

Agricultural- Horticultural Use & Development

Presented by: Rachel DeFlumeri
New Jersey Department of Agriculture



Agenda

1. Regulatory/ Statutory References	<ul style="list-style-type: none">• Farmland Assessment Act (FAA)• Right to Farm Act (RTF)• Soil Erosion and Sediment Control Act (SESC)• Stormwater Management Rule (SWM)• Uniform Construction Code (UCC)-International Building Code (IBC)
2. Defining Agricultural/ Horticultural Production	<ul style="list-style-type: none">• Definitions in FAA• Definitions in RTF
3. Right to Farm Process	<ul style="list-style-type: none">• Commercial Farm Determinations• AMPs & SSAMPs
4. General Overview of Farm Conservation Plans	<ul style="list-style-type: none">• When they apply• Who can write plans
5. Soil Erosion and Sediment Control Act	<ul style="list-style-type: none">• Agricultural and Horticultural disturbance and development
6. Stormwater Management Rule	<ul style="list-style-type: none">• Agricultural/Horticultural development-when compliance is required
7. Uniform Construction Code	<ul style="list-style-type: none">• Commercial Farm Buildings
8. International Building Code	<ul style="list-style-type: none">• Defining use-groups for Commercial Farm Buildings

Definitions- *where are they found?*

In New Jersey “agricultural development” is defined within several distinct, but related regulatory and statutory provisions:

- The NJ Farmland Assessment Act ([N.J.S.A. 54:4-23.1 et seq](#))
 - Rules governing the Act-*valuation, assessment, and taxation* ([N.J.A.C. 18:15](#))
- The NJ Right to Farm Act ([N.J.A.C. 2:76](#))
- Soil Erosion and Sediment Control Act ([N.J.A.C. 2:90](#))
 - Agricultural development and Farm Conservation Plans (N.J.A.C. 2:90-1.8(b))
- Uniform Construction Code-*Commercial Farm Buildings* ([N.J.A.C. 5:23-3.2\(d\)](#))
- Stormwater Management Rules ([N.J.A.C. 7:8](#))

Terms-under *Farmland Assessment Act*

- Actively Devoted to Agricultural or Horticultural Use- refers to the income and land requirements to qualify for farmland assessment, includes not only land in production, but land supportive of products produced
 - Must be a minimum of 5 acres
 - Average income of \$1,000/ year-on the first 5 acres and \$5.00/year on additional acres
 - Woodlands: \$500/ year- on the first 5 acres and \$0.50/year on additional acres
- Agricultural use- land devoted to the production of plants and animals useful to man, including, but not limited to:
 - Bees and apiary products
 - Fur animals
 - Trees and forest products
 - Agricultural conservation programs
 - Biomass and solar
 - Livestock: beef cattle, sheep, swine, horses, ponies, mules, goats, or aquatic organisms
 - Forages and sod crops
 - Grains and feed crops
 - Dairy animals and dairy products
 - Poultry and poultry products

Terms-under *Farmland Assessment Act*

- **Horticultural Use**- land devoted to the production for sale of:
 - Fruits of all kinds: grapes, nuts and berries
 - Vegetables
 - Nursery
 - Floral
 - Ornamental
 - Greenhouse products
- **Equine Production**- income generated from the sale of breeding, raising, pasturing, training horses for later sale
- **Equine Services**- income generated from boarding, riding lessons, training horses
 - *Income generated from equine services do not qualify on their own towards eligibility for farmland assessment-unless satisfying the income requirement for imputed grazing values*

Terms: *under the Right to Farm Act*

- Farm Management Unit (FMU)- parcel(s) of land, contiguous or non-contiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products and operating under a single enterprise
- Commercial Farm- the operation is in a zoning district where agriculture is a permitted use and satisfies one of the following:
 - (1.) FMU is 5 or more acres, producing agricultural or horticultural products worth \$2,500 or more annually
 - (2.) FMU is less than 5 acres, producing agricultural or horticultural products worth \$50,000 or more annually
 - (3.) FMU that is a beekeeping operation producing honey or other agricultural, horticultural apiary-related products, or providing pollination services worth \$10,000 or more annually

****NOTE:** a Commercial Farm is an official designation obtained through the CADB**

Terms: *under the Right to Farm Act*

- Agricultural Management Practice (AMP)- practices recommended and adopted by the SADC

(12) AMPs:

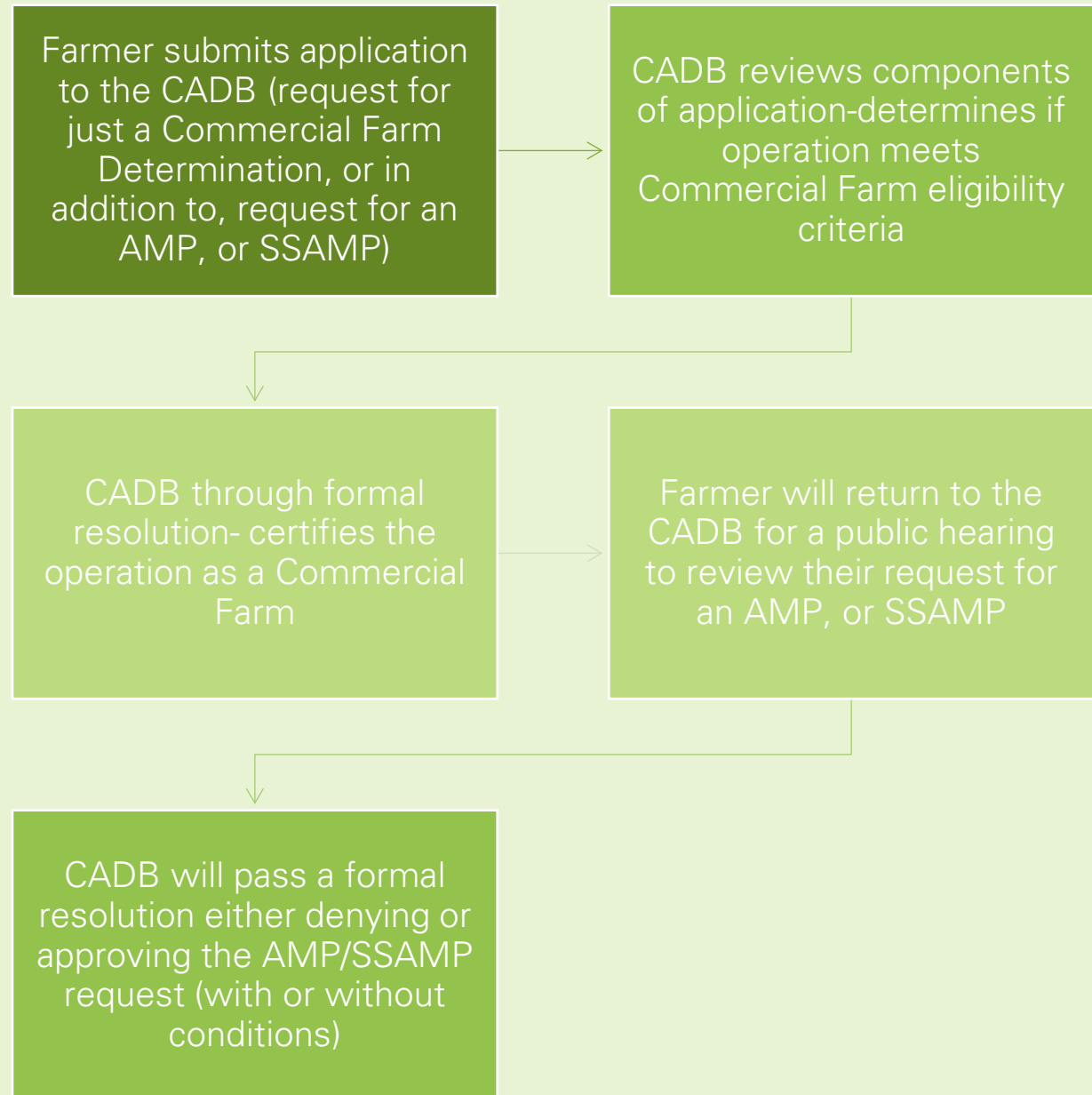
- Apiary
- Poultry Manure
- Food Processing by-product land application
- Comm. Veg. Production
- Comm. Tree fruit Production
- Natural Resource Conservation
- On-Farm Composting Operations
- Fencing Installation for Wildlife
- Equine Activities
- Aquaculture
- On-Farm Energy Generation
- On-Farm Direct Marketing Facilities, Activities and Events


- Site-Specific Agricultural Management Practice (SSAMP)- site specific operation or practice that has been recommended, and approved by the appropriate County Agriculture Development Board (CADB)

RTF Process

Applications to request AMP or SSAMP:

- CADB develops the application-this at a minimum will include the following:
 - i. Site plans
 - ii. Background information on the operation in question
 - iii. Schedule of municipal ordinances applicant is seeking relief
 - iv. Proof of farm income
 - v. Copy of their Farm Conservation plan-or proof that it's in process





Farm Conservation Plans (FCPs)

FCPs are an alternative for Soil Erosion and Sediment Control Plans, are required for RTF protections, and helpful for anticipating potential NJDEP Land Use violations

- Are developed with farm owner or operator with the assistance of an NRCS Certified Conservation Planner, or Technical Service Provider (TSP)
- Plans identify on-site “resource concerns” outline selected Conservation Practice Standards (CPSs) to mitigate and address impacts to natural resources caused by ongoing management or proposed development, and/or production activities
- Are meant to be a “living” document
- Common misconception: plans can be written for the construction of all farm buildings (there are a few agricultural structures a plan can be written for)
 - Rather: FCPs cover ancillary applications to mitigate impacts on-site

Soil Erosion and Sediment Control Act

- A person proposing to engage in clearing or grading of more than 5,000 SF of land- unless land disturbance is for agricultural or horticultural purposes
 - To prove the activity is for ag/hort the owner is to provide:
 - Enrollment in the Farmland Preservation Program
 - Eligible for Farmland Assessment
 - Qualifies for RTF protections
 - Possess a FCP or Woodland Management Plan
 - FCP is to be provided to the District for review

Structures, if not identifies in the NRCS EFOTG would be reviewed as either commercial/residential developments

Stormwater Management Rules

- Triggered when proposed project meets definition of “Major Development” for 1 or more of the following:
 - Disturbs more than 1 acre of land
 - Creates more than ¼ acre (10,890 SF) of impervious surface
 - This includes “regulated motor vehicle surface” and impacts farm lanes

“Major Development” also means individual or multiple that collectively result in the disturbance of 1 or more acres of land and increase by ¼ acre of impervious since February 2, 2004

Uniform Construction Code (UCC): *Commercial Farm Buildings*

- Criteria N.J.A.C. 5:23-3.2(d):
 - Located on a Commercial Farm-not producing less than \$2,500 annually
 - The structure and/or building's main use is related to the **production** of ag/hort products produced on that farm

UCC: Commercial Farm Buildings-Permitting

Building/Structure	Requirements	Permit Required
Pre-engineered grain bins, manure handling equipment and impoundments used for storage of commodities, or by products	<ul style="list-style-type: none"> • Products/commodities stored must be produced or used on-farm 	<ul style="list-style-type: none"> • Does NOT require construction permit • Foundations, plumbing, and electrical subject to ALL requirements and inspections of any applicable subcode(s)
Temporary Greenhouse (hoophouse)	<ul style="list-style-type: none"> • Does not have permanent anchoring or foundation • Will not be storing flammable materials • 31 ft in width or smaller, 150 ft max length • Cover material is not thicker than 6 mil 	<ul style="list-style-type: none"> • Exempt from UCC permit requirements • Subject to electrical and mechanical subcode if structure contains such device(s) • Contains a backflow valve if connected to potable water
Three-sided turnout shed for livestock shelter	<ul style="list-style-type: none"> • 250 SF area or less, max height 14 ft • No permanent foundation or floor • No utility connections 	<ul style="list-style-type: none"> • Exempt from UCC permit • Should have sufficient weight to remain anchored to the ground
Garden-type utility shed	<ul style="list-style-type: none"> • 200 SF area or less, max height of 10 ft • No foundation-requires the floor system be tied to walls • Not connected to any utilities 	<ul style="list-style-type: none"> • Exempt from UCC permit
Farm Storage Buildings: hay, straw, livestock bedding materials	<ul style="list-style-type: none"> • Not subject to storage limitation 	<ul style="list-style-type: none"> • However-other hazardous materials stored-if occupied by more than (10) people are not to exceed limits in (Table. 307.1(1)(2)) • UNLESS separated by fire resistant construction

Per N.J.A.C. 5:23-3.2(d)2. Commercial Farm Buildings include, but not limited to: stall barns, milking parlors, poultry houses, horse arenas, packing houses for commodities, farrowing houses, greenhouses, storage buildings

Buildings That DON'T Qualify as Commercial Farm Buildings

- Buildings containing ANY of the following uses:
 - Residential structures
 - High hazard facilities
 - Grain elevators or grain storage silos used to store products neither produced or used on farm
 - Processing facilities
 - That include specialized machinery to perform functions other than washing, cleaning, hydro and vacuum cooling, grading and sizing
 - Mercantile structures
 - Offices with either 11 or more occupants, or a floor area greater than 1,200 SF

Commercial Farm Buildings can have uses that are not included within the definition-BUT separated from the remainder of the building with fire separation assemblies

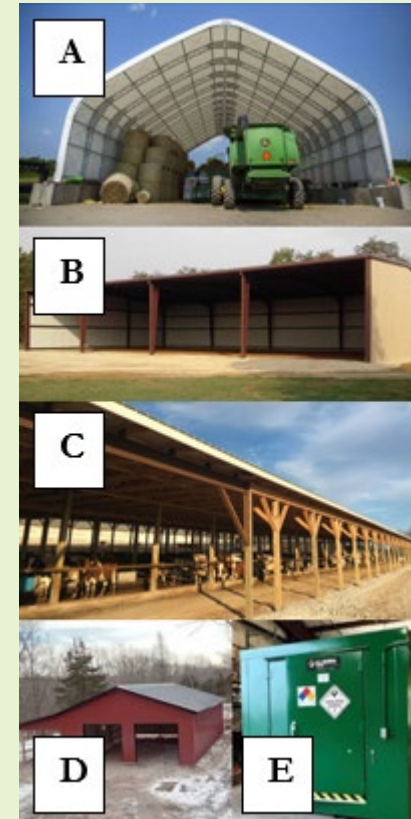
UCC: Commercial Farm Buildings-Height & Area

- According to N.J.A.C. 5:23-3.2(d)11. are required to comply with the height limitations specified in Tables 504.3, 504.4, and 506.3 EXCEPT for:
 - One-story Commercial Farm Buildings of any type of construction *“shall not be limited in height and area”*
 - Must have a fire separation distance of 50 ft and does not require a sprinkler system
 - Two-story Commercial Farm Buildings of any type of construction *“shall not be limited in height area”*
 - Requires an approved automatic fire suppression system throughout and fire separation distance of 50 ft

Both must follow the Means of Egress specified in subchapter 10 of the building subcode (NOTE: 3.2(d)12.)

Use Groups: IBC

Use Group	Description	Examples	Example Picture ID
U (Utility)	Low-hazard storage structures	Equipment sheds, simple storage barns	D, B, A, C
S-1 (Moderate-Hazard Storage)	Storage of moderately hazardous materials	Chemical storage, certain feedstocks	C, A
S-2 (Low-Hazard Storage)	Storage of noncombustible materials	Refrigerated produce storage	G
F-1 (Moderate-Hazard Factory)	Processing involving combustibles	Processing with heat or chemicals	H
F-2 (Low-Hazard Factory)	Non-combustible product processing	Washing/packing produce	H
H (High Hazard)	Storage of combustible, toxic or corrosive chemicals	Agricultural Chemical Storage Building	E
B (Business)/ M (Mercantile)	Office/admin space	Farm office, retail area	F
A-2/A-3 (Assembly)	Gathering of people	Farm event spaces, tasting rooms	F

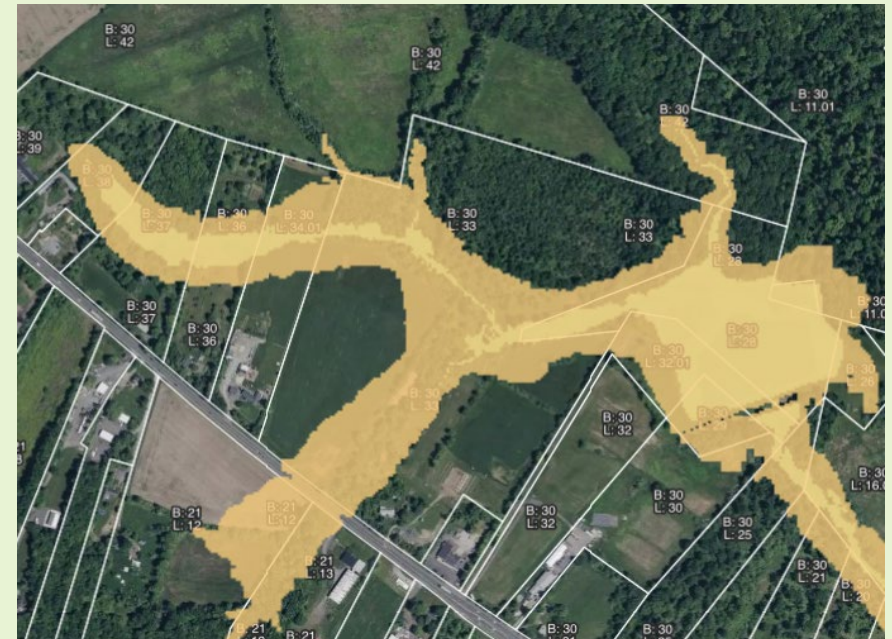


Agricultural Use & Development: *defining structural developments*

- Determining if proposed activity, or construction project to constitute as “agricultural development”:
- Is what is proposed *necessary* for on-site production?
- Is what is being proposed defined as ag/hort use?
- Is the operation certified as a Commercial Farm?
- Does the buildings proposed use meet any activity defined in the AMPs? Or have they obtained an SSAMP?
- Does the operation have a Farm Conservation Plan?
- Does the proposed structure meet the UCC guidelines for a Commercial Farm Building?

Other Considerations

- NJDEP Land Use regulations-adoption of NJPACT-REAL Rule amendments on January 20, 2026
 - Flood Hazard Area Control Act (N.J.A.C. 7:13)
 - Increased FEMA 1% Annual Chance of Flood Hazard by 3 ft
 - Freshwater Wetlands Protection Act (N.J.A.C. 7:7A)
 - Enhanced protections and mitigation requirements



Agricultural/Horticultural operations in New Jersey are incredibly diverse-Often determinations require consideration on a case-by-case basis

Questions?

Contact: Rachel DeFlumeri, NJ Department of Agriculture-Div. of Agricultural and Natural Resources

Email: rachel.deflumeri@ag.nj.gov

Phone: (609)-414-0464