

**PROCEDURES GOVERNING REQUESTS TO
BURLINGTON COUNTY AGRICULTURE DEVELOPMENT BOARD FOR:**

**SITE-SPECIFIC AGRICULTURE MANAGEMENT PRACTICES
RECOMMENDATIONS UNDER THE RIGHT TO FARM ACT**

I. PURPOSE

The following policies and procedures shall govern the conduct of proceedings before the Burlington County Agriculture Development Board ("BCADB") pursuant to *N.J.S.A. 4:1C-1, et seq.*, for the recommendation of a site-specific agricultural management operation or practice ["AMP"]. 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 ["the Act"] provides a commercial farmer protection against municipal ordinances 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 a commercial farm operator.

II. AUTHORITY

Right to Farm hearings are conducted by the BCADB pursuant to authority granted under *N.J.S.A. 4:1C-10.1, et seq.* and *N.J.A.C. 2:76-2.1, et seq.*

III. PROCEDURE

1. The commercial farm owner or operator ["Applicant"] initiates the BCADB's recommendation of a site-specific AMP by requesting same in writing no later than twenty (20) calendar days before any given scheduled BCADB meeting if the matter is to be heard by the BCADB on the given scheduled CADB meeting date. Otherwise, the matter will be heard by the BCADB at the next regularly scheduled CADB meeting. This deadline is established to allow BCADB staff proper time to review and research the matter thoroughly and to provide proper notice, pursuant to *N.J.A.C. 2:76-2.3(c)*.

2. The Applicant must establish compliance with the eligibility requirements of the Act by providing the following:

- A. Proof that the commercial farm is no less than five (5) 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 (5) 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

- B. 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)*).

3. The Applicant shall submit a written certification form to the BCADB when requesting a site-specific AMP. Based on the information contained in the written certification, the BCADB will determine whether the Applicant meets the eligibility criteria. The form of certification may be obtained from the BCADB administrator's office located at 1900 Briggs Rd, Mt. Laurel, NJ. The written certification requires the Applicant to certify as to the following:

- A. The agricultural/horticultural products produced. These shall be the products currently produced on the commercial farm. If the site-specific AMP request addresses the expansion into new areas of production, a description of anticipated products should be included;
- B. A copy of the most recently filed farmland assessment form(s), if the land is farmland assessed, or a copy of the tax map representing the farm acreage, if the land is not farmland assessed;
- C.
 - i. 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
 - ii. Proof that the farm was in operation as of July 2, 1998.

4. Documents that may be helpful in establishing the farm as a commercial venture are: IRS Form 1040 Schedule F, lease agreement, crop registration with the local Farm Service Agency ["FSA"] office, certificates of incorporation and partnership agreements.

5. In order to qualify as a commercial farm entitled to the protection of the Act, the owner or operator must be in compliance with all relevant federal and state laws.

6. If objectors appear in opposition to a request for a site-specific agriculture management practices recommendation, the BCADB shall conduct a hearing on the request and in so doing shall follow the hearing procedures found in paragraphs 10 to 15, inclusive, of the Procedures Governing Burlington County Agriculture Development Board Right to Farm Hearings - Conflict Resolution. In the order of proceeding, the requester shall proceed as would a "complainant" and objectors shall proceed as would a "respondent."

7. If no objectors appear in opposition to a request for a site-specific agriculture management practice recommendation by the time, the BCADB will make an initial

determination as to whether the operator qualified for protection under the Act based on the written certification and the supporting documentation provided with the site-specific AMP request. If BCADB finds that the operator is eligible for RTF protection under the Act and that the farming activity in question is an eligible activity, BCADB staff will be directed to consult with professionals and conduct site visits to establish whether or not the commercial farms activities are consistent with generally accepted practices.

8. The CADB will endeavor to process site-specific AMP requests in 3 months based on the following general meeting schedule:

CADB Meeting #1 – CADB Determination on RTF Eligibility
CADB Meeting #2 – Public Hearing (if necessary) / CADB Findings
CADB Meeting #3 - Memorializing Resolutions

IV. ELIGIBLE ACTIVITIES

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

2. An eligible commercial farm owner or operator may apply to the BCADB for consideration of a site-specific recommendation relating to any one or more of the following activities (N.J.S.A 4:1C-9):

- a. Produce 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. Process and package the agricultural output of the commercial farm;
- c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;
- d. Replenish soil nutrients and improve soil tilth;
- e. Control pests, predators and diseases of plants and animals;
- f. Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;
- g. Conduct on-site disposal of organic agricultural wastes;
- h. 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; and

i. Engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

3. The Applicant shall establish that the commercial farm owner/operator is in conformance with applicable federal and state regulations, licenses and permits. An activity may be protected but may also need approvals from state and/or federal agencies prior to lawful operation.

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

V. INELIGIBLE ACTIVITIES

1. The following activities are examples of those that are not provided protection under the Act:

- A. Agricultural-related services, such as landscape installation;
- B. Processing commodities produced off the farm management unit.

VI. NOTIFICATION

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

VII. CONSULTATION WITH PROFESSIONALS

1. Pursuant to *N.J.A.C. 2:76-2.3(d)*, the BCADB may consult with other organizations and persons involved with agriculture and the agricultural industry. Such agencies include:

- The New Jersey Department of Agriculture;
- The SADC;
- The New Jersey Agricultural Experiment Station, including appropriate county agents;
- Other county Agriculture Development Boards;
- The state Soil Conservation Committee and local Soil Conservation

Districts;

- The United States Department of Agriculture and any other appropriate federal agency;
- Other states' Departments of Agriculture, land grant institutes or Agricultural Experiment Stations;
- Any organization and /or professionals not included in the list above that has specific expertise in a matter before the BCADB.

VIII. SITE VISITS

1. Field verification of both the commercial farm operation and the activity in question shall be employed in the development and recommendation of a site-specific AMP. The BCADB shall determine whether a commercial farm activity qualifies for site-specific AMP development, including by verifying the contents of the written certification submitted by the Applicant. The nature of an eligible commercial farm activity will vary from one farm operation to another and must be reviewed by the BCADB in the context of the entire operation and on an individual basis.

2. Multiple site visits may be advisable during the process of site-specific AMP development, particularly if the AMP addresses conditions that are subject to weather conditions or which vary throughout the day or season.

3. Absent special circumstances, interested parties should be given at least three (3) days notice of a site visit.

4. At the site visit, the commercial farm operator should be encouraged to discuss future plans. Future projects should, where appropriate, be incorporated into plans being considered as part of the BCADB's initial recommendation.

5. A written report of the site visit, together with photographs, should be produced and retained in the Applicant's file.

6. The findings of the site visit should be presented to the BCADB at the next regularly scheduled meeting, and shall be considered in determining the eligibility of the farm operation for site-specific AMP development and whether the AMP is a generally accepted practice.

7. The site visit team should include the Burlington County Extension Agent and a member of the BCADB's staff.

IX. FORMAT OF THE SITE-SPECIFIC AMP

1. The site-specific AMP may be developed according to either of two accepted formats:
 - A. A regulation-style recommendation similar to the SADC's (a resolution is still required to approve the AMP recommendation); or
 - B. A resolution-style recommendation finding that the operation conforms to generally accepted agricultural management practices, provided the activity conforms to a specific set of guidelines set forth in the resolution.
2. After the BCADB issues its written recommendation of the site-specific AMP, it shall forward the recommendation to the Applicant, the SADC, and any other person or agency as the BCADB shall deem appropriate, within thirty (30) days. (See *N.J.A.C. 2:76-2.3(e)*).

X. HEARING TRANSCRIPTS

In matters that involve a hearing, the County will arrange for a certified shorthand reported to be present. The County will not arrange for the shorthand minutes to be transcribed unless it deems it necessary for its own interests. If a party or other interested person orders a transcript of any site-specific AMP hearing conducted by the BCADB, such person shall provide a copy of the transcript to the BCADB without charge.

XII. APPEALS OF SITE-SPECIFIC AMP

Any person aggrieved by a decision of the BCADB in regard to a site-specific AMP, may appeal the BCADB's decision to the SADC within forty-five (45) days of the BCADB's official recommendation of the completed site-specific AMP. (*N.J.A.C. 2:76-2.3(f)*).

Adopted by the BCADB on March 13, 2008.