

# State Agriculture Development Committee (SADC) ---- Right to Farm Overview for NJ Building Officials Association



ESSEX COUNTY

APRIL 16, 2026

# QUACK MIRANDA

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# RTF Act: Dual Protections for Eligible Farms



## From Restrictive Local Regulations

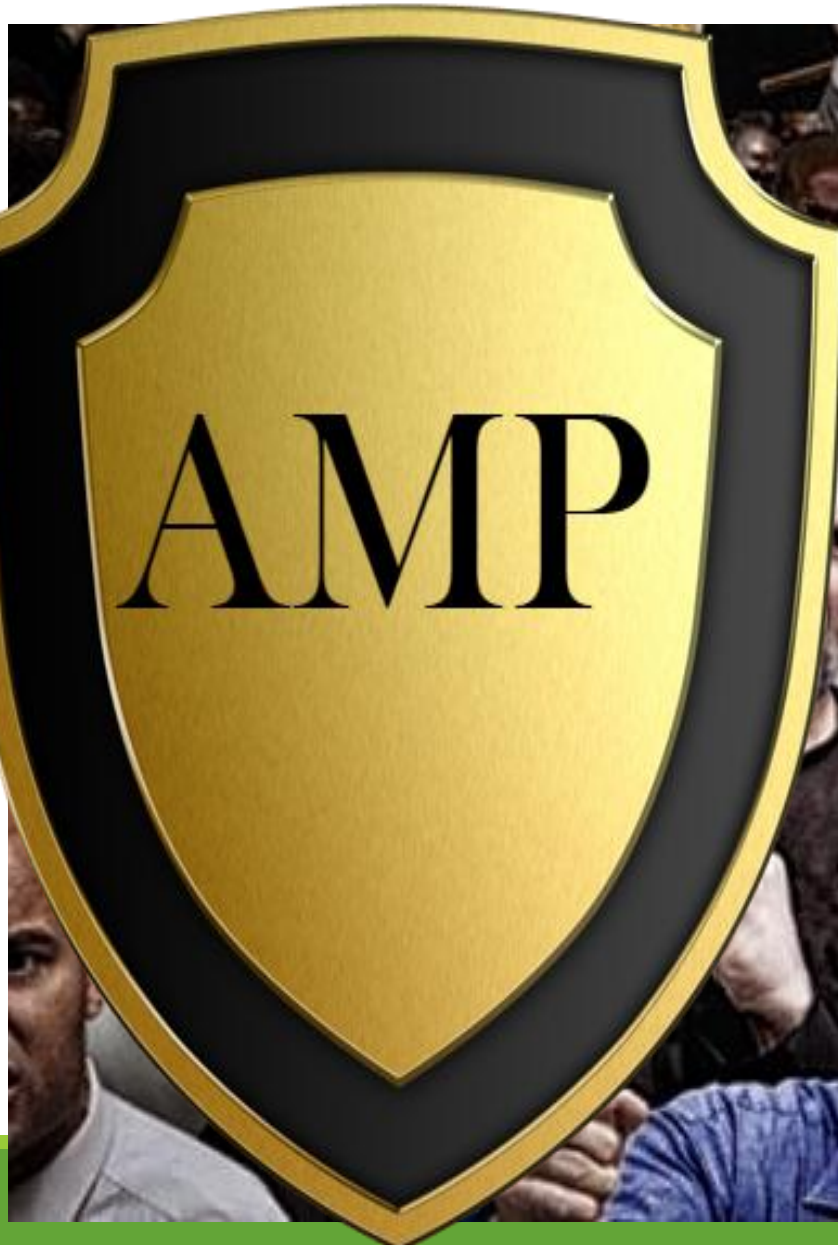
*Preemption of municipal and county ordinances.*



## From Neighbor & Municipal Nuisance Suits

*Irrebuttable presumption that no commercial agricultural operation constitutes a public or private nuisance.*

# RTF Act: Process



## 1. Conflict Resolution

- Complaint against a farmer is filed with CADB by municipality (regarding zoning or other ordinances) or by neighbor (nuisance).

## 2. Site-Specific Agricultural Management Practice (SSAMP) Request

- Application is made by farmer to CADB; if no CADB exists, application is made to SADC.
- Acts as a proactive “shield” for farm owner/operator.

## 3. A combination of the above

- Complaint can lead to SSAMP request in the same proceeding before CADB.

# CADB Primary Jurisdiction

The CADB gets to decide whether the farm is a commercial farm. It also determines whether the Right to Farm Act's additional threshold criteria are met and whether protection and preemption are warranted.

**But it's not a commercial farm, so we can go to court anyway.**

*Municipality*

**The farm may or may not be a commercial farm. But that's something for the CADB to formally determine (per the Right to Farm Act and case law)**

*CADB*

# RTF Act: Criteria to Receive Protections

The Right to Farm Act's threshold criteria are formally determined by CADB (or by SADC where no CADB exists)

Criterion #1: Farm meets the definition of COMMERCIAL FARM in N.J.S.A. 4:1C-3: A farm management unit (FMU) that is:



**5 acres**, satisfying Farmland Assessment (FA) criteria, & producing products worth **\$2,500 or more annually**; or



**5 acres**, otherwise satisfying FA criteria, & producing products worth **\$50,000 or more annually**; or

FMU that is a **beekeeping operation** producing honey or other agricultural or horticultural apiary-related products, or providing crop pollination services, worth **\$10,000 or more annually**.



# RTF Act: Criteria to Receive Protections

The Right to Farm Act's threshold criteria are formally determined by CADB (or by SADC where no CADB exists)

Criterion #1 (cont.): Shellfish Commercial Farm

**Shellfish commercial farm:** shellfish aquaculture management unit that engages in shellfish aquaculture and produces shellfish worth \$40,000 or more annually.

**Shellfish aquaculture:** the propagation, rearing, and subsequent harvesting of shellfish in controlled or selected environments, and subsequent processing, packaging, and marketing of shellfish (stocking, feeding, transplanting, and predator protection).

**Shellfish aquaculture management unit:** an area, contiguous or noncontiguous, together with buildings, structures, and facilities, on which shellfish aquaculture is occurring and operating as a single enterprise.

# RTF Act: Criteria to Receive Protections

The Right to Farm Act's threshold criteria are formally determined by CADB (or by SADC where no CADB exists)

**Criterion #2**: LOCATION – The farm is located in an area which, as of 12/31/97 or thereafter, agriculture is a permitted use, OR was in operation as of 7/2/98 (N.J.S.A. 4:1C-9).

**Criterion #3**: PROTECTED ACTIVITY – The activity is included in the list of protected activities in N.J.S.A. 4:1C-9.

# RTF Act: Other Eligibility Requirements

Criterion #4: Compliance with applicable State and federal laws and regulations

Examples:

Stormwater management

Uniform Construction Code

Freshwater wetlands

Animal waste management

# RTF Act: Other Eligibility Requirements

Criterion #5: Does not pose a direct threat to public health and safety

Example:

- CSA entrance/exit driveway creates a traffic hazard on intersecting public road

# RTF Act: Other Eligibility Requirements

## Criterion #6: Activity conforms to generally accepted agricultural management practices (AMPs)

- 12 adopted AMPs
- 2 supplemental agricultural activities: PYO and Equine
- "Coming soon": AMPs for shellfish operations, equine labor housing, agricultural labor housing

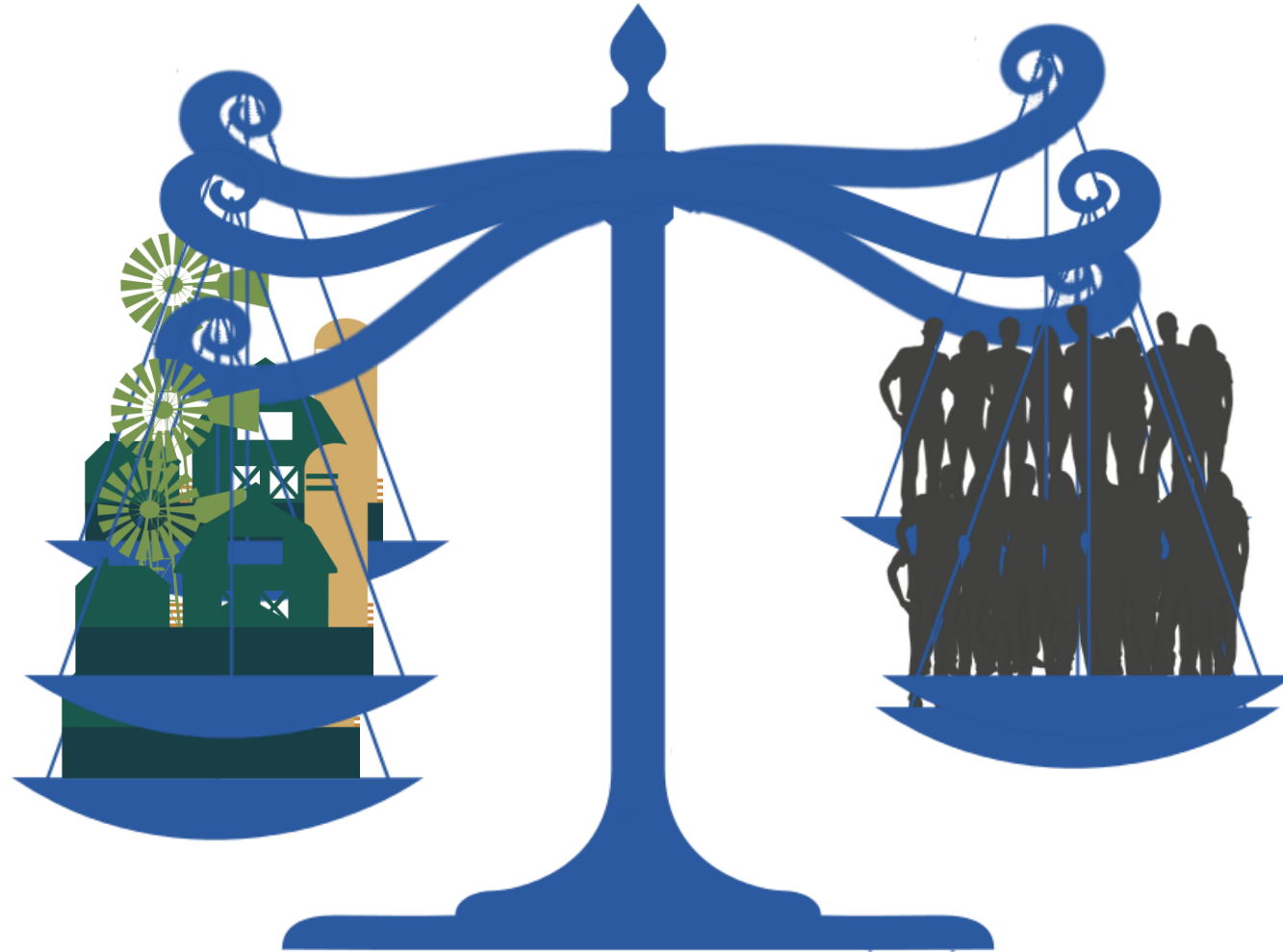
# Agricultural Management Practices (AMP)

The SADC has adopted 12 AMPs

| Location in the NJ Administrative Code | Agricultural Management Practice (AMP)   |
|--|--|
| 2:76-2A.2                              | <u>Apiary AMP</u>  |
| 2:76-2A.3                              | <u>Poultry manure AMP</u>  |
| 2:76-2A.4                              | <u>Food processing by-product land application AMP</u>   |
| 2:76-2A.5                              | <u>Commercial vegetable production AMP</u>   |
| 2:76-2A.6                              | <u>Commercial tree fruit production AMP</u>  |
| 2:76-2A.7                              | <u>Natural resource conservation AMP</u>   |
| 2:76-2A.8                              | <u>AMP for on-farm compost operations operating on commercial farms</u>  |
| 2:76-2A.9                              | <u>Fencing installation AMP for wildlife control</u>   |
| 2:76-2A.10                             | <u>AMP for equine activities on commercial farms</u><br>[See also the following related equine rule: <u>N.J.A.C. 2:76-2B.3 "Eligibility of equine activities for right to farm protections,"</u> in Subchapter 2B] |
| 2:76-2A.11                             | <u>Aquaculture AMP</u>   |
| 2:76-2A.12                             | <u>AMP for the Construction, Installation, Operation or Maintenance of Solar Energy Generation Facilities, Structures and Equipment on Commercial Farms</u>  |
| 2:76-2A.13                             | <u>AMP for On-Farm Direct Marketing Facilities, Activities, and Events</u>   |

# Balancing Test

**Balance  
agricultural  
needs...**



**...against  
municipal  
public  
health and  
safety  
concerns**

# Preemption of Local Regulations

A wooden gavel is positioned vertically in the center of the frame, resting on a stack of papers. In the foreground, a wooden block with the word 'REGULATIONS' is visible. To the right, another wooden block with the word 'MAY' is partially visible. The background is a blurred stack of papers.

- ✓ Agricultural activities MAY preempt municipal and county regulations.
- ✓ Appropriate consideration and deference MUST be given to local standards.

# Site Plan Review

## What about SITE PLAN REVIEW?

- Review of site plan elements is often needed (particularly for on-farm direct marketing facilities).
- CADBs maintain primary jurisdiction over local regulations, such as when SSAMP requests are made. . .

But..



# Site Plan Review

- Certain site plan elements may require CADBs to solicit input from municipalities.
- CADBs do not have statutory jurisdiction to review some elements (e.g., UCC, ADA requirements, other State laws).
- CADBs do not have statutory authority to require farmer to obtain approval/denial from local land use board BEFORE hearing an SSAMP application.



# Questions?

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[SADC website: New Jersey Farmland Preservation Program \(nj.gov\)](http://nj.gov)