt of the board's final determination .

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Forms

REQUEST TO _____ COUNTY AGRICULTURE
DEVELOPMENT BOARD FOR SITE SPECIFIC
AGRICULTURE MANAGEMENT PRACTICE RECOMMENDATION

CERTIFICATION OF (COMMERCIAL FARM OWNER/OPERATOR)
(NAME OF COMMERCIAL FARM)
(ADDRESS OF COMMERCIAL FARM)

I, _____, hereby certify the following:

1. I am (one of) the owner(s)/operator(s) of (NAME OF COMMERCIAL FARM).
2. I am hereby requesting the _____ County Agriculture Development Board to determine if my operation constitutes a generally accepted agricultural operation or practice. The nature of my operation or practice is as follows:

3. I certify that (NAME OF COMMERCIAL FARM) is five acres more, produces agricultural and/or horticultural products worth \$2,500 or more annually, and is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964. A list of agricultural/horticultural commodities produced on the commercial farm is attached. If land is farmland assessed, a copy of the filed farmland assessment form(s) is attached. If land is not farmland assessed, a copy of the tax map representing the farm acreage is attached.

(in the alternative if the commercial farm is less than five acres)

I certify that (NAME OF COMMERCIAL FARM) is less than five acres, produces agricultural/horticultural products worth \$50,000 or more annually and otherwise satisfies the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964. A list of agricultural/horticultural commodities produced on the commercial farm is attached. A copy of the tax map representing the farm acreage is attached.

4. I have attached proof that the farm:
(a) is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, OR
(b) was in operation as of July 2, 1998.
5. To the best of my knowledge and belief, my agricultural operation is in compliance with all relevant federal and State statutes, rules and regulations.
6. I understand that within 30 days of the board's issuance of its written recommendation, it will forward the site specific agricultural management practice to me, the State Agriculture Development Committee (SADC) and any other individuals or organizations deemed appropriate by the board.
7. I understand that any person aggrieved by any decision of the board regarding the recommendation of this site specific agricultural management practice, including myself, may appeal the decision to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from receipt of the board's final determination.

1. The decision of the SADC shall be considered a final administrative agency decision.

2. If the board's decision is not appealed within 45 days, the board's decision is binding.

DATED: _____

(SIGNATURE OF REQUESTOR)

Resolution-Style Site-Specific AMP Format

[County] County Agriculture Development Board

Recommendation of a Site Specific
Agricultural Management Practice

[farmer name]
[farm name]
[block and lot]
[municipality]

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, *et seq.* and the State Agriculture Development Committee regulations, N.J.A.C. 2:76-2.3, a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter “Board”) to determine if his or her operation constitutes a generally accepted agricultural management practice; and,

WHEREAS, on [date of written request], [farmer] owner/operator of [farm name] in [municipality], made a request in writing to the Board for the development of a site-specific agriculture management practice (hereinafter, “AMP”) for [activity]; and,

WHEREAS, on [date], pursuant to N.J.A.C. 2:76-2.3(c), the Board advised in writing the State Agriculture Development Committee and the [municipality] of [farmer]’s request; and,

WHEREAS, on [date], pursuant to N.J.A.C. 2:76-2.3(b), the Board requested that [farmer] provide proof that his/her agricultural operation is a commercial farm as defined at N.J.S.A. 4:1-C-3 and N.J.A.C. 2:76-2.1; and,

WHEREAS, on [date], [farmer] provided to the Board his/her commercial farm certification, including supporting documentation, attached hereto; and,

WHEREAS, on [date], [site visit team members, agencies], conducted a site inspection of [farm name]; and,

WHEREAS, on [date], at its regular meeting, the Board was presented with the findings of the site inspection; and,

WHEREAS, the on [date], the Board [unanimously] agreed to develop a site-specific AMP for [farm name] after making the following findings of fact, based on information and documentation provided to the Board by [farmer] and information gathered during the site inspection:

1. [Farm size and location]

2. [Farm name] is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.S.A. 2:76-2.1, which produces [products] worth [either \$2,500 or \$50,000 depending on 1. above] or more annually and satisfies the eligibility criteria for differential property tax assessment pursuant to the Farmland Assessment Act of 1964; and,
3. [Farm Name] has been in operation since [year]; and,

WHEREAS, [CADB staff] sought the assistance of [Agent] of Rutgers Cooperative Extension, the [County] soil conservation district, and the [other ag resource agencies] in the determination of generally accepted agriculture management practices and standards relating to [activity].

NOW THEREFORE, BE IT RESOLVED, that the Board hereby determines that the [activity] on [farm name] constitutes a generally accepted agriculture management practice provided that the following conditions are satisfied:

1. [recommendation]
2. [recommendation]
3. [recommendation], etc.
4. The [activity] must conform to all relevant federal and State statutes, rules, and regulations.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written recommendation of the site-specific AMP to [the name of the commercial farm owner or operator], the SADC and any other individuals or organizations deemed appropriate by the Board within 30 days of the recommendation.

CADB Chairman

Date

Regulation-Style Site-Specific AMP Format

[County] Agriculture Development Board

Site-Specific Agriculture Management Practice for [activity] on [farm name]

[Farmer Name]

[Farm Name]

[Block and Lot]

[Municipality]

This site-specific agriculture management practice (“AMP”) for [activity] on [farm name] has been developed in cooperation with [cooperating agricultural agencies] and presents industry standards and guidelines. By resolution of the [County] Agriculture Development Board (“CADB”), when in conformance with these standards and guidelines, [activity] on [farm name] shall constitute a generally accepted agriculture management practice.

Eligibility Criteria

To qualify for site-specific AMP development, the requesting party must demonstrate proof that the agricultural operation is a commercial farm as defined at N.J.S.A. 4:1-C-3 and N.J.A.C. 2:76-2.1.

In his/her attached commercial farm certification, [farmer] provided the following proof that qualifies [farm name] as a commercial farm operation:

1. [Farm’s size and location]
2. [Farm name] is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.S.A. 2:76-2.1, which produces [products] worth [either \$2,500 or \$50,000 depending on 1. above] or more annually and satisfies the eligibility criteria for differential property tax assessment pursuant to the Farmland Assessment Act of 1964.
3. [Farm Name] has been in operation since [year].

Factual Findings

Based on information and documentation provided by [farmer name] and information gathered during the site inspections of [farm name] on [dates],

The following facts have been ascertained:

Examples:

1. [Farm name] has on file with [County] soil conservation district a farm conservation plan which is 80% implemented on the farm property.
2. There are currently 3 greenhouses on the property.
3. [farm name] maintains 20 head of beef cattle.

4. [Farm name] retail operation meets the 51% criterion pursuant to N.J.A.C. 2:76-2.1, and serves an average of 180 customers daily.
5. [Farm name] harvest festival has traditionally taken place during the 3rd and 4th weeks of October.
6. [Farm name] is located on County Route 123, which is considered a secondary arterial for the County.

Site-specific conditions for [operation or activity] on [farm name]

After review of documentation provided by [farmer name], information gathered as a result of the site inspection(s), and consultation with agricultural resource professionals including [professionals, agencies], it has been determined that [activity] on [farm name] constitutes a generally accepted agricultural management practice provided that the following conditions are satisfied:

1. [condition]
2. [condition]
3. [condition], etc...
4. [Activity] must conform to all relevant federal or State statutes or rules and regulations.

OR

After review of documentation provided by [farmer name], information gathered as a result of the site inspection(s), and consultation with agricultural resource professionals including [professionals, agencies], it has been determined that [activity] on [farm name] does not constitute a generally accepted agricultural management practice. This decision may be reconsidered by the Board provided that the following conditions are satisfied:

1. [condition]
2. [condition]
3. [condition], etc...

Attachments

Attached are supporting documents gathered during the site-specific AMP development process that support the determinations and recommendations made in the approval of [activity] as a generally accepted agricultural management practice. Listed in order, the documents are:

1. Resolution by [County] CADB approving the Site-Specific AMP for [activity] on [farm name]
2. Commercial farm certification
3. Operational statement
4. Copy of site inspection report
5. [all other supporting documents: copy of conservation plan, copy of RCE fact sheets, etc]

Professional Resources Consulted

[List of experts, technicians, specialists, etc. who had input in site-specific AMP recommendation as well as publications or websites consulted.]

Sample Resolution for Regulation-style Site-specific AMP

[County] County Agriculture Development Board

Recommendation of a Site Specific
Agricultural Management Practice

[farmer name]
[farm name]
[block and lot]
[municipality]

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, *et seq.* and the State Agriculture Development Committee regulations, N.J.A.C. 2:76-2.3, a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter “Board”) to determine if his or her operation constitutes a generally accepted agricultural management practice; and,

WHEREAS, on [date of written request], [farmer] owner/operator of [farm name] in [municipality], made a request in writing to the Board for the development of a site-specific agriculture management practice (hereinafter, “AMP”) for [activity]; and,

WHEREAS, on [date], pursuant to N.J.A.C. 2:76-2.3(c), the Board advised in writing the State Agriculture Development Committee and the [municipality] of [farmer]’s request; and,

WHEREAS, on [date], pursuant to N.J.A.C. 2:76-2.3(b), the Board requested that [farmer] provide proof that his/her agricultural operation is a commercial farm as defined at N.J.S.A. 4:1-C-3 and N.J.A.C. 2:76-2.1; and,

WHEREAS, on [date], [farmer] provided to the Board his/her commercial farm certification, including supporting documentation; and,

WHEREAS, on [date], [site visit team members, agencies], conducted a site inspection of [farm name]; and,

WHEREAS, on [date], at its regular meeting, the Board was presented with the findings of the site inspection; and,

WHEREAS, the on [date], the Board [unanimously] agreed to develop a site-specific AMP for [farm name]; and,

WHEREAS, [CADB staff] sought the assistance of [Agent] of Rutgers Cooperative Extension, the [County] soil conservation district, and the [other ag resource agencies] in the determination of generally accepted agriculture management practices and standards relating to [activity].

NOW THEREFORE, BE IT RESOLVED, that the Board hereby determines that the [activity] on [farm name] constitutes a generally accepted agriculture management practice provided that the conditions set forth in the document entitled “Site-Specific Agricultural Management Practice for [activity] on [farm name],” attached hereto, are satisfied; and

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written recommendation of the site-specific AMP to [the name of the commercial farm owner or operator], the SADC and any other individuals or organizations deemed appropriate by the Board within 30 days of the recommendation.

CADB Chairman

Date