

Warren County Agriculture Development Board Right to Farm Program

The purpose of The Right to Farm Act, N.J.S.A. 41C-1 et seq., is to protect responsible commercial farmers from public and private nuisance actions and unduly restrictive municipal regulations. Pursuant to this Act, The Warren County Right to Farm Program is designed to work with and help educate farmers, residents, and municipalities about the Right to Farm Act, the Act's formal conflict resolution process, and additional strategies for resolving agricultural disputes and maintaining a positive agricultural business environment. This Program is coordinated by the State Agriculture Development Committee (SADC) in partnership with the Warren County Agriculture Development Board (CADB).

Depending on the nature of the dispute, a commercial farm operator or a complainant may apply to the CADB for two types of determinations. The commercial farm operator may request determination of a Site Specific Agricultural Management Practice (SSAMP) or any aggrieved person may file a complaint with the CADB against a commercial farm for a Conflict Resolution.

Eligibility Criteria

To be eligible for Right to Farm protection, the farm must be a “commercial farm” defined by N.J.S.A. 4:1C-3 as follows:

Farms over five (5) acres must:

- (i) Produce agricultural or horticultural products worth \$2,500 or more annually; and
- (ii) Satisfy the eligibility criteria of the Farmland Assessment Act.

Farms less than five (5) acres must:

- (i) Produce agricultural or horticultural products worth \$50,000 or more annually;
- (ii) Satisfy the eligibility criteria of the Farmland Assessment Act.

In addition, the farm must:

- (iii) Be located in an area in which agriculture is a permitted use under the municipal zoning ordinance, as of December 31, 1997 or thereafter, or have been in operation as of July 2, 1998;
- (iv) Conform to the generally accepted Agricultural Management Practices (AMPs) adopted by the SADC, and/or to site specific AMPs developed by the CADB;
- (v) Comply with all relevant federal and state statutes and regulations; and
- (vi) Not pose a direct threat to public health or safety.

Provided the farm can be certified as a “commercial farm”, the CADB may then:

1. Legally resolve conflicts between the commercial farm operator and an aggrieved party; and/or
2. Determine whether a proposed activity or improvement may be deemed a Site Specific Agricultural Management Practice (SSAMP).

Formal Conflict Resolution Process

In the event of a dispute, an individual or municipality aggrieved by the operation of a commercial farm is required to file a complaint with the CADB prior to filing an action in court. The formal process begins once a written complaint is submitted.

If the dispute involves compliance with local ordinances, then the CADB and SADC must seek the municipality's input during the public hearing process. The New Jersey Supreme Court has held that the CADB and SADC, when rendering decisions, must consider relevant municipal standards, balance competing interests, and consider the impact of agricultural practices on public health and safety. CADBs and the SADC address the preemption of local ordinances on a case-by-case basis. For preemption to occur, a commercial farm must also provide a legitimate, agriculturally-based reason for not complying.

PLEASE NOTE: As an alternative to the formal process, the SADC coordinates a free Agricultural Mediation Program to help farmers, neighbors, and municipalities resolve agriculture-related disputes more quickly, amicably, and in a cost-effective manner. Mediation is a voluntary process in which a trained, impartial mediator serves as a facilitator to help disputing parties examine their issues, identify and consider options, and determine if they can agree on a solution. A mediator has no decision-making authority, so successful mediation is based on the cooperation and participation of all the parties. For more information about the Agricultural Mediation Program, please visit <http://www.nj.gov/agriculture/sadc/agmediation/> or contact David Kimmel, SADC Agricultural Mediation Coordinator at 609-984-2504 or david.kimmel@ag.nj.gov.

Negotiation of conflicts between any person aggrieved by the operation of a commercial farm:

- Complete and submit the **Request for Formal Conflict Resolution Form** along with any supporting documentation. Supporting documentation shall include:
 - ✓ The Complaint shall include detailed facts concerning the contested operation or practice.
 - ✓ 3 copies of any written reports or other documentation on which the witnesses will rely;
 - ✓ Any relevant municipal correspondence, citations or permit denials.
- The Board shall contact the commercial farm owner or operator to provide evidence that the agricultural operation is a commercial farm pursuant to N.J.S.A. 4:1C-3.
- The Board or staff shall conduct the on-site inspection.
- The Board shall, at one or more regular meeting(s), determine commercial farm eligibility and/or determine whether the operation or practice is included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9.
- If the Board determines that the farm is a commercial farm pursuant to N.J.S.A. 4:1C-3 and that the dispute concerns activities that are addressed by an agricultural management practice recommended by the Committee and adopted pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 2:76-2.2 or a site-specific agricultural management practice approved by the Board pursuant to N.J.A.C. 2:76-2.3, the Board shall hold a public hearing in accordance with the hearing procedures set forth in N.J.A.C. 2:76-2.8 and with the provisions of N.J.A.C. 2:76-2.3(k).
- The decision of the Board shall be in the form of a resolution memorialized at the next scheduled meeting.

Site-Specific Agricultural Management Practices (SSAMPs)

To address a current issue or guard against future Right to Farm complaints, a commercial farm operator may request that the CADB determine whether the farm's specific operation or practices conform with generally accepted agricultural management practices. As with the formal conflict resolution process, the input of municipalities must be considered.

PLEASE NOTE: To be eligible for Right to Farm Act protection, a commercial farm must be in compliance with generally accepted agricultural management practice (AMP) standards. The SADC has adopted standards in twelve areas: Apiary; Poultry Manure; Food Processing by-product land application; Commercial Vegetable Production; Commercial Tree Fruit production; Natural Resource Conservation; On-Farm Compost Operations; Fencing Installation for Wildlife Control; Aquaculture; Equine Activities on Commercial Farms [See also the following related equine rule: N.J.A.C. 2:76-2B.3 "Eligibility of equine activities for right to farm protections" - Click on "Subchapter 2B"]; Construction, Installation, Operation or Maintenance of Solar Energy Generation Facilities, Structures & Equipment on Commercial Farms; and On-Farm Direct Marketing Facilities, Activities & Events. Should a Right to Farm matter concern activities not addressed by an adopted AMP, the CADB will determine whether the activities in question comply with accepted practices.

Instructions for Applicants who are seeking a Site Specific Agricultural Management Practice Determination

1) Apply for Certification as a "Commercial Farm":

If you have not previously been certified for the current year by the Warren County Agricultural Board (CADB) as being a commercial farm:

- Complete and submit **Part #1 - Commercial Farm Determination Questionnaire** and **Part #2 Notarized Commercial Farm Certification** forms along with the required documents to the Land Preservation Department:
 - ✓ Most recently filed FA-1 farmland assessment form(s).
 - ✓ Site map showing location(s) of all agricultural productions activities as well as ancillary and non-agriculture activities (You may use an aerial map, tax map, or existing survey as a base).
 - ✓ Proof of agricultural production income in the form of sales receipts, an IRS Schedule F, or similar documentation.
 - ✓ Proof that the farm was in operation as of July 2, 1998 or is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been permitted under the municipal zoning ordinance or is consistent with the municipal master plan.
- In order to be placed on the CADB's agenda, Part #1 & Part #2 Questionnaire Forms and supporting documentation must be delivered to the Land Preservation Department at least fifteen (15) business days prior to the next regularly scheduled meeting date.
- Applicants are encouraged to attend the CADB meeting to answer any questions Board members may have regarding whether the farm meets the eligibility criteria to be certified as a commercial farm.
- If the CADB does not certify your farm as a commercial farm, then your application will be dismissed.

- If the CADB does certify your farm as a commercial farm, then you may proceed to filling out **Part #3 – Agricultural Management Practices Questionnaire**.
- The decision of the Board shall be in the form of a resolution memorialized at the next scheduled meeting.

2) **Determination of Site Specific Agricultural Management Practice**

- Complete and submit the **Part #3 – Agricultural Management Practices Questionnaire** along with any supporting documentation to the Land Preservation Department. Supporting documentation shall include:
 - ✓ A list of witnesses who will testify on your behalf with an estimation of the duration of their testimony (if relevant)
 - ✓ 3 copies of any written reports or other documentation on which the witnesses will rely (if relevant)
 - ✓ Proof of public notice to newspaper, neighboring land owners, municipality, SADC and other interested parties
 - ✓ Any relevant municipal correspondence, citations or permit denials
 - ✓ Court dates, court decision, docket #, appeal information (if applicable)
 - ✓ Site plans related to proposed new structures
 - ✓ USDA-NRCS Conservation Plan (if one exists and you choose to submit)
 - ✓ Animal waste management plan (if relevant)
 - ✓ Forest Management Plan (if relevant)
- In order to be placed on the CADB's agenda for a public hearing, Part #3 – Agricultural Management Practices Questionnaire and supporting documentation must be delivered to the Land Preservation Department at least fifteen (15) business days prior to the next regularly scheduled meeting date.
- Written notice of the request shall be given by the Commercial Farm (applicant), at is sole expense, via certified mail, return receipt requested, and/or by personal service to:
 1. All landowners within two-hundred (200) feet of the property within all directions and any aggrieved parties. A mailing list may be obtained from your local tax assessor's office. All notices must be delivered at least fifteen (15) days prior to the hearing date. Copies of the stamped white receipts, a list of the landowners and a copy of SSAMP Notice to Neighbors must be given to the Department of Land Preservation at least 15 days prior to CADB meeting.
 2. The Township Clerk and Land Use Board Secretary in which the farm is located of the hearing by certified mail, return receipt and/or by personal service. If the commercial farm is located within 200 feet of an adjoining municipality, then written notice of the request shall be given to Municipal Clerk and Land Use Board Secretary of that municipality.
 3. The public, by publication in the official newspaper of the municipality, if there is one, or in a newspaper of general circulation in the municipality. To be placed in the legal section:
 - a. "Please take notice that the "Name of Farm", (indicate operator or owner) "insert name" of farm "insert location street address, Block and Lot" located in "insert" Township, Warren County is seeking a Site Specific Determination for "reason" on this property by the Warren County Agriculture Development Board that is scheduled for the 7:30 pm monthly meeting of Thursday, "Month, Day, Year" held at the lower level of the PCFA Bldg., 500 Mt. Pisgah Ave., Oxford, NJ. The documents in support of the commercial

farm's request are available at the Board's office between the hours of 8-4 M-F; and the Board will accept public comments at and/or prior to the hearing."

4. The State Agriculture Development Committee, Brian Smith and Gregory Keller Right-to-Farm Legal Counsel, PO Box 330, Trenton, NJ 08625-0330.
Brian.Smith@ag.nj.gov; Gregory.Keller@ag.nj.gov
 5. The County Planning Board, Wayne Dumont, Jr., Administration Building, 165 County Route 519 South, Belvidere, NJ 07823 if the commercial farm is located on property adjacent to a County Road or County-owned property.
 6. The Commissioner of the New Jersey Department of Transportation, PO Box 600, Trenton, NJ 08625-0600, if the commercial farm is located on a State highway.
- All copies of the above notifications, lists and stamped certified mail are to be provided to the Department of Land Preservation.
 - Appear and give testimony at a public hearing held during the CADB's next regularly scheduled meeting.
 - The CADB will memorialize their decision in a resolution at the next scheduled meeting.

PLEASE NOTE: The CADB meets every third Thursday of the month at 7:30 p.m. at the Department of Land Preservation, located in the lower level of the Pollution Control Finance Authority Building at 500 Mt. Pisgah Ave., Oxford, New Jersey 07863.

<http://www.nj.gov/agriculture/sadc/rtfprogram/>

Warren County Agriculture Development Board

The Department of Land Preservation

500 Mt Pisgah Ave

P.O. Box 179

Oxford, NJ 07863

REQUEST FOR FORMAL CONFLICT RESOLUTION

NAME OF COMPLAINANT: _____

ADDRESS OF COMPLAINANT: _____

1. I hereby certify that I am (one of) the owner(s)/operator(s) of the above referenced property and request that the Warren County Agriculture Development Board ("Board") formally resolve the following conflict:

2. **Complaint**

Please explain the nature of the problem and provide the address and block and lots of property complaint is against:

(Please continue on additional sheet if necessary)

Please explain the resolution you are seeking through this application:

(Please continue on additional sheet if necessary)

3. **Procedural History:**

Has this matter been heard by any other agency, municipality, or court? ___ Yes ___ No

If yes, please indicate before which body it was heard and on what date:

(Please continue on additional sheet if necessary)

What was the outcome of these hearings?

(Please continue on additional sheet if necessary)

Pursuant to the New Jersey Right to Farm Act, NJSA 4:1C-1 et seq, the Warren County Agriculture Development Board (CADB) can hold public hearings and issue findings and recommendations on disputes between commercial farm operators and persons who are aggrieved by farm operations.

DATED: _____

(SIGNATURE OF REQUESTOR)

Upon Completion, Mail this Application to:

Warren County Agriculture Development Board
C/O Department of Land Preservation
500 Mt. Pisgah Ave.
P.O. Box 179
Oxford, NJ 07863
Ph. (908) 453-2650
Fx. (908) 453-3150

Warren County Agriculture Development Board

The Department of Land Preservation
500 Mt Pisgah Ave
P.O. Box 179
Oxford, NJ 07863

Request for Site Specific Agricultural Management Practice (AMP) Recommendation

Part 1 – Commercial Farm Determination Questionnaire

Date: _____

Name of Commercial Farm: _____

Commercial Farm Operator: _____

Landowner (if Different): _____

Farm Address: _____

Mailing Address: _____

Telephone Number(s): _____

Email: _____

Identification of Farm Management Unit:

Municipality	Block	Lot	Acres	Agricultural Commodity Produced
Total Acreage				

Annual Gross Receipts from Farm Management Unit Operation \$ _____

Total agricultural production income for:

Tax Year _____ = \$ _____

(You may wish to provide or be asked to provide data for additional years)

If you operate a farm market, what is the percentage of annual gross sales generated from items produced on your farm management unit? _____

What percentage of the sales area is devoted to the sale of agricultural output of the farm? _____%

Does the farm management unit receive differential farmland assessment taxation treatment?

☐ Yes ☐ No

If no, are you eligible? ☐ Yes ☐ No

If you are eligible, but not farmland assessed please explain:

To enable us to evaluate consistency with the municipal zoning ordinance, please list the zone or zones in which the farm management unit is located.

Does this zone (s) permit agriculture? ☐ Yes ☐ No

Please explain the specific reason why you are seeking a Commercial Farm Certification, not just for Right-to-Farm protection:

If you are only seeking Commercial Farm certification at this time and not an SSAMP determination please explain why:

Has this matter been heard or presented to a Municipal Court? ☐ Yes ☐ No

If so, please give dates/explain:

Please return this Request with the following documents (check as attached):

<input type="checkbox"/>	Most recently filed and from preceding year, the FA-1 Farmland Assessment Form(s) and the Supplemental Farmland Gross Sales Form(s).
<input type="checkbox"/>	Site map showing location(s) of all agricultural production activities as well as ancillary and non-agriculture activities (You may use an aerial map, tax map, or existing survey as a base).
<input type="checkbox"/>	Proof of agricultural production income in the form of sales receipts, a filed IRS Schedule F (Profit or Loss Income from farming), or similar documentation from preceding and/or current year.
<input type="checkbox"/>	Proof that the farm was in operation as of July 2, 1998 OR is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been permitted under the municipal zoning ordinance or is consistent with the municipal master plan.
<input type="checkbox"/>	Notarized Commercial Farm Certification Form Part #2 completed, signed and notarized.

Date

Applicant Signature

Warren County Agriculture Development Board

The Department of Land Preservation

500 Mt Pisgah Ave

P.O. Box 179

Oxford, NJ 07863

Request for Site Specific Agricultural Management Practice (AMP) Recommendation

Part 2 – Notarized Commercial Farm Certification Form

CERTIFICATION OF

(NAME 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. For full SSAMP requests: I am hereby requesting the Warren County Agriculture Development Board (WCADB) to determine if my operation constitutes a generally accepted agricultural operation or practice. The nature of my operation and agricultural activities are correctly listed on the attached Commercial Farm Determination Questionnaire and/or Agricultural Management Practice Questionnaire.
3. I certify that _____ is five acres or more, produces
(NAME OF COMMERCIAL FARM)
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 (are) attached. If land is not farmland assessed, a copy of the tax map representing the farm acreage is attached.

OR

I certify that _____ is less than five acres, produces agricultural and/or horticultural products worth \$50,000 or more annually and otherwise satisfies 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. I have attached proof of my agricultural production income.

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 New Jersey statutes, rules and regulations.
6. I understand that as per Right to Farm regulations, written notice of this request shall be given by the commercial farm, at its sole expense, via certified mail, return receipt requested, and/or by personal service, to: 1) the clerk and land use board secretary of the municipality in which the commercial farm is located; including any adjoining municipalities if located within 200'; 2) the owners of all real property within 200 feet in all direction of the property; 3) the SADC; 4) the county planning board if the commercial farm is located on property adjacent to a county road or county-owned property; 5) the Commissioner of the New Jersey Department of Transportation, if the commercial farm is located on a State highway; and 6) the public, by publication in the official newspaper of the municipality, if there is one or in a newspaper of general circulation in the municipality.
7. I understand that within 30 days of the WCADB's issuance of its written recommendation, it will forward the relevant resolution(s) to me, the State Agriculture Development Committee (SADC) and any other individuals or organizations deemed appropriate by the WCADB.
8. I understand that any person aggrieved by any decision of the WCADB regarding a commercial farm determination or recommendation of a site specific agricultural management practice, including myself, a 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, the board's decision is binding.

Dated: _____

(Signature of Requestor)

(INDIVIDUAL ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS:

I CERTIFY that on _____ day of _____, 201 , _____
personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- a) Is named in and personally signed this document; and
- b) Signed, sealed and delivered this document as his or her act and deed.

(Print name and title below signature)

The Department of Land Preservation
500 Mt Pisgah Ave
P.O. Box 179
Oxford, NJ 07863

Part 3 – Agricultural Management Practices Questionnaire

[illegible][illegible]

Are any of the activities on the farm being disputed by neighboring property owners, the municipality or any other party? ☐ Yes ☐ No

If so, please provide further details:

Is the matter pending before a court? ☐ Yes ☐ No

If so, please provide further details about the proceedings including court dates, docket #, etc.

Has the matter been decided by a court? ☐ Yes ☐ No

If so, please provide further details including date of decision, how the court ruled, and status of appeal, if applicable.

Would you be willing to participate in a free, voluntary mediation program that could help resolve the conflict? ☐ Yes ☐ No Please refer to RTF Program Info for more information.

Is there another reason that you are seeking an SSAMP Recommendation from the Warren County Agriculture Development Board?

Does the farm have a conservation plan prepared by the USDA-Natural Resources Conservation Service (NRCS)? ☐ Yes ☐ No

If yes, are you willing to provide a copy of the plan to the WCADB? ☐ Yes ☐ No

Are you working with any other government agencies regarding the current or proposed activities on your farm (such as the NJ Department of Environmental Protection, NJ Department of Transportation, NJ Department of Agriculture, or Warren County Department of Engineering?

If so, please explain:

Please return this request with the following documents not already covered in Part 1 (check as attached):

<input type="checkbox"/>	Site plans related to proposed new structures
<input type="checkbox"/>	USDA-NRCS Conservation Plan (if one exists and you choose to submit)
<input type="checkbox"/>	Animal waste management plan (if relevant)
<input type="checkbox"/>	Forest Management Plan (if relevant)

Date

Applicant Signature

(Date)

(Recipient Name & Address)

Re: Request for Site Specific Agriculture Management Practice Determination

Applicant Name: _____

Farm Address: _____

Block/Lot: _____

Municipality: _____

Public Hearing Date: _____

To Whom It May Concern:

Please accept this letter as formal notice that, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., the above named applicant, has applied to the Warren County Agriculture Development Board (CADB) for a Site Specific Agriculture Management Practice (SSAMP) determination affecting the above referenced property. This notice is being sent to you as an owner of property within two-hundred (200) feet of the subject property, and required notification to Municipality and LUB, State Agriculture Development Committee, and WC Planning & NJDOT, if applicable.

The purpose of this application is as follows: [describe the purpose of the application] _____

The applicant will request any and all additional relief that may be required.

All documents pertaining to this application are on file at the Office of the Warren County Department of Land Preservation, 500 Mount Pisgah Avenue, Oxford, New Jersey (lower level of the Pollution Control Financing Authority building), and may be inspected during normal business hours (Monday through Friday from 8am to 4pm, excluding holidays).

The CADB has certified the applicant's farm as a commercial farm pursuant to N.J.S.A. 4:1C-9 and **scheduled the SSAMP request for a public hearing on the above referenced date. This hearing will be held at 7:30pm in the Office of the Warren County Department of Land Preservation, 500 Mount Pisgah Avenue, Oxford, New Jersey (lower level of the Pollution Control Finance Authority building).** This meeting is open to the public and all interested parties are urged to attend, ask questions, and express any concerns they may have about this application. You may appear in person or by your attorney and present any objection which you may have to the granting of this application.

Thank you in advance for your time and cooperation.

Very truly,

(Applicant signature)