



**PROCEDURES FOR THE MORRIS  
COUNTY AGRICULTURE DEVELOPMENT BOARD  
RIGHT TO FARM HEARINGS**

**Purpose:**

To establish procedures for Morris County Agriculture Development Board (Board) public hearings held to resolve conflicts between commercial farm operators and persons who are aggrieved by commercial farm operations, pursuant to N.J.S.A. 4:1C-10.1(b), N.J.S.A. 4:1C-10.1(c), and N.J.A.C. 2:76-2.10(b)1.

**Policy:**

**1. Scheduling and Notification of Hearings**

**a. Scheduling**

Hearings shall be scheduled to immediately follow the monthly Board meetings, and at the call of the Chairperson.

Hearings shall be listed and scheduled for hearing before the Board based upon the date that the Board receives the complaints of the parties.

All unfinished hearings shall be scheduled to be continued to be heard at the next scheduled meeting of the Board unless rescheduled by the Board Chairperson.

Postponements shall be accepted by the Board only with the consent and concurrence of the opposing party, in writing.

Cases shall be heard or dismissed after two postponements.

**b. Notification**

The Public Notification shall be made to the New Jersey Daily Record, and posted in the Morris County Clerks office in sufficient time to have the advertisement appear a minimum of 7 days prior to the hearing, pursuant to N.J.S.A. 10:4-8 et seq.

A notice of the pending hearing shall be sent by regular mail to the State Agriculture Development Committee (SADC) and the municipality in which the commercial farm is located.

The following individuals shall be sent notices of the pending hearing by certified mail RRR 7 days prior to the hearing:

- Commercial farm operator and/or designated representative.
- Aggrieved party and/or designated representative.
- Expert witnesses and/or designated representative.

[Throughout the Procedures, “commercial farm operator” will mean commercial farm operator and/or designated representative, “aggrieved party” will mean aggrieved party and/or designated representative, and “expert witnesses” will mean expert witnesses and/or designated representative.]

## **2. Hearing**

### **a. Documents**

Copies of pertinent documents submitted by each party shall be available to the Board Members and Counsel for the hearing. The documents shall be sent by mail to the Board and Counsel of the Board 7 calendar days prior to the hearing. Staff shall forward the documents to the Board Members prior to the hearing. Hearings will not be conducted by the Board if all documents have not been received by the Board 7 calendar days prior to the hearing.

### **b. Hearing Officer**

The Chairperson of the Board shall be the hearing officer. If the Chairperson is not present, the Vice-Chairperson shall serve as the hearing officer. If the Vice-Chairperson is not present, the Board shall choose a hearing officer through a motion of those Board Members present for the hearing.

### **c. Recording Hearings**

Hearings shall be recorded by the Board using an electronic sound recording device. Either party may elect to have a stenographer at the party’s expense. If a stenographer is used, a copy of the transcript of the proceeding shall be provided to the Board at no expense to the Board.

### **d. Hearing Process**

Hearings shall be conducted in general conformance with the pre-established meeting agenda or as directed by the Hearing Officer. As a minimum, the following steps shall occur in the sequence specified:

- Open Public Meeting Statement under N.J.S.A. 10:4-8 et seq. (Open Public Meeting Act).
- Introductory statement by Hearing Officer, including:
  1. Welcome and introductions.
  2. Statement of purpose of the hearing.

3. Description of the hearing process.
  - Opening statement by aggrieved party.
  - Opening statement by commercial farmer.
  - Testimony by aggrieved party.
    - Cross-examination by commercial farm operator.
    - Cross-examination by Board.
  - Testimony by commercial farm operator.
    - Cross-examination by aggrieved party.
    - Cross-examination by Board.
  - Closing argument by aggrieved party.
  - Closing argument by commercial farm operator.
  - Public comment.
  - Open discussion by Board.
  - The Board decision is made by a motion, and voted on by the regular members of the Board qualified to vote.

**e. Testimony**

- The members of the Board shall hear the testimony of all witnesses under oath or affirmation. All parties shall be given the right of cross-examination, either directly, if not represented by an attorney or through their attorneys if represented. All testimony shall be subject to the discretion of the Hearing Officer and the Board subject to reasonable limitations as to time and number of witnesses.
- The Hearing Officer, any members of the Board, or counsel to the Board shall administer oaths and affirmations.
- Testimony may include verbal and written statements from aggrieved parties, the commercial farm operator, expert witnesses, and any other party deemed appropriate by the Board. Verbal testimony may be given in narrative form or by question and answer. Parties shall not be bound by statutory or common law rules of evidence or any formally adopted rule in the New Jersey Rules of Evidence, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence. All relevant evidence shall be heard and admitted.

### **3. Resolution of the Board**

The findings and recommendations of the Board shall be in the form of a written narrative resolution providing a summary of the testimony, any supporting documents, and a copy of the agricultural management practice or site specific agricultural management practice utilized by the Board in its recommendations and any other information requested by the SADC (N.J.A.C. 2:76-2.10(b)2i).

The resolution, containing the findings and recommendations of the Board, shall receive review by Counsel prior to presentation for approval at the next scheduled meeting of the Board after the hearing has concluded or as otherwise agreed to by the Board and the parties.

Resolutions shall be acted on by the Board as: *Approved as Prepared, Approved as Modified by the Board, or Rejected.*

Copies of the *Approved Resolution* shall be sent to:

- Aggrieved party
- Attorney for aggrieved party
- Commercial farm operator
- Attorney for commercial farm operator
- Municipality
- Counsel for Municipality, or Municipal Attorney
- SADC
- Other interested parties, by request or participation in hearing.

The Board staff shall maintain a Standard Distribution List to include the contact names and addresses of individuals that have requested copies of resolutions.

The original resolution and all other pertinent documents shall be maintained as a written record by the Board staff and filed in accordance with Morris County Record Retention Requirements.

### **4. Other Matters, Correspondence and Communication**

The Hearing Officer may authorize counsel to establish a direct line of communication with any related party for the purpose of facilitating resolution of the matter.

Communication of a verbal nature is non-binding unless followed up by a written record of conversation.

### **5. Records**

The following are records and shall be filed and maintained as such. Case files may be transferred to the Morris County Long Term Record Storage Facility one year after approval by the Board.

- Resolution, attachments and other pertinent correspondence (10 years)
- Board minutes (Minute book with original approved resolutions) (Lifetime)
- Attendance Record (Board Members) (10 years)
- Other documents such as withdrawn cases, correspondence, shall be (1 year)

held 1 year in the working files and destroyed if not otherwise required to be retained.

Adopted:	Effective:	Revision #:	Last Revised:
02-17-00	02-17-00	1	02-17-05