

Background Regarding SADC Adoption of Equine Rules

The SADC on June 26, 2008, adopted rules that expand the list of agricultural activities under the Right to Farm Act to:

1) include equine-related service activities --

Including the boarding, keeping, training and rehabilitation of horses, as well as associated complementary activities, including clinics, open houses, demonstrations, educational camps, farm events, competitions and rodeos, as long as these complementary activities are related to the marketing of horses that are raised, bred, kept, boarded, trained or rehabilitated on the farm, and are in compliance with municipal requirements; and

2) set forth the agricultural management practices with which farmers would need to comply to be eligible for protections of the Act. The rules allow a County Agriculture Development Board to set a maximum limit on equine-related buildings, parking areas and other improvements to ensure farms retain a reasonable agricultural production component or capacity. The allowable range is 15 to 25 percent of the first 150 acres of total usable area plus 10 percent of all additional acres of total usable area above the first 150 acres. (Usable area includes all land that is in or available for agricultural production and the area occupied by equine-related infrastructure); and

3) detail what income may be used to satisfy the production requirements in the definition of “commercial farm” in the Right to Farm Act.

These rules involve right-to-farm protection and will apply to all farms, preserved or not. However, the extent of infrastructure permitted on preserved farms is ultimately subject to the SADC’s interpretation of the deed of easement, which may be more restrictive than the requirements for right-to-farm protection.

The SADC at this time did not adopt another proposed rule intended to clarify which equine activities are permitted on preserved farms.

That proposed rule included a limit on the amount of equine-related infrastructure of no more than 15 percent of the total usable area of the farm. That limit was intended to ensure that preserved farms remain available for a variety of agricultural uses, as required in the farmland preservation deed of easement.

In recent months, a larger question has arisen regarding the nature and extent of soil disturbance permitted on preserved farms. We have come to realize we need to adopt formal standards to provide guidance related to this. A technical advisory group has been formed, including staff from Rutgers University, USDA's Natural Resources Conservation Service and the N.J. Department of Agriculture, who will be working over the summer to help develop standards, and we expect the SADC to propose rules addressing this issue in the fall.

We want to ensure a consistent standard for all preserved farms. The construction of equine-related infrastructure involves some degree of soil disturbance, so we first need to address the underlying issue of soil disturbance as it applies to all preserved farms.

Therefore, the SADC's interpretation of the deed of easement, that equine-related service activities are permissible on preserved farms as long as they are "ancillary" to equine production, continues to apply. If there are questions regarding what qualifies as ancillary, the SADC will continue to address those on a case-by-case basis.

We believe adoption of the rules expanding the equine activities eligible for right-to-farm protection, and setting forth the AMPs with which farmers would need to comply to be eligible for protections of the Right to Farm Act, will help ensure equine farms are able to remain viable while at the same time provide the public with assurance that equine farms need to meet certain standards to obtain protections of the Right to Farm Act.