

New Jersey State
Agriculture Development Committee

Soil Protection Standards

SADC Committee
February 23, 2023
**Data error fixed
March 14, 2023



History of Soil Protection Issue



PRESERVED
FARMLAND
PRIVATE LAND, PUBLIC LEGACY

QVF Litigation – 2018 NJ Supreme Court Decision

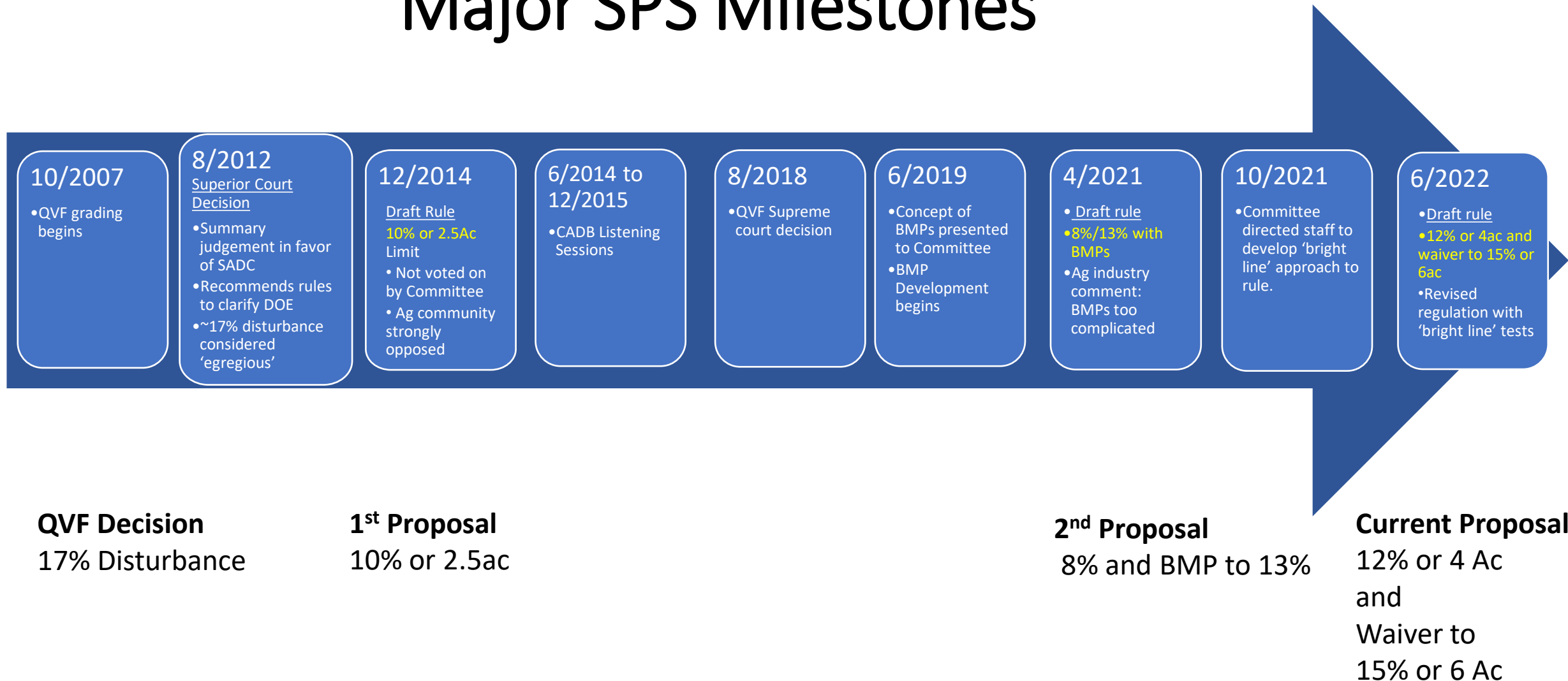


- 1. While Quaker Valley's construction of hoop houses to protect their horticultural crops was an appropriate agricultural use for the preserved farmland, it was required to be carried out in balance with soil conservation and the ARDA's overarching focus on preserving the agricultural use of farmland in perpetuity.***
- 2. ... the ARDA and the existing SADC regulation have a dual purpose: to strengthen the agricultural industry and to preserve farmland. Both are important goals; neither is subordinate to the other.... the approach must be to balance farmland preservation and strengthen the agricultural industry.***


QVF Litigation – 2018 NJ Supreme Court Decision

- 3. If the SADC fails to undertake the necessary rulemaking to establish guidance on the extent of soil disturbance that is permissible on preserved farms, then it can expect administrative due process challenges to its enforcement actions.*
- 4. In sum, while owners of preserved farmlands are on notice of the requirement to conserve the soil, they are left without adequate direction on the tangible constraints on their agricultural use of the land. “Persons subject to regulation are entitled to something more than a general declaration of statutory purpose to guide their conduct . . . Farmers are entitled to “sufficiently definite regulations and standards” so that administrative decision-making is fair and predictable.*

Major SPS Milestones



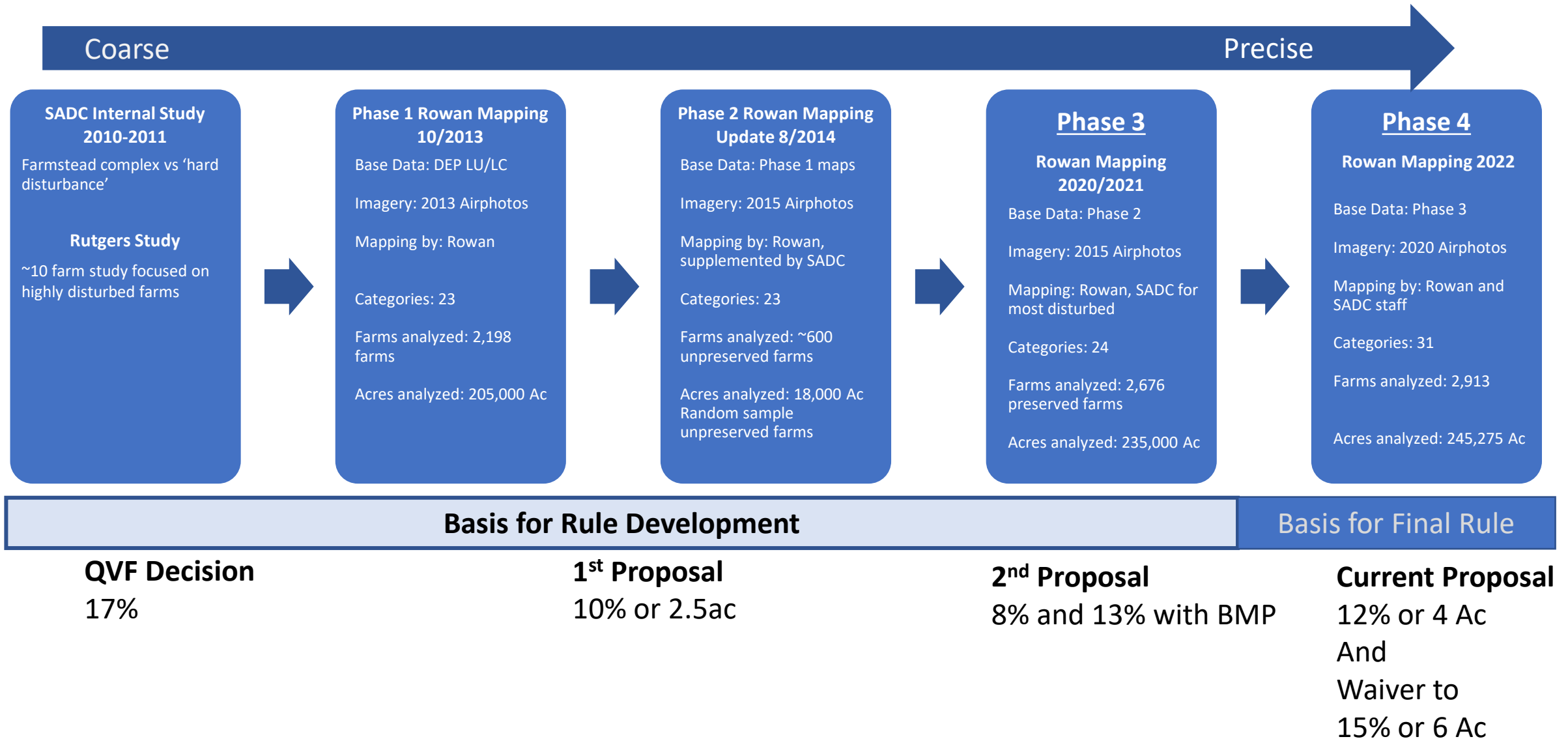
April 2021 Proposal – BMP Model

		Land Uses	Soil Effects Classifications	Soil Protection Treatment
		 Degree of Reversibility	Cut/fill activities (includes stormwater basins)	Permanent Soil Disturbance ("Red" Category)
Permanent buildings/structures				
Permanent travel lanes				
Permanent livestock training areas				
Permanent parking and storage areas/hardscape				
Semi-permanent travel lanes	Semi-Permanent Soil Disturbance ("Orange" Category)		Additional allowance obtainable if voluntarily following Best Management Practices (BMPs). Otherwise, considered Red Category.	
Semi-permanent livestock training areas				
Semi-permanent parking and storage areas				
Agricultural water impoundments				
Soil stockpiles				
Geotextiles and geomembranes	Temporary Soil Disturbance ("Yellow" Category)		No limitation if voluntarily following Best Management Practices (BMPs). Otherwise, considered Red Category.	
Temporary structures				
Temporary travel lanes				
Temporary livestock training areas				
Temporary parking and storage areas				
Ground-mounted solar energy facilities				
Cropland and pastureland	Soil Protection ("Green" Category)	No limitation.		
Woodland				
Wetlands and streams				

Revised Land Use Chart (Orange Merged with Red and Yellow Merged with Green; No BMPs)

DISTURBANCE LIMITATIONS	SOIL EFFECTS CLASSIFICATION	LAND USES	LAND USE EXAMPLES	BRIGHT-LINE TESTS	FORMER BMPs
LIMITATIONS SET BY STANDARDS	SOIL DISTURBANCE	Cut/fill	Site leveling, stormwater basins, berms, non-organic stockpiles, manure lagoons, future ponds, tailwater recovery systems	Soil movement in excess of normal tillage as defined	Agricultural Water Impoundments BMP, (Sub)soil Stockpiling BMP
		Suspended Surfaces	Houses, garages, barns, sheds, covered arenas	Surface over soil as defined	Not applicable
		Ground-level Surfaces	Surfaced roads and parking lots, outdoor arenas, tracks, rip-rap, asphalt, concrete, gravel, pavers, bricks, blocks, shells, sand, cinders, recycled asphalt, dense graded aggregate, rock	Surface over soil as defined	Semi-permanent Livestock Training Areas BMP, Semi-permanent Parking and Storage Areas BMP, Semi-permanent Travel Lanes BMP
		Degraded soil	Frequently used unsurfaced roads and parking lots, sacrifice lots	Less than 70% vegetative cover as defined	Not applicable
EXCEPTIONS FROM LIMITATIONS	SOIL PROTECTION	Cut/fill	Topsoil stockpiles	Supplemental Standards - Topsoil Stockpiling	(Top)soil Stockpiling BMP
			Cranberry bogs	Definition	Not applicable
			Conservation practices planned to NRCS standard	Definition	Not applicable
			Soil preparation for production	Definition	Not applicable
		Suspended Surfaces	Hoop houses/temporary greenhouses	Definition	Temporary Structures BMP
			Temporary tents	Definition	Temporary Structures BMP
			Temporary movable structures	Definition	Temporary Structures BMP
			Solar panels/other utilities	Supplemental Standards - On-Farm Utility	Ground-Mounted Solar Energy Facilities BMP
		Ground-level Surfaces	Permeable geotextiles (weed fabric)	Definition	Geotextiles and Geomembranes BMP
			Other temporary ground covers (timber mats)	Definition	Not applicable
			Farm lanes	Definition	Temporary Travel Lanes BMP
			Seasonal parking, overflow event parking,	Supplemental Standards - Vegetative Cover	Temporary Parking and Storage Areas BMP
			Livestock turnout areas	Supplemental Standards - Vegetative Cover	Temporary Livestock Training Areas BMP
			Organic surfaces, mulch, wood chips, leaves	Definition	Not applicable
NO LIMITATIONS	Ag. and Natural Resources	Cropland, pastureland, lawn, fallow fields, R.O.W.	Normal tillage as defined	Not applicable	
		Woodland, wind breaks, forestry activities	Definition	Not applicable	
		Natural wetlands, streams, existing ponds	Definition	Not applicable	
		Former disturbed areas	Soil Rehabilitation Standard	Not applicable	

SPS Mapping History



SADC Soil Protection Standards Subcommittee Meetings

A blue tractor with '6610' and 'F 30' on its side, parked in a field. The tractor is the central focus of the image, with a large rear tire and a smaller front tire. The background shows a grassy field and some trees in the distance.

June 23, 2022 – SADC Meeting

July 11, 2022 – Subcommittee meeting

September 26, 2022 – Subcommittee meeting

December 16, 2022 – Meeting with State Board of Ag

January 23, 2023 – Subcommittee meeting

February 13, 2023 – Subcommittee meeting



STEP 1 – GIS Mapping and Quality Control

Rowan Mapping

← → ↻ njexplorer.com

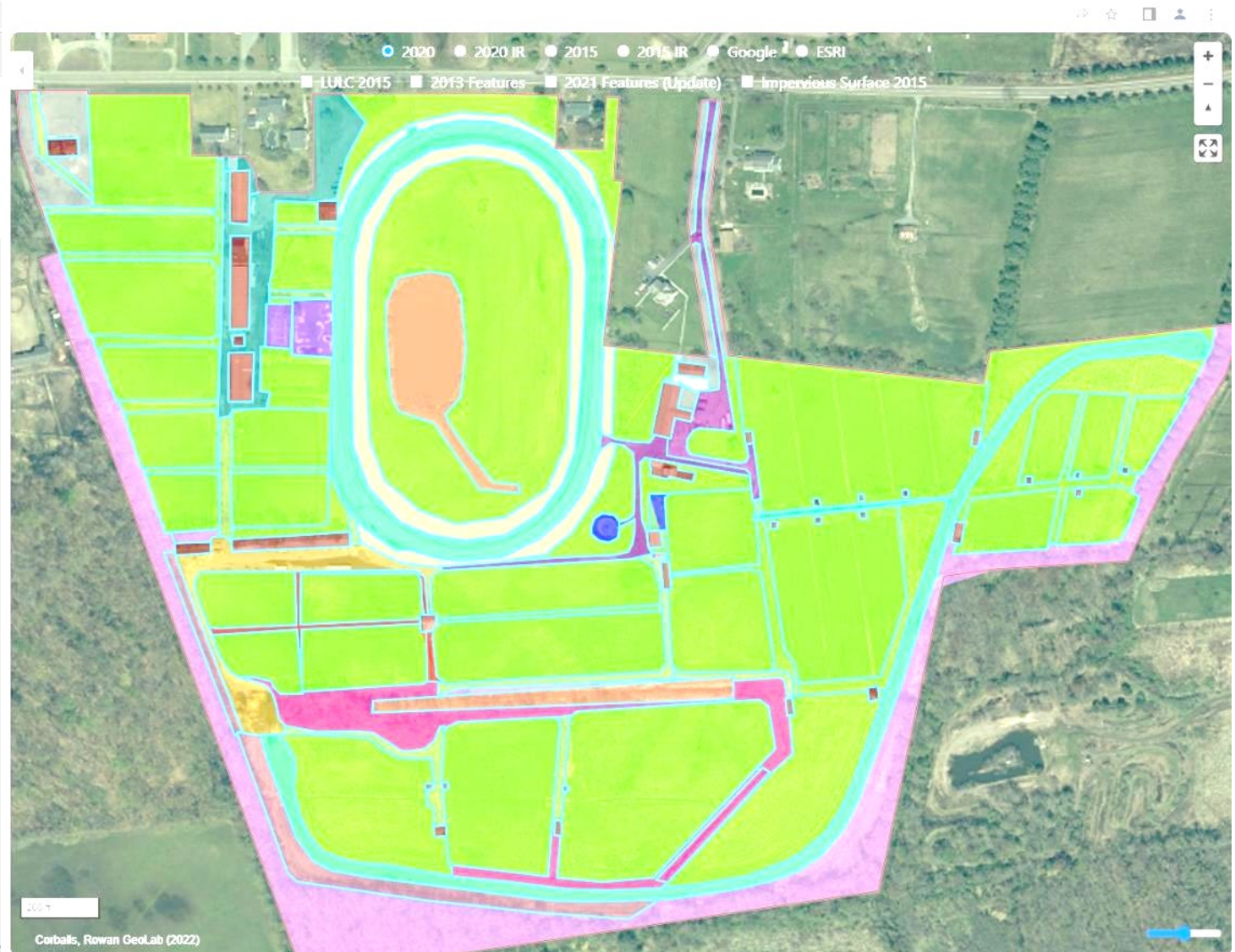
Farm Disturbance Digitizer

Farm Area 89,126 acs.
Featured Area 89,122 acs.
Digitized 99.99 %

[Refresh](#) [Close](#)

Feature Summary

Code	Acres	% of Farm
(2) Curtilage	1,504	1.688
(3) Buildings / Structures	1,688	1.894
(6) Parking Lots / Storage Areas - Gravel / Crushed Stone	1,625	1.824
(7) Parking Lots / Storage Areas - Paved	1,228	1.377
(9) Roads / Farmlanes / Driveways - Gravel / Crushed Stone	1,58	1.773
(10) Roads / Farmlanes / Driveways - Paved	1,225	1.374
(11) Roads / Farmlanes / Driveways - Unpaved	0,349	0.392
(15) Recreational	0,495	0.556
(16) Equine Tracks / Arenas - Gravel	6,255	7.018
(18) Livestock Confinement / Dry Lots	0,18	0.202
(19) Ponds / Lakes - Human-made	2,529	2.837
(21) Stormwater Basins	1,459	1.637
(22) AG Production	55,2	61.935
(23) Anthropogenic	3,25	3.647
(24) Wetlands / Marshes	2,357	2.644
(25) Woodlands	8,117	9.108
(30) Sidewalks	0,079	0.089



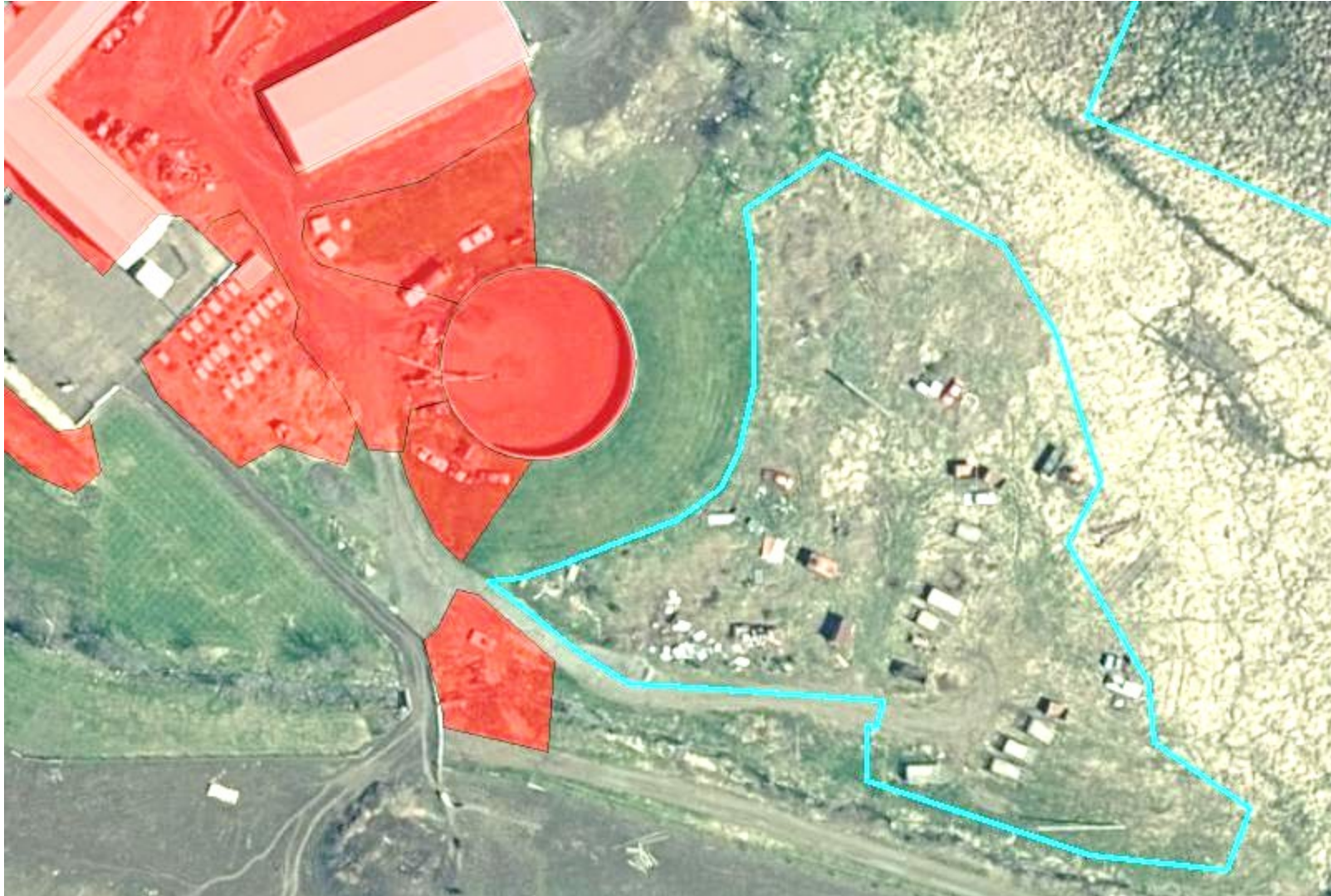
Data Analysis and Quality Assurance/Quality Control

- Review of “raw” Rowan data from Phase 4 mapping
 - Quality control for mapping errors
 - Data evaluation to understand differences
 - Modifications to data based on analysis

Mapping review/revisions

- Split premises by existing subdivisions
- Identified and assigned all “other/unclassifiable” land uses
 - 1,568 acres in 2015 mapping
- Manually reviewed all farms with more than 50% allocation used
- Looked at mapped features with large areas in challenging land use categories
- Reviewed and edited gravel lanes vs. unpaved lanes
- Reviewed ‘anthropogenic’ category
- Split unpaved parking/storage to reflect rule exemption
 - Undisturbed -unpaved parking/ storage with more than 70% veg cover
 - Disturbed – unpaved parking/storage with less than 70% veg cover

Unpaved storage areas with MORE than 70% vegetative cover: **EXEMPT**



Unpaved storage areas with LESS than 70% vegetative cover: **DISTURBANCE**



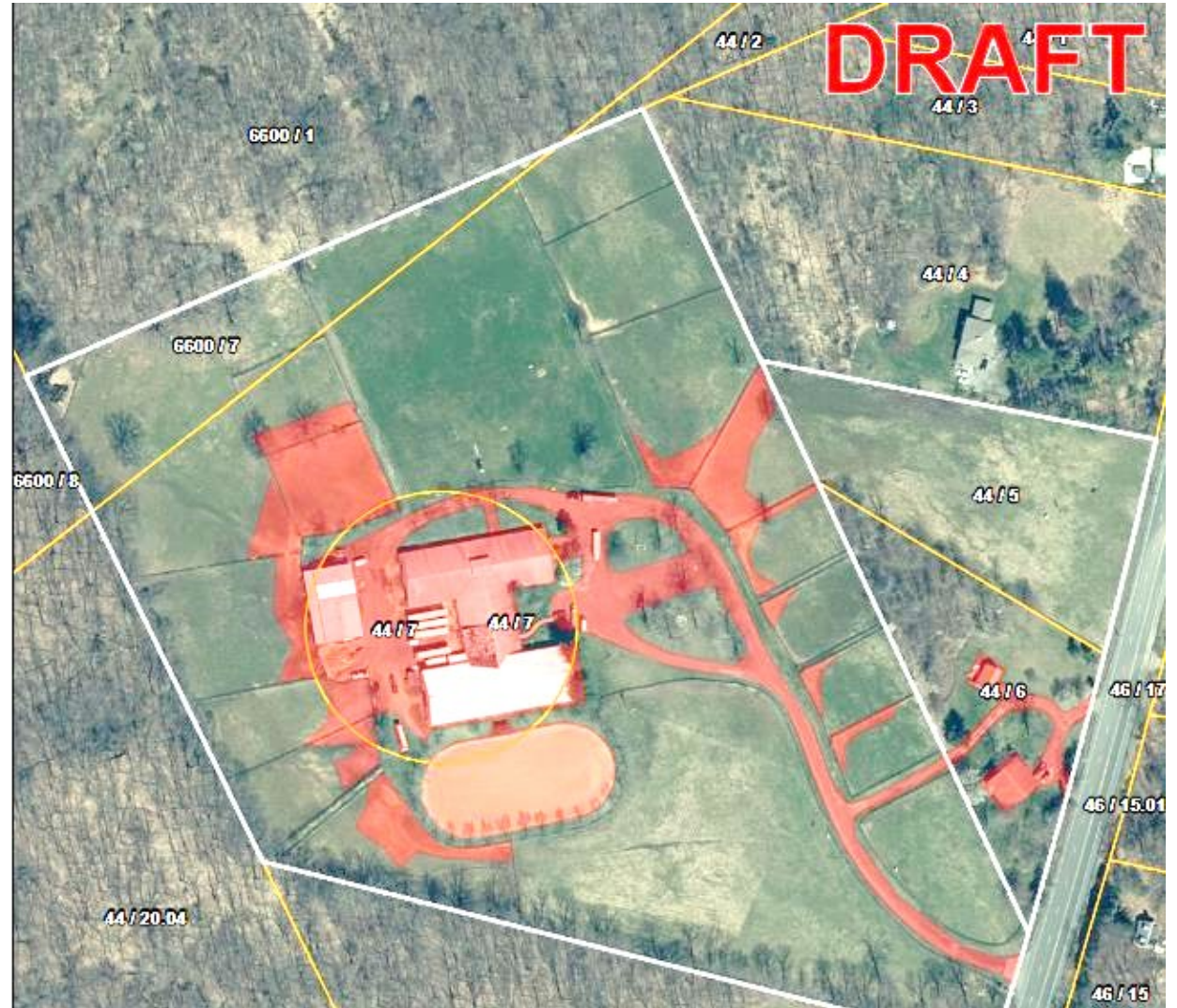


STEP 2 – Data Refinement

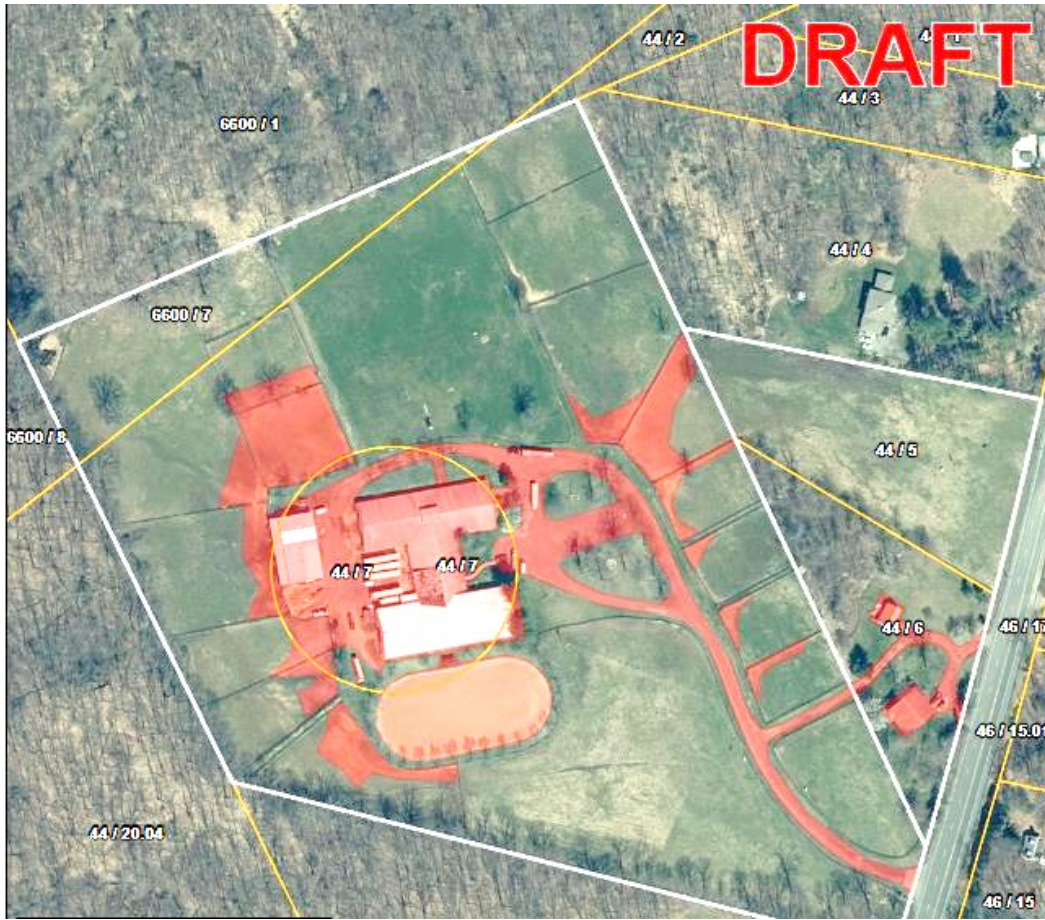
ENUM	LAND USE CATEGORY
1	OTHER/UNCLASSIFIABLE (ONLY TO BE USED AS A LAST RESORT WHEN A LAND USE SIMPLY CANNOT BE DEDUCED FROM AIR PHOTO INTERPRETATION)
2	CURTILAGE (LAWNS AND GARDENS AROUND/BETWEEN RESIDENTIAL AND AG. BUILDINGS/STRUCTURES BUT NOT PARKING LOTS/STORAGE AREAS, SIDEWALKS, AG. PRODUCTION, LIVESTOCK CONFINEMENT, OR DRIVEWAYS)
3	BUILDINGS/STRUCTURES (INCLUDES HOUSES, PORCHES, STOOPS, PATIOS, CARPORTS, GARAGES, LOADING DOCKS, GRAIN BINS, SILOS, BARNs, SHEDS, AND PLEXI(GLASS) GREENHOUSES BUT NOT HOOPHOUSES)
4	UTILITIES (INCLUDES CELL TOWERS AND ELECTRICAL TOWERS. CHECK LAND UNDERNEATH POWER LINES - COULD BE AGRICULTURAL PRODUCTION OR BARREN - AND DIGITIZE ACCORDINGLY. DO NOT INCLUDE CLEARED R.O.W.)
5	PITS/LAGOONS (INCLUDES SILAGE, MANURE, AND BORROW)
6	PARKING LOTS/STORAGE AREAS - GRAVEL/CRUSHED STONE (INCLUDE CRUSHED SHELLS)
7	PARKING LOTS/STORAGE AREAS - PAVED (INCLUDES ASPHALT, CONCRETE, MILLINGS, POROUS PAVEMENT, PAVER BLOCKS, AND PATIO BLOCKS)
8	PARKING LOTS/STORAGE AREAS - UNPAVED (LESS THAN 70% VEGETATIVE COVER. CHECK PASTURES FOR SEASONAL PARKING AND INCLUDE IN UNPAVED PARKING IF VISIBLE EVIDENCE OF USE)
9	ROADS/FARMLANES/DRIVEWAYS - GRAVEL/CRUSHED STONE (INCLUDE CRUSHED SHELLS)
10	ROADS/FARMLANES/DRIVEWAYS - PAVED (INCLUDES ASPHALT, CONCRETE, MILLINGS, POROUS PAVEMENT, PAVER BLOCKS, AND PATIO BLOCKS)
11	ROADS/FARMLANES/DRIVEWAYS - UNPAVED (GRASS OR DIRT)
12	HOOPHOUSES/HIGH TUNNELS (EVEN IF COVER REMOVED. INCLUDE (PLEXI)GLASS GREENHOUSES WITH BUILDINGS/STRUCTURES)
13	GEOTEXTILES/WEED FABRIC (EVEN IF TORN OR PARTIALLY REMOVED)
14	RENEWABLE ENERGY FACILITIES (INCLUDES GROUND-MOUNTED SOLAR PANELS AND WIND TURBINES)
15	RECREATIONAL (INCLUDES SWIMMING POOLS, ATHLETIC COURTS, AND PLAYGROUNDS)
16	EQUINE TRACKS/ARENAS - GRAVEL/CRUSHED STONE (CHECK TRACK INFIELD AND IF WATER FEATURES PRESENT, CLASSIFY AS HUMAN-MADE PONDS AND IF PASTURE, CLASSIFY AS AG. PRODUCTION)
17	EQUINE TRACKS/ARENAS - SAND OR DIRT (CHECK TRACK INFIELD AND IF WATER FEATURES PRESENT, CLASSIFY AS HUMAN-MADE PONDS AND IF PASTURE, CLASSIFY AS AG. PRODUCTION)
18	LIVESTOCK CONFINEMENT AREAS/DRY LOTS (FENCED AREAS WITH LESS THAN 70% VEGETATIVE COVER)
19	PONDS/LAKES - HUMAN-MADE (INCLUDE ASSOCIATED BERMS IN ANTHROPOGENIC - OTHER)
20	PONDS/LAKES/STREAMS - NATURAL
21	STORMWATER BASINS (INCLUDE ASSOCIATED BERMS IN ANTHROPOGENIC - OTHER)
22	AGRICULTURAL PRODUCTION (INCLUDES CROPLAND, PASTURELAND, HAYLAND, ORCHARDS, NURSERY STOCK, CHRISTMAS TREES, FALLOW/IDLED FIELDS, MOD. AG. WETLANDS., CRANBERRIES ON FRESHWATER WETLANDS)
23	ANTHROPOGENIC - OTHER (INCLUDES OTHER HUMAN-ALTERED LANDSCAPES/CUTS-AND-FILLS SUCH AS EXCAVATED AREAS, GRADED AREAS, SOIL STOCKPILES, AND BERMS)
24	WETLANDS/MARSHES (DOES NOT INCLUDE MODIFIED WETLANDS BEING USED FOR AGRICULTURAL PRODUCTION)
25	WOODLANDS/FORESTS (INCLUDES WINDBREAKS, SHELTERBELTS, HEDGEROWS, EARLY SUCCESSIONAL WOODLANDS/FOREST, AND SCRUB-SHRUBLANDS)
26	BARREN (INCLUDES AREAS NOT CONSIDERED AG. PRODUCTION OR WOODLANDS/FORESTS SUCH AS CLEARED UTILITY R.O.W. AND ROCK OUTCROPS)
27	ROAD RIGHT OF WAYS (SADC WILL LATER CLIP THIS ACREAGE OUT FROM THE FINAL DISTURBANCE CALCULATIONS IF LOCATED WITHIN LEGAL BOUNDARIES OF THE PRESERVED PREMISES)
28	EQUINE TRACKS/ARENAS - GRASS (CHECK TRACK INFIELD AND IF WATER FEATURES PRESENT, CLASSIFY AS HUMAN-MADE PONDS AND IF PASTURE, CLASSIFY AS AG. PRODUCTION)
29	TENTS (DOES NOT INCLUDE BUILDINGS/STRUCTURES OR HOOPHOUSES)
30	SIDEWALKS (DO NOT DIGITIZE AS CURTILAGE)
31	PARKING LOT/STORAGE UNPAVED W/ >70% VEG COVER

Rethinking Livestock Confinement

- Highly irregular patterns; varied greatly from farm to farm
- Dependent on weather/seasonal conditions at the time of aerial photography
- Noted variability across the state based on soil type



Rethinking Livestock Confinement



Compaction Discussion

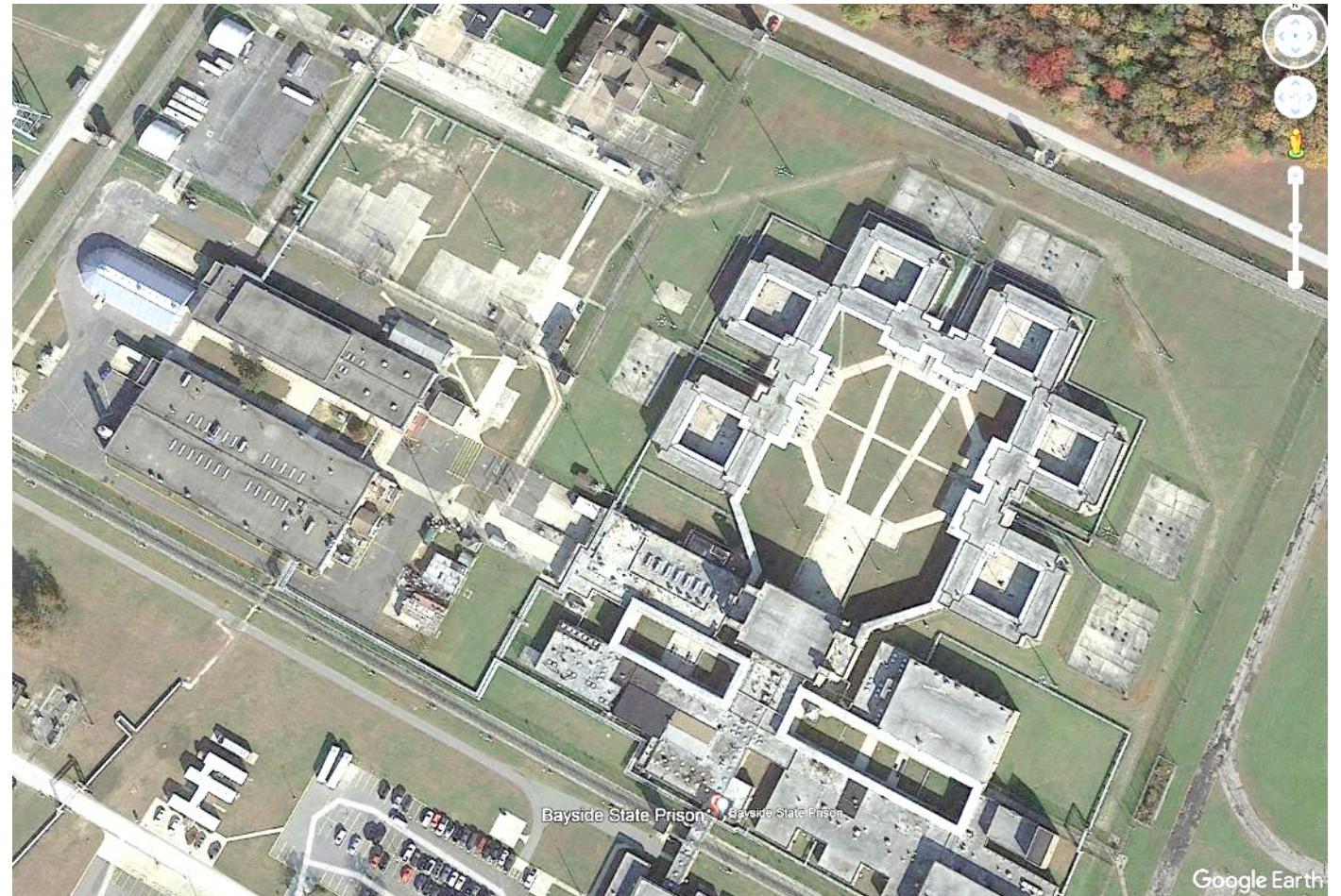
- **Proposed rule change** – unvegetated/compacted livestock areas do not count as disturbance
- Justification:
 - Parking/storage - veg cover is compacted to the point where grass won't grow
 - Deep compaction
 - Loss of organic matter
 - Typically seen in farmyards rather than seasonal parking
 - Livestock area - veg cover is eaten or trampled
 - Surface compaction
 - Vegetation will regrow if animals are removed
 - Easier to restore
 - Erosion covered by the DOE

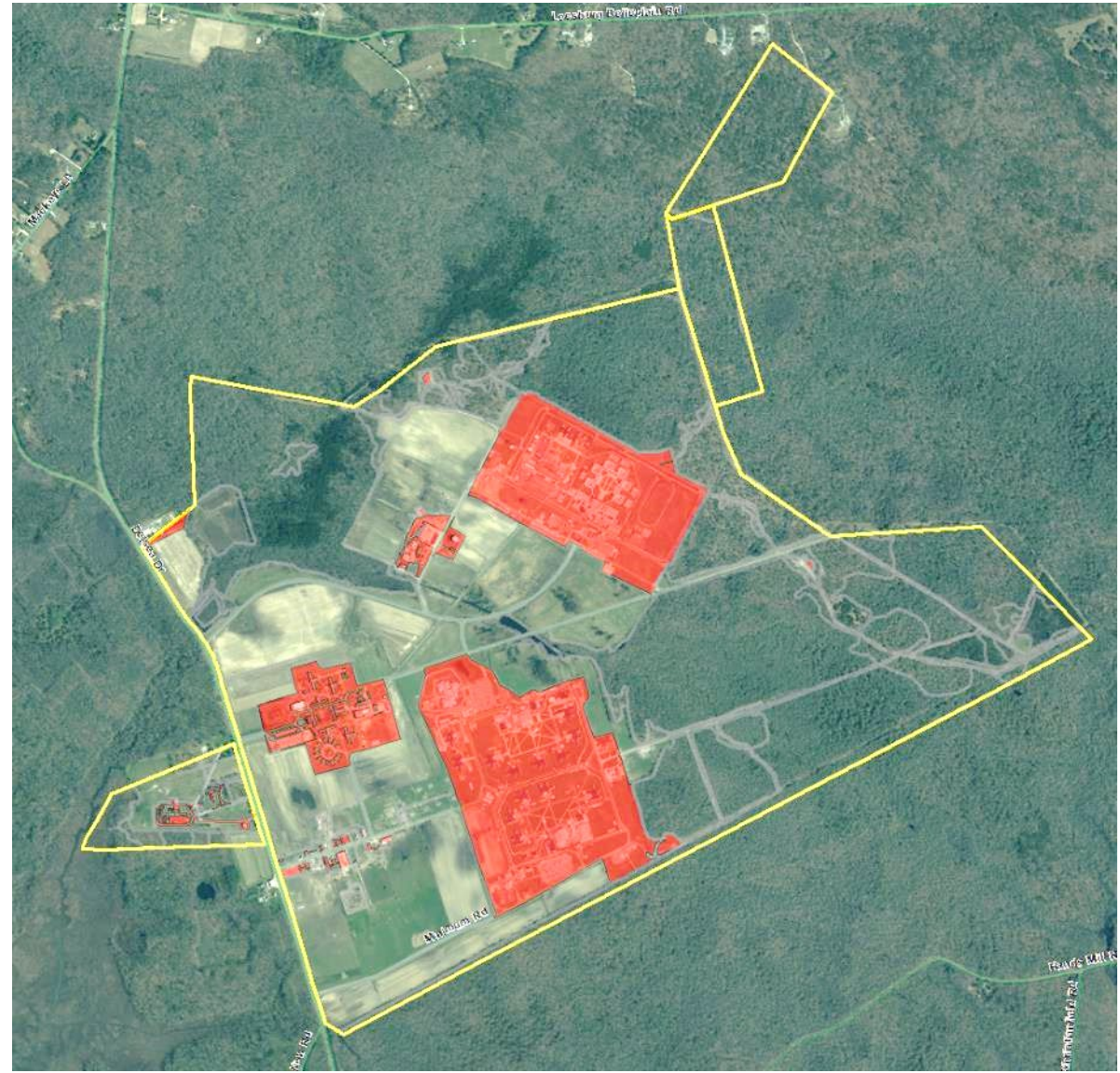
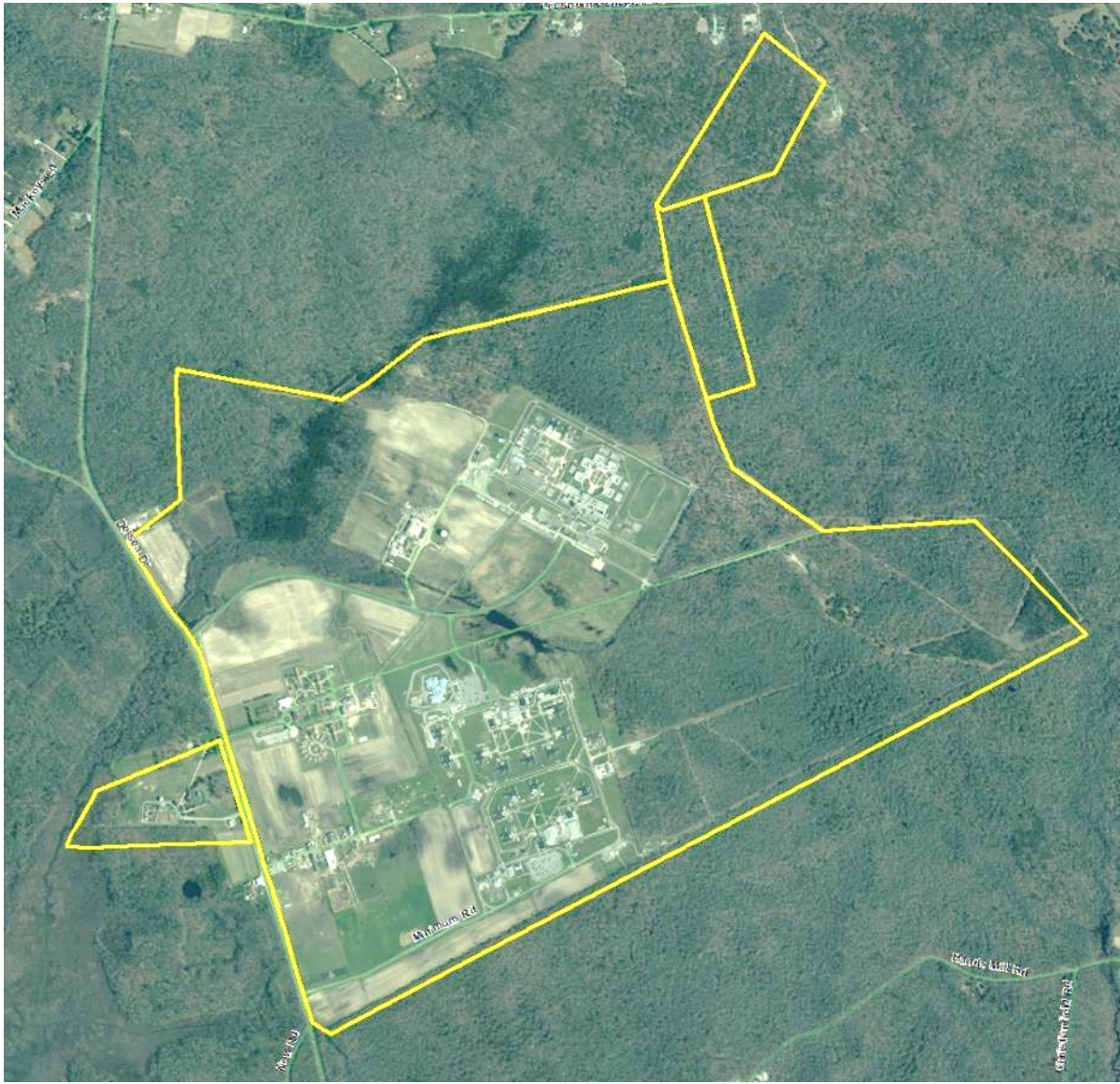


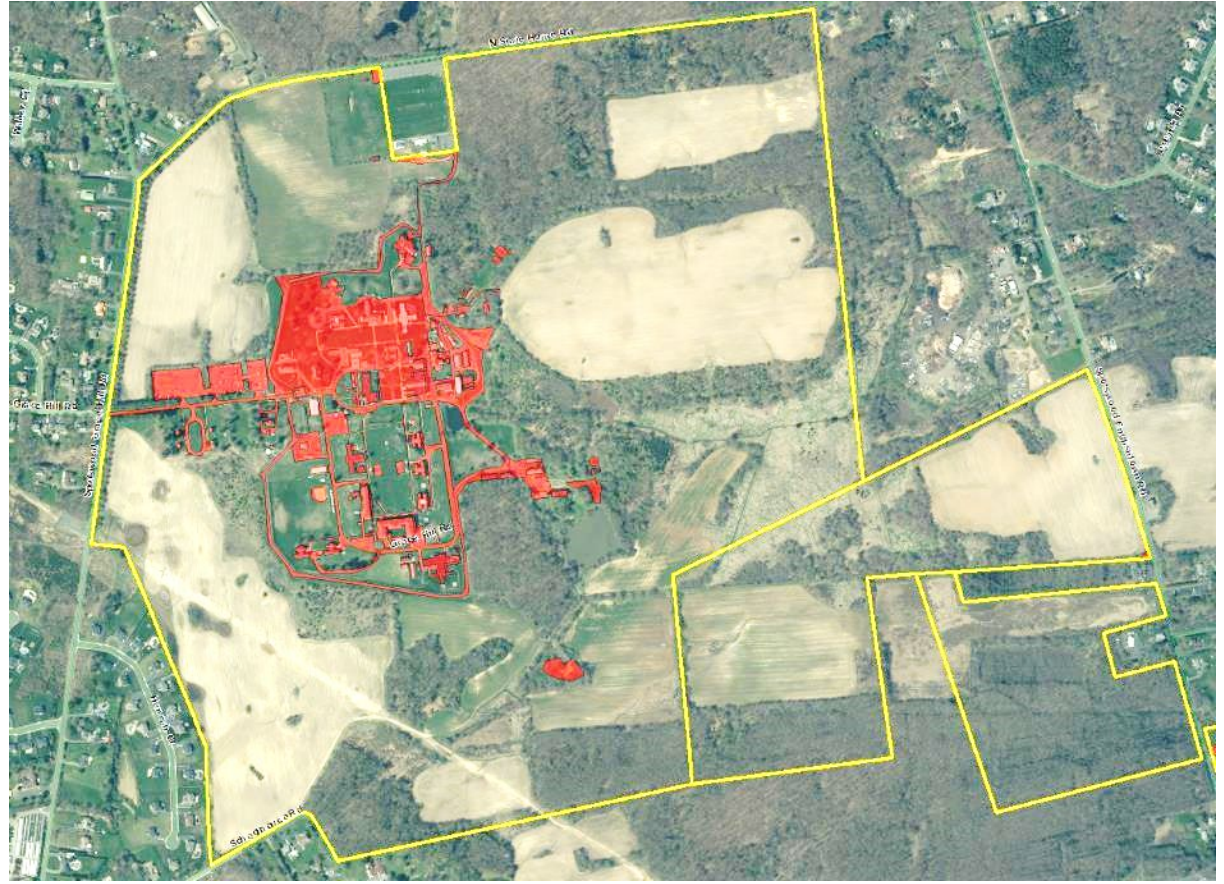
Farms Removed for Purposes of Analysis

1. Prison Farms

- 5 prisons in the farmland preservation program
- State lands donated to the program
- Atypical, nonagricultural disturbance







Farms Removed for Purposes of Analysis

- Known/pending violations of the Deed of Easement
 - Excessive cut/fill
 - Dumping
 - Non-ag uses
- Owner already contacted by easement holder re: violation of the DOE
- 6 farms excluded from summary statistics



Litigated cut/fill



2015 aerial



2020 aerial

No concern in 2015 imagery



2015 aerial

Placement of Fill/Dumping



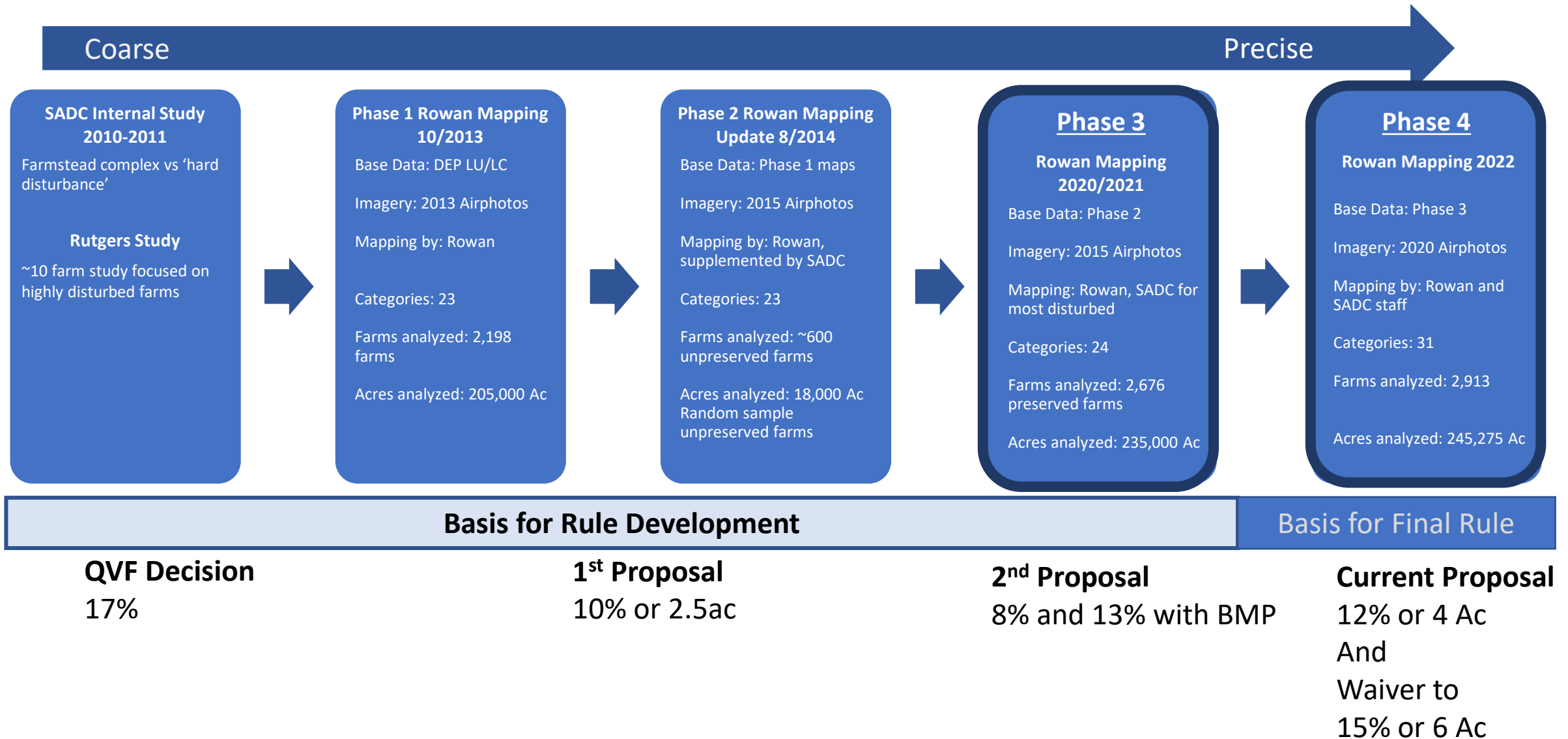
2020 aerial

IDN Proper 4666



STEP 3 – Statistical Analysis

SPS Mapping History



Phase 3 Data – June 2022 Rule Proposal

	Phase 3 Mapping June, 2022
Total Farms (#)	2,676
Total Acres (Ac.)	235,140 Ac.
Mean Disturbance Per Farm (%)	1.00%
Mean Disturbance Per Farm (Ac.)	0.5 Ac.
Farms with more than half disturbance allocation utilized (#) (Waiver Eligible)	41
Mean Disturbance of Waiver Eligible Farms (%)	12.0%
Mean Disturbance of Waiver Eligible Farms (Ac.)	5.93 Ac.
Waiver Eligible Farms Under 12% Limit (#)	16 (0.60% of farms)
Farms over 12% Limit (#)	18 (0.67% of farms)**
Farms over 15% Waiver Cap (#)	7 (0.26% of farms)

**An error was fixed from the Feb. 23, 2023 meeting that incorrectly showed “Phase 3: Farms over 12% Limit = 8 farms (0.30% of farms)”

Data Comparison - Current

	Phase 3	Phase 4 (Final)
Total Farms (#)	2,676	2,902
Total Acres (Ac.)	235,140 Ac.	242,702 Ac.
Mean Disturbance Per Farm(%)	1.00%	1.35%
Mean Disturbance Per Farm (Ac.)	0.5 Ac.	1.12 Ac.
Farms with more than half disturbance allocation utilized (#) (Waiver Eligible)	41	103
Mean Disturbance of Waiver Eligible Farms (%)	12.0%	15.4% (18.2%)*
Mean Disturbance of Waiver Eligible Farms (Ac.)	5.93 Ac.	8.8 Ac. (11.45 Ac.)*
Waiver Eligible Farms Under 12% Limit (#)	16 (0.60% of farms)	54 (1.86% of farms)
Farms over 12% Limit (#)	18 (0.67% of farms)**	20 (0.69% of farms)
Farms over 15% Waiver Cap (#)	7 (0.26% of farms)	29 (1.00% of farms)

SUMMARY

- Average disturbance per farm is just over 1 acre (1.35% of the farm)
- 96.4% of farms have used less than half of the allocation
- 103 farms (3.6% of all farms) over 50% of allocation. Of those:

74 farms (2.6%) eligible for waiver

29 farms (1%) are over the waiver

* Removing 1 farm with substantially higher disturbance than all others has a large impact on mean disturbance:

- Mean disturbance
 - 18.2% to 15.4%
 - 11.45 Ac. to 8.87 Ac.

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Average Farm in Program Today

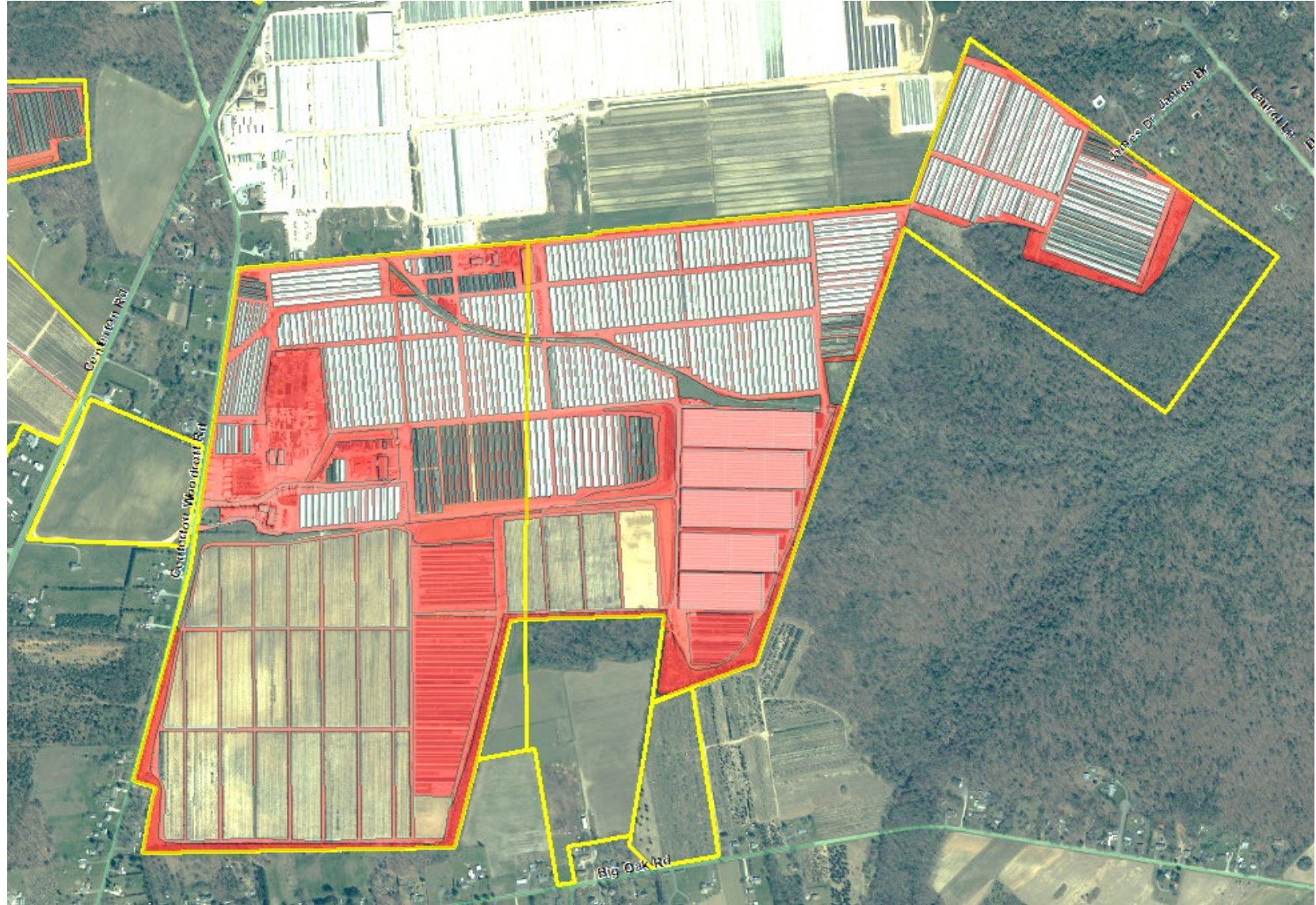
- 88 Acres
- 1.35% Disturbance
- ~70% of farms have less than 1.35% disturbance(2005 of 2902 farms)



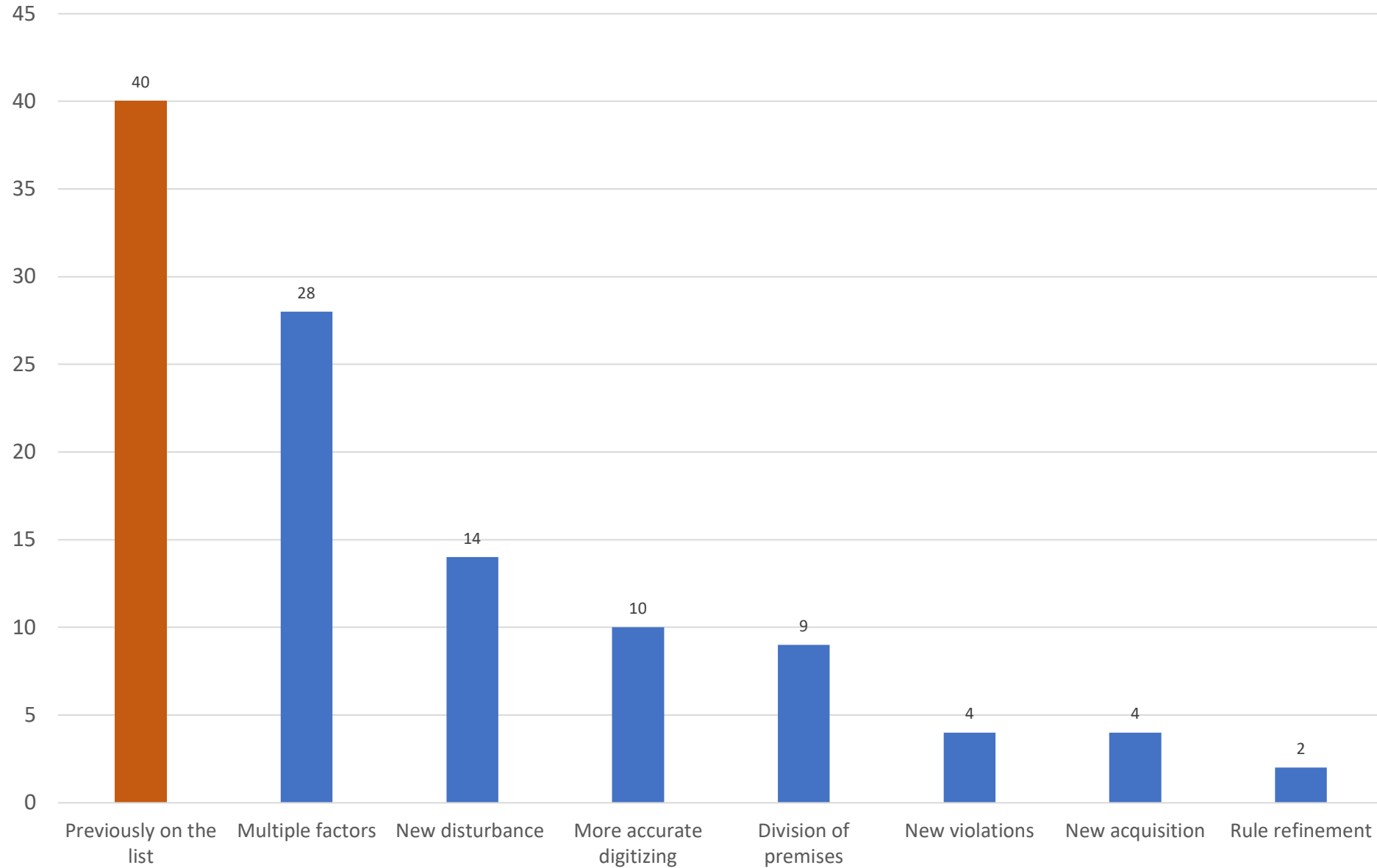
Image Data:
Farm size: 88.4 ac
1.39% Current disturbance
1.2 Disturbance ac used
9.4 Disturbance ac remaining to 12%

Outlier

- 508 ac. farm
- 240 ac. disturbance
- 47% disturbance

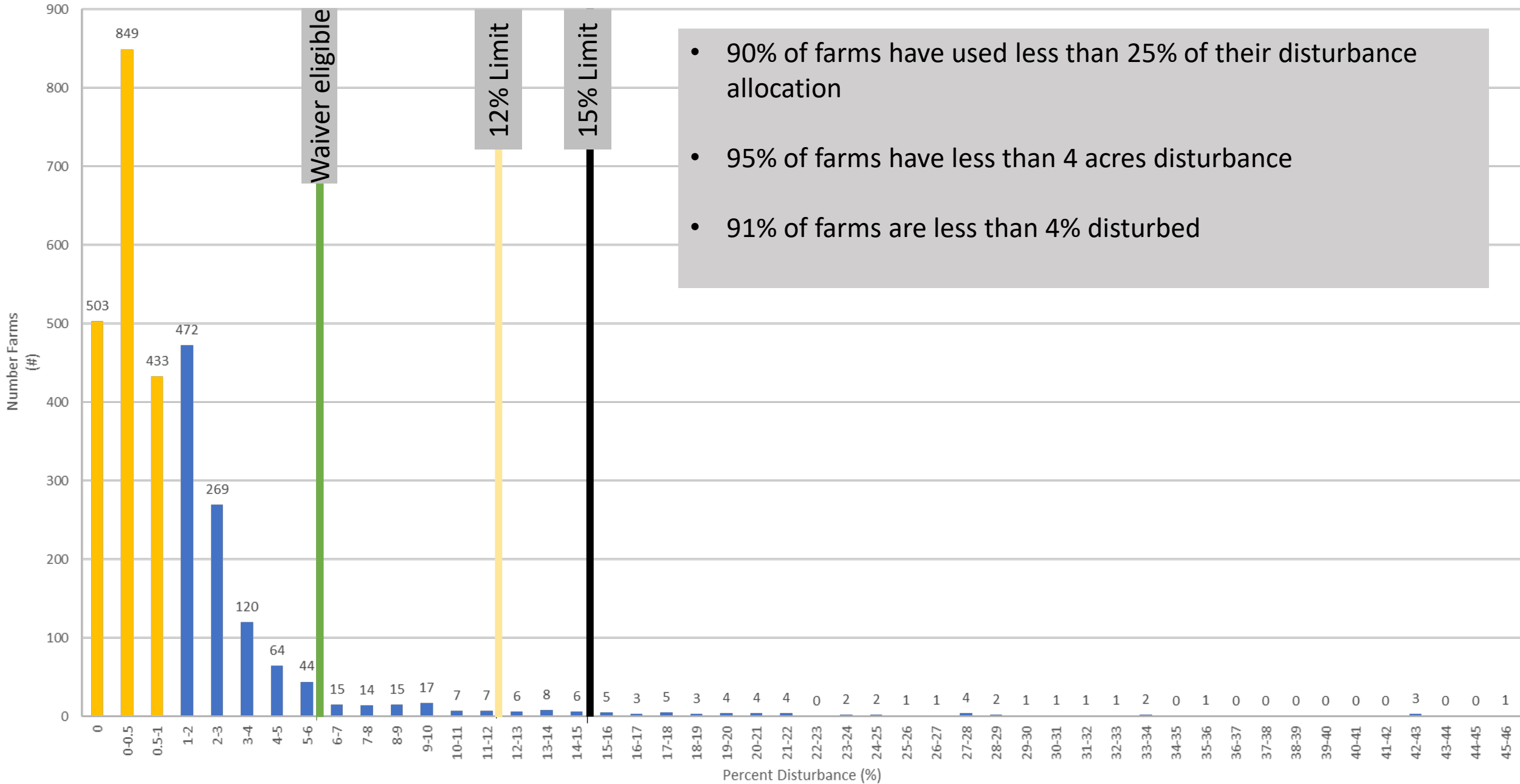


FARMS UTILIZING MORE THAN HALF OF DISTURBANCE ALLOCATION



*multiple factors include: new disturbance, more accurate digitizing, and rule refinement

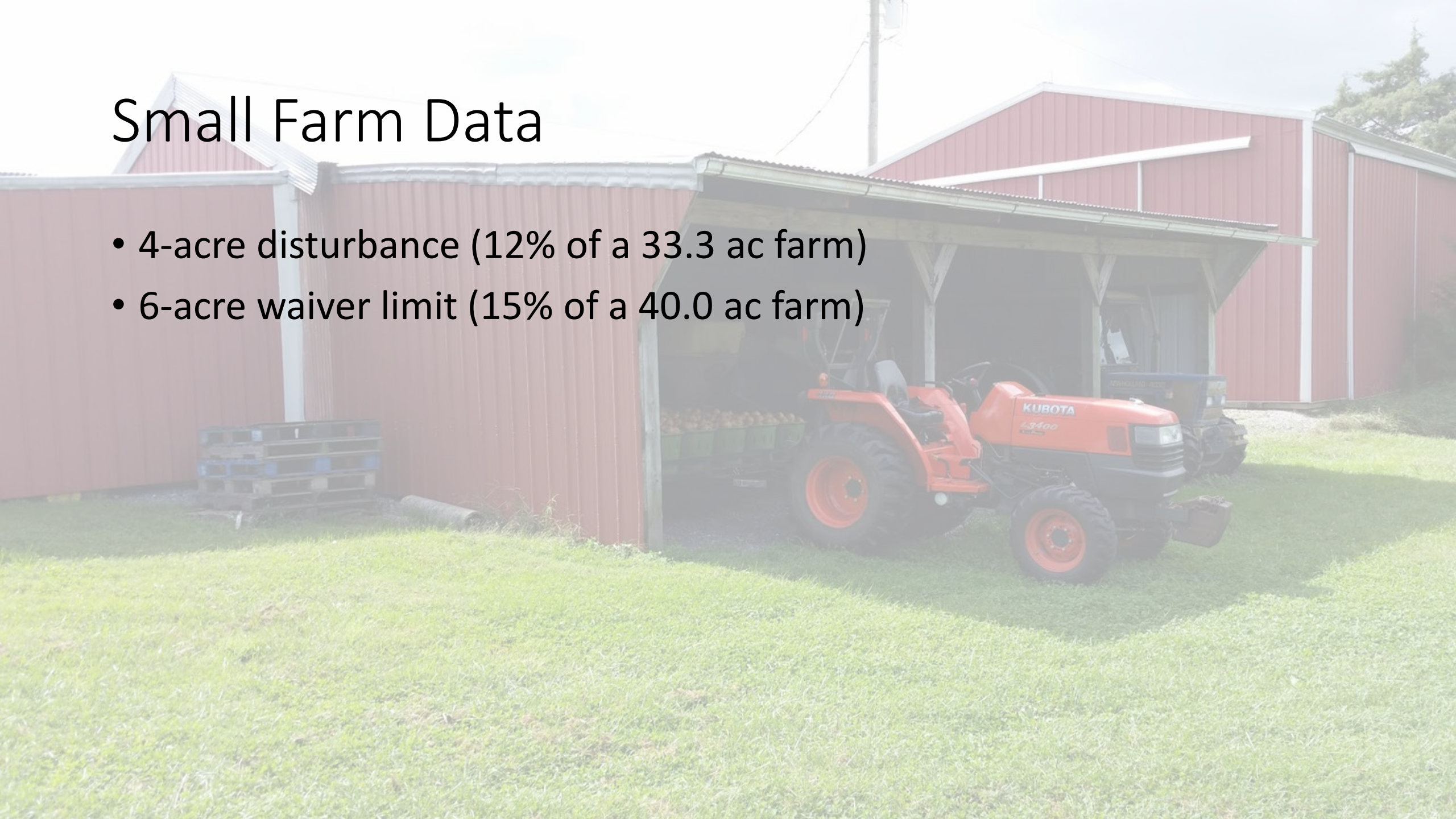
Number of Farms by Percent Disturbance



- 90% of farms have used less than 25% of their disturbance allocation
- 95% of farms have less than 4 acres disturbance
- 91% of farms are less than 4% disturbed

Small Farm Data

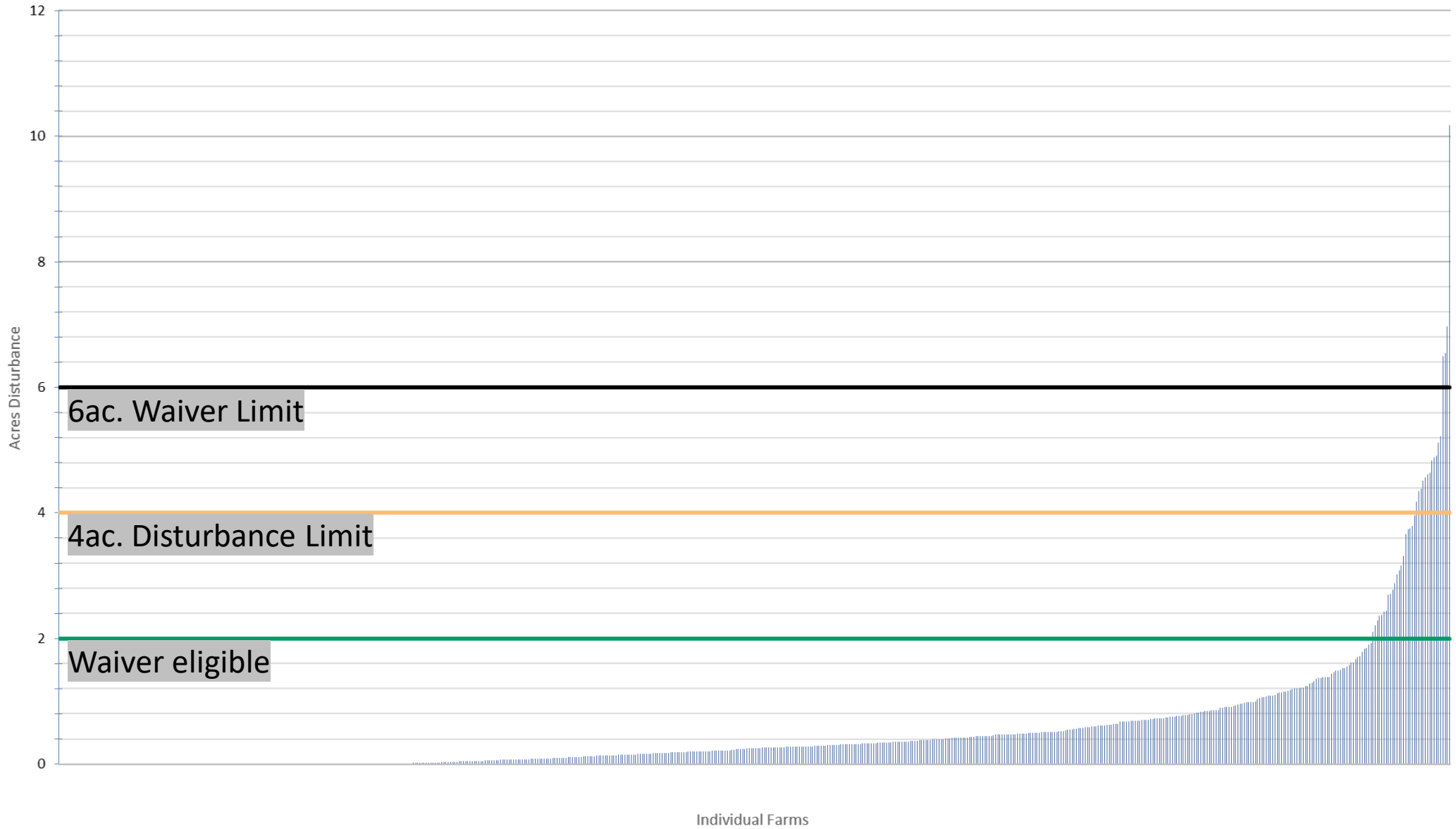
- 4-acre disturbance (12% of a 33.3 ac farm)
- 6-acre waiver limit (15% of a 40.0 ac farm)



Dist_Status SmallFarm?

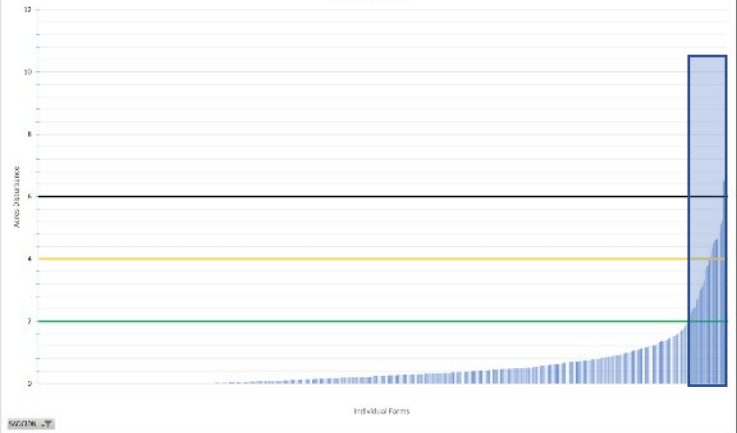
Sum of DistAc 2 acre 4ac 6ac

ACRES DISTURBANCE BY FARM SMALL FARMS

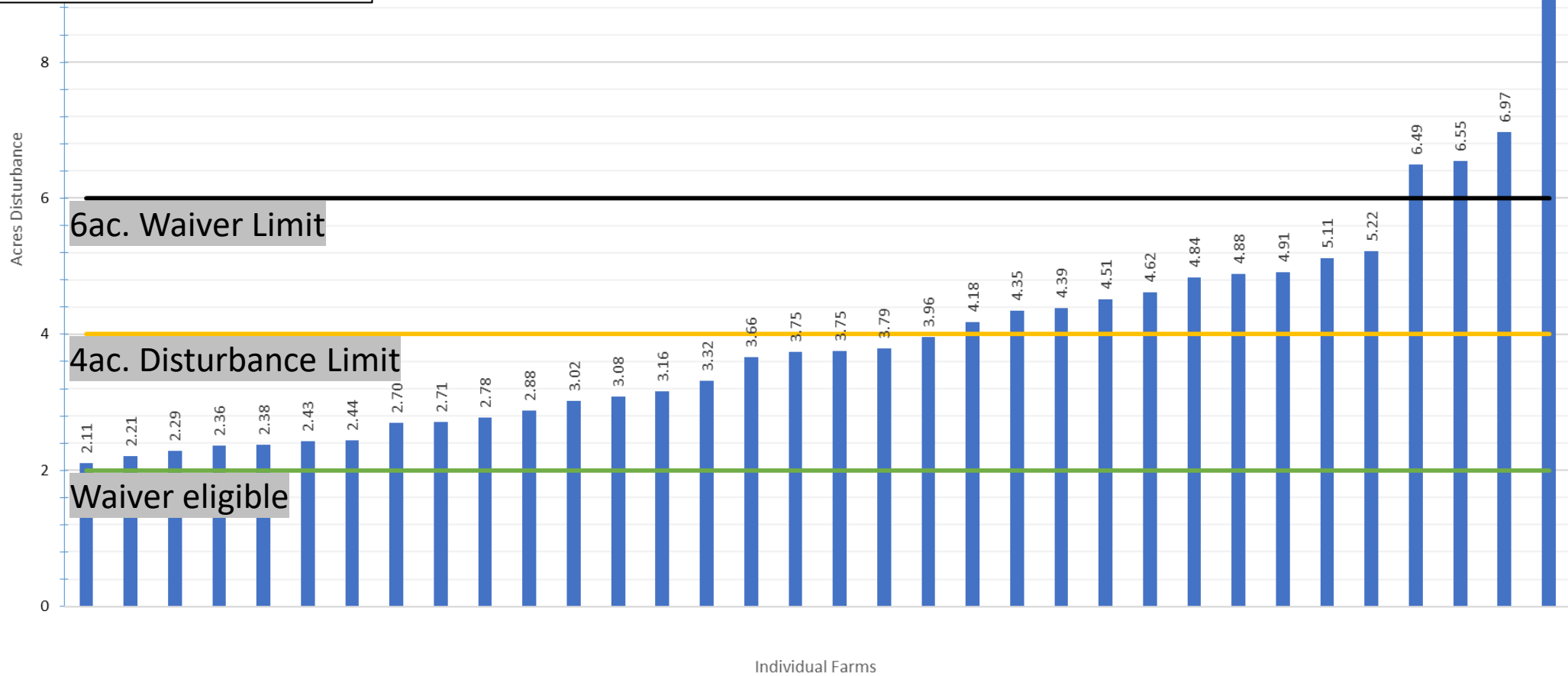


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ACRES DISTURBANCE BY FARM
SMALL FARMS



ACRES DISTURBANCE BY FARM
SMALL FARMS, GREATER THAN 50% ALLOCATION UTILIZED



Large Farm Data

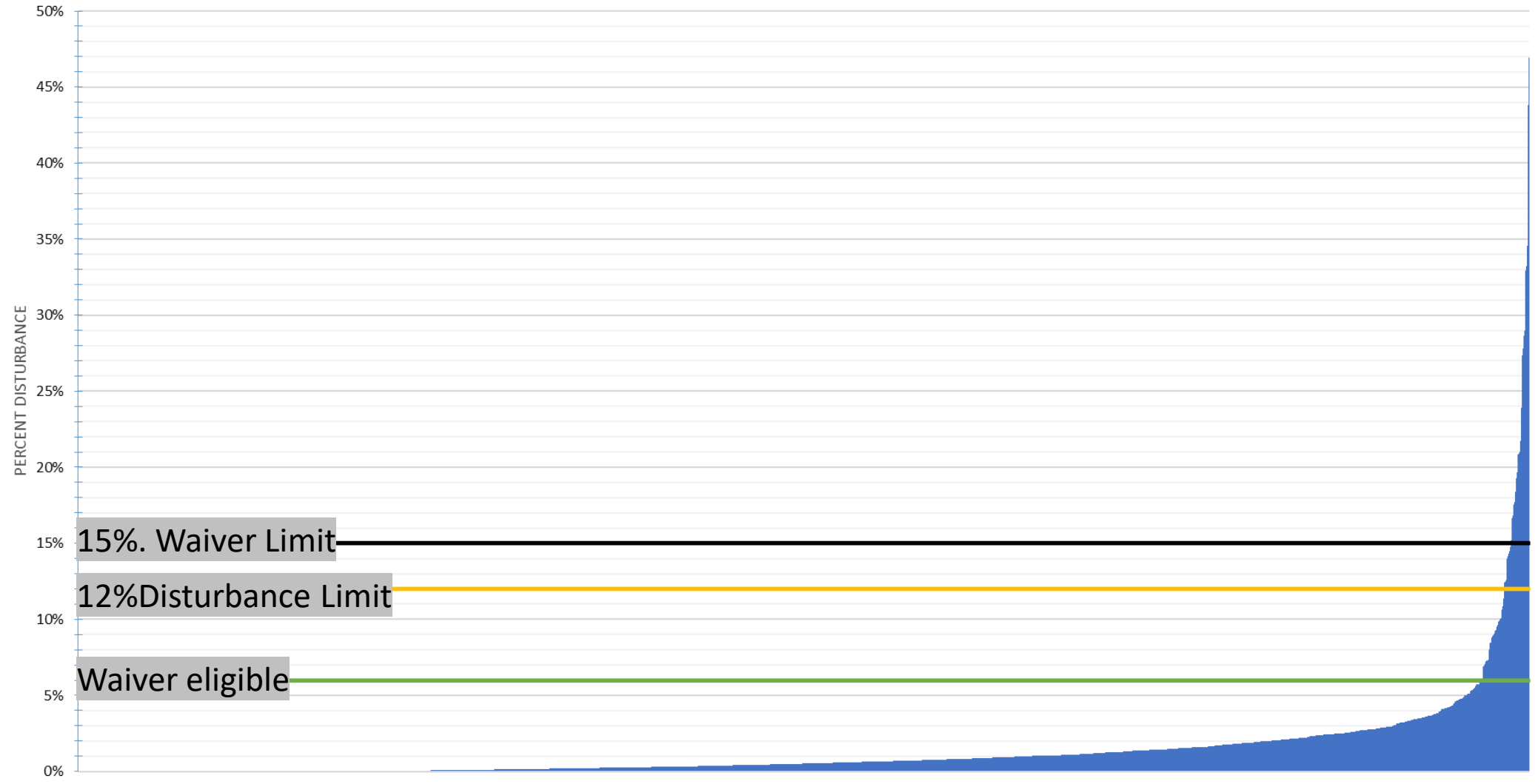
- Larger than 33.3 acres



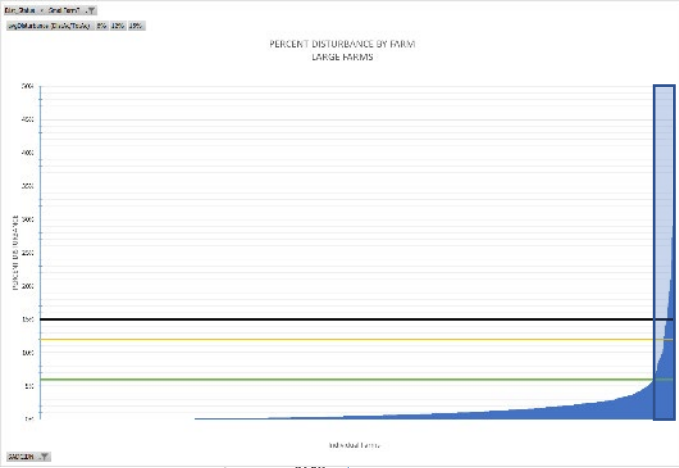
Dist_Status SmallFarm?

avgDisturbance (DistAc/TotAc) 6% 12% 15%

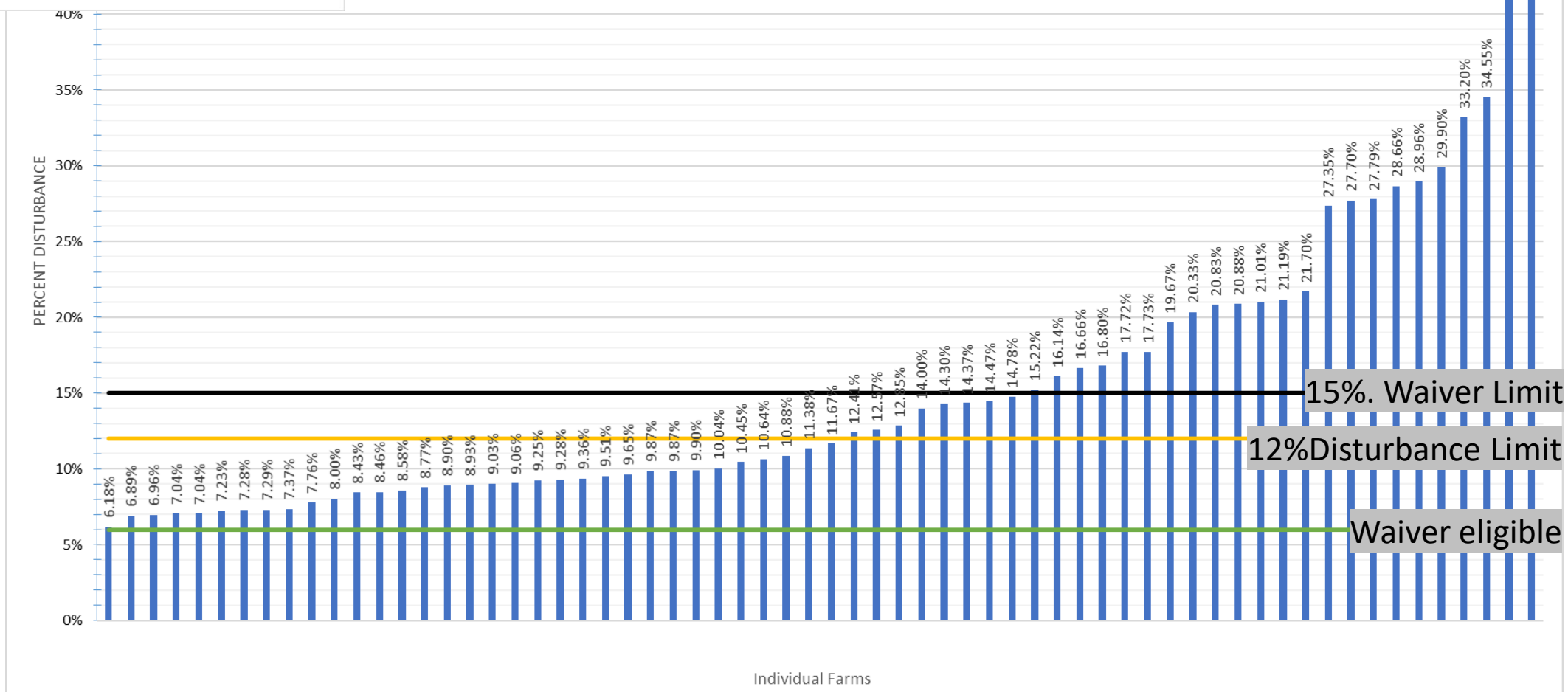
PERCENT DISTURBANCE BY FARM LARGE FARMS



SADCIDN



PERCENT DISTURBANCE BY FARM LARGE FARMS, GREATER THAN 50% ALLOCATION UTILIZED



Data Comparison (Small & Large Farm Data)

	Phase 3	Phase 4 (Final)	Phase 4 Small Farms	Phase 4 Large Farms
Total Farms (#)	2,676	2,902	637	2,265
Total Acres (Ac.)	235,140 Ac.	242,702 Ac.	14,041 Ac.	228,660 Ac.
Farms with more than half disturbance allocation utilized (#)	41 (1.5% of farms)	103 (3.5% of farms)	34 (5.4% of small farms)	69 (3.0% of large farms)
Waiver Eligible Farms Under 12% Limit (#)	16 (0.6% of farms)	54 (1.9% of farms)	20 (3.1% of small farms)	34 (1.5% of large farms)
Farms over 12% Limit (#)	18 (0.7% of farms)**	20 (0.7% of farms)	10 (1.6% of small farms)	10 (0.4% of large farms)
Farms over 15% Waiver Cap (#)	7 (0.3% of farms)	29 (1.0% of farms)	4 (0.6% of small farms)	25 (1.1% of large farms)

**An error was fixed from the Feb. 23, 2023 meeting that incorrectly showed "Phase 3: Farms over 12% Limit = 8 farms (0.30% of farms)"



Step 4 – Proposed Rule Changes

Current Rule Draft: Relief Mechanisms

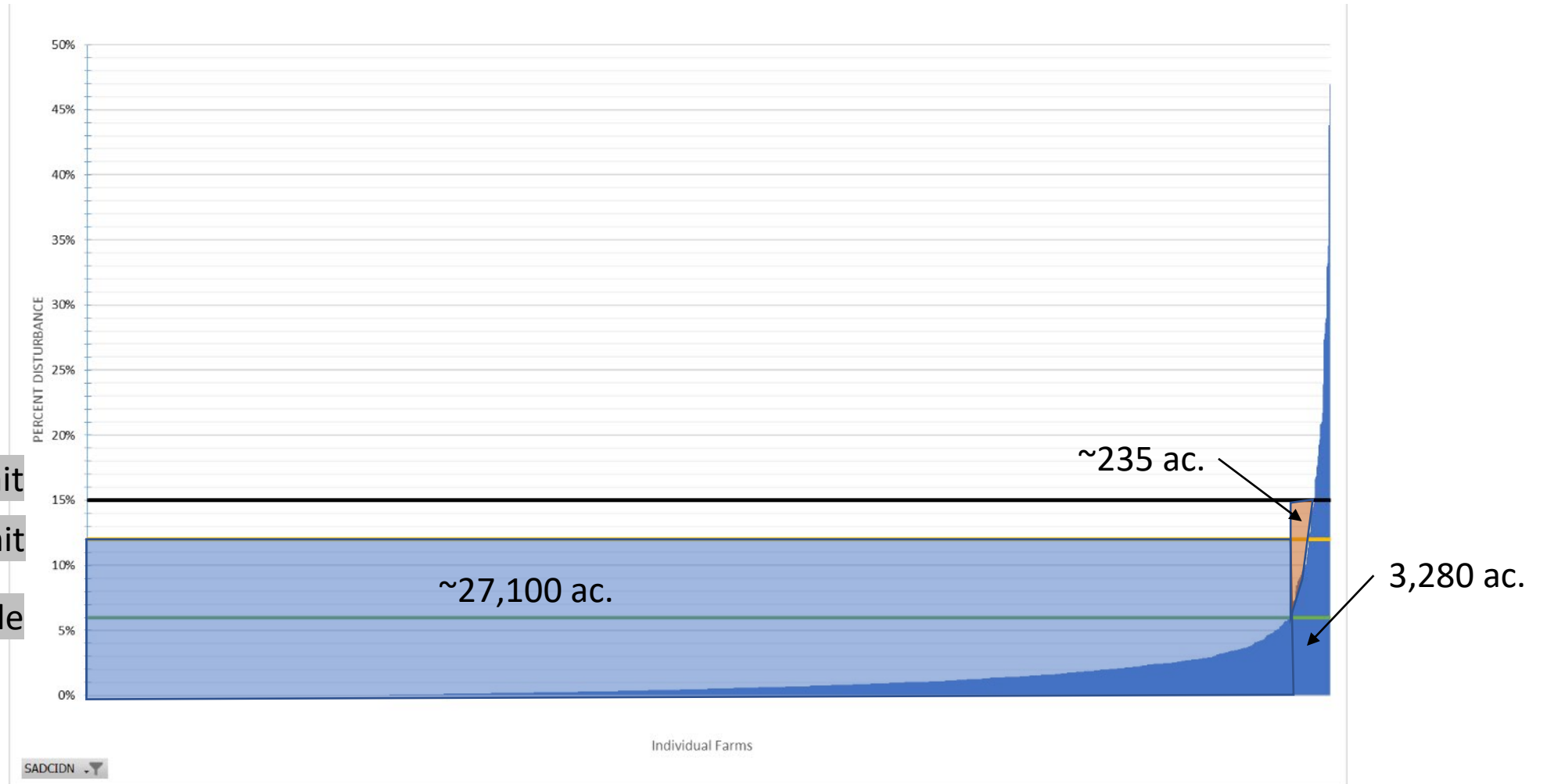
- **Waiver - up to 15% or 6 acres**
 - Only farms within 50% of the current limit are eligible for a waiver
 - Farm was preserved prior to rule adoption
 - Farm was not sold after rule adoption (other than to family member)
 - Landowner obtained and implemented a farm conservation plan
 - Approved by SADC and Grantee
- **Contiguous Cluster**
 - Enables cluster of disturbance on adjacent preserved land
 - Must be owned by same entity, or family member
 - Two farms are then “connected” by supplemental deed and cannot be sold apart from each other
 - Approved by SADC and Grantee

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**An error was fixed from the Feb. 23, 20023 meeting that incorrectly showed "Phase 3: Farms over 12% Limit = 8 farms (0.30% of farms)"

Current Draft: Waiver Potential



Current Rule Draft: **What About Farms Already Over Waiver?**

- “Non-enforcement action” for farms over 15% or 6 acres
 - Can’t make existing disturbance worse
 - Get approval from SADC for modifications



Ideas for Additional Flexibility/Growth Opportunities for Farms Already Over Waiver

1. Noncontiguous Transfer of Soil Disturbance

- Transfer of SD allocation is allowed between preserved farms
- Parcels can be owned by different entities
- Both parcels must be located in the same county (?)
- Public/community input obtained via a hearing process
- Opportunity available to ALL farms
- Maximum soil disturbance is still capped at “x”%
- Both sending and receiving areas required to have supplemental deeds recorded to reflect transfer
- Both sending and receiving farms required to implement robust conservation practices

Noncontiguous Transfer (continued)

Pros

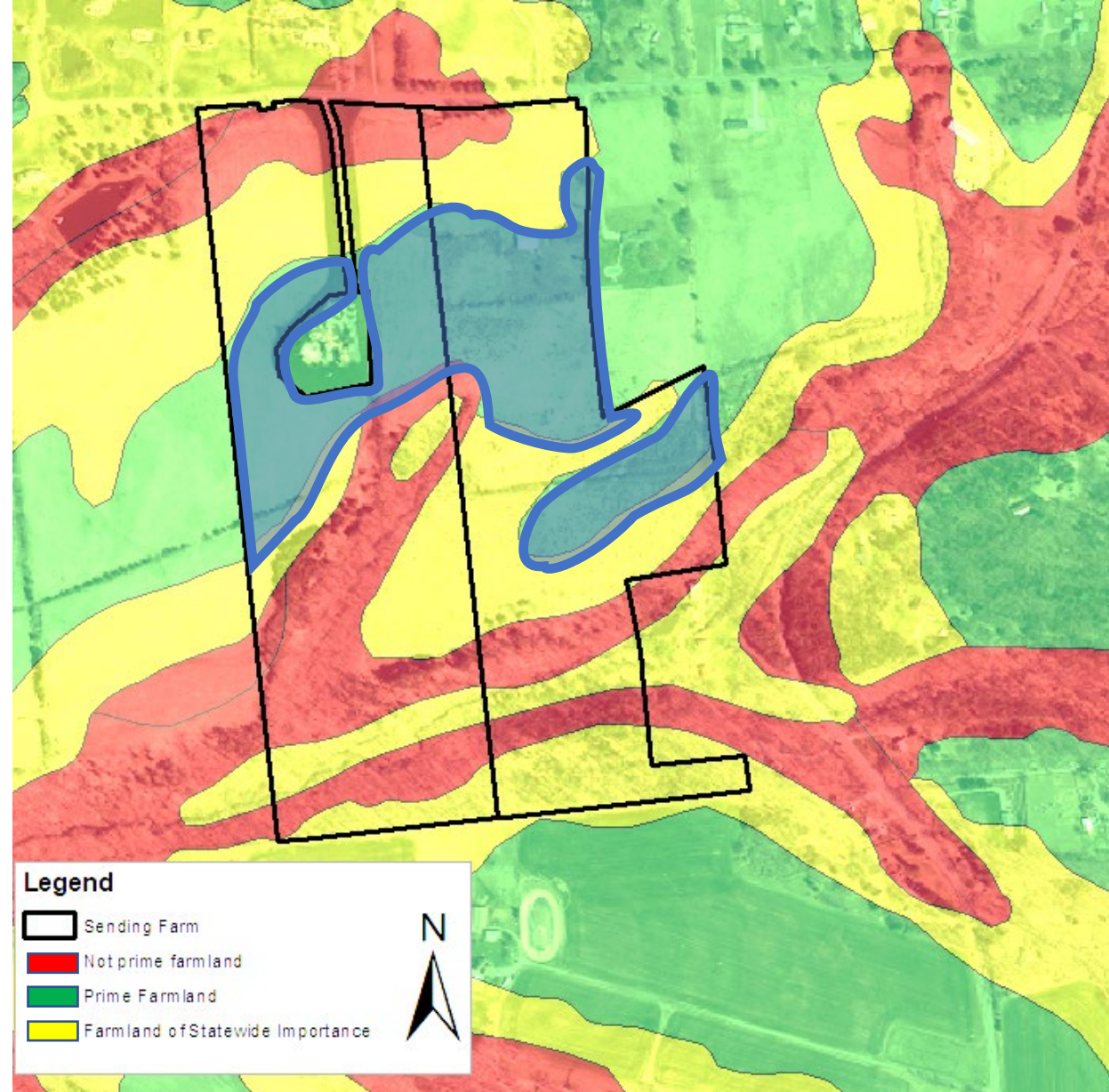
- Relief valve helps support ag viability
- Maintains overall amount of disturbance allowed statewide
- “Free market” approach

Cons - Complexity

- Relationship between soils on Sending Farm (SF) vs. Receiving Farm (RF)
For example, 1:2 ratio for prime soils?
1:5 ratio for SWI soils?
Ineligibility to send from other soils?
- Need for total maximum disturbance limit on RECEIVING farm (a % of total “buildable” land)
- Need for a minimum disturbance remaining on SENDING farm
- SF properties may need “no-disturb” areas associated with soils used to send SD allocation
 - Need for new surveys?
 - Need for new title/subordination agreements/deed recordings

Noncontiguous Transfer of Soil Disturbance

Sending farm restrictions



Noncontiguous Transfer (continued)

- **Cons – other:**
 - Only wealthier farms can participate (requires additional upfront capital)
 - Uneven opportunity depending on which county the farm is located
 - Need to develop, review, approve, and enforce conservation practices on both sending and receiving farms
 - Farms across the state will have very different soil disturbance allowed – will cause more confusion among those seeking preserved farmland

Ideas for Additional Flexibility/Growth Opportunities for Farms Over and Approaching Waiver

2. **New Proposal**: allow farms over and approaching the waiver limit an additional allocation of 2% or 1 acre

Scenario	Farms Impacted (#)	Acres Impacted (ac.)
Farms under 50 acres: 1 ac.	31	31 ac.
Farms over 50 acres: 2%	19	48 ac.
All Farms: 2% or 1 ac.	50	79 ac.

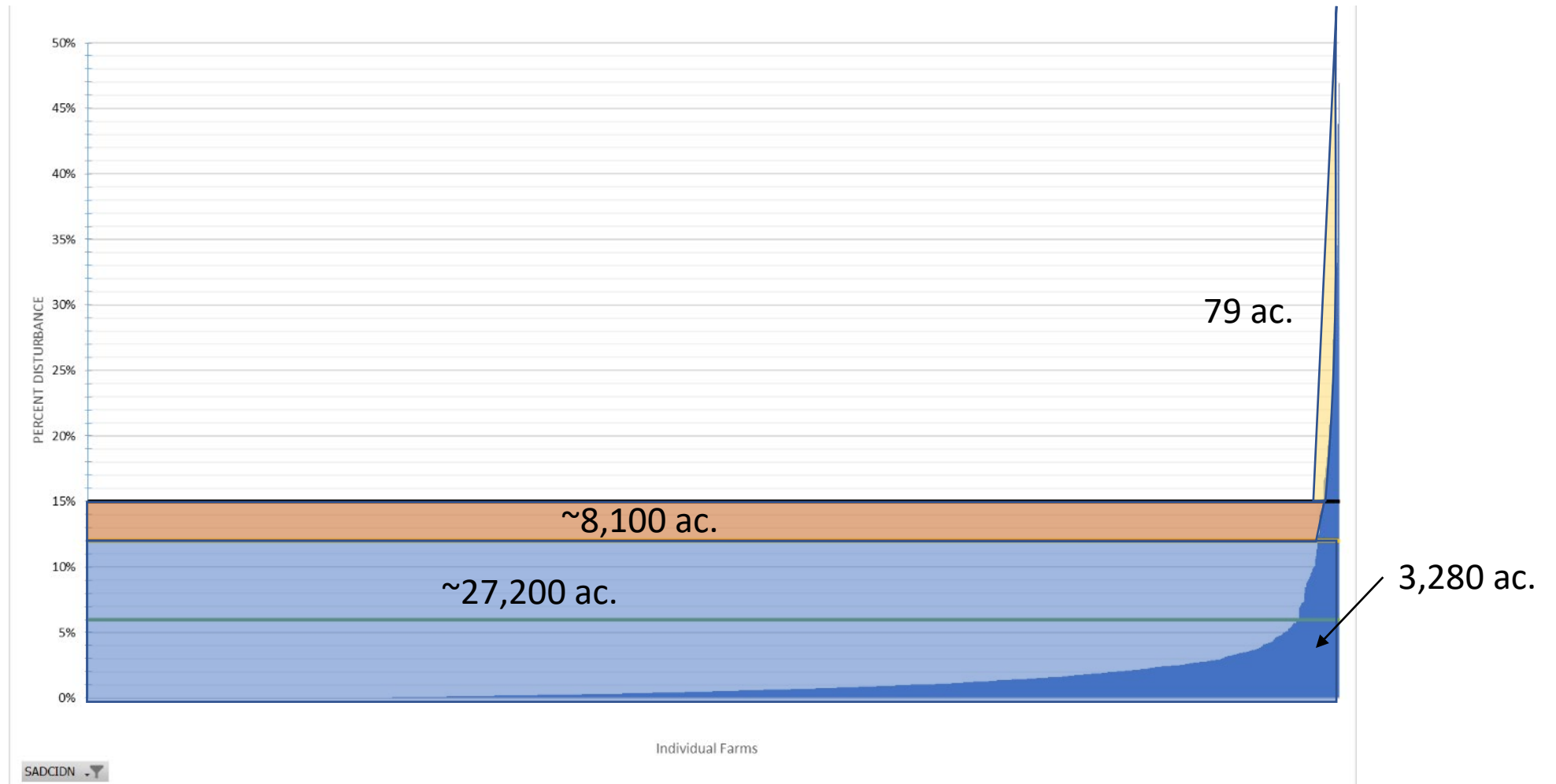
Pros:

- Enables **ALL** farms to have additional growth, regardless of current disturbance
- Consistent with E.O. #2 – which requires rule “waivers” when regulation may be unduly burdensome

* Does not include prisons, known violations

Ideas for Flexibility (continued)

3. New Proposal – Allow ALL existing farms to be eligible for a waiver to 15%, subject to review and implementing identified stewardship practices



Waiver - Stewardship Requirements

- Available to **ALL** farms preserved before rule adoption
 - Waiver eligibility runs with the land
- Maintain compliance with Deed of Easement and Soil Protection Standards
- Apply for and meet stewardship criteria *for disturbance* over limit
- Implement enhanced resource protections for the entire farm
 - Prescribed conservation measures **OR**
 - Criteria based conservation



Waiver Stewardship Requirements

New Disturbance Areas:

- Agricultural justification (DOE compliance)
- Obtain state permits
 - Stormwater, Flood Hazard Area, Wetlands, Etc.
- Follow SADC BMP's
 - Surfaces, Soil Alteration, Compaction, Stockpiles
- Prioritize disturbance on lesser quality soils
- Address water quality and volume from new disturbances



Waiver Stewardship Requirements



Remainder of Premises:

Implement enhanced resource protections for:

- Water
- Soil
- Forests/woodland

Enhanced Resource Protections

Two pathways:

1. Implement SADC prescribed conservation measures, such as:

- No visual signs of erosion
- Filter strips
- Buffers
- Forest Stewardship Plan
- Maintain 70% vegetative cover

(Limits the need to hire additional professionals)



2. Criteria based conservation (Conservation Planning)

- Individualized conservation measures designed by professionals to meet specific standards
- Meet a minimum criteria following SADC/NRCS standards rather than implementing a specific practice
- Requires utilizing professionals to prove the plan meets minimum criteria.

Summary

- Quality Assurance/Quality Control of Rowan mapping
- Prisons and violations removed from statistics
- Livestock confinement areas are now exempt activities
- New category for vegetated storage areas (not disturbance)
- Flexibility Options
 1. Non-contiguous transfer – too complicated
 2. Additional growth and flexibility available for all
 - 15%/6ac OR 2%/1ac above existing
 - Long-term conservation requirements

	June 2022 Rule Proposal	Current Proposal
Disturbance limit:	12% of preserved farm, or 4 acres – whichever is greater	12% of preserved farm, or 4 acres – whichever is greater OR An additional 2% or 1 acre over existing disturbance (beneficial for farms approaching or over the limit)
Existing farms over the limit:	No enforcement action; no additional disturbance	See above
Waiver limit:	Maximum disturbance up to 15% or 6 acres	No change
Waiver eligibility:	<ul style="list-style-type: none"> • Only farms within 50% of the limit (at the time of rule) are eligible • Eligibility ends with transfer of farm (except to a family member) 	<ul style="list-style-type: none"> • <u>ALL</u> farms preserved prior to rule eligible for a waiver • Eligibility runs with the land
Waiver requirements:	Implementation of a farm conservation plan	Use a “Stewardship approach” requiring implementation of enhanced resource protections for water, soil, forests/woodland

	June 2022 Rule Proposal	Current Proposal
Transfer of disturbance:	“Contiguous cluster” of disturbance on adjacent preserved farms permitted	No change
Compacted livestock confinement areas:	Counted as disturbance	Now an exempt practice (not disturbance)
Vegetated parking and storage areas:	Exempt (not disturbance), but not captured in mapping	New mapping category assigned to match rule exemption (not disturbance)

Next Steps

- Staff to meet with stakeholders to share proposed rule provisions
- Complete draft final rule language
- Subcommittee final review
- Gov. office review and approval
- SADC approval as a proposed rule for publication in NJ Register