



Somerset County Farmland Preservation Program

Right to Farm Disputes - Commercial Farm Determination

County Use Only

Application Number: _____

Date Received: _____

Farm Name: _____

Name of Farm Operator: _____

Name of Land Owner: _____

Municipality: _____

Block/Lot: _____

Farm Address: _____

Mailing Address: _____

Telephone Number: _____

Email Address: _____

Identification of Farm Management Unit: *(use additional sheet if necessary)*

Municipality	Block	Lot	Acres	Agricultural Commodity Produced

Total Acreage:



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1. Annual Gross Receipts from Farm Management Unit Operation: \$ _____

2. Total agricultural production income for: *(you may wish to provide/be asked to provide additional years)*

Tax Year: _____ Production Income: _____

3. Do you operate a farm market? ☐ Yes ☐ No

3a. If you operate a farm market, what is the percentage of annual gross sales generated from items produced on your farm management unit? _____

3b. What percentage of the sales area is devoted to the sale of agricultural output of the farm? _____

4. Does the farm management unit receive differential farmland assessment taxation treatment? ☐ Yes ☐ No

4a. If no, are you eligible? ☐ Yes ☐ No

4b. If you are eligible, but not farmland assessed, please explain:

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

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



This image shows a full page of handwriting practice paper. It contains ten identical rows of horizontal guidelines. Each row is defined by three lines: a solid top line, a dashed middle line, and a solid bottom line. The rows are evenly spaced across the entire page, providing ample space for practicing letter formation and alignment.



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4. I certify that my farm, _____
(name of commercial farm)

_____ is five acres or 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.

Please attach the following:

- a list of agricultural/horticultural commodities produced on the commercial
- a copy of the filed farmland assessment form(s)
- tax map representing the farm acreage

_____ 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.

Please attach the following:

- a list of agricultural/horticultural commodities produced on the commercial
- a copy of the filed farmland assessment form(s)
- tax map representing the farm acreage

5. I have attached 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;

_____ was in operation as of July 2, 1998.

6. To the best of my knowledge and belief, my agricultural operation is in compliance with all relevant Federal and State statutes, rules, and regulations.

7. I understand that within 30 days of the Board's issuance of its written determination, 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 SCADB.

8. I understand that any person aggrieved by any decision of the Board, regarding this recommendation, may appeal the decision to the SADC in accordance with the provisions set forth in 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 the receipt of the Board's final determination.

Note: The decision of the SADC shall be considered a final administrative agency decision. If the Board's decision is not appealed within 45 days, the Board's decision is binding.

Signature of Farm Operator/Owner

Date Signed

Print Name Clearly



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(Individual Acknowledgment)

STATE OF NEW JERSEY, COUNTY OF _____SS:

I CERTIFY that on _____ day of _____, 20__

_____ 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.

Notary Public



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Deadlines and Stipulations

1. Upon receipt of this form, the SCADB will contact the farm operation and schedule a site visit. The SCADB will schedule a public hearing once all materials requested from the complainant and respondent have been received and deemed complete.
2. Prior to the hearing, the complainant must give public notice to neighbors within 200' of the property that is the subject of the complaint as well as the clerk and land use board secretary of the relevant municipality. The municipal tax office or appropriate municipal administrator will generate the list upon request. Notices must be sent by certified mail, return receipt requested, at the complainant's expense. Copies of the U.S. Postal Service Certified Mail Receipts must be submitted to SCADB 2 weeks prior to the hearing.
3. All respondent exhibits must be submitted to the SCADB at least two weeks prior to the start of the hearing.
4. At least two weeks prior to the hearing, email digital copies of all materials to Katelyn Katzer at katzer@co.somerset.nj.us.
5. No additional exhibits will be accepted after the start of the hearing unless requested by the SCADB.
6. Per SADC Policy P-2A, corporations and LLCs must be represented by counsel or meet the requirements of the policy for a member to represent themselves. If not using an attorney, an LLC will need to submit its certificate of formation and operating agreement (if one is available) at least two weeks prior to the start of the hearing.
7. If the complainant and respondent agree to mediation, the SCADB will not schedule a hearing.
8. If the respondent fails to adhere to these deadlines and stipulations listed above the hearing will be rescheduled or dismissed.
9. If the respondent fails to supply the SCADB with requested information, the SCADB will dismiss the complaint.
10. If the SCADB becomes aware of a violation of state or federal law prior to the hearing, it may refer the matter directly to the appropriate agency rather than schedule a hearing.
11. SCADB meetings are typically held the fourth Monday of the month at 8am located:
Commissioners' Public Meeting Room (3rd Floor)
20 Grove Street
Somerville, NJ 08876



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State Regulations

2:76-2.5

AGRICULTURE

Right to Farm Act Pre-empt's Local Land-Use Authority. *Lewis Goldshore and Marsha Wolf*, 168 N.J.L.J. 1134 (2002).

2:76-2.7

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

(a) Any person aggrieved by the operation of a commercial farm shall first file a complaint, in writing, with the applicable board or with the Committee in counties where no board exists, prior to filing an action in court. The complaint shall include detailed facts concerning the contested operation or practice.

(b) If a board exists, then 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.

(c) If appropriate, one or more board members or board staff may inspect the farm operation to confirm commercial farm eligibility and/or to verify 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. If board members conduct the inspection, the board shall ensure that less than a quorum, as defined in the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., is present at the inspection.

1. 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.

(d) 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).

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AGRICULTURE DEVELOPMENT COMMITTEE

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1. The decision of the board, containing its findings and recommendations, shall be forwarded to the Committee, the aggrieved person, the municipality(ies) in which the commercial farm is located, the commercial farm owner, and the commercial farm operator, if applicable, within 60 days of receipt of the complaint.

i. The decision of the board shall be in the form of a resolution providing a summary of the testimony, detailed findings of fact and conclusions of law, references to any supporting documents, a copy of the agricultural management practice or site-specific agricultural operation or practice utilized by the board in its decision, and any other information requested by the Committee.

ii. Any person aggrieved by the decision of the board regarding a complaint against a commercial farm in accordance with (b) above shall appeal the decision to the Committee within 10 days of the receipt of the board's final decision. The Committee shall schedule a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and make a determination within 90 days of receipt of the petition for review.

(1) The decision of the Committee shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.

(2) Any decision of the board that is not appealed shall be binding.

(e) If a board exists and the dispute concerns activities that are not 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 contact the farm owner to provide evidence that the farm operation is a commercial farm pursuant to N.J.S.A. 4:1C-3.

1. The board shall determine whether the commercial farm operation or practice in dispute involves agricultural activity(ies) that is or are included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9.

(f) If appropriate, one or more board members or board staff may inspect the farm operation to confirm commercial farm eligibility and/or to verify that 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 board members conduct the inspection, the board shall ensure compliance with the provisions of the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., if applicable.

(g) If the board determines that the dispute subject to this section does not involve a commercial farm as defined in N.J.S.A. 4:1C-3 and/or agricultural activity(ies) included in

one or more of the protected activities set forth in N.J.S.A. 4:1C-9, then the board shall dismiss the complaint. The board's decision shall be set forth in a resolution containing detailed findings of fact and conclusions of law and references to any supporting documents. The resolution shall be transmitted to the commercial farm owner, the commercial farm operator, if applicable, the aggrieved person, the Committee, and the municipality(ies) in which the farm operation is located within 60 days of receipt of the complaint.

(h) If the board determines that the dispute subject to this section involves a commercial farm as defined in N.J.S.A. 4:1C-3 and agricultural activity(ies) included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9, then the board shall forward the complaint to the Committee requesting the Committee's determination of whether the disputed agricultural operation constitutes a generally accepted operation or practice.

1. The board shall inform the Committee if it has received a request for a site-specific agricultural management practice determination and, if so, the status of the board's determination.

2. Upon receipt of the complaint, the Committee shall review the board's determinations that the dispute involves a commercial farm as defined in N.J.S.A. 4:1C-3 and agricultural activity(ies) included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9. As part of its review, the Committee may contact the farm owner to provide additional information. If the Committee determines that the dispute does not involve a commercial farm as defined in N.J.S.A. 4:1C-3 and/or agricultural activity(ies) included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9, then the Committee shall dismiss the complaint. The Committee's decision shall be set forth in a resolution containing detailed findings of fact and conclusions of law and references to any supporting documents. The resolution shall be transmitted to the commercial farm owner, the commercial farm operator, if applicable, the aggrieved person, and the municipality(ies) in which the farm operation is located.

i. The Committee's decision shall be considered a final administrative agency decision and shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.

(i) If the Committee determines that the dispute subject to this section involves a commercial farm as defined in N.J.S.A. 4:1C-3 and agricultural activity(ies) included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9, then the Committee shall hold a public hearing in accordance with the hearing procedures set forth in N.J.A.C. 2:76-2.8. The hearing shall be limited to consideration of whether or not the disputed agricultural activity constitutes a generally accepted operation or practice.

1. If the Committee determines that the disputed agricultural activity constitutes a generally accepted operation

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AGRICULTURE

or practice, its determination shall be sent to the board for a public hearing on the allegations of the complaint filed by the aggrieved person against the commercial farm.

2. If the Committee determines that the disputed agricultural activity does not constitute a generally accepted operation or practice, the complaint shall be dismissed. The Committee's determination shall be considered a final administrative agency decision and shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.

3. The Committee's determination pursuant to (i)1 or 2 above shall be in the form of a resolution containing detailed findings of fact and conclusions of law and references to any supporting documents. The resolution shall be sent to the board, the aggrieved person, the municipality(ies) in which the commercial farm is located, the commercial farm owner, and the commercial farm operator, if applicable.

(j) Upon receipt of the Committee's determination pursuant to (i)1 above, the board shall hold a public hearing on the allegations of the complaint filed by the aggrieved person against the commercial farm. The board shall issue its findings and recommendations within 60 days of the receipt of the Committee's decision. The board's hearing shall be conducted in accordance with the 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).

(k) Any person aggrieved by the decision of the board regarding a complaint against a commercial farm in accordance with this section shall appeal the decision to the Committee within 10 days from receipt of the board's decision. The Committee shall schedule a hearing and make a determination within 90 days of receipt of the petition for review.

1. The decision of the Committee shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court.

2. Any decision of the board that is not appealed shall be binding.

New Rule, R.1999 d.193, effective June 21, 1999.

See: 31 N.J.R. 316(a), 31 N.J.R. 1603(a).

Recodified from N.J.A.C. 2:76-2.10 and amended by R.2014 d.057, effective April 7, 2014.

See: 45 N.J.R. 1449(a), 46 N.J.R. 599(a).

Section was "Negotiation of conflicts between any person aggrieved by the operation of a commercial farm". Rewrote the section.

Law Review and Journal Commentaries

Right to Farm Act Pre-empt's Local Land-Use Authority. Lewis Goldshore and Marsha Wolf, 168 N.J.L.J. 1134 (2002).

Case Notes

This section applies only in cases where the Board issues a decision in a dispute concerning activities that are addressed by an Agricultural Management Practice; therefore, the ALJ erred in relying, in part, on the regulation because petitioner's claim did not involve a dispute over an

AMP, but, instead, whether the activities on the premises of an adjacent landowner were conducted for agricultural purposes. *Böhlin v. Brickyard*, OAL Dkt. No. ADC 743-08, Final Decision (November 5, 2009).

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