

This is a courtesy copy of the Right to Farm Act. For an official copy of this or any other New Jersey statute, visit the New Jersey Legislature's website at [www.njleg.state.nj.us](http://www.njleg.state.nj.us), select the link for "Statutes" and use the site's lookup options.

#### **4:1C-1. Short title**

This act shall be known and may be cited as the "Right to Farm Act."

L.1983, c. 31, s. 1, eff. Jan. 26, 1983.

#### **4:1C-2. Legislative findings**

The Legislature finds and declares that:

- a. The retention of agricultural activities would serve the best interest of all citizens of this State by insuring the numerous social, economic and environmental benefits which accrue from one of the largest industries in the Garden State;
- b. Several factors have combined to create a situation wherein the regulations of various State agencies and the ordinances of individual municipalities may unnecessarily constrain essential farm practices;
- c. It is necessary to establish a systematic and continuing effort to examine the effect of governmental regulation on the agricultural industry;
- d. All State departments and agencies thereof should encourage the maintenance of agricultural production and a positive agricultural business climate;
- e. It is the express intention of this act to establish as the policy of this State the protection of commercial farm operations from nuisance action, where recognized methods and techniques of agricultural production are applied, while, at the same time, acknowledging the need to provide a proper balance among the varied and sometimes conflicting interests of all lawful activities in New Jersey.

L.1983, c. 31, s. 2, eff. Jan. 26, 1983.

#### **4:1C-3 Definitions**

3. As used in P.L.1983, c.31 (C.4:1C-1 et seq.):

"Board" or "county board" means a county agriculture development board established pursuant to section 7 of P.L.1983, c.32 (C.4:1C-14).

"Commercial farm" means (1) a farm management unit of no less than five acres producing

agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), (2) a farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or (3) a farm management unit 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.

"Committee" means the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4).

"Farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

"Farm market" means a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51 percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51 percent of the sales area shall be devoted to the sale of agricultural output of the commercial farm, and except that if a retail farm market is located on land less than five acres in area, the land on which the farm market is located shall produce annually agricultural or horticultural products worth at least \$2,500.

"Full-time, year-round equine-related farm employee" means any person employed by the owner or operator of a commercial farm on a full-time, year-round basis to provide proper care and ensure the safety of horses on the commercial farm, including, but not limited to, a groom or other employee working in a stable. "Full-time, year-round equine-related farm employee" shall not include a migrant, seasonal, or temporary employee.

"Shellfish" means the same as the term is defined in R.S.50:1-5.

"Shellfish aquaculture" means the propagation, rearing, and subsequent harvesting of shellfish in controlled or selected environments, and the subsequent processing, packaging, and marketing of such shellfish, and includes activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting, and providing for protection from predators.

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

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

"Shellfish farm market" means a structure co-located with a shellfish post-harvest activities facility that is part of the shellfish aquaculture management unit used for the wholesale or retail marketing of the shellfish output of a shellfish commercial farm, and products that contribute to farm income, except that if a shellfish farm market is used for retail marketing at least 51 percent of the annual gross sales of the retail farm market shall be generated from sales of shellfish output of the shellfish commercial farm, or at least 51 percent of the sales area shall be

devoted to the sale of shellfish output of the shellfish commercial farm.

"Shellfish post-harvest activities" means the storage, processing, and packaging activities carried out at a shellfish aquaculture management unit.

"Single enterprise" means a person, including a business entity, that coordinates operations and combines resources in pursuit of the same business purpose, as evidenced by items including, but not limited to: common owners, principals, managers, directors, shareholders, or employees; integrated business records, financial statements, and tax returns; shared business resources; centralized accounting processes; commingling of income or expenses; the sharing of profits, losses, or liabilities; or common bank accounts.

L.1983, c.31, s.3; amended 1998, c.48, s.1; amended 2015, c.75, s.1; 2020, c.154, s.1; 2023, c.20, s.1.

#### **4:1C-3.1 Certain beekeeping operations protected by "Right to Farm Act"**

2. Notwithstanding the provisions of section 3 of P.L.1983, c.31 (C.4:1C-3), or any rules or regulations adopted pursuant thereto, to the contrary, a farm management unit that qualifies as a commercial farm for the purposes of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.), because it 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, shall be entitled to the protections provided to any other commercial farm under that act but not for agricultural or horticultural activities that are not apiary-related activities, unless the farm management unit also qualifies as a commercial farm pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3) for reasons other than as a beekeeping operation as described in that section.

L.2015, c.75, s.2, eff. July 31 2015.

#### **4:1C-3.2 Shellfish aquaculture management unit, commercial farm, protections, entitled**

3. a. A shellfish aquaculture management unit that qualifies as a shellfish commercial farm, pursuant to P.L.2023, c.20 (C.4:1C-3.2 et al.), shall be entitled to the protections set forth in section 4 of P.L.2023, c.20 (C.4:1C-10a), but not for agricultural or horticultural activities that are not related to shellfish aquaculture unless the shellfish aquaculture management unit also qualifies as a commercial farm pursuant to section 3 of P.L.1983, c.31 (C.4:1C-3) for reasons other than shellfish aquaculture.

b. Notwithstanding the provisions of any municipal or county ordinance, resolution, or regulation to the contrary, the owner or operator of a shellfish commercial farm that is located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or that is in operation as of the effective date of P.L.2023, c.20 (C.4:1C-3.2 et al.) and is located in an area zoned for commercial or industrial use, or that is located in the coastal area, as designated pursuant to section 4 of P.L.1973, c.185 (C.13:19-4), and is zoned for commercial or industrial

use, or that is located on land under tidal waters that the shellfish commercial farm has the authority to use pursuant to a riparian grant or lease granted pursuant to R.S.12:3-2 et seq. or a lease granted pursuant to R.S.50:1-23 et seq., and that operates in conformance with agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or whose specific operation or practice has been determined by the appropriate county board, or by the committee in a county where no county board exists, to constitute a generally accepted agricultural operation or practice, and that operates in conformance with all relevant federal or State statutes or rules and regulations adopted pursuant thereto and does not pose a direct threat to public health and safety shall be authorized to:

(1) produce shellfish as described in the Standard Industrial Classification for shellfish farming or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), as described in the corresponding classification under the North American Industry Classification System;

(2) process and package the shellfish output of the shellfish commercial farm;

(3) provide for the operation of a shellfish farm market, including the construction of a building and parking area in conformance with municipal standards;

(4) control pests, predators, and diseases of shellfish;

(5) conduct on-site disposal of organic waste on land included in the shellfish aquaculture management unit, excluding land currently flowed by tidal waters;

(6) recycle shells on land included in the shellfish aquaculture management unit;

(7) conduct agriculture-related educational and farm-based recreational activities, provided that the activities are related to marketing the shellfish output of the shellfish commercial farm; and

(8) engage in any other agricultural activity as determined by the committee and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

L.2023, c.20, s.3, eff. March 13, 2023.

#### **4:1C-4 State agriculture development committee; establishment; membership; terms; vacancies; meetings; minutes; staff.**

4. a. In order that the State's regulatory action with respect to agricultural activities may be undertaken with a more complete understanding of the needs and difficulties of agriculture, there is established in the Executive Branch of the State Government a public body corporate and politic, with corporate succession, to be known as the State Agriculture Development Committee. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the committee is allocated within the Department of Agriculture, but, notwithstanding that allocation, the committee shall be independent of any supervision or control by the State Board of Agriculture, by the department or by the secretary or any officer or employee thereof, except as otherwise expressly provided in this act. The

committee shall constitute an instrumentality of the State, exercising public and essential governmental functions, and the exercise by the committee of the powers conferred by this or any other act shall be held to be an essential governmental function of the State.

b. The committee shall consist of 11 members, five of whom shall be the Secretary of Agriculture, who shall serve as chairman, the Commissioner of Environmental Protection, the Commissioner of Community Affairs, the State Treasurer and the Dean of Cook College, Rutgers University, or their designees, who shall serve ex officio, and six citizens of the State, to be appointed by the Governor with the advice and consent of the Senate, four of whom shall be actively engaged in farming, the majority of whom shall own a portion of the land that they farm, and two of whom shall represent the general public. With respect to the members actively engaged in farming, the State Board of Agriculture shall recommend to the Governor a list of potential candidates and their alternates to be considered for each appointment.

c. (1) Of the six members first to be appointed, two shall be appointed for terms of two years, two for terms of three years and two for terms of four years. Thereafter, all appointments shall be made for terms of four years. Each of these members shall hold office for the term of the appointment and until a successor shall have been appointed and qualified. A member shall be eligible for reappointment for no more than two consecutive terms. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

(2) When an appointed member actively engaged in farming notifies the chairman that the member is unable to attend a publicly noticed meeting, an alternate may be chosen to serve for that member at the meeting. The alternate member shall be chosen by the Governor, in consultation with the President and the Vice President of the State Board of Agriculture, with the advice and consent of the Senate. The alternate member shall be a past member of the State Board of Agriculture who served pursuant to R.S.4:1-4, provided, however, that in no case shall the alternate member have been removed from office pursuant to section 3 of P.L.1948, c.447 (C.4:1-4.1), or a past member of the State Agriculture Development Committee.

(3) When an appointed member representing the general public notifies the chairman that the member is unable to attend a publicly noticed meeting, an alternate may be chosen to serve for that member at the meeting. The alternate member shall be chosen by the Governor, with the advice and consent of the Senate.

d. Members of the committee shall receive no compensation but the appointed members may, subject to the limits of funds appropriated or otherwise made available for these purposes, be reimbursed for expenses actually incurred in attending meetings of the committee and in performance of their duties as members thereof.

e. The committee shall meet at the call of the chairman as soon as may be practicable following appointment of its members and shall establish procedures for the conduct of regular and special meetings, including procedures for the notification of departments of State regulating the activities of commercial agriculture, provided that all meetings are conducted in accordance with the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

f. A true copy of the minutes of every meeting of the committee shall be prepared and forthwith delivered to the Governor. No action taken at such meeting by the committee shall have force or effect until 15 days, exclusive of Saturdays, Sundays and public holidays, after such copy of the

minutes shall have been so delivered. If, in said 15-day period, the Governor returns such copy of the minutes with a veto of any action taken by the committee at such meeting, such action shall be null and void and of no force and effect.

g. The department shall provide any personnel that may be required as staff for the committee.

L.1983, c.31, s.4; amended 2017, c.385, s.1.

#### **4:1C-5. Powers of committee**

The committee may:

- a. Adopt bylaws for the regulation of its affairs and the conduct of its business;
- b. Adopt and use a seal and alter the same at its pleasure;
- c. Sue and be sued;
- d. Apply for, receive, and accept from any federal, State, or other public or private source, grants or loans for, or in aid of, the committee's authorized purposes;
- e. Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or desirable for the purposes of the committee or to carry out any power expressly given in this act;
- f. Adopt, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act;
- g. Request assistance and avail itself of the services of the employees of any State, county or municipal department, board, commission or agency as may be made available for these purposes.

L.1983, c. 32, s. 5, eff. Jan. 26, 1983, operative Jan. 26, 1983.

#### **4:1C-6. Duties of committee**

The committee shall:

- a. Consider any matter relating to the improvement of farm management practices;
- b. Review and evaluate the proposed rules, regulations and guidelines of any State agency in terms of feasibility, effect and conformance with the intentions and provisions of this act;
- c. Study, develop and recommend to the appropriate State departments and agencies thereof a program of agricultural management practices which shall include, but not necessarily be

limited to, air and water quality control, noise control, pesticide control, fertilizer application, integrated pest management, and labor practices;

d. Upon a finding of conflict between the regulatory practices of any State instrumentality and the agricultural management practices recommended by the committee, commence a period of negotiation not to exceed 120 days with the State instrumentality in an effort to reach a resolution of the conflict, during which period the State instrumentality shall inform the committee of the reasons for accepting, conditionally accepting or rejecting the committee's recommendations and submit a schedule for implementing all or a portion of the committee's recommendations.

e. Within 1 year of the effective date of this act and at least annually thereafter, recommend to the Governor, the Legislature and the appropriate State departments and agencies thereof any actions which should be taken that recognize the need to provide a proper balance among the varied and sometimes conflicting interests of all lawful activities in the State, minimize unnecessary constraints on essential agricultural activities, and are consistent with the promotion of the public health, safety and welfare.

L.1983, c. 31, s. 5, eff. Jan. 26, 1983.

#### **4:1C-7. Additional duties of committee**

The committee shall:

a. Establish guidelines and adopt criteria for identification of agricultural lands suitable for inclusion in agricultural development areas and farmland preservation programs to be developed and adopted by a board applying for moneys from the fund;

b. Certify to the secretary that the board has approved the agricultural development area and the farmland preservation program within the area where matching grants from the fund shall be expended;

c. Review State programs and plans and any other public or private action which would adversely affect the continuation of agriculture as a viable use of the land in agricultural development areas and recommend any administrative action, executive orders or legislative remedies which may be appropriate to lessen these adverse effects;

d. Study, develop and recommend to the departments and agencies of State government a program of recommended agricultural management practices appropriate to agricultural development areas, municipally approved programs (provided that these practices shall not be more restrictive than for those areas not included within municipally approved programs) and other farmland preservation programs, which program shall include but not necessarily be limited to: air and water quality control; noise control; pesticide control; fertilizer application; soil and water management practices; integrated pest management; and labor practices;

e. Review and approve, conditionally approve or disapprove all applications for funds pursuant to the provisions of this act; and

f. Generally act as an advocate for and promote the interests of productive agriculture and

farmland retention within the administrative processes of State government.

L.1983, c. 32, s. 6, eff. Jan. 26, 1983, operative Jan. 26, 1983.

#### **4:1C-8. Appropriated moneys; use by secretary**

The secretary shall use the sum of money appropriated by section 31 of this act, and any other sums as may be appropriated from time to time for like purposes, to assist the committee in administering the provisions of this act to make grants to assist boards or any other local units as authorized herein, to acquire development easements, to purchase fee simple absolute titles to farmland for resale with agricultural deed restrictions for farmland preservation purposes, and to make grants to landowners to fund soil and water conservation projects, on land devoted to farmland preservation programs within duly certified agricultural development areas.

With respect to moneys to be utilized to make grants for soil and water conservation projects, the secretary shall not approve any grant unless it shall be for a project which is also part of a farm conservation plan approved by the local soil conservation district.

L. 1983, c. 32, s. 4; amended 1988,c.4,s.2.

#### **4:1C-9 Commercial farm owners, operators; permissible activities**

Notwithstanding the provisions of any municipal or county ordinance, resolution, or regulation to the contrary, the owner or operator of a commercial farm, located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or which commercial farm is in operation as of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the operation of which conforms to agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or whose specific operation or practice has been determined by the appropriate county board, or in a county where no county board exists, the committee, to constitute a generally accepted agricultural operation or practice, and all relevant federal or State statutes or rules and regulations adopted pursuant thereto, and which does not pose a direct threat to public health and safety may:

- a. Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System;
- b. Process and package the agricultural output of the commercial farm;
- c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;

- d. Replenish soil nutrients and improve soil tilth;
- e. Control pests, predators and diseases of plants and animals;
- f. Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;
- g. Conduct on-site disposal of organic agricultural wastes;
- h. Conduct agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm;
- i. Engage in the generation of power or heat from biomass, solar, or wind energy, provided that the energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2);
- j. Engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and
- k. House any full-time, year-round equine-related farm employee in the same building or facility as horses in accordance with the provisions of section 3 of P.L.2020, c.154 (C.4:1C-9.3).

L.1983, c.31, s.6; amended 1998, c.48, s.2; 2003, c.157, s.6; 2009, c.213, s.2; 2020, c.154, s.2.

#### **4:1C-9a Farmstand, agricultural operations, sale of firewood.**

- 1. a. Any farmstand or location on a farm, or location used by a farm or other agricultural operation, to sell firewood obtained from property other than the seller's land shall not be considered a lumber yard under municipal land use regulations or for other regulatory purposes.
- b. Any firewood obtained from outside of the State shall not be sold or offered for sale at any farmstand or location on a farm, or location used by a farm or other agricultural operation, in the State unless it is heat treated and certified as heat treated and pest free by the state of origin of the firewood.

L.2023, c.227, s 1, eff. January 8, 2024.

#### **4:1C-9.1. Rules, regulations adopted by State Agriculture Development Committee**

- 5. a. The State Agriculture Development Committee, in consultation with the Department of Labor, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations determining the classification for agriculture, forestry, fishing, and trapping under the North American Industry Classification System of codes, and for the production of agricultural and horticultural crops, trees and forest products, livestock, and

poultry and other commodities that are described in the Standard Industrial Classification codes for agriculture, forestry, fishing and trapping, for the purposes of compliance with P.L.1983, c.31 (C.4:1C-1 et seq.). The State Agriculture Development Committee shall ensure that the provisions of P.L.1983, c.31 (C.4:1C-1 et seq.) shall continue to apply to any owner or operator of a commercial farm, or other person, to whom the provisions applied prior to the effective date of P.L.2003, c.157 (C.13:1D-138 et al.).

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Agriculture Development Committee may, immediately upon filing the regulations with the Office of Administrative Law, adopt such temporary regulations as the committee determines necessary to implement the provisions of P.L.2003, c.157 (C.13:1D-138 et al.). The regulations shall be in effect for a period not to exceed 270 days after the date of filing, except that in no case shall the regulations be in effect one year after the effective date of P.L.2003, c.157 (C.13:1D-138 et al.). The regulations may thereafter be amended, adopted or readopted as the committee determines necessary in accordance with the "Administrative Procedure Act".

L.2003, c.157, s.5.

#### **4:1C-9.2 Committee to develop rules, regulations; BPU to provide technical assistance.**

3. a. The committee shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.):

(1) such rules and regulations as may be necessary for the implementation of subsection i. of section 6 of P.L.1983, c.31 (C.4:1C-9); and

(2) agricultural management practices for biomass energy generation on commercial farms, including, but not necessarily limited to, standards for the management of odor, dust, and noise.

b. The Board of Public Utilities shall provide technical assistance and support to the State Agriculture Development Committee with regard to the committee's responsibilities in connection with this section and subsection i. of section 6 of P.L.1983, c.31 (C.4:1C-9).

c. Notwithstanding any provision of this section or subsection i. of section 6 of P.L.1983, c.31 (C.4:1C-9) to the contrary, the construction, installation, or operation of any biomass, solar, or wind energy generation facility, structure, or equipment in the pinelands area, as defined and regulated by the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall comply with the standards of P.L.1979, c.111 and the comprehensive management plan for the pinelands area adopted pursuant to P.L.1979, c.111.

d. For the purposes of this section and subsection i. of section 6 of P.L.1983, c.31 (C.4:1C-9), "biomass" means an agricultural crop, crop residue, or agricultural byproduct that is cultivated, harvested, or produced on the commercial farm and which can be used to generate energy in a sustainable manner.

L.2009, c.213, s.3.

#### **4:1C-9.3 Rules, regulations relative to housing of equine-related farm employees.**

3. a. The committee shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.):

(1) rules and regulations to implement subsection j. of section 6 of P.L.1983, c.31 (C.4:1C-9); and

(2) an agricultural management practice that permits the housing of a full-time, year-round equine-related farm employee in the same building in which horses are housed or boarded on a separate floor or in a separate addition of the building from where the horses are housed or boarded.

b. Except as provided in subsection d. of this section, the rules and regulations and agricultural practices adopted pursuant to subsection a. of this section shall, notwithstanding any local health code or zoning ordinance to the contrary, authorize:

(1) the construction, installation, and provision of housing for any full-time, year-round equine-related farm employee as part of any building or facility constructed, or approved to be constructed, on a commercial farm for the housing or boarding of horses; and

(2) any full-time, year-round equine-related farm employee to be housed in the same building or facility where horses are housed or boarded provided that the full-time, year-round equine-related farm employee housing meets the specifications set forth in subsection c. of this section.

c. Full-time, year-round equine-related farm employee housing established in the same building or facility where horses are housed or boarded shall be located:

(1) on a separate floor of the building or facility above a floor where horses are housed or boarded and separated from the floor on which horses are housed or boarded by a ceiling and floor with at least the fire rating required for separation between residential and non-residential uses pursuant to the State Uniform Construction Code; or

(2) on the same level of the building or facility where horses are housed or boarded in an addition that is completely separated from the part of the building or facility where horses are housed or boarded by a wall that qualifies the addition as a separate building for the purposes of the State Uniform Construction Code.

The floor on which, or the addition in which, full-time, year-round farm employee housing is established shall have a ventilation system separate from the ventilation system operating on a floor or in an addition where horses are housed or boarded.

d. The construction, installation, and provision of housing pursuant to this section shall comply with any other provision of the State Uniform Construction Code and Department of Community Affairs standards and requirements which do not exclude the construction, installation, or provision of housing units in the same building as the boarding of horses under the State Uniform Construction Code.

e. No certificate of occupancy shall be denied for housing of a full-time, year-round equine-related farm employee in a building where horses are housed or boarded if the housing complies with the provisions of subsections a., b., c., d., and i. of this section.

f. Housing constructed, installed, or provided pursuant to this section shall be used only as housing for full-time, year-round equine-related farm employees, and shall not be used to house any migrant or seasonal employee or worker.

g. This section shall not apply to housing constructed, installed, or provided pursuant to the "Seasonal Farm Labor Act," P.L.1945, c.71 (C.34:9A-1 et seq.) and housing constructed, installed, or provided pursuant to this section shall not be subject to any provisions of that act.

h. Housing constructed, installed, or provided pursuant to this section shall be exempt from the provisions and requirements of P.L.1966, c.168 (C.2A:42-74 et seq.).

i. This section shall apply only to housing constructed, installed or provided in connection with barns, stables, or other farm structures housing horses. Housing for any farm employee shall not be provided in any structures housing any other type of farm animal or domestic livestock other than horses.

L.2020, c.154, s.3, eff. Jan. 8 2021.

#### **4:1C-10 Commercial agricultural operation not a nuisance, compliance with practices**

7. In all relevant actions filed subsequent to the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), there shall exist an irrebuttable presumption that no commercial agricultural operation, activity or structure which conforms to agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or whose specific operation or practice has been determined by the appropriate county board, or in a county where no county board exists, the committee, to constitute a generally accepted agricultural operation or practice, and all relevant federal or State statutes or rules and regulations adopted pursuant thereto and which does not pose a direct threat to public health and safety, shall constitute a public or private nuisance, nor shall any such operation, activity or structure be deemed to otherwise invade or interfere with the use and enjoyment of any other land or property.

L.1983,c.31,s.7; amended 1998, c.48, s.3.

#### **4:1C-10a Shellfish commercial farm, public health, safety, nuisance, presumption against**

4. In all relevant actions filed subsequent to the effective date of P.L.2023, c.20 (C.4:1C-3.2 et al.), there shall exist an irrebuttable presumption that a shellfish commercial farm's operation, activity, or structure does not pose a direct threat to public health and safety, does not constitute a public or private nuisance, and does not otherwise invade or interfere with the use and enjoyment of any other land or property, provided that the operation, activity, or structure: conforms either to agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or to a specific operation or practice that has been determined by the appropriate county board, or by the committee in a county where no county board exists, to

constitute a generally accepted agricultural operation or practice; and additionally conforms to all relevant federal or State statutes and rules and regulations adopted pursuant thereto.

L.2023, c.20, s.4, eff. March 13, 2023.

#### **4:1C-10.1 Filing of complaint; process**

5. a. Any person aggrieved by the operation of a commercial farm, or the operation of a shellfish commercial farm, shall file a complaint with the applicable county agriculture development board or the State Agriculture Development Committee in counties where no county board exists prior to filing an action in court.

b. In the event 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," P.L.1968, c.410 (C.52:14B-1 et seq.), the county board shall hold a public hearing and issue findings and recommendations within 60 days of the receipt of the complaint.

c. In the event the committee has not recommended an agricultural management practice concerning activities addressed by a complaint, the county board shall forward the complaint to the committee for a determination of whether the disputed agricultural operation constitutes a generally accepted agricultural operation or practice. Upon receipt of the complaint, the committee shall hold a public hearing and issue its decision, in writing, to the county board. The county board shall hold a public hearing and issue its findings and recommendations within 60 days of the receipt of the committee's decision.

d. Any person aggrieved by the decision of the county board shall appeal the decision to the committee within 10 days. The committee shall schedule a hearing and make a determination within 90 days of receipt of the petition for review.

e. The decision of the State Agriculture Development Committee shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court. Any decision of a county agriculture development board that is not appealed shall be binding.

L.1998, c.48, s.5; amended 2023, c.20, s.2.

#### **4:1C-10.2 Appeal of decision**

6. Any person aggrieved by any decision of a county board regarding specific agricultural management practices or conflict resolution, may appeal the decision to the State Agriculture Development Committee in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The decision of the State Agriculture Development Committee shall be considered a final administrative agency decision.

L.1998, c.48,s.6.

#### **4:1C-10.3 New rule adoption process**

- a. In proposing a rule for adoption, the agency involved shall issue an agriculture industry impact statement setting forth the nature and extent of the impact of the proposed rule on the agricultural industry that shall be included in the notice of a proposed rule as required by subsection (a) of section 4 of P.L.1968, c.410 (C.52:14B-4).
- b. During the public comment period on the proposed rule, the State Agriculture Development Committee shall review the rule proposal to determine its impact on the agriculture industry of the State.
- c. If the State Agriculture Development Committee determines that the proposed rule may have a significant adverse impact on the agricultural industry of the State and notifies the relevant agency of that determination during the public comment period on the proposed rule, the agency shall consult with the State Agriculture Development Committee prior to the adoption of the rule.

L.1998, c.48,s.7.

#### **4:1C-10.4 Rules, regulations, standards**

8. a. The State Agriculture Development Committee shall adopt, in consultation with the Attorney General and pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), standards determining what constitutes a direct threat to public safety pursuant to section 6 and section 7 of P.L.1983, c.31 (C.4:1C-9 and C.4:1C-10).
- b. The State Agriculture Development Committee shall adopt, in consultation with the Department of Health and Senior Services and pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), standards determining what constitutes a direct threat to public health pursuant to section 6 and section 7 of P.L.1983, c.31 (C.4:1C-9 and C.4:1C-10).
- c. The State Agriculture Development Committee shall adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of P.L.1998, c.48 (C4:1C-10.1 et al.) and P.L.1983, c.31 (C.4:1C-1 et al.).

L.1998, c.48,s.8.