

# **2022 New Jersey Farm Bureau Policies**

**Adopted by the delegates to the New Jersey  
Farm Bureau 103<sup>rd</sup> Annual Meeting**



***...because agriculture matters!***

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## **FARM VIABILITY** (2021)

The economic pressures now on New Jersey farmers and indeed on farmers throughout the country are significant and constantly increasing. Conditions in marketing structures, worldwide competition and production costs continue to squeeze the farm producer and regulatory intervention is a constant threat.

Farm viability shall be the overall policy orientation for Farm Bureau as an organization. This should unify ongoing objectives toward a goal of seeking improvements in the profitability of farming operations. This theme also recognizes that there are massive changes underway throughout the industry, some of which may require some re-training and business plan evaluation by farmers. It may also mean a greater emphasis on coordinated action among farmers on economic and financial issues.

Farm Bureau works to protect its membership from those things that can negatively impact farm viability, including: excessive government regulation, burdensome taxes, wildlife damage, heavy-handed land use regulation, and invasive pests such as the spotted lantern fly.

New Jersey Farm Bureau shall take a leadership role in stressing the importance of farm viability. Building on current and updated policies, New Jersey Farm Bureau will:

- Expand plans for new farm business development plans like new use agriculture and renewable fuels;  
Continue its support of Rutgers School of Environmental and Biological Sciences/NJAES and work toward their greater support for production agriculture;
- Aggressively explore Internet and e-commerce opportunities; and
- Aggressively pursue the Board of Public Utilities to include renewable energy under their grant program
- Urge the development of factual and realistic economic and agricultural impact statements, as required by law, for all rule proposals by all New Jersey agencies.

Notwithstanding the jolts to farm economics that can arise, state government policy in New Jersey in the past has been supportive of taking actions that boost farm viability. The expression of that sentiment was embedded in the Right to Farm Act ("The Legislature finds and declares that: 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.") (see 4:1C-2a) in 1981. Farmland assessment, exemption from water use fees and priority use during drought situations, sales tax exemption for production-related equipment, financial support for the Agricultural Experiment Station, U-Pick limited liability are just a few examples of these policies that in most cases were advocated by New Jersey Farm Bureau.

Several new ideas for farm industry-wide viability benefits were raised in the debate of the minimum wage carve out. Among them were:

- expanded property tax exemption for single purpose ag structures.
- refundable tax credits for ag labor housing and transportation expenses.
- Accelerated depreciation allowances for capital expenses (similar to federal allowances under Sec. 179).
- ag labor job retention grants from the state Department of Labor and Workforce

Development.

- ag labor housing regulation consistency.
- others.

The Covid-19 pandemic that struck New Jersey forcefully in 2020-21 severely disrupted any legislative consideration of economic incentives for the industry. In fact, shut-down orders to protect public health forced business closures and interruption of economic activity across-the-board. A few like agriculture, were classified as “essential” and permitted to carry on but even those industries suffered economic losses.

Most New Jersey agriculture producers managed to complete the growing season on satisfactory terms, with a few exceptions. Nonetheless, viability challenges have not abated and need attention more than ever. Federal USDA direct payments related to the pandemic relief were helpful for certain commodity groups, and consumer purchases of local produce at retail farm outlets was a positive note among many set-backs.

The 2021 growing season just completed yielded mixed results for New Jersey farmers. While consumer spending was strong, pockets of depressed economic activity still persisted and supply chain problems have accelerated rapidly. Wholesale produce prices were depressingly stagnant. Labor shortages afflicted all commodities. The outlook for advance purchases of fertilizer, seed and other inputs for 2022 is alarming.

Nonetheless, farmers will press forward into the 2022 marketing year despite expenditure-side challenges and the need to improve receipts from wholesale business. Farm Bureau shall continue its support for federal and state policies that assist the business of farming. Specific initiatives like the establishment of new livestock processing facilities to relieve the statewide deficit of same is a priority for 2022. Communication of ag viability challenges for farmers to the general public is also an ongoing task for Farm Bureau.

#### **AG RETENTION/FARMLAND PRESERVATION PROGRAM** (2021)

The preservation of farmland is a benefit to all residents of the State. Once farmland is preserved, it not only remains actively used for production agriculture, it provides for a local supply of fresh farm products, water recharge, scenic vistas and also remains on the local tax rolls with no taxpayer maintenance costs. To date, the State Agriculture Development Committee (SADC) has preserved over 2,729 farms totaling over 241,672 acres.

In general, Farm Bureau continues to support the following overarching precepts as they relate to the farmland preservation program:

- The Deed of Easement is a contract between the landowner and the SADC which severs specific rights from the land. The severance of rights is complete at the time of execution of the Deed of Easement. The SADC may not unilaterally change the nature of the rights severed after-the-fact, even if it could be seen as beneficial to the SADC’s Farmland Preservation program to do so.
- The Deed of Easement is itself not a source for SADC authority to adopt regulations. Regulations can be developed only pursuant to specific authorizing statutes, in this case the Ag Retention and Development Act and the Right to Farm Act.

In the upcoming year Farm Bureau shall:

- The “Preserve New Jersey Act” was amended in 2019 by establishing permanent funding allocations for constitutionally dedicated CBT revenues for Fiscal Year 2020 and thereafter at 31%, offering consistent funding year to year in support of SADC acquisitions and stewardship. The law also increases the amount that may be used for stewardship activities from 3% to 4%; amends the definition of “stewardship activity” to include projects that improve the resiliency of farmland soils; allows qualified farms preserved through the HDC and PDC programs to be eligible for stewardship funding; and extends the dual appraisal provision for qualifying landowners in the Highlands an additional five years until June 30, 2024. NJFB supported this legislation and will continue to monitor its implementation.
- NJFB also supports dedicating a specific percentage of the CBT as a permanent funding source for the purchase of Pinelands and Highlands development credits.
- Continue to educate the Legislature and the general public of the importance of preserving farmland. As part of the education effort, Farm Bureau shall commission an updated cost of municipal services study and use it to ensure farmland preservation gets its fair share of CBT Funding.
- Continue to monitor the SADC’s interpretation of statutes and rules to ensure that flexibility is maintained to ensure future viability.
- In general, aggressively oppose the SADC when it attempts to over-regulate preserved farmland beyond the scope of the deed of easement and remind SADC that when farmland is acquired, only the development rights are severed, not the right to conduct commonly-accepted farming practices including those that assist in marketing the output of the farm.
- Urge the SADC to scrutinize and discourage the practice of counties and townships transferring farmland preservation funds, historic preservation and open space preservation funds to discretionary accounts for the purposes of “other than” preservation and land acquisition applications, unless those funds are used for conservation practices consistent with the farmland preservation programs.
- Encourage the SADC to improve communication with the farm community.
- Urge the SADC to be more responsive to and better communicate with preserved farm landowners who are trying to navigate the increasingly complex policies impacting them. More landowners are going before the SADC for various approvals and they should be communicated with clearly and promptly.
- Urge the SADC to be more responsive to CADB administrators. There are increasing concerns that communicating with SADC staff is becoming increasingly more difficult.
- Encourage every county and municipality with active agricultural land to participate in the SADC’s Comprehensive Farmland Preservation Planning Process. This program allows counties and municipalities to focus preservation efforts on targeted farms and allows for more efficient processing and funding of approved projects.
- Urge the SADC to better manage the green light approval process. This process is currently taking over a year and it should be taking less than six months.
- Urge the SADC to not fund Planning Incentive Grants (PIGs) for municipalities that persist in down-zoning farmland despite its negative effects on the viability of the very farm operations the town is showing their interest in protecting. In addition, municipalities enrolled in PIG programs that demonstrate a lack of support for the business of agriculture should lose their PIG funding.
- Support the application of fair and standardized appraisal criteria to all applicants.

- Commission a third-party review of the program's appraisals in order to ensure that the appraisal criteria guidelines are being applied uniformly, and that the state review of appraisals is not driving appraisal prices down artificially.
- Support the creation of a formal way for applicants to challenge the two appraisals the state, county or municipality uses.
- Ensure that the four farmer member positions and alternate farmer member positions on the SADC be promptly appointed (within 90 days) when there are vacancies. Farm Bureau shall work to ensure that the State Board of Agriculture selects all of the nominees that are recommended to the Governor for positions on this board and that they meet the criteria set forth in the Right to Farm Act.
- Support the development of stronger incentives and more funding for the eight-year program.
- Support an amendment to IRS Code 2032A, so that farmers who participate in both the federal farm estate tax program and a state or local farmland preservation program are not penalized financially.
- Work to ensure that all farmland purchased through other programs (i.e. Green Acres, Highlands TDR program) is actively farmed.
- Urge the SADC to deny state preservation funding to municipalities that preserve farmland in partnership with conservation groups that place burdensome restrictions on the farmland.
- Support an elimination of the capital gains tax on income from the permanent preservation of farmland.
- Urge the denial of SADC funding to municipalities that refuse to allow an open bid process in auctions of preserved farmland whereby any farmer has an equal opportunity to bid on the farm.
- Continue to monitor and participate in the ongoing debate regarding how to create or provide affordable farmland for New Jersey farmers.
- Support a legislative change to the Agriculture Development and Retention Act to require that preserved farms going forward be "actively devoted to a commercial agricultural or horticultural use, including activities related to marketing the output of the farm" not just "available for farming." While this change may not prevent non-farmers from purchasing preserved farmland, it will increase opportunities for New Jersey farmers to lease and farm the properties as part of their overall farm operations. This change will also help address the issue of preserved farmland laying fallow or growing up in invasive species. A legislative change of this language must include direction to the SADC that their interpretation must allow for flexibility so as not to impede the future viability of the farm or the personal enjoyment of the property by the owner of the preserved land.
- Urge the SADC to allocate and distribute farmland preservation funds more equitably to applications in all counties regardless of any economic, political or financial considerations or due to the statewide variation of costs for land acquisition. The timely preservation of open space and farmland is a critical concern in the urban and suburban areas of New Jersey. CADBs have determined their agriculture development areas, ranked their farm preservation applications, targeted the most productive farms for preservation in their respective counties, approved and steadfastly collected their local open space preservation taxes, and planned for the long-term viability and profitability of current and new agribusinesses. Yet, to date there is an indication that many farm preservation applications in urban counties are neither being reviewed in a timely manner nor are they being ranked favorably by the SADC. Passaic County is currently unable to tap into SADC preservation funds because the state criteria are inept for urban farming



counties. NJFB urges the SADC to look into this issue and modify its criteria for urban counties.

- Morris County (and others in the Highlands) have more forest than tillable acreage on their farms, which also causes them to lose out on SADC preservation funds because it does not meet the tillable acreage percentage criteria. NJFB urges the SADC to look into this issue and modify the farmland preservation program to include a forestry acquisition preservation program. Forestry activities including preparation and implementation of forest management plans should also be included as part of SADC's stewardship grants.
- Urge the SADC to recognize and communicate with those counties and local governments who continue to collect their respective open space and farmland preservation taxes.
- Monitor the use of federal program dollars on preserved farmland where it may be taking large amounts of acreage out of agricultural production. Farm Bureau must work with organizations such as the NJ Audubon Society to encourage them to promote such set-aside federal programs only on marginal farmland.
- Work with the SADC to educate the non-profit organizations involved in preserving farmland about agriculture in New Jersey. Many of these non-profit organizations are taking preserved farmland out of production because of a misunderstanding of the agricultural practices being used.
- Work with SADC staff to ensure that counties and municipalities administer preserved farmland held by government entities or non-profit organizations in ways that are supportive of production agriculture, on the preserved farmland, and do not negatively impact adjacent farmland.
- Urge all municipalities and counties, when making land use decisions for infrastructure on preserved farms (ie: bridge and road maintenance), to consider the impact of those decisions on the future viability of the farms in their community.
- New Jersey Farm Bureau shall ensure that the SADC staff utilizes the correct definition of the term "net" when calculating its share of the proceeds from the sale of farm that has been preserved through the non-profit grant program. Currently, the SADC staff are interpreting the term "net proceeds" in their own rules to not allow for the deduction of any expenses incurred in the process of placing a deed-restriction on the farm purchased in fee-simple and the selling of that deed-restricted farm. In order for the program to be viable for Non-profit organizations, they must be able to deduct certain expenses incurred in the sale of the deed-restricted farm from the gross proceeds of the sale before reimbursing the SADC its 50% of the net proceeds. Allowable expenses should include the cost of holding a public auction of the deed-restricted farm (including marketing of the auction), retiring debt service and/or outstanding debt to the original landowner, preparation of an approved SADC deed-restriction, audit of the transaction for the SADC. The expenses to be deducted should not include; administrative, legal and operating costs related to the acquisition, salaries and/or wages of employees of the non-profit, real estate taxes. Farm Bureau shall urge the SADC to develop procedures to determine eligible deductions in calculating net proceeds. Farm Bureau shall also urge the SADC to put in place an auditing process to ensure that expenses being deducted from gross proceeds by a non-profit before reimbursement to the state are transparent and legitimate.
- Investigate concerns raised by the equine industry about inadequate access to preservation funds for equine operations that include indoor/outdoor riding arenas, boarding facilities and other like structures. This should include a review of whether case-specific considerations of landowner requests for preservation funds to acquire not

only pasturelands on such operations, but also land under any facilities or structures associated with the raising, breeding, care or training of equine animals should also be considered by SADC when making determinations about preservation applications.

- Encourage the SADC to continue to provide funds for deer fencing while developing the stewardship program for preserved farms. NJFB would like to see the rules changed to include lease-holding preserved farm operators as “established farmers” so that they can be eligible for grant funding as well. NJFB also seeks a rule change to make these funds available to all deed restricted farms, regardless of what method of preservation.
- Work with SADC to evaluate the appraisal methods used to determine the current market value (CMV) on farms from county to county since there seems to be, in some cases, significant differences across county lines.
- Allow SADC to assist CADBs with their administrative responsibilities when they do not have adequate staffing.
- Make sure the SADC and CADBs remain vigilant in preservation efforts as the risk of loss of viable farmland is increasing under the threat of development of utility scale solar and large warehouses to satisfy consumer demand for same day delivery of goods. SADC needs to develop a mechanism for timely equity in order to save farmland under imminent threats from development. Another growing threat to land is the increase in proposals of gas pipelines to ship natural gas.
- Urge the SADC and State Board of Agriculture to form a working group to examine the forces resulting in decreased acreage preserved. We do not want preservation funds to be lost or reallocated because they are not being spent.

#### Appropriations

The 2022 proposed Appropriations by SADC totals \$83,880,601. The breakdown for FY 2022 will be \$45,515,361 for State Acquisition, \$4,500,000 for Municipal PIG Base Grants, \$440,240 for Non-profit grants, \$3,325,000 for Stewardship Activities and \$18,000,000 for County PIG Base Grants. Other costs include the administration budget of \$10,000,000 as well \$1,000,000 in acquisition costs, \$1,000,000 for MPIG and CPIG Planning Grants, and \$100,000 for appraisal review.

#### SADC use of Guidance Documents to Interpret Statutes and Rules

Farm Bureau is greatly concerned that the SADC’s adoption of “Guidance Documents” to interpret the deed of easement on preserved farms threatens the future viability of agriculture and of the farmland preservation program. This is a continuation of SADC staff attempts to make policy recommendations that are too inflexible and rigid to allow for future viability. The Guidance Documents to interpret the deed of easement inappropriately attempt to do so in light of surrounding statutes and regulations that are not referenced within the deed itself. The deed of easement must be interpreted based on a strict analysis of the deed, which is owed to the landowners who signed onto the deed. The only statutes and regulations pertinent to interpreting the deed of easement are those that are specifically referenced within the deed. Farm Bureau understands that the SADC is facing increasing challenges related to permissible uses on preserved farmland. As an alternate approach to the adoption of Guidance Documents, we believe that the SADC ought to partake in a comprehensive education effort to inform owners of preserved farmland about what it means to own a preserved farm. Part of the challenge SADC faces is that the program has been around long enough now that many current owners of preserved farmland took ownership of the property long after the easement language in their deed was negotiated. These landowners and future potential owners need to be educated by the SADC about use restrictions and requirements on a preserved farm.

Farm Bureau shall insist SADC define “guidance documents” and the use of such documents. Farm Bureau shall take action against SADC if the use of guidance documents are in place of formal regulations and clear legislative authority. Farm Bureau shall further evaluate the legality of the use of Guidance Documents to interpret the deed of easements on preserved farmland and ~~consider~~ legal action to ensure that the SADC does not overreach in its oversight of the farmland preservation program. NJFB shall review the use of SADC policy statements that support the use of “Guidance Documents” that interpret the deed of easements program.

Farm Bureau believes farmland preservation deed restrictions should be limited to the restriction against development for which the property owner is being paid, where development is defined as the construction of a residential or other non-agricultural structure. (Existing deed restriction contracts are as they read.) All non-development economically beneficial land uses should be allowed, within reason, when such uses promote and enhance the overall agricultural profitability of the farm. The opportunities afforded by ancillary revenues on farmland are imperative for sustained agricultural viability.

#### Preservation in the Pinelands

New Jersey Farm Bureau should maintain its resolve on the issue of fair compensation for preservation in the Pinelands. Farm Bureau should do this by providing legal advice and financial resources in order to maintain the adopted Pinelands valuation formula. Farm Bureau supports and encourages the Pinelands Commission in its efforts to make funds available for the purchase of farmland preservation easements through the farmland preservation program. Farm Bureau shall monitor the distribution of and ensure the current allocation of the funds under the Garden State Preservation Trust Act and any other future preservation program to ensure that it reflects the geographic diversity of the state to the maximum extent practicable and feasible.

#### Preservation in the Highlands

Farm Bureau shall work with the Legislature to enact a long term, stable source of funding to compensate Highlands landowners. This should include the option of imposing a water fee on the users of Highlands water. Farm Bureau supports putting an emphasis on funding farmland preservation in the Highlands Preservation Area. Any new dollars from a dedicated funding source should be available for any farm seeking preservation in the entire Highlands region.

The Highlands dual-appraisal provision expired in June of 2014 and was later extended through June of 2019. Through the signing of S2920 into law in June 2019, which supplemented and amended the “Preserve New Jersey Act,” the dual appraisal provision for qualifying landowners in the Highlands was extended an additional five years until June 30, 2024. Farm Bureau should ensure that, while the rules and zoning of January 1, 2004 are used to derive one appraisal, the landowner is not denied the benefit of any long-term appreciation of value that land with similar original zoning outside the Highlands would enjoy.

There is currently a rule in the Highlands regulations that stipulates that once a farm’s ownership changes hands that it no longer qualifies for dual appraisal. This rule arbitrarily disqualifies farms from the program and is a deterrent to potential buyers who are interested in preservation, thereby having a negative impact on land values. The dual appraisal feature should remain with the land and not be lost with a change of ownership. Farm Bureau recommends this rule be eliminated.

### Eminent Domain to Preserve Land

The farmland preservation program has always been a voluntary program. New Jersey Farm Bureau strongly opposes the use of eminent domain as a means of farmland preservation and urges the State Agriculture Development Committee not to reimburse counties or municipalities for their costs in taking lands in this manner. The CADB should use its preservation funds to help protect landowners from eminent domain.

### Viability of Preserved Farms

There is a concern emerging that with the increase in land preservation, viability issues for New Jersey farms still remain. Therefore, we call upon the SADC and the Administration to consider viability-type incentives for all farm properties.

Further, Farm Bureau urges the SADC to incorporate flexibility and site-specific considerations into any rules governing activities on preserved farmland so as not to be a hindrance to farm viability.

### Farm Markets

Farm Bureau is concerned that there have been cases of SADC staff persons interpreting the Deed of Easement to require 100% of the goods sold in a farm market on a preserved farm to be the output of the commercial farm. This is stricter than the 51% standard for Right to Farm protection and is an unrealistic barrier to a farm's overall marketing and viability strategy. Farm Bureau urges the SADC to clarify that the standard for goods sold at farm markets on preserved farms is the same standard that is in the Right to Farm Act.

The earliest pioneers of the Farmland Preservation program are facing hurdles in maintaining viability because they often do not have any areas excepted out of the deed of easement. Exception areas allow a preserved farm owner to have flexibility in that area of the farm to do activities that may not be allowable on the portions of the farm that fall under the deed of easement. This small number of preserved farms have no exception areas because in the early years of the program, they were discouraged. Farm Bureau shall work with the Legislature to enact legislation that would allow the owners of the earliest preserved farms that were not given the opportunity to take an exception area, the option to buy back a small area of the preserved farm as a non-severable exception area.

With the passage of the Rural Micro Enterprise Act, New Jersey Farm Bureau should make sure the SADC rules and regulations for the program encourage and are broadly applicable for the types of businesses and activities that are the intent of the legislation and that other preserved farms have easy access to those farm related activities.

One increasingly popular viability option for New Jersey farmers is to partake in on-farm direct marketing and agritourism. This may include such activities as weddings and other life celebratory events that may blur the line when it comes to the relationship to production agriculture. These types of events can be an important tool in marketing the agricultural output of a farm and therefore, they should be able to take place on preserved farmland and possibly be able to receive Right to Farm protection.

Through site-specific cases, the SADC has taken the position that weddings and other life celebratory events on farmland do not qualify for Right to Farm protection and are not allowable under the deed of easement. Farm Bureau believes that weddings and other life celebratory events may be considered acceptable under the deed of easement on preserved farms if there

is a relationship to marketing the agricultural output of the farm. This should also be the standard when looking at protecting these activities on non-preserved farms and farms other than wineries.

The Special Occasion Event Pilot Law for preserved farm wineries expired in the Spring of 2020 and SADC submitted their recommendations to the Legislature for a permanent program for preserved farms. The pilot law was limited in scope and did not comprehensively address the issue of special occasion events on preserved farmland or as a potentially protected activity under the Right to Farm Act. Because of this along with the SADC's current interpretation, legislation is needed to clarify when these types of special events can take place on all preserved farmland. NJFB shall urge the Legislature to take action in a way similar to what was done in P.L. 2009, Ch. 213, the law that allowed for renewable energy development on preserved and non-preserved farmland, with one critical difference. Clarifying legislation must allow for a deliberative process by the SADC in cooperation with the agricultural community to adopt an Agricultural Management Practice for such activities. SADC assembled a working group of agricultural interests to establish baseline parameters for this AMP for "special occasion" events, the results of which were included in the SADC final recommendations to the Legislature. NJFB also assembled a working group of FB directors who formulated comments, some of which were incorporated into SADC's final recommendations. NJFB continues to monitor legislation on this matter and provide input. Additionally, legislation authorizing SADC to develop an AMP for these activities should explicitly require that they include agricultural stakeholders in the AMP-drafting process. There must be a mechanism that allows farms to continue ongoing agritourism activities until new rules are promulgated. This could possibly be done on a case-by-case basis through site-specific AMP's to ensure that such activities are taking place with a relationship to the agricultural output of the farm.

#### Renewable Energy on Preserved Farmland

It is now law that installations of solar, wind or biomass energy generation systems on preserved and non-preserved farms that meet certain criteria are eligible for Right to Farm Protection and Farmland Assessment. Many preserved farms have rock ledges, unused gravel pits, old barnyards and other areas that are not farmed. In some cases, these unused or underused areas would be more suitable for solar or wind energy installations than other actively farmed portions of the preserved farm. As such, NJFB shall encourage the SADC to streamline the approval process for installations sited in these non-farmable areas on preserved farmland. It has become extremely onerous for some preserved farm owners to get all the necessary approvals to erect allowable solar arrays on any portion of their farm. NJFB supports streamlining this process that creates undue burden on the preserved farm owner.

#### **SOIL DISTURBANCE/PROTECTION** (2021)

The original proposal from SADC staff to impose new restrictions on "soil disturbance" activities on preserved farmland was tabled in favor of additional dialogue with agricultural stakeholders. A subcommittee of such stakeholders, commissioned by the State Board of Agriculture, convened to express its dissatisfaction with the original proposal and set forth its priorities for consideration if the topic of soil disturbance continues to be evaluated by SADC.

The subcommittee's report included the following principals, which NJFB continues to support:

1. The Deed of Easement (DOE) is a contract between the landowner and the SADC which severs specific rights from the land. The severance of rights is complete at the time of execution of the Deed of Easement. The SADC may not unilaterally change the nature of

the rights severed after-the-fact, even if it could be seen as beneficial to the SADC's Farmland Preservation program to do so.

2. The Deed of Easement is itself not a source for SADC authority to adopt regulations. Regulations can be developed only pursuant to specific authorizing statutes, in this case the ARDA and the Right to Farm Act.
3. The Deed of Easement prohibits non-agricultural development of the Easement Premises but does not prohibit agricultural development. The DOE does not generally require prior approval of agricultural development by the SADC.
4. In addition to encouraging development of a vibrant agricultural industry, the ARDA also seeks to retain a land base for future agricultural use. The SADC should encourage practices to preserve precious soils and the capability of soils for future use in agricultural production. Due to the wide variety of soil types, structures and elevations in New Jersey, including muck, sand, clay, loam etc., the SADC must recognize that every farm is different, both in the nature of the land, and in its farming business, so no single standard or limit can work always on every farm throughout the State. Nevertheless, some guiding principles can be readily agreed:
  - a. Soil, if not being used or being removed as a part of an agricultural purpose, shall be stored on farm for current or future use with proper management.
  - b. When top soil is moved, any mixing with rock and other such materials must be merely incidental to avoid causing significant harm or unreasonable damage to the land's capacity for growing agricultural crops.
  - c. When soils are banked, detailed farm conservation plans such as those developed by NRCS and approved by Soil Conservation Districts must be in place for sediment control and prevention of soil erosion, and to assure soil retention on farm. Good practices will also afford consideration to and protect adjoining property owners from unwarranted runoff and silt deposition.
  - d. Agricultural development permitted under the DOE may include practices of deep cut and fill when necessary for the agricultural purposes, with the approval of the NRCS and or Soil Conservation Service.
  - e. It is important for landowners to determine how to continue their farming operations in a sustainable manner when agricultural development does take place on particular farms. Accordingly, while the SADC should offer guidance and encourage buildings and other significant soil disturbance to take place in already disturbed areas and areas of lesser agricultural soils, or where reclamation is likely to be less difficult, the conclusions will be reached by landowners after review of all of these circumstances.
  - f. The SADC should encourage and help develop understanding of building methods that make restoration of soils to agricultural production most feasible (such as avoiding instrumental compaction and encouraging use of geotextiles under stone). Development of such responsible management practices can be a constructive channel for the concerns about continuing availability for agricultural use of land generally and preserved land in particular.
5. Farming, like any business, seeks certainty and timeliness. Nonetheless, it is recognized that, there likely are practices that could limit the future use of land and soils for agriculture and could be actionable for enforcement under the DOE. The SADC should

seek input from all other agricultural interest groups such as the State Board, NRCS, Farm Bureau, academic experts and specific producer groups, as the SADC develops policy and regulatory initiatives. The SADC should timely address agricultural development matters brought forward by landowners, CADB's, or others. The State Board should also keep active a subcommittee to advise the Board on an ongoing basis about these issues arising at the SADC.

In October 2016, the Appellate Division of Superior Court issued a decision on the point of having standards governing the preservation program's deed of easement (DOE). The ruling in the Quaker Valley Greenhouse case also set aside previous court decisions in the case that endorsed SADC sanctions against the greenhouse operator. In doing so, the new court opinion noted the "tension" between the sometimes competing objectives in the DOE of simple land conservation and seeking reasonable economic objectives of the farm. The court remanded the nine-year old case back to Superior Court for a new consideration of the facts of the case.

In November of 2016, the SADC filed an appeal of this decision despite Farm Bureau's urging that it seek mediation with the defendant. The Supreme Court granted certification on March 17, 2017. Farm Bureau filed a motion to file an amicus brief in May, contending that the SADC has no enforcement authority until it adopts guidelines/standards for soil disturbance on preserved farmland. That motion was granted.

The case was argued before the Supreme Court on January 2, 2018 and then decided in a 12-page decision on August 14, 2018. The court reversed the judgment of the Appellate Division and ruled in favor of the SADC's enforcement action against Quaker Valley Farms despite the absence of advisory standards for soil disturbance. The court noted that these standards have "a dual purpose: to strengthen the agricultural industry and to preserve farmland. Both are important goals; neither is subordinate to the other." It further stated farmers are entitled to sufficiently definite guidance by the SADC so that administrative decision-making is fair and predictable.

Farm Bureau joins the State Board of Agriculture in urging the SADC to adopt non-regulatory standards for soil protection in the deeds of easement that embraces the principles stated in the court decisions and original legislation. The most recent proposal was approved by the SADC at their October 2021 meeting. It is anticipated to go to the NJ Register in early 2022 after the SADC approves the draft rule language. This draft is the culmination of SADC's previous proposal, a roadshow they went on to solicit feedback from CADBs and other stakeholders, and the incorporation of written comments received. It calls for allowable permanent soil disturbance for up to 12% or 4 acres of the farm. For farms that are within 50% of the disturbance limit at the time of rule adoption, they will be allowed an additional 3% or 2 acres of soil disturbance. In order to meet the criteria, non-contiguous lands should be permitted to be used. NJFB encourages involvement by all preserved farm owners during the rule writing process.

### **THE THREAT TO AGRICULTURE FROM INVASIVE AND NOXIOUS SPECIES (2021)**

Land upon which farming has stopped, whether row crops, grains or orchards, quickly grows up in volunteer vegetation that can be invasive and even noxious to crop plants. NJ's woodlands too have become infested with invasive, alien plants resistant to deer depredation, some of which have been valuable ornamental species grown in NJ nurseries, especially for use in urban situations.

Weather problems, depressed market conditions and/or other problems have caused the termination of some fruit farm operations in recent years. Fruit orchards, and other open spaces, when neglected or abandoned, can become a significant problem as a source of disease and pests to neighboring farms. The NJDA has organized a New Jersey response to a growing national movement to protect agricultural producers from the biological harm of invasive pests: insects, diseases and weeds that have found new pathways into agricultural and horticultural crops. The increase in global trade is a major contributor to the problem. By requiring the NJDOT, NJTA, and the SJTA to prioritize the use of native vegetation for landscaping, land management, reforestation, and habitat restoration, we can reduce the quantity of non-native species being transported by ship or airplane into the American market.

The NJ nursery industry is particularly at risk from invasive species in two respects. First, noxious weeds can spread to nursery stock, increasing the need for costly herbicides or cultivation. Second, parties concerned about the potentially harmful ecological effects of the widely spread nonnative species have developed a very long list of plants that users could be mandated to avoid planting.

It should be the focus of an Agricultural Invasive Species Council to address noxious weeds and insects that are true pests and to work with the growing industry on guidelines for phasing out products that are found to be invasive. Farmers participated in and monitored this issue and need to cooperate with its findings and recommendations

Noxious weeds, abandoned orchards, and other neglected public open spaces

New Jersey Farm Bureau should encourage the Department of Agriculture and the State DEP to enforce the laws that are in place to control invasive species that are found growing in the state.

New Jersey Farm Bureau will call upon all public open space program administrators to take account of neglected/abandoned orchards and other neglected properties in the review and consideration of land acquisition projects. Ornamental fruit trees owned by private nonfarm landowners are more prevalent now than production orchards and pose a similar risk. Those organizations that purchase or assume control of these properties should be required to manage the properties for weed control.

New Jersey Farm Bureau recommends all publicly-owned open space, including the increasing number of greenways and farmland, must be required to have noxious and invasive weed management plans that require those lands to be maintained in such a way as to prevent it from harboring insects and noxious weeds that become a nuisance to neighboring properties. The management would include timely mowing or herbicide control prior to the establishment of seeds to prevent the spread of weeds to neighboring properties.

NJFB supports a legislative change that would require municipalities, counties and the state to adopt Best Management Practices (BMP's) such as timely mowing schedules, which would discourage and prevent invasive weeds from growing to a maturity that allow seeds to spread to nearby farm fields when mowed and encourages the promotion of flora that would out compete those invasive species. Current laws addressing thistle alone are not sufficient to protect farms from other invasive species. The current law, that requires control of thistle, needs to be expanded to include mare's tail, and other similar species, as well. This is becoming an increasing nuisance due to lack of control in public areas.



The NJDA currently has the authority to control any disease or pest threat if determined by the State Board of Agriculture that it is dangerous to plants or humans. An example of this would be the authority used to control the Asian Longhorn Beetle and the spotted wing drosophila. Farm Bureau shall seek legislation to ensure the authority to enforce proper land maintenance related to plants, animals, and diseases rests with the NJDA.

Farm Bureau should also seek legislation that would shift the removal expense to the public or private owner of the property. It should also research other means of control such as model ordinances that help local health departments control such noxious species as poison ivy.

Since the recent discovery of the invasive Asian longhorn tick in New Jersey there is a heightened concern since the tick is known to carry various diseases which effect humans, livestock and pets. The NJFB should support legislation to include tick control as part of the county mosquito control departments. The legislation needs to include a mandate for research to develop effective tick control methods and appropriate funding to meet the new mandate.

### Stink Bugs

Instances of BMSB (brown marmorated stink bug) *Halyomorpha halys* control has improved with insecticides and use of biological controls, it is imperative that the monitoring for BMSB continues. Current trends indicate that populations of BMSB could still increase. As such, it is essential that action continue to curb the prevalence of this species.

USDA APHIS is part of an EPA - USDA task force, led by USDA Agricultural Research Service (ARS). ARS is actively researching and coordinating research with cooperators on the best pesticides to control BMSB, along with trapping and timing tools. ARS also has brought in potential biological control agents for BMSB from abroad, which are currently being tested for host specificity in a quarantine facility in Newark, DE. EPA is also part of the task force and promptly issues the appropriate labels for BMSB-related insecticide applications under Section 18.

NJDA has established a BMSB colony in the Alampi Beneficial Lab, and is ready to work with any parasitoids USDA ARS releases. The colony is in its 19th generation. NJDA currently supplies the USDA ARS Newark lab with BMSB nymphs and adults. NJDA also supplies BMSB eggs to Rutgers to assist in their research.

NJFB encourages the NJDA to undertake mass rearing of BMSB parasitoids, when made available by USDA ARS to help control BMSB in the future.

While these coordinated efforts at the federal level are essential, equally important is adequate funding for stink bug research. Currently, research on the best means of managing stink bug populations and limiting stink bug-related damage on farms is being conducted.

Therefore, NJFB should:

- Urge New Jersey's Congressional Delegation to support the efforts of the aforementioned coalition that is pushing for action by USDA and EPA.
- Encourage the NJAES/RCE to develop short-term solutions to effectively monitor and control the BMSB.
- Work to secure additional funding for NJAES/RCE to be used for research on the best methods for limiting BMSB damage on New Jersey farms.

- Work to ensure that current crop insurance programs provide adequate coverage for damage due to the BMSB (written agreements will need to be implemented for NJ crops that don't have an RMA insurance program).

### Spotted Lantern Fly

The NJFB should support the NJDA in the effort to control the spread of the spotted lantern fly and support for funds necessary to assist in control methods. In order for control methods to be effective, a rule change is needed for state-owned farmland, to allow producers to remove the trees preferred by the Spotted Lantern Fly. Financial assistance from the State to conduct tree removal or treatment is also needed.

The spotted lantern fly (SLF) was first detected in Berks County Pennsylvania in 2014. This invasive pest feeds on many crops grown in NJ including ornamental trees, woody trees, vegetables, herbs and grape vines. The SLF has triggered a quarantine in Burlington, Camden, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Salem, Somerset, Union and Warren counties and the pest has been confirmed in Atlantic, Bergen, Cumberland, Hudson, Ocean, Passaic, Sussex counties. The quarantine triggers the need for a permit to move regulated material in and out of the quarantine areas for businesses, municipalities and government agencies. The general public is required to complete a compliance checklist to inspect any regulated articles that are moving in and out of the quarantine area. The regulated items include

- Any living life stage of the Spotted Lanternfly.
- Landscaping, remodeling or construction waste.
- Firewood of any species. • Packing materials (e.g., wood crates, boxes).
- All plants and plant parts including logs, stumps or any tree parts.
- Outdoor household articles like RVs, lawn mowers, chairs, grills, tarps, tile, stone, deck boards, and trucks or other vehicles not stored indoors.

The main effort is to contain the infestation and prevent a severe outbreak in NJ.

The outbreak of SLF has caused California to begin adoption of a rule to quarantine product from infested states unless the required phytosanitary requirements are met. This could impact commerce between states if more states follow California's actions therefore necessitating the need for increased financial support and research to control the pest.

The NJDA SLF control programs is reliant solely on federal funds. NJFB should support new state funding as well as an increase in federal funding to the Alampi Beneficial Lab to improve chemical and biological control of the invasive pest.

### **WILDLIFE MANAGEMENT** (2021)

Wildlife damage to agricultural crops remains a chronic concern for New Jersey farmers and a top priority for New Jersey Farm Bureau.

#### General Wildlife Issues

- As more municipalities adopt "no discharge" or "no projectile" ordinances, New Jersey Farm Bureau should work to educate municipal officials about wildlife-caused crop damage, and strongly encourage them to include agricultural exemptions in these laws.
- New Jersey Farm Bureau should continue its efforts in educating both the public and the Legislature about the increasing problems that wildlife creates for agriculture. Farmers

should be sought out, whenever possible, to present testimony before the legislature on wildlife issues as they relate to agriculture.

- New Jersey Farm Bureau should strongly encourage active wildlife management on local, county and state parks, preserves and other open space.
- All open space land bought with public funds should be required to have and implement a wildlife management plan to maintain populations at or below levels approved by New Jersey Division of Wildlife biologists or be fenced. Wildlife populations, if excessive should be reduced within a specified time period or effective hunting mandated. New Jersey Farm Bureau shall support a legislative change that would mandate wildlife management on all public open space. Additionally, this legislative change should include a provision that those who harbor wildlife, that then cause damage to neighboring properties, should be held financially accountable for this damage.
- Private lands, like corporate parks, golfs courses, etc., that serve as deer refuges, also need to participate in deer management activities.
- Any wildlife reintroduction proposal by the Fish and Game Council or the Division of Fish & Wildlife should include an Agricultural Impact Statement as required by the Right to Farm Act.
- New Jersey Farm Bureau maintains its strong opposition to any plan to shift the control of the Fish & Game Council to non-hunting or non-farming interests or to the DEP. New Jersey Farm Bureau supports the continued autonomy of the Fish and Game Council.
- Farm Bureau also supports the relocation of the Division of Fish & Wildlife, and any associated funding, from the Department of Environmental Protection to the New Jersey Department of Agriculture.
- The contribution of all wildlife, especially waterfowl, to water pollution should be documented for New Jersey waters using DNA testing and other science and technology, including GIS mapping of all impacted sites.
- NJFB supports the enactment of a liability protection law that protects landowners from the responsibility for game code violations committed by hunters while hunting on the landowner's property. This protection should be in effect regardless of whether a landowner charges a fee or allows hunters free access to their property.

### Baiting

Farm Bureau strongly opposes any measure banning the baiting of wildlife, (bear, deer and others). Baiting is a necessity to properly and safely control hunting situations in New Jersey's mixed residential and open space areas. The sale of (not limited to) corn, sweet potatoes and apples is also a strong revenue source for New Jersey farmers and local retail businesses. Any measure calling for special bear proof trash receptacles will be a cost burden for New Jersey residents, and will also be a time burden for waste collection companies. Farm Bureau should request a fiscal impact report for the above-noted bills, so the true cost impacts of this legislation can be taken into consideration. By prohibiting baiting, wildlife populations will significantly rise, resulting in increased motor vehicle collisions, the spread of Lyme and other tick-borne diseases, home invasions by bear, crop damage and municipal waste collection expenses. New Jersey Division of Fish and Wildlife should have the authority to make all rules to facilitate and encourage baiting under and around tree stands, including, but not limited to bears.

### Deer

Increasing reports of crop damage caused by deer in 2017 led New Jersey Farm Bureau to form an ad hoc deer committee. The purpose of this committee is to discuss and recommend methods and strategies that may help decrease the deer population and the damage that they

cause. NJFB, with financial assistance from county boards of agriculture, hired a consulting firm to conduct infrared drone-based deer surveys in several areas of New Jersey. In every test area, the surveys showed a dramatic over-abundance of deer. Additional surveys may occur in the future. NJFB will use the data from these surveys, along with farmers' reports of damage, to influence legislators and regulators to make changes in deer management. NJFB has also engaged the services of a public relations firm to help build coalitions and strengthen public support for proper deer management.

The deer committee continues its work and is currently studying the following deer management and damage mitigation strategies:

- Renew the focus on antlerless harvest and a reinstatement of Earn-a-Buck in problem areas and encourage the F&G Council to consider requiring the harvest of multiple antlerless deer in the areas suffering from the most damage.
- Make hunting more affordable. One way to accomplish this would be to change the system where hunters must purchase a permit for each zone they hunt, to permits covering multiple zones – perhaps entire regulation sets. The Division of Fish & Wildlife has adopted a new multi-zone permit that allows the purchaser to hunt in all zones in either regulation set 7 or 8, while paying the price of only two zone permits.
- Investigate the option of changing State law to allow for the commercial harvest of venison, perhaps beginning with a small-scale pilot project.
- Continue support for funding for venison donation programs, and support for the Hunters Helping the Hungry program that utilizes a refrigerated trailer to store deer harvested on depredation permits.
- Address the need for more butchers and meat processing facilities in New Jersey to handle the increase in venison donations.
- Expand weekend hunting days specifically to increase hunter participation. This may include a legislative change to allow firearm hunting on Sundays.
- Continue to study and evaluate non-lethal control methods in addition to hunting.
- Work with farmers to create a map of deer “hot spots” and then share with the Division of Fish and Wildlife in order to adjust Deer Regulation Sets accordingly.
- According to the Division of Fish & Wildlife, access to open space and farmland is cited as the most critical inhibitor of adequate deer management in New Jersey. NJFB should work to educate and encourage private landowners to share the burden of managing the herds of deer that explode onto neighboring roads and farms when left unchecked. This should extend also to private as well as public landowners including absentee landlords and corporate parks.

### Depredation Permits

Depredation permits are a very useful tool in combatting crop damage caused by wildlife. However, receiving these permits in a timely way is essential to their efficacy. Some modifications to the way permits are currently issued and enforced, could improve the effectiveness of this management tool. New Jersey Farm Bureau must work with the Division of fish and Wildlife and the Bureau of Law Enforcement to find ways to streamline and improve this process.

- Streamline the application process for depredation permits. This includes making on-line applications available, and saving application information from previous years, so it does not need to be re-entered each year. All depredation permits should be valid and allow

for control activities for one year, on the entire farm, regardless of harvest season or area.

- Allow applications to be edited or updated as needed, instead requiring a new application each time a change is needed.
- Seek a legislative amendment to allow farmers to use a shot gun and/or bow when utilizing a depredation permit.
- Update the automated check-in system currently used for the hunting season, to also allow farmers to check in deer taken on depredation permits.
- Clarify what qualifies as proper disposal of carcasses.
- Strengthen communication between the agricultural community and law enforcement to ensure all rules and regulations are clear and enforced uniformly.

Fencing – Farm Bureau supports the following:

- The reinstatement of program state funds for a deer fencing program.
- The Green Acres program should develop a similar program to that of the SADC, where deer fencing grants could be made available to owners or farmers leasing preserved open space.
- In addition to a state program, USDA should consider amending their programs to include deer fencing as an eligible practice for cost-share grants.
- Special priority should be granted to those applicants with land adjacent to publicly owned or other non-hunted land.
- Research and funding for other types of fencing that may be less expensive or labor intensive to install.
- While fencing is important, it is not always practical for producers of larger acreage crops. Farm Bureau must ardently support other forms of wildlife controls in addition to fencing.

### Black Bears

The lapsing of New Jersey's Comprehensive Black Bear Management Plan effectively ends all recreational black bear hunting after 2020. This complete absence of population management will lead to an increase in black bear populations, and human/bear conflicts that can be not only damaging to agriculture, but dangerous to our residents in general. The Division of Fish and Wildlife and the Fish & Game Council must work with the DEP Commissioner to develop and adopt a new comprehensive plan. NJFB supports the resumption of an annual bear hunt on private and public land.

New Jersey Farm Bureau opposes any plan that calls for the relocation of black bears. This wildlife resource must be managed, not simply moved to another location in the state. NJFB also recommends the Division consider spaying/neutering bears that are captured in urban areas, before releasing back into the population.

### Other Species

- There should be an increase in the number of available turkey permits.
- Black vultures and Cow Nose Rays often cause problems for livestock producers. NJFB shall encourage the Division to investigate a control program in place for these species.
- The use of the Rodenator™ should be permitted for the control of ground hogs. New Jersey Farm Bureau shall support a regulatory change to allow the use of this control method.
- NJFB supports the continued, legal use of propane cannons for bird damage control.

## Trapping

The legislature prohibited the use and possession of steel-jawed leghold traps in New Jersey in 1984. In an October 2016 appellate court ruling, the enclosed foothold trap was ruled to be an acceptable means of trapping wildlife like opossum and raccoon. This court ruling upholds the decision of the Fish & Game Council to allow the use of the traps in face of political opposition by anti-hunting and trapping groups. NJFB shall oppose any legislation to prohibit or restrict the use of any tools for wildlife management including cable restraints.

## Federal Wildlife Issues

- New Jersey Farm Bureau supports an increase in the federal funding for the USDA APHIS Wildlife Services federal program and budget and will oppose the annual attempts of environmental groups to cut and divert their funding.
- Specific attention needs to be given to expanded control of resident Canada goose and snow goose populations, including increasing the number of animals allowed to be taken on a depredation permit.
- New Jersey Farm Bureau has begun working with other state farm bureaus, American Farm Bureau and staff from the U.S. Fish and Wildlife Service to identify and develop new and more effective strategies to control Canada and snow geese.

## **MINIMUM WAGE / LABOR SUPPLY AND MANAGEMENT** (2021)

The Minimum wage bill signed by the Governor increased wages for all NJ employees. The first increase took effect July 1, 2019. The non-agriculture employee wage will reach \$15 per hour on January 1, 2024, and the agricultural wage will reach \$12.50 on the same date. The status of the agricultural wage beyond 2024 will be based on recommendations of the Secretary of Agriculture, Commissioner of Labor, and a representative appointed by the Governor and confirmed by the Senate to be a deciding vote, if needed. The law did provide a formula to increase the agricultural wage if an alternative action is not decided by the three-member committee. The formula in the law will escalate the agricultural wage to match the non-agricultural wage by 2030. The three-member committee will have until June 30, 2024 to determine whether to approve or disapprove the wage increase, as directed in the law, or approve an alternative manner of changing the agricultural minimum wage after 2024.

NJFB should consult with Rutgers New Jersey Agricultural Experiment Station to develop an economic study on the impact to the agricultural industry from future agricultural minimum wage increases. This should be an ongoing study to document the impact of the wage increase, since in 2024 the law directs the Commissioner of Labor and the Secretary of Agriculture to evaluate the following impacts on agriculture.

1. Impact on farm employers and the viability of the State's agricultural industry;
2. Potential impact of the future increases as recommended by the law beyond 2024;
3. Comparisons with the wage rates in the agricultural industries in other states.

The increased payroll expenses and inability to set prices to offset revenue will cause a significant impact on the viability of labor-intensive agriculture. This will require a need to explore opportunities to offset farm employers' additional payroll cost. Some of these offsets could include the following recommendations from the New Jersey State Board of Agriculture.:

1. Farmworker Job retention Grants - This would be an annual grant assistance to NJ farmers based on the difference between the constitutionally mandated minimum wage levels and the newly scheduled increases under the new law.

2. Definition of Agricultural Worker - Redefine the definition of Agricultural worker under the minimum wage law to include retail employment on farms.
3. Tax credits for Farmworker Housing and Transportation – Many growers are responsible for the housing and transportation cost for workers to travel to their farm for employment from another state or country. The enactment of the tax credit would help offset some of these added expenses beyond the minimum wage increase.

NJFB must oppose any future agricultural employee wage or benefit increase if it does not include an exemption for agriculture or some form of offset for NJ farm employers. The off-set justification is based on the additional cost for housing, utilities, transportation among other expenses that other industries do not provide.

#### Covid-19

The agriculture industry has endured a difficult season starting with the unknown of labor supply causing some growers to adapt to less labor for the season. Those farms that use labor had to implement extensive precautions to provide safe work environments for their employees. The NJ Department of Health, NJ Department of Labor and NJ Department of Agriculture, recognizing the potential risk with farm labor housing, collaborated on creating guidelines for agricultural employers to help protect employees. These protections included voluntary COVID-19 testing for all agricultural workers administered by local federal qualified health centers (FQHC). The agricultural industry was able to prevent the severe outbreaks that were anticipated at the start of the season due to the communal housing utilized on many farms. The NJFB assisted in trying to make farms aware of the guidelines and encouraged growers to take full precautions. Although the agricultural industry felt it was able to keep the outbreaks within a reasonable number, some legislators felt the NJDOH guidelines should be mandatory and lack of compliance should result in monetary violations. The NJFB feels the legislative bill A4404/S2602 goes beyond COVID-19 prevention and current guidelines mandate requirements that may not fit precautionary measures for future pandemics. The NJFB believes this legislation imposes stricter standards on agricultural employers than other business sectors and opposes the legislation without significant changes.

NJFB believes the current NJDOH agriculture worker guidelines provided growers the ability to adjust their operations and implement the precautions as directed in the guidelines while improving safety precautions for their employees. The testing of workers became a forefront issue even as many growers were not properly informed of the initiative and why it was needed. When this became apparent, the NJFB and NJDA took an active role in reaching out to employers regarding the availability of farm visits by the FQHC. Growers were also encouraged to use the services of the FQHC to help educate their workers on Covid-19 and testing if needed.

NJFB supports the bills S2596/A4505 which appropriates \$5 million in federal funds to Department of Health for grants and stipends to ensure health and safety of farm workers. This funding could help offset some of the expenses farms used to meet the COVID-19 guidelines and for funds needed future safety measures.

#### Labor supply

Critical issues of economic viability of farms affect hired labor availability and affordability. It is a factor for farms in all commodity groups, not just those using large numbers of seasonal workers in the field and packinghouse.

Growers who employ workers on their farm are concerned about the availability of reliable workers who are accustomed to farm work. Shortages appear in some short-season commodities like blueberries and many farms report having an insufficient number of workers relative to the total number desired.

In addition, this emerging shortage is aggravated by the uncertainties of the legal status of some workers. The appearance of valid-looking documents is sufficient to commence employment, but over the long term there is a concern for whether many of these workers will return due to the increase in border security.

The availability of a legal workforce remains a critical, unresolved issue because there has been no movement of an immigration reform bill. There should be a new concentrated effort to resume the push for a congress to develop and pass an immigration reform bill.

#### Immigration reform

NJFB should advocate for an immigration reform legislation that contains the following policies:

- Adjustment of status or workers ability to remain in the country on a guest worker program.
- H2A reform or by way of another new guest worker program that streamlines the process and mandates a wage lesser then the current Adverse Wage Rate and eases the requirement for advertising prior to hiring in local newspapers.
- A guest worker bill should not have a cap at all or have a cap that is sufficient to provide an adequate number of agricultural workers in the U.S.
- A work visa that provides year-round labor force for agribusiness such as Dairy.
- NJFB opposes the requirement to use E-verify absent a revised agricultural industry supported guest worker program.

Many New Jersey farms use the H-2A agricultural worker visa program; however, many additional farms, forest product producers, dairy producers, commercial fishermen, and Landscape/Nursery businesses also use the H-2B visa program to meet their seasonal labor need as the H-2A program is unavailable to them for non-farm production job positions. This is especially true in a state like New Jersey where there are many farm businesses that need employees for their retail, value-added, and customer facing operations. The H-2B visa program is a critical source of reliable labor for jobs that are difficult, if not impossible, to fill with domestic workers. While these are good paying jobs, many domestic workers aren't interested in seasonal full-time employment that may only last for a period ranging from a few weeks to several months. Yet these workers are critical for farm, forest, dairy, fishing, and landscape businesses to serve their customers' needs during their peak seasons.

These H-2B workers are key to these farm businesses' success and which in turn make them a key part of the state's economy. Agriculture, in its broadest definition, is the Garden State's third largest industry and Farm Credit East, New Jersey's primary farm lender, recently estimated that agriculture and related activities contribute over \$11 billion to the state's economy; which includes over 50,000 jobs.

The utilization of this legal source of temporary labor; however, is stymied by an annual cap on the total number of H-2B visas that can be issued per federal fiscal year. The cap, 66,000 is estimated to be less than half of what the current demand for these workers truly is. The



consequence is that impacted businesses cannot source sufficient labor for their businesses hurting them financially and impacting their ability to maintain the long-term viability of their businesses.

For these reasons, NJFB supports all legislative efforts to increase the annual H-2B visa cap. NJFB also supports any means by which cap relief can be achieved on a temporary basis, including “returning worker exemptions,” seasonal cap waivers, Executive Orders, actions by the Secretary of Homeland Security, and more. NJFB also supports recent USDOL proposals to amend recruitment advertising for H-2A and H-2B to be accomplished by online advertising as opposed to newsprint.

#### USDOL/MSPA

Reform of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) is needed for provisions related to housing, transportation, wages and benefits, and recruitment of migrant and seasonal farm workers. 1) The Joint Responsibility mandate must be clarified. The farmer should not be considered a joint employer unless he/she performs a certain number of employer-like functions, such as supervision of work, preparation of payroll, and payment of employment taxes. 2) A 10-day grace period should be given to farmers to correct MSPA related paperwork errors before a fine is levied. 3) To avoid conflicts and duplicative enforcement actions, federal housing standards should be applied only in the absence of applicable state or local standards. 4) Return the responsibility for regulation of farm worker transportation insurance to the states. 5) Impose a statute of limitation on MSPA enforcement actions and lawsuits brought under the MSPA private right of action.

Agricultural employers feel that the USDOL has changed their emphasis from education for compliance to monetary violations for compliance. The growers feel that they are experiencing increased scrutiny by USDOL inspectors than in the past. Growers also feel federal USDOL purposely omitted information at county labor meetings regarding future policy enforcement on kitchen charges. The lack of specific guidance by USDOL on some regulations has left growers questioning meal charge allowance for workers. NJFB should require the USDOL to provide more clarity on the meal charges since many growers suffered violations under this regulation. NJFB should investigate if data is available quantifying that amount of fines levied each year by the USDOL to verify if there is an increase in fines levied against agriculture under this administration.

NJFB should also advocate for a level of confidentiality regarding fines levied by DOL. Publication of fines by DOL only serves a political agenda and besmirches an entire industry that has an overall clean record.

Farm employers need to be aware of a current emphasis on rules pertaining the Fair Labor Standards Act, Migrant Seasonal Worker Protection Act and Child Labor laws. New Jersey Farm Bureau can assist with providing information in each of these areas.

New Jersey Farm Bureau should oppose any legislation that would remove the overtime exemption for agricultural workers and support the overtime exemption currently in place.

The NJFB is also opposed to using a constitutional amendment as an avenue to amend the current minimum wage. NJFB should continue to oppose constitutional amendments as an avenue to change policy and law.

Possible ergonomics regulation remains a concern for agriculture. Regulation of work motions that are repetitive and sustained would be incredibly onerous for agriculture. Farm Bureau shall oppose a future ergonomic regulation without the results of a proposed study from the National Science Foundation (NSF). Even with those results, ergonomics regulations must contain an exception for agriculture. Farm Bureau supports a NSF study and an exception for agriculture.

In order to address the need for skilled “middle management” employees, New Jersey Farm Bureau should work with county colleges and Rutgers to develop 2-year degrees in targeted agricultural areas.

#### Health Insurance

The Patient Protection and Affordable Care Act signed into law in 2010 requires large employers (business employing more than 50 full-time workers) to provide health coverage for their employees or pay an excise tax penalty for those employees. Full time employees are those that work 30 hours per week and more than 120 days. Employees working less than 120 days are considered seasonal and do not count towards the 50 employees.

With many NJ farms producing crops from early spring until late fall the production season last much longer than 120 days. This means many of the larger farms would be subject to the requirements of the law.

The NJFB should work with the American Farm Bureau to seek a change in the definition of seasonal worker to 6 months or have agricultural workers defined as seasonal workers.

New Jersey Farm Bureau opposed the Earned Sick Leave legislation however, the bill passed the legislature and was signed into law by the governor and took effect on October 29. The bill contained no exemptions for any business regardless of size. The law requires 1 hour of sick time for every 30 hours of work with a max of 40 hours of sick time to be accrued. NJFB shall seek appropriate rule changes to provide as much relief for the ag industry and seasonal employers as possible.

Increased payroll expenses negatively impacted the affordability of Workers Compensation for all farms in every commodity group. NJFB should advocate that the basis of a Workers Compensation Premium should only include remuneration for actual labor. Any remuneration for sick leave, vacation, holidays or bonuses should not be a basis of the premium and therefor help to offset insurance costs.

#### **TRUCKING/MOTOR VEHICLE REGULATIONS** (2021)

The motor vehicle laws and regulations affecting agricultural vehicles are numerous and complex. In an effort to keep the farm community up to date on these laws, New Jersey Farm Bureau continues to update and distribute its handbook on motor vehicle regulations for farmers to any Farm Bureau member or law enforcement entity upon request.

#### State Regulations

Farm Bureau should seek legislative changes for the following state motor vehicle regulations.

- A legislative change that would allow farmers to use their farmer trucks for private snow plowing contracts.
- A regulatory change to allow the personalization of “farmer” plates.

- A regulatory change for oversize agricultural equipment. The current law requires flags at four corners of vehicles and equipment over 8 feet wide. Warning lights should also be allowed to be used as an alternative to flags since most new equipment has lights installed at its widest points.
- Legislation that would allow UTV/gator-type vehicles to be used on the road as farm equipment, by farmers or farm workers.
- A regulatory change that exempts DOT# for intrastate travel of vehicles 10,001 pounds or more. Historically, intrastate vehicles were exempt until 2016 when New Jersey adopted the Federal Motor Carriers Safety Administration Regulations without an exemption for the DOT requirement.
- A regulatory change is recommended to allow the transportation of farm equipment up to 18ft wide on public roads without any special permit if the appropriate safety precautions are taken. Pennsylvania recently expanded their with limitations and NJ could mirror the Pennsylvania law.
- There is a need to review the current inability to register with NJMVC self-propelled sprayers that are used for hire.

#### Federal regulations

- The heavy use tax exemption should be expanded beyond the current 7,500 miles. Farm vehicle travel is limited based on the seasonality of the industry, but the mileage limitation should be expanded to 15,000 miles.
- NJFB should support the permanent exemption for the electronic logging device requirement for livestock. (Currently agricultural commodities are exempt from the ELD requirement within 150 miles of the farm.)

New Jersey Farm Bureau should work with the NJDA to encourage the NJ Motor Vehicle Commission to open all motor vehicles agencies to all services. The state has designated specific centers as licensing facilities and the others as registration facilities. This leads to extensive travel for some farmers across the state to renew registrations for their farm trucks and equipment.

New Jersey Farm Bureau should encourage the NJDA to explore the process for adopting planting dates for the state. These planting dates are needed since some FMCSA regulations are dependent on those dates. Many states have adopted year-round growing seasons with the use of indoor and greenhouse production.

Periodically, Farm Bureau should undertake a comprehensive review of all relevant motor vehicles regulations effecting agriculture. In particular, this review should serve to identify any outdated or inconsistent regulations. To assist in this process, Farm Bureau should establish a working group of farm operators to provide guidance and insights about specific regulations or regulatory interpretations that should be evaluated as part of this comprehensive review.

The NJFB should investigate the obligation to use tow trucks dispatched by law enforcement. These tow companies can often be overpriced and take advantage of a situation involving an inoperable vehicle.

The NJFB should encourage the state to promote public awareness during most active times of the year when farm machinery is traveling on public roads. The increased traffic on many rural roads has made transportation of farm equipment more difficult. The public awareness should

also include a strong emphasis on ~~include~~ the law that vehicles must slow down to the speed of the farm equipment before passing. There also needs to be more public service announcements and enforcement of passing laws when farm equipment is passed on double yellow lines putting the farmer and other oncoming traffic at risk.

Farm Bureau should explore opportunities to educate state and local police about these same motor vehicle regulations affecting farm businesses.

Federal Motor Carrier Safety Administration (FMCSA) rules grant states the discretionary authority to exempt individuals who operate a farm vehicle, as outlined in the rule, from CDL licensing. The FMCSA rule states that the waiver is limited to the driver's home state unless there is a reciprocity agreement with adjoining states. New Jersey exempts farmers operating farm vehicles from the CDL. Most states have a similar exemption for their farmers, but very few reciprocity agreements exist between the states. New Jersey has been successful in signing reciprocity agreements with Pennsylvania and Delaware confirming that both states acknowledge the CDL exemption for Farmers. While the NJ Department of Agriculture has asked New Jersey Motor Vehicle Services to request the necessary reciprocity agreements from the other states within 150 miles of our state's lines (CT, NY, RI, VT, NH, MD VA and WV), no other reciprocity agreements have yet been signed. New Jersey Farm Bureau urges the NJDA to continue working with the Motor Vehicle Service to expedite the adoption of these reciprocity agreements.

New Jersey supports a change in regulation to allow holders of international driver's licenses to operate vehicles with a gross vehicle weight up to 25,999 pounds, as opposed to the current limit of 7,700 pounds.

### **WATER QUALITY REGULATION/WATERSHED PLANNING ISSUES** (2021)

New Jersey Farm Bureau seeks a science-based, practical approach to water quality regulations and watershed planning.

Taking action to improve water quality on their farms has become increasingly difficult and expensive for NJ farmers. There is no technical assistance from NRCS available unless the farm owner is participating in a Farm Bill program. The soil and water conservation money administered through the Farmland Preservation Program is only available on a limited basis.

#### **Stream buffers and freshwater wetlands**

In the spring of 2020, 600 miles of rivers and streams were upgraded to Category One waterways, increasing protections to include a 300-foot buffer on all designated waterways. This was done through an amendment to the Surface Water Quality Standards that codified these new C1 streams and was published in the New Jersey Register on April 6, 2020. In August 2020, Farm Bureau joined an appeal as an amicus party to challenge the DEP's April 2020 adoption of C1 stream upgrades. The rule prohibits development within 300-foot buffers on either side of the stream, some of which affects agricultural lands. NJFB submitted written comments in 2019 expecting the newly protected waterways to grandfather existing agricultural practices that occur within the new buffer zones resulting from this expansion of delineated waterways. Current DEP rules for C1 streams already ensure the continuation of existing farm practices without interference of the rules and we anticipate this to apply likewise to any new buffer zones within current farmland areas.

Non-point Source Pollution, TMDL's

In response to the EPA requiring all states to show progress in controlling pollution from all nonpoint sources including agricultural operations, New Jersey has been developing specific pollutant loading limits (Total Maximum Daily Loads - TMDL's) for nutrients, pathogens, sediment, mercury, and metals, temperature, pH, dissolved oxygen, and pesticides on all stream segments or water bodies in order to meet New Jersey's Surface Water Quality Standards (SWQS). The Barnegat Bay and the Raritan River Basin have been made the subject of detailed TMDLs that identify and quantify existing pollutants. Agriculture, the largest and most easily identifiable land use in the Basin, is supposed to aid in the cleanup by reducing stormwater flows that cause soil erosion (sediment pollution) and its use of phosphorus fertilizer by 70 percent over the next 10 years. Farm Bureau and the Department of Agriculture expressed doubt that this could be done because the amount of crop production in that watershed has shrunk over the past years.

Farm Bureau will continue to monitor the TMDL process so that agriculture does not bear an unfair burden in correcting impairments in state waters.

The agricultural industry is often cited for runoff pollution without any consideration for the suburban/homeowner lawn fertilizer sources. Farm Bureau will work with RCE to ensure that the BMPs help address the issue and allow agriculture to work on its own issues with appropriate soil/water conservation practices.

#### Stormwater management

NJ agriculture's major contribution to nonpoint source water pollution is said to be soil sediment carried by stormwater runoff. The New Jersey Department of Environmental Protection Storm Water Management rules (N.J.A.C. 7:8) establish minimum design and performance standards for development by managing water quality, quantity, and groundwater recharge impacts from storm water runoff. These rules have created more stringent storm water management standards for land developments in the state, including agricultural construction projects subjected to the same rules and standards as commercial and other land developers. There are concerns about the application of this rule requirement for farm construction projects, especially for minor ones for which streamlined, less expensive and time-consuming kinds of regulation should be possible.

Therefore, Farm Bureau strongly encourages the New Jersey Department of Agriculture to continue to work with the New Jersey Department of Environmental Protection in coordinating the establishment of standards and permitting for farm construction projects that would depend upon the scale and nature of the project. Depending on the conditions of the rule, a permit-by-rule provision in the stormwater management rule shall allow for a specific regulated stormwater management practice to be undertaken without written approval from the NJDEP.- Additionally, Farm Bureau will support the use of a Farm Conservation Plan in addressing the management of storm water runoff for water quality, quantity, and groundwater recharge.

In 2018 the legislature passed bills to authorize municipalities, counties, and certain authorities to establish stormwater utilities. NJFB made sure that there was an exemption from fees and other charges for land actively devoted to agricultural or horticultural use that is valued, assessed and taxed pursuant to the "Farmland Assessment Act of 1964".

Farm Bureau should:

- Work to coordinate federal and state programs dealing with non-point source pollution and stormwater runoff with a focus on farmland owners in areas with TMDL programs in place.
- Work to ensure that funding and technical assistance are available to help NJ farmers comply with any new regulatory requirements.
- Be vigilant in following national issues on mandated water quality standards and nutrient management such as the case of the Chesapeake Bay TMDL and the Florida numerical nutrient criteria, which may serve as a national model for water quality and watershed management. Issues such as these have the potential to impact how water quality standards and TMDLs are addressed in any state in the future.
- Encourage the agriculture community to take advantage of cost-share funding to address storm water and non-point source runoff from farms where needed.

## NJ PACT

Governor Murphy's Executive Order 100 directed NJDEP to identify specific rules, guidance documents and other regulatory mechanisms to revise by integrating climate change considerations. NJ PACT was created to address this targeted regulatory reform that will modernize the land use rules in New Jersey. This has the potential to include changes to DEP's Coastal Zone Management Rules, Freshwater Wetlands Rules, Flood Hazard Control Act Rules, and any other regulations that address flooding and chronic inundation. It is anticipated that the proposed rules will be published in the New Jersey Register in January 2022. Farm Bureau will continue to be active in monitoring this reform.

## Animal Feeding Operations/Concentrated Animal Feeding Operations (AFO/CAFO)

The NJ DEP establishes permitting requirements and effluent limitations for concentrated animal feeding operations (CAFO) in NJ through the New Jersey Pollutant Discharge Elimination Systems rule (NJPDES). NJ's CAFO rules are the strictest in the nation though there are few farm operations defined as CAFO's in NJ. Farm Bureau will continue to monitor both state and national rules, court cases, and other actions that impact all animal feeding operations.

The Animal Waste Management rule (a.k.a. AFO rule) and Criteria and Standards adopted by the NJDA in March 2009, has had minimal impact regarding the farm operator and the NJDEP in the implementation of this water quality improvement measure. Only half of the 1358 farms identified by the National Agricultural Statistical Service having more than 8 animal units, have certified that they have a plan in place.

Assistance in meeting the rule requirements has and will continue to be provided by Rutgers University, soil conservation districts, NRCS, and the NJDA. New Jersey Farm Bureau staff will continue to work with our membership and the NJDA to ensure that this rule is understood and that assistance is available for plan development and implementation to all New Jersey livestock owners.

## NJPDES and farms

The NJPDES Program protects New Jersey's ground and surface water quality by assuring the proper treatment and discharge of wastewater (and its residuals) and stormwater from various types of facilities and activities. To accomplish this, permits are issued limiting the mass and/or concentration of pollutants which may be discharged into ground water, streams, rivers, and the ocean. The types of regulated facilities can range from very small users such as campgrounds, schools, and shopping centers to larger industrial and municipal wastewater dischargers. A

business or property gets pulled into the NJPDES system when their septic system capacity exceeds 5 residential units of 2,000 gallons of waste- water.

This has become a problem for both preserved and non-preserved farms that have added additional septic capacity either because of labor housing needs, existing septic systems and additional septic systems for farm markets, or food processing. The rules apply to a single landowner or business and encompasses all their holdings. Once the unit capacity is reached, the NJPDES permit process begins. This is an expensive engineering and environmental impact process.

NJDA worked with the NJDEP to create a general permit for up to an additional 2000 gallons of water for commercial purposes on farms. The draft permit was published in the NJ Register on August 18, 2021. NJDA is hopeful to create an additional general permit for more than 2000 gallons. NJFB will continue to monitor this progress.

### **NEW JERSEY AGRICULTURAL EXPERIMENT STATION (NJAES) AND THE COMMITMENT TO PRODUCTION AGRICULTURE (2021)**

The New Jersey agricultural community is faced with a multitude of challenges. The New Jersey agricultural community is faced with a multitude of challenges that threaten its viability and sustainability. These include increased land use regulation, rising production costs, right to farm issues, water quality concerns, wildlife damage, and rising taxes. Unexploited market opportunities and limited access to innovations that would enhance prosperity, stewardship potential and compatibility with other land uses also severely impact sustainability and viability. Given the impacts and public benefits of the agricultural and food system complex, not only in rural areas but also in the state's urban and suburban communities, these constraints impinge upon assuring food security, nutrition and health, water quality and supply, environmental sustainability, economic development and quality of life in the Garden State. It is for these reasons that the Governor and the Legislature must increase support for NJAES as it plays a vital role in helping farmers innovate and viably and sustainably produce food and fiber for our communities and our world.

Nevertheless, significant challenges remain. NJFB and the agricultural community must continue to focus the leadership of NJAES on analyzing the impact to the Experiment Station as each agent/specialist retires and to hire and/or shift responsibilities to ensure coverage of the impacted areas of responsibility. NJFB shall continue to advocate to the leadership at NJAES that they must continue to grow the focus on the unique Land Grant Research and Extension program that has historically promoted great agricultural production efficiencies and that will plan for the capacity needed to meet future mission-aligned program needs to take place keeping production ahead of population growth, developing new innovations and value added products and providing for a better standard of living for society as a whole.

NJFB and the ag community are deeply concerned about further attrition of expertise and experience as many of our most valued agricultural agents and specialists become eligible for retirement in the next few years. In the past, a significant number of retirements without hiring replacements have negatively impacted the delivery of critical agricultural programs across the state. NJFB shall urge the NJAES leadership to initiate the search process once a retirement is announced, thus expediting the process to insure a smooth transition.

There are applied research areas which were covered by specialists in the past and are not covered now; yet are sorely needed by production agriculture. Though some progress has

been made, there continues to be shifts in personnel where a highly effective Extension Specialist has retired and a replacement has not been recruited to address industry needs. All of this has been done during a time of budget cuts. Farm Bureau believes support for production agriculture has suffered cuts disproportionate to other sectors of the Land Grant System.

NJFB must continue to urge the leadership at NJAES to maintain a balance between tenure track agricultural agents that deliver an educational program to the agricultural community with sufficient specialists to meet the applied research needs of the agricultural community. Research happens in areas where grant money can be found, rather than originating from production agriculture needs. Funding sources need to be available for research for production needs in a timely fashion. Funding for applied agricultural research should be supplied more through formula funding from USDA and less through competitive grant funding.

NJFB shall continue to work with the Board of Managers to educate the Governor and the legislature about the value of the land grant system and the diverse range of research, extension and education programs that serve the people of New Jersey and the urban, suburban and rural communities. The Cooperative Extension offices in the counties along with the New Brunswick-based NJAES Centers and Institutes and its seventeen statewide off-campus research stations comprise the backbone of the delivery system of valuable programs to all residents of New Jersey.

NJFB shall continue its efforts to educate the Governor and the legislature about the funding structure at NJAES. NJAES is disproportionately impacted by budget cuts because unlike Rutgers University, NJAES does not receive tuition revenues and therefore cannot make up for lost budget dollars with tuition increases.

Farm Bureau is encouraged by the appropriation of a supplemental \$3.0 million in the ~~FY'2021~~ state operating budget for general NJAES needs, as well as the \$95,000 in additional funds for the Equine Science Center. It looks forward to learning about the allocation of these funds in support of production agriculture's needs and to a continuation of these supplements in upcoming state budgets.

We strongly urge the State Board of Agriculture, NJAES Board of Managers, and County Boards of Ag to join Farm Bureau's efforts to work with the Governor, the Legislature and the County Boards of Commissioners to increase the base budget of the NJAES and provide a higher level of stable state funding for NJAES research and extension.

NJFB supports the NJAES administrators' announcement that most of this additional funding will be devoted to production agriculture interests in the form of infrastructure improvements (research farm facilities, equipment, etc.). Building upon these recent and much-needed State re-investments in NJAES, NJFB shall support the experiment station's ambitious 5-year investment plan to further revitalize its outlying stations in support of agriculture, aquaculture, climate-related and resource conservation programs, the nexus of food and wellness, and other strategic focus areas aligned with the NJAES' research farms and facilities as premier points of research and innovation, demonstration and extension programming. Farm Bureau also encourages NJAES administrators to heed specific Board of Managers' recommendations on the use of these funds for priority programs needed by the agricultural community (e.g., wildlife management, IPM, etc.).



This will be highlighted by the updated needs assessment now underway with county boards of agriculture. At the same time, supplemental or “special purpose” state appropriations, while vital for making needed capital investments at the experiment station, cannot be used for hiring faculty and permanent staff. We therefore strongly urge the State Board of Agriculture, NJAES Board of Managers, and County Boards of Agriculture to join Farm Bureau’s efforts to work with the Governor, the Legislature and the County Boards of Chosen Freeholders to increase the base budget of the NJAES and provide a higher level of stable state funding in order to support the staffing needed to fill existing program gaps and plan for future program needs across the state that fall within NJAES research and extension mission areas.

Financial support from county Commissioners is an indispensable source of funding for Cooperative Extension which farmers truly appreciate.

The current accounting system used by the university, Responsibility-Centered Management (RCM), does show the transparency of financial details but does not work for a land grant university. NJAES & RCE are research and service-based units and should be removed from RCM. There needs to be a sustainable funding mechanism that brings stability to the vital programs provided by NJAES & RCE.

NJAES experienced significant transition in its leadership with the retirement of executive dean Dr. Bob Goodman and research director Dr. Brad Hillman. NJFB welcomes the succession of their replacements, interim dean Dr. Laura Lawson, director of administration and strategic development Dr. Peggy Brennan, and research director Dr. Wendie Cohick. Together with extension director Dr. Brian Schilling, this leadership at the NJAES weathered a fierce storm of budget cuts and other adjustments during the past year brought about by the coronavirus pandemic. We applaud them for keeping their balance in maintaining the continuity of service during these past tumultuous months.

Farm Bureau is pleased with the outcome of the state budget for July 1, 2021 to June 30, 2022, thanks to the support of the legislature and Murphy administration. We look forward to working with the Board of Managers toward the implementation of service for production agriculture.

### **NEW JERSEY AGRICULTURAL EXPERIMENT STATION BOARD OF MANAGERS (2021)**

The Board of Managers serves as a two-way communications link for conveying information between the Rutgers New Jersey Agricultural Experiment Station (NJAES) and the agricultural community and other constituency groups through the County Boards of Agriculture. Representatives from each County Board of Agriculture ensure grassroots input from the agricultural community to the NJAES to help shepherd our state’s land grant institution. The board also serves as the advocate for the experiment station and provides advice to the Executive Dean and Executive Director of the experiment station on issues that concern the programs of the experiment station including Rutgers Cooperative Extension (RCE). The Board of Managers consists of a representative from each county board of agriculture, the president of the university, the director of NJAES and the NJ state secretary of agriculture as ex-officio members and a six-member statewide advisory committee.

In order for the Board of Managers to best represent the broad constituency of NJAES, members should be encouraged to reach out to stakeholder groups that may not be aware of

the advisory role held by the Board of Managers to NJAES. In addition to agriculture, these stakeholder groups include: fisheries, urban and community outreach, youth development, food, nutrition and health, and related areas of economic and workforce development. Likewise, the leadership at NJAES needs to communicate to these stakeholder groups through its faculty and staff that there is a Board of Managers representative in each county that they can reach out to if there is a concern or comment about NJAES.

The New Jersey Farm Bureau supports the Board of Managers in this advisory role and urges the County Board of Agriculture representatives to fully partake in the responsibilities of the Board of Managers, to maintain the benefits for agriculture from this longstanding relationship. The Board of Managers requests each county appoint a non-voting alternate representative to attend Board of Managers' meetings, serve on committees and relay information in the absence of the county's designated representative.

NJFB urges the Board of Managers at their annual meeting with the University President and Board of Governors to give an annual report and to have discussions regarding the prior year's progress and future needs of production agriculture. Farm Bureau looks forward to the updated dialogue with the Rutgers administration to continue the current, as well as 4-H Youth Development, Family and Community Health Sciences (FCHS), and other NJAES mission-aligned programs and priorities spirit of cooperation for NJAES. This dialogue should also serve as a reminder about the importance of continuing to prioritize production agriculture research and extension work as a critical component of the university's overarching mission.

The Board of Managers shall review any department of Rutgers Cooperative Extension and specialists' performance when needs, deficiencies, or other concerns are identified. In particular, the Board of Managers should review and express its opinion on any NJAES department strategic plans that are being proposed or released during the year.

We expect the Board of Managers and the NJAES administration to establish a protocol that outlines parameters to ensure that both participate in open and honest discussion and evaluation of every facet of concern including and not limited to policy, staffing, programs, performance, budget and expectations. This will ensure that the NJAES and Rutgers develop a relevant plan for the future of comprehensive and professional agricultural research and extension services.

NJFB supports the Board of Managers in revitalizing its Statewide Committees and its standing committees and deepening engagement with NJAES leadership in an effort to identify current program needs and priorities, increase visibility of NJAES programs and resources, and plan for the capacity needed to meet future mission-aligned programming needs amid the significant levels of faculty and staff retirements in the coming years.

NJFB urges the Board of Managers to continue to review the NJAES Budget and be able to report to the county boards regarding the state of the NJAES budget. Additionally, the Board of Managers continues to petition to grow the state appropriation to NJAES (base budget) to replace previous cuts and to keep up with the rate of inflation. Increased base budget funds are essential to rebuild lost capacity in several agricultural program areas staff positions, an effort that cannot be initiated with "one-time" special purpose funds.

There is a need for additional certified food, agriculture, natural resource (FANR) teachers (formerly known as agricultural educators or agriculture teachers) due to retirements and an increase in the number of programs. Rutgers School of Environmental and Biological Sciences, as the land grant college of New Jersey, has traditionally prepared licensed FANR teachers. We support and further encourage the recent effort made by the School of Environmental and Biological Sciences to improve and market the 5-year agricultural science education program that currently exists. Farm Bureau also supports the development of the agricultural education option in the undergraduate major in Agriculture and Food Systems, including the development of courses focusing specifically on agricultural education, and efforts made by SEBS to utilize the Curriculum for Agricultural Science Education to recruit high quality undergraduates interested in agricultural careers.

Farm Bureau congratulates the Board of Managers for its work during the past year in advocating for the supplemental funding to NJAES by the Legislature and Murphy administration, the educational outreach program to urban legislators, and surfacing potential small livestock farm operators. This is in addition to the Board's critical function of advising the dean on all NJAES matters. In particular, Farm Bureau and county boards of agriculture will continue to rely on the board's insights on county agricultural agents, 4-H and other personnel needs in the wake of retirements. Farm Bureau encourages the board to maintain its direct link to the Rutgers Board of Governors as prescribed by state statute.

Farm Bureau encourages each county board of agriculture to participate in the recently announced project of assessing research needs for production agriculture. Each county needs to participate so that every commodity group from all geographic areas of the state are accounted for. This project is actually an update of earlier work from several years ago. The timing of the project fits well with the momentum of recent supplement funding at NJAES as well as the fast-evolving content in New Jersey agriculture.

### **FOOD SAFETY** (2021)

Food safety concerns remain an important issue to agricultural producers as more attention was given by the media to issues like salmonella poisoning and *e. coli* bacteria. A northeast state like New Jersey with a strong emphasis on fresh market produce and direct marketing to the general public of locally produced food cannot afford to be complacent on this issue. A rapid response to media inquiries by both New Jersey Department of Agriculture (NJDA) and Farm Bureau must occur whenever a food safety issue arises.

Food safety is a dynamic process with new research and information continually becoming available. This requires the industry to be updated throughout the year. Rutgers Cooperative Extension and NJDA work closely to provide the latest information to the industry through written material, workshops, websites, etc. Farm Bureau supports these efforts and encourages the continued funding of these efforts.

In addition to the Food Safety Task Force, The New Jersey Department of Agriculture, along with the United States Department of Agriculture, offers a voluntary farm auditing program that verifies that produce has been grown, harvested, packed and shipped in a safe and sanitary manner. New Jersey Farm Bureau encourages growers to participate in this voluntary program.

New Jersey Farm Bureau should promote recognition and acceptance of uniform standards for third party audits. Multiple audits are demanded by varying retailers and produce buyers, significantly increasing the cost of the farm's food safety program at the same time that produce

farms are experiencing level, or in some cases, decreased prices for produce. Research has shown no demonstrable advantage of one audit over another. Some of these audits have veered from auditing the safety aspects of growing and handling produce to social aspects of employee benefits, etc. Legislation may be required and warranted to rein in run-away costs of multiple food safety audits and to preserve the produce industry in New Jersey and the United States.

New Jersey Farm Bureau shall seek to educate the various entities (ie: chain stores, brokers, shippers, etc.) requiring food safety audits to accept the “Harmonized Audits” that have been developed through a national dialog between the private and public sectors. Where possible, costs of third-party audits should be totally or partially reimbursed to growers.

The Food and Drug Administration (FDA) has proposed new regulations for the Food Safety Modernization Act (FSMA) to unify and extend the implementation of the Water Testing Standards by 2 to 4 years. This new regulation will allow FDA more time to review the water standards to ensure they are feasible. With the adoption of these regulations the new timeline for Sample collection and analysis will be the following for business not growing sprouts.

- Very small businesses, those with more than \$25,000 but no more than \$250,000 in average annual produce sales during the previous three-year period, took effect 1-26-2020. The proposed rule extends the water testing requirement to 1-26-2024.
- Small businesses, those with more than \$250,000 but no more than \$500,000 in average annual produce sales during the previous three-year period, began compliance inspections on 1-28-2019. The proposed rule extends the water testing requirement to 1-26-2023.
- All farms with more than \$500,000 in sales started compliance inspections on 1-26-2018. The proposed rule extends the water testing requirement to 1-26-2022.

FDA is considering how it might simplify their water standards in the Produce Safety Rule. FDA is expected to publish guidance in the future to help implement water testing strategies and the creation of the Microbial Water Quality Profile (MWQP). Until guidance is released, you should continue your testing as part of your third-party audit but not invest in changes to your testing to create the MWQP until the guidance is published.

#### Food Traceability

FDA released in September 2020 a proposed rule that, if finalized, would impose additional traceability recordkeeping requirements for certain high-risk foods. This rulemaking is required by section 204 of FSMA, and is an additional action in FDA's ongoing FSMA implementation. At the core of this proposal is a requirement for those who manufacture, process, pack or hold foods on the Food Traceability List (FTL) to establish and maintain records containing Key Data Elements (KDEs) associated with different Critical Tracking Events (CTEs)

The proposed rule also would require that:

- records be maintained as either original paper records, electronic records, or true copies; they all must be legible and stored to prevent deterioration or loss.
- traceability records be provided to FDA as soon as possible, but no later than 24 hours after a request is made.

- an electronic, sortable spreadsheet containing relevant traceability information be provided to FDA within 24 hours of a request, when necessary, to assist FDA during an outbreak, recall, or other threat to public health.

There are some exemptions (full or partial). Full exemptions include small retail food establishments, small farms (less than \$25,000 in sales), farms selling food directly to consumers, certain food produced and packaged on a farm, food that receives certain types of processing and transporters of food. Partial exemptions would apply to certain commingled raw agricultural commodities (not including fruits and vegetables subject to the produce safety regulations), fishing vessels, retail food establishments that receive a listed food directly from a farm and farm to school and farm to institutions programs.

The FDA proposes that any final rule on additional traceability record-keeping requirements for foods on the FTL would become effective 60 days after it is published in the Federal Register. The rule's comment period will expire on Jan. 21, 2021.

The NJFB should help promote the educational seminars hosted across the state by Rutgers Extension program to make sure growers are informed and trained to comply with the FSMA. This past growing season the Rutgers On-Farm Food Safety Team and the New Jersey Department of Agriculture completed numerous On Farm Readiness Reviews (OFRR) to help growers determine if they are ready for a Food Safety Modernization Act Produce Rule Inspection. New Jersey agriculture will be ahead of the curve with the recent OFRR's conducted by NJDA and the Rutgers On-farm Food Safety team.

As the FSMA is implemented growers are concerned with possible varying interpretations of the impending rules and how compliance is measured. New Jersey agriculture will be ahead of the curve with the recent preliminary audits conducted by NJDA. As FSMA audits begin the NJDA should encourage uniform interpretations of the rules by inspectors and monitor the progress.

There is a heightened concern within the agriculture industry with the recent criminal charges filed against a Colorado farm for a food contamination outbreak. NJFB believes that growers who are certified with a food safety audit should be held harmless from criminal and civil charges.

New Jersey Farm Bureau will continue to represent agriculture as an industry advisor to the Office of Counter Terrorism. Farm Bureau will also work with our partners at Rutgers New Jersey Agriculture Experiment Station, the Food Policy Institute, the New Jersey Food Council as well as lead staff at the New Jersey Department of Agriculture on issues related to food safety, biosecurity. NJFB must also work to keep our members informed of policy and practice changes as they relate to food and food security issues.

### **BIOSECURITY AND EMERGENCY MANAGEMENT** (2021)

New Jersey Farm Bureau shall request the USDA increase biosecurity measures at all points of entry into the United States and the State of New Jersey, to guard against outbreaks of diseases such as African swine fever, foot and mouth, and avian influenza as well as possible threats of bioterrorism.

Under the leadership of the New Jersey Department of Agriculture in consultation with leaders in the different sectors of New Jersey agriculture, industry guidelines and procedures outlining the response and action to be taken by the agricultural industry in an emergency were developed by

the Department of Agriculture and include livestock industries, livestock auctions and slaughterhouses, pet stores and shelters, zoo and animal exhibitions, veterinarian hospitals, plant industries, crops including the wholesaling of fruits and vegetables, and feed and fertilizer, a review and update the emergency response plans to fit a new all hazard approach to emergency management is needed. It is important for individual operations to develop their own all hazard action plan in the event of an emergency.

Storm events, from early snowfalls to hurricanes that cause crop damage and power outages impacting farms and their operations show the further need to have all hazard emergency plans in place. These plans can improve the restoration of power and infrastructure when coordinated with the plans developed by the power companies. Agriculture is a critical infrastructure to the state and making sure basic services are restored as soon as possible is an important part of the emergency planning process. The plans can also help in communication with emergency responders over access, movement of animals, as well as need for feed and water and restoration of services. The final exercises of the agriculture and food working group would be with law enforcement and first responders to address those issues unique to agriculture.

Along with animal care there is the human element farmers should be concerned with. Each year experts predict a higher increase in flu related illnesses and recommend people stay home and avoid contact with others if they are sick. This could have huge impacts on work force availability both on and off farms. Farm Bureau encourages its members to continue to look at their own operations and plan in advance for and be prepared to respond to any emergency.

#### COVID-19

With the outbreak of the COVID-19 virus the state's emergency management system shifted from the typical weather and natural disaster models to its first health emergency. This put the Commissioner and Department of Health as the lead policy maker for the pandemic and the state's response. The Superintendent of the State Police is the lead enforcer of the recommendations. This command structure is implemented when the Governor declares a health emergency and implements the health emergency powers act.

As part of the national emergency management response established in the Department of Homeland Security agriculture is considered an essential industry, important for food security, New Jersey uses the same system. What was not clear was how this impacted the diverse sectors of NJ agriculture. Farm markets and farms producing food and livestock operations were encouraged to remain open. The administration also recognized the importance of the ornamental horticulture sector and garden centers, and the nursery industry were allowed to operate. The need to care for animals meant most livestock farms could operate but for the equine industry, racing and riding, were curtailed during the stay-at-home order issued in March. Those sectors re-opened slowly as the state's response shifted to allowing outdoor recreation.

Additional guidance came from the Department of Health related to practices farms should implement to protect farm worker health and safety. These guidelines applied to all farm employers and employees and covered many of the same practices already outlined by the CDC and the NJ health department for essential workers in the food industry, wearing of masks, social distancing where possible, screening of workers for symptoms, and guidance for housing workers. Those rules stayed in place this spring and summer but were more flexible for fully vaccinated workers, New Jersey agriculture did a great job ensuring the agricultural workforce took advantage of the vaccination opportunities presented to it.

Most farms worry about and experienced animal health outbreaks, from severe strains of Avian influenza in bird populations and African swine fever in swine, which has been impacting the global pork supply, including up to 60% of China's production. The COVID pandemic has made farms plan for not only how to operate in an emergency, but what to do to protect their family, their employees and their customers while providing essential products for the state's food system.

This planning takes farm biosecurity and emergency management planning to a new level.

Biosecurity also extends to crop storage and handling on the farm. The FBI would caution farmers storing products on the farm to ensure the harvest is safe from outside contamination. Farmers should ensure their products are stored securely as food contamination is the largest threat to food security in this country.

### **EQUINE INDUSTRY** (2021)

The equine industry includes breeding, training, horse keeping, sports competition, arena showing, horse racing, equine assisted therapy for children and adult recreation, and public and private owned equestrian facilities. Notable New Jersey is home to breeders of internationally recognized performance horses especially in the growing category of Sport Horse competition. Research and education are important components to the success and future of the equine industry. New Jersey Farm Bureau should continue to support growth and innovations in the New Jersey equine industry.

#### **Racing**

New Jersey benefitted from a strong horse racing industry supported by attractive purses and breeder incentive programs. These programs supported local breeders and owners and attracted out of state owners to train and race at our tracks and in-state facilities.

Legalizing sports betting was one way for track owners to increase activity at the racetracks. With the passage and implementation of sports betting legislation there has been an increase in activity at the state's racetracks resulting in some sharing of revenues to enhance purses and improve the quality of racing at New Jersey's racetracks. A new type of betting, "Fixed Odds Wagering" has been signed into law by the Governor and awaits Attorney General approval before implementation. It is thought that this new type of wager will increase interest in betting on horse races. The industry should watch this carefully because it may reduce the current parimutuel handle which supports the purse account that is related directly to the Standardbred horsemen's benefits and programs.

The biggest changes have been a continued commitment by the state of New Jersey to supplement purses and breeding incentive programs for Jersey Bred and Sire Stakes horses in NJ. The legislation supplies the racing and breeding programs with \$20 million a year for five years (now in its third year) and the payments could be extended if the industry meets benchmarks of increased breeding, training, and other equine activities demonstrating a turnaround of the industry in the state. For 2022 the purses for New Jersey Sire Stakes races will increase 20 percent. After a four- year decline in total wagering across all three of New Jersey's horse racing tracks, 2019 saw an increase of over \$50 million bet at the tracks. A further increase in total wagering was driven by betting from outside New Jersey which increased by nearly \$54 million. These numbers demonstrate the turnaround horsemen were looking for from the commitment by the State. In addition, because of the state incentives, the number of yearlings nominated to the NJ Sire Stakes program increased from 122 in 2018 to

605 in 2021. New Jersey Sire Stakes program purses also increased from \$1,967,685 in 2018 to \$3,022,500 in 2021. In the thoroughbred industry steady increases in mares, stallions, and foals born in the state the last year have reverses years of steady decline.

2020 saw a COVID-19 reduced number of racing days at the Meadowlands Racetrack and Freehold Raceway with the loss of half the winter race season. The shutdown delayed the opening of the summer season at Monmouth Park. With COVID-19 protocols in place, there was limited live audiences at the tracks; this will impact the revenue generated from live betting. In the final budget adopted to take the state into 2021, the legislature and governor continued the supplemental payments to the industry but at a reduced level funding the program at \$15 million. In 2021 the Meadowlands Racetrack is seeing a significant increase in parimutuel handle and also is seeing a significant amount of sports book action. In the first half of 2021, a total of \$169 million was wagered on 51 programs with 660 races for an average daily handle of \$3.3 million: up 36% from 2018. Also as of 2021, the state's successful sports betting program has led to a \$ 1 million purse supplement for races, and in 2022 \$2 million of new stakes races will be offered to New Jersey sired horses at the Meadowlands.

The State and industry must continue to further strengthen the racehorse industry and horse breeding and New Jersey bred breeding programs, Jersey owned, and Jersey preferred races should be written regularly onto race cards.

#### Sales Tax

Since 2004 as part of the revisions of the sales tax code, horse stall rental has been considered a sales taxable item. As horses are defined as livestock by the Department of Agriculture including through the standards for the Humane Treatment of Livestock, N.J.A.C. 2:8 New Jersey Farm Bureau should continue on working to pass legislation to clarify that horse stalls and related horse keeping expenses should not be subject to New Jersey Sales tax.

#### Horse Land Preservation

Since 2009 there has been a sharp decline in the number of horse farms preserved and the acreage of horse farms preserved. In 2009 horse farms made of 11% of the farms preserved and 8% of the total acres. From 2010-2014 only 4.9% of the farms preserved were horse farms making up only 3.9% of the land preserved in that period. New Jersey Farm Bureau should work with the SADC to help determine why there was a sudden drop off in horse farm preservation and to study ways to improve those numbers. Farm Bureau should also track the impacts of the soil disturbance rule and its impact on horse farm preservation.

#### Trails

With growth in the recreational use of horses there is a growing need for places to ride, both facility and open trails. New Jersey Farm Bureau should work with open space advocates and Rails to Trails program to support the establishment of a state-wide horse trail system.

#### Veterinary Medicine Loan Redemption Program

Veterinary Medicine Loan Redemption Program provides for redemption of eligible qualifying loan expenses for large animal/livestock veterinarians, who work for no less than five years at a site located within a State designated underserved area or within five miles of such a site. This bill directs the Secretary of Agriculture, in consultation with the New Jersey Horse Council, the New Jersey Association of Equine Practitioners, and the New Jersey Farm Bureau to annual establish a list of State designated veterinary underserved areas.



## Federal Legislation

New legislation called the Horseracing Integrity and Safety Act of 2020 (S. 4547) recently became law and could have major impacts to the harness racing industry here in NJ. The new law could:

1. Significantly increase your cost of racing
2. Eliminate the use of race-day Lasix, a treatment for Exercise Induced Pulmonary Hemorrhage (bleeding) for all horses. The issue of Lasix needs additional study before a federal ban would go into effect.
3. Place harness racing under the regulation of a new, federal Authority with little or no harness racing representation or consideration for that industry's concerns.

Farm Bureau should work with the equine industry to:

- Educate owners about responsible breeding, considering health and quality of foals and plans for long term use and outlets for horses produced.
- Support permanent identification, especially for horses traveling off farm to track horse health and history.
- Educate the public about realistic plans for excess and unwanted horses.
- Support non-chemical euthanasia.
- Encourage the American Farm Bureau to raise awareness along with national equine breed groups of these issues.
- Support the Equine Science Center along with the New Jersey Agriculture Experiment Station at Rutgers including budget and legislative funding requests to continue the cutting-edge research and education of the equine industry in New Jersey and to sustain the growth of the industry in the Garden State.

## **COMMERCIAL FISHING** (2021)

Farm Bureau shall strongly oppose any legislation that attempts to ban legitimate, historical fisheries in state waters. It shall be an active player in any coalition of recognized commercial fishing groups formed to oppose such a ban. Farm Bureau will seek and support legislation creating a Right to Fish bill. Such legislation will guarantee equal access to our marine fishery resources for all user groups (commercial, recreational, and charter). NJFB should work to ensure that any legislation establishes a workable process for mitigating "Right to Fish" disputes.

Farm Bureau shall seek funding that reflects the realities of commercial fisheries, and serves as a bridge between the state's agricultural, scientific and commercial fishing communities.

NJFB shall support the Jersey Seafood marketing program of commercial fishing products within the New Jersey Department of Agriculture.

## NJDEP Fish Consumption Advisories

The NJDEP regularly releases fish consumption advisories, sometimes more stringent than federal EPA guidelines. These more stringent standards can have a devastating effect on New Jersey's party and charter fishing business and can also have a severe negative impact on the sale of commercially-caught species. The recent risk/benefit studies conducted by Harvard University and the National Academy of Sciences Institute of Medicine both concur that the benefits of increased seafood consumption outweigh any potential risks, especially in the commercial chain. New Jersey Farm Bureau strongly urges the NJDEP to use the PCB standard that is being utilized by the EPA.

### Government Aid to Commercial Fishing Industry

New Jersey Farm Bureau shall seek legislation ensuring that government money (i.e. subsidies, low-interest loans, guarantees, etc.) given to aid the commercial fishing industry shall be used for that purpose only. In the event said loans, etc., are not used for that purpose, said money must be repaid immediately. This should be patterned after the existing county level Ocean County revolving loan fund; and should not in any way be available for fishing enterprises owned and operated by large, conglomerate corporations.

### Ocean Dumping

The New Jersey Farm Bureau strongly opposes all ocean-dumping of wastes. Commercial fishermen have long suffered from current dumping practices.

### Off-Coast Liquid Natural Gas (LNG) Facilities and Drilling

NJFB opposes any and all LNG facilities, either for importation or exportation, that would be sited off of New Jersey's coast.

### Support of Commercial Fisheries

Farm Bureau shall move as vigorously and as quickly as possible to support the commercial fishing industry in every way within their means recognizing this industry is a vital segment of New Jersey's agriculture. Farm Bureau shall seek and actively support the following:

- The repeal of restrictions on the sale of menhaden as a "for bait only" designation.
- Depuration and relay of all shellfisheries (hard clams, soft clams, oysters and mussels) from all restricted and special restricted waters in the state of New Jersey.
- Due to the high and ever-increasing tax rates of commercial waterfront property, commercial docks, landings, and fish processing facilities are being forced to sell to other commercial interests thereby creating an economic hardship on New Jersey's commercial fishermen in that there are fewer facilities to unload, sell, and process their catch. New Jersey Farm Bureau should develop appropriate measures to enhance commercial fishing dock space, with sufficient capital funding in a manner that reflects each port's needs. New Jersey Farm Bureau shall work with shore area legislators to accomplish this.
- Advise New Jersey Farm Bureau to work with the Garden State Seafood Association for opportunities to collaborate on advocacy issues.
- Encourage all marine extension research to be directly related to the needs of the industry. New Jersey Farm Bureau shall also formally review the various advisory councils affecting commercial fishing for relevancy to the needs of the industry.
- The striped bass is a migratory fish that provides a source of income to the fishing communities of the East Coast and delicious table fare to millions. The Atlantic State Marine Fisheries Council is declaring the striped bass a recovered fishery as of 1995, after years of restrictive conservation measures. The historic commercial fishery for striped bass was legislated out of existence with passage of a bill that gave bass "game fish only" status and banned the sale of this fish in New Jersey, thus removing it from restaurant menus.

NJFB requests that the National Marine Fisheries Service holds public hearings with the fishing industry to identify more modern, economical, scientifically responsible forms of biological assessments.

We support the use of sound scientific data to evaluate fisheries.

New Jersey Farm Bureau supports proposed federal legislation to change the definition of overfishing.

NJFB continues to work with fellow state Farm Bureaus in Northeast Atlantic coast states to coordinate similar fishing-related issues management to help build greater influence for commercial fishermen.

NJFB shall solicit a change in the State of New Jersey's Menhaden law to allow owners of a Menhaden Purse Seine Fishing Vessel License, operated by an individual whom is in possession of a Menhaden Purse Seine Fishing Vessel Operator's License be able to land their fish outside of New Jersey if New Jersey's quota is already met.

### **AQUACULTURE DEVELOPMENT** (2021)

NJFB shall recognize aquaculture as a sector of the agriculture industry and not the fishing industry.

NJFB shall support the leasing policy adopted by the NJ Shellfish Council. New Jersey Farm Bureau supports the development of the aquaculture industry in New Jersey and endorses a streamlined regulatory protocol for the establishment of these production practices and businesses.

NJFB shall urge the NJDA to embrace their mandate in the Aquaculture Act. "The Department of Agriculture shall be the lead state agency for the development, marketing, promotion, and advocacy of aquaculture in the State. The Department of Environmental Protection shall be the lead State agency with respect to regulation of aquaculture activities in [public fresh and marine] the waters of the State."

NJFB recommends that the Tidelands Resource Council have active NJ aquacultural industry representation or shellfishers on said council. A yearly review shall be undertaken by NJFB of all relevant advisory boards to the aquaculture industry to ensure that all appropriate seats are current and filled by active aquaculturists.

NJFB shall support a change to the New Jersey Aquaculture Act, modifying the composition of the Aquaculture Advisory Council and clarifying the role of the Aquatic Farmers License (AFL). NJFB shall advocate for changing the Aquaculture Act to provide greater industry representation of active aquaculturists on the NJ Aquaculture Advisory Council and further advocating for the elimination of ex-officio seats on the Aquaculture Advisory Council of entities that no longer exist. NJFB shall advocate for a change to the Aquaculture Act revising the term Aquatic Farmers License (AFL) to Aquatic Farmers Registration, as said license (AFL) grants no further privileges or rights upon the farmer greater than those licenses, permits and instruments currently required to obtain the license.

NJFB shall advocate for updates to the Aquacultural Development Plan be conducted every five years as mandated in the Aquacultural Development Act.

NJFB shall continue to research aquaculture issues. NJFB shall continue to seek resolution for equal protection of aquaculturists under Right to Farm.

## **INDUSTRIAL HEMP PRODUCTION** (2021)

NJ Farm Bureau supports the production, processing, commercialization and utilization of industrial hemp. At the federal level, it should be regulated by the USDA rather than the DEA. The 2014 Farm Bill allowed for industrial hemp production and many states are now growing it for market. USDA released its Hemp Production Interim Rule establishing national hemp regulations on October 31, 2019. They became effective immediately with a sixty-day comment period before they are permanently adopted.

USDA published a final rule on January 19, 2021, that provides regulations for the production of hemp in the United States and is effective on March 22, 2021. The final rule builds on the interim final rule published October 31, 2019, that established the U.S. Domestic Hemp Production Program. The final rule incorporates modifications based on public comments and lessons learned during the 2020 growing season.

To date, most states have expressed support for decriminalizing the production of industrial hemp. Industrial hemp is not a significant producer of THC, the psycho-active element in marijuana. Industrial hemp was a valuable fiber, oilseed, and biomass crop in the United States prior to the 1938 Marijuana Act that criminalized the production of all types of hemp. Annually, over \$34 million of legal hemp products are imported into the United States from Canada, Belgium, Portugal and other countries.

New Jersey had its first hemp growing season in 2020. Through the NJDA program, hemp was grown outdoors on 81 acres and on 2 acres under glass. There were 59 licenses for growers and 13 for processors. For the 2021 growing season, there are currently 58 growers with 299 acres of production outdoors and 46 acres under glass with 94% of the acreage being used for CBD production.

NJFB will continue to assist in providing fact-based detail to the membership, legislators and the public regarding the benefits of industrial hemp production as a suitable and profitable crop for New Jersey growers.

NJFB will continue to support Rutgers as it further develops its policy for hemp production and marketing.

## **USDA** (2021)

New Jersey Farm Bureau believes the focus of the USDA should be on farmers and production agriculture. While it is understood that nutrition and environmental programs have significant value to our society, we urge the USDA to provide more grants and develop additional programmatic offering to farmers, to ensure the viability of American production agriculture. NJFB supports legislative efforts that permanently establish and significantly improve the USDA Food Box program such as the Fresh Produce Procurement Reform Act.

## **Farm Services Agency**

Federal financial support for farming in New Jersey comes largely in the form of financial assistance for producers through the Farm Services Agency (FSA). Large amounts of money, in the form of federal disaster assistance, and other federal assistance programs, coming into New Jersey re-emphasize the need for additional staffing in the regional FSA offices. New Jersey Farm Bureau supports an increase in the USDA-FSA budget to accomplish this staff expansion.

The recent changes in trade relations with many countries have led to many new or higher tariffs being imposed on agricultural commodities, leading to lower prices. This has also caused many farmers to store great quantities of product rather than sell at depressed prices. This practice could drive down prices for years to come. The Market Facilitation Program (MFP) recently implemented is not sufficient to effectively assist farmers with the economic effects of retaliatory tariffs. The payments are not high enough, nor does this program cover all affected commodities.

New Jersey Farm Bureau strongly urges the administration to work with our trading partners to repair our trade relations with China and other countries, much like what has been accomplished with Mexico, Canada, Germany and others. The continuation of creating fair trade markets will allow farmers to receive their income from the market rather than support payments.

To expand communication and coordination between New Jersey producers and the FSA state office, Farm Bureau will offer its assistance in organizing increased information about agency programs. This should include the involvement of county boards of agriculture and affected commodity groups.

#### Farm Loan Program

Farm Bureau supports:

- A change in policy that would make equine operations eligible for the loan program.
- A change to allow the use of the direct Farm Ownership funds for refinancing debt. FSA is currently not allowed to refinance an existing real estate purchase.
- A relaxation of the performance requirement for new (not yet preferred) lenders to participate in the loan guarantee program allowing banks with strong commercial portfolios to enter this program.

The Biomass Crop Assistance Program (BCAP) provides financial assistance to owners and operators of agricultural land who wish to establish, produce, and deliver biomass feedstocks. New Jersey Farm Bureau supports the continued implementation and development of this program that promotes on-farm fuel production.

#### New Jersey State Conservation Enhancement Reserve Program (CREP)

The Conservation Enhancement Reserve Program (CREP) was designed to help farmers voluntarily reduce potential impairment from agricultural water runoff sources in an effort to improve water quality along New Jersey streams.

It is important to note that this voluntary and beneficial program could be severely hampered by other regulatory agencies. If NJDEP or other agency creates regulations that mandate easements or buffers, this would eliminate the federal government's ability to pay incentives, because FSA is not permitted, by rule, to enroll land where the producer is required to perform a conservation practice as an obligation to comply with local, State or Federal law.

New Jersey Farm Bureau supports the following changes to the Noninsured Crop Disaster Assistance Program (NAP):

- Allow for continuous sign-up coverage. Coverage only takes hold after 30 days, so there is no reason for a coverage deadline.

- Eliminate acreage reporting deadlines. Crops should only need reporting as disasters occur, and by the end of the crop year for APH purposes.
- Add eligible loss conditions to include wildlife damage.
- Remove the requirement for a primary loss condition for secondary loss conditions like insect infestations and plant diseases to be eligible.
- Reduce production evidence requirements to eliminate the need to compare reliable production evidence. This is particularly difficult for New Jersey producers because so many sell retail. This also complicates the approval of APHs that are 150% of the county average and gives the producer no recourse.

New Jersey Farm Bureau supports the following changes to the Farm Storage Facility Loan Program (FSFL) to better serve New Jersey's diverse agricultural industry including:

- Allow for multi-use facilities to include some non-storage component (ie: office space in a storage barn) to a given percentage of the overall facility
- Eliminate late file acreage reporting fee for applicants

New Jersey Farm Bureau supports a change in the Tree Assistance Program (TAP) so that normal mortality could be based on the entire year's combined losses as opposed to each individual loss event.

#### 2023 Farm Bill – New Jersey Input

Farming in a metropolitan state like New Jersey has characteristics that vary from the larger, more farm-oriented states elsewhere in the country. The wide offerings of support and assistance to producers are oriented to those larger states, thus making it essential for those more urban states to identify its farm bill priorities during the planning stages for the new farm bill scheduled for 2023.

The American Farm Bureau has already launched a farm bill working group with a representative serving from every state. So far, New Jersey's input has included: conservation programs especially EQIP; risk management program; ag research at land grant universities; disaster payments/crop insurance and others. Furthermore, the USDA under the leadership of Secretary Tom Vilsack is developing new initiatives on climate smart farming practices, hunger abatement commodity purchases, bioenergy, rural development and others that may offer worthwhile opportunities for New Jersey farmers. NJFB shall continue a vigorous participation in this farm bill planning process and communicate timely updates to its members.

#### Risk Management Agency (RMA)

The 2014 Farm Bill created several changes in crop insurance that producers need to be aware of.

First, in order to receive premium assistance from the federal government for crop insurance, producers will have to comply with highly erodible land and wetland conservation requirements that most already have to comply with as a result of participating in FSA and NRCS programs. Conservation compliance requires producers to have a conservation plan if they plant annually tilled crops on highly erodible soil and prohibits producers from planting on or destroying wetlands for crop production. Producers who do not comply with conservation compliance can still purchase crop insurance, however, they will no longer be eligible to receive the government paid premium subsidy.

Second, the Federal Crop Insurance Corporation Board of Directors approved a new Whole-Farm Revenue Protection policy. Whole-Revenue Protection combines Adjusted Gross Revenue and Adjusted Gross Revenue-Lite with some adjustments to target the following types of farms: (1) highly diversified farms and (2) farms selling 2-5 commodities to wholesale markets. This whole-farm insurance covers all commodities including specialty crops.

New Jersey Farm Bureau should work with RMA to develop a program for failed plantings in vegetable and flower crops. The NAP program does not work for New Jersey growers with multiple plantings when one or two plantings fail. Because so many New Jersey farms are so diversified, the development of risk management and insurance products that will meet the needs of those farms must be a priority for New Jersey Farm Bureau. New Jersey Farm Bureau should also work with FSA to add additional planting periods for crops where deemed appropriate, as an alternate solution to this issue.

Another key issue facing New Jersey farmers is acreage which is not eligible for prevented planting coverage when the first crop is not recognized e.g. rye harvested for straw as the first crop to be followed by soybeans. It is requested that rye and other small grains harvested solely as straw and green feed (before grain maturity) be classified as a recognized first crop for prevented planting purposes.

#### Other Risk Management

Farm Bureau believes that there ought to be an option created for farmers to self-insure for disaster assistance. According to this concept, federal banking law should be amended to allow a farmer or pool of farmers to set aside their own money in a tax-exempt, liquid status for ready use in the event of an USDA declared natural disaster. These funds should be segregated into separate interest-bearing accounts that may also be put into other financial investments (mutual funds, etc.) but still instantly liquid. Taxes would be paid on the amount of the original deposit at the point of withdrawal. The assistance of AFBF with this proposal is also requested.

#### Natural Resource Conservation Service

Federal payments to New Jersey farmland owners to create wildlife habitat, or to set aside farmland for other conservation purposes, are encouraging them to take many acres out of agricultural production. This land is then lost for farmers renting the land who depend upon those acres to be viable. Because New Jersey farmers already struggle with competition for tillable land, any loss of viable cropland is detrimental to the industry. The pattern of land ownership in New Jersey also differs in that there are many more farms owned by non-farmers to whom a government payment may appeal.

New Jersey Farm Bureau urges the USDA-NRCS and non-profit wildlife groups to be selective in the properties they target for projects. Agricultural and wildlife groups should work together to find ways to keep the best agricultural lands in agricultural production and use more marginal lands for wildlife habitat. Additionally, when properties are managed in such a way to enhance habitat for certain species, like ground nesting birds, it sometimes has the incidental effect of also creating deer habitat and refuges. This is a growing concern for New Jersey farmers.

NRCS has recently started using new models and methodology to determine soil losses on cropland. Compliance with these new standards has been especially difficult for vegetable growers on highly erodible lands. This creates difficulties for crop insurance qualification and FSA programs eligibility. Compliance is further complicated by a lack of vegetable growing cultural practices that can be incorporated into a soil loss standard. Vegetable growers are

essentially being forced out of USDA program participation. This is unacceptable in New Jersey where vegetable production is the second largest commodity group. NJFB will work with the NRCS State Conservationist to modify soil loss calculation methodologies to reflect vegetable growing cultural practices that are available to farmers today that have been proven to be commercially viable.

In 2017, NRCS staff held 'Local Work Group' meetings in four different locations in the state. The purpose is to gather more input from those affected by NRCS programming. NRCS plans to continue holding these meetings. NJFB strongly encourages producers to participate in this process. NJFB also urges NRCS to plan their outreach meetings and activities at times that are reasonably convenient for farm producers to participate.

#### National Agriculture Statistics Service

Farm Bureau calls upon the New Jersey Congressional delegation to maintain adequate funding levels in the USDA budget for NASS spending that is so vital to the many programs of the USDA, NJDA and NJAES, in support of commercial agriculture. Since this information is so vital, Farm Bureau encourages its membership and all farmers to timely respond to all NASS survey's and Census request.

#### Rural Development

The need to emphasize rural development issues such as emergency services, high-speed Internet access, cellular telephone network coverage, improved healthcare services, enhanced education and improved infrastructure is growing in importance to New Jersey's farm families and communities. NJFB should urge the Board of Public Utilities to push Verizon and other carriers to provide high speed internet and cellular network coverage in the Pinelands and other rural areas of New Jersey.

New Jersey Farm Bureau also supports the important work of USDA Rural Development to improve the quality of life and increase economic opportunity in rural America. We encourage the long-term funding of the grant, loan and loan guarantee programs administered by USDA Rural Development.

#### New Jersey Farm Bureau supports:

1. Legislation encouraging rural economic development, particularly to foster agriculture and value-added opportunities;
2. Rural Economic and Community Development programs and urge that these continue to be administered through USDA;
3. Additional USDA Rural Development funding, targeting a greater portion of funds towards stimulating commerce in rural areas and increased technical and marketing assistance to provide value added opportunities for agricultural producers;
4. Establishment of and funding for a state rural development council.

#### **CLIMATE RESPONSE AND ADAPTATION** (2021)

Hundred-year climate trends in New Jersey are showing greater frequency of short-term droughts, greater frequency of heat waves, warmer summers overall, less frequent cold spell and a shorter duration of a chilling period. If climate continues to warm, precipitation in New Jersey is expected to come more and more from heavier storms rather than more gentle gradual precipitation events. (Information from Rutgers Climate Institute's publication "Climate Change and Agriculture in New Jersey, January 2016)



These trends are having the following effects on New Jersey agriculture:

- Heat stress on crops affecting pollination, yield, disease and sunscald
- Heat stress on agricultural workers, affecting productivity
- Heat stress on livestock, reducing productivity
- Increased need for irrigation
- Need to evaluate alternative varieties of crops and breeds of livestock that are tolerant to new conditions
- Soil erosion issues from dramatic rainfall events
- Changing species ranges of commercially important fisheries populations

Farm Bureau will continue to participate in state and federal events, policy-making and coalitions that address the effects of climate change on agriculture. NJFB is a member of the New Jersey Climate Change Alliance (NJCCA) and its Natural and Working Lands subcommittee. The NJCCA is a statewide network of diverse organizations that share the goal of advancing science-informed climate change strategies at the state and local levels in New Jersey.

Farm Bureau should promote the research and dissemination of the research results for:

- Crop and livestock breeding that is focused on climate resilience
- Soil management techniques that create drought tolerance and erosion resistance
- Capital improvements, such as landscape level water management, high tunnel construction, and irrigation systems that will add to farmers' ability to withstand erratic weather
- Carbon credit redemption payment programs to farmers for new and existing conservation practices that trap carbon in the soil.

NJFB supports a stewardship program through the SADC that would provide grants for climate mitigation strategies/equipment.

Farm Bureau should participate in efforts on a national level to address potential solutions to climate change, as it is unlikely that autonomous efforts by farmers will curb the risk that climate change poses to the profitability of their operations. Farmers are large users of electricity and petroleum and therefore face big impacts from mitigation efforts if the government is not careful to minimize negative impacts to the industry.

The Food and Agriculture Climate Alliance (FACA) was formed in February 2020 by four groups that now co-chair the alliance: American Farm Bureau Federation, Environmental Defense Fund, National Council of Farmer Cooperatives, and National Farmers Union. The alliance has since expanded to include FMI – The Food Industry Association, National Alliance of Forest Owners, National Association of State Departments of Agriculture, and The Nature Conservancy.

Together, the group developed more than 40 recommendations based on three principles: agricultural and forestry climate policies must be built upon voluntary, incentive-based programs and market-driven opportunities; they must promote resilience and adaptation in rural communities; and they must be science-based. These recommendations share an overarching goal to do no harm. Climate policies will impact farmers, forest owners, ranchers, rural and limited-resources communities, wildlife and natural resources and must be thoughtfully crafted to account for any potential inequities, consequences and tradeoffs.

## **RENEWABLE ENERGY** (2021)

### **Ethanol**

Farm Bureau shall encourage the state's congressional delegation to support the continuation of the federal Renewable Fuel Standard and resist the effort to eliminate it by the oil industry. More than 5 billion of the 14 billion bushels of corn produced in the US annually now are used in the production of ethanol fuel. Environmental Protection Agency announced that it has granted 31 small refinery exemptions (SREs) from the 2018 Renewable Fuel Standard (RFS) compliance year. Between 2013 and 2015 EPA granted no more than 8 waivers for any given year but since then the number of exemptions has increased significantly. The announcement exempts an estimated 1.43 billion gallons of renewable fuel. NJFB opposes the small refinery waiver for blending as there has been an abuse of the exemption.

### **Biodiesel**

Federal Incentives and new clean air requirements are improving the prospects for biodiesel. NJFB should continue to monitor the feasibility of biodiesel and soybean crush opportunities to help create additional marketing outlets for local soybeans.

### **Biomass Crops**

New technology and market conditions for electric power generation to serve New Jersey's energy needs may soon create an opportunity for farm-grown energy crops. Farm Bureau should work with the New Jersey Board of Public Utilities to enable biomass sources to be co-fired with other fuels as a class one renewable energy source and encourage other federal and state legislative efforts to further incentivize biomass energy production on farms.

NJFB shall work with DEP to streamline the air permitting process for stoves used to burn biomass energy as a heating source. The permitting fees and delays associated with obtaining these permits can add significant costs to the construction and operation of a biomass energy system and, under the current model, serve as a disincentive for on-farm biomass development.

### **Solar and Wind Energy**

In May of 2018 Governor Murphy signed Executive Order 28, which created a community solar energy program to allow all NJ residents to benefit from solar energy. The NJ BPU was charged with writing the rules, of which NJFB provided input. We agree with the BPU that community solar projects should be banned on preserved farmland but disagree as to how projects should be prioritized on other ag land. For the first year of the program, agricultural lands are not preferred and thereby do not receive a high-ranking score. However, innovative projects that incorporate some farmland may have the potential to be accepted. NJFB will continue to monitor the development of this program to make sure that more farmers have the opportunity to participate in years two and three of the pilot program.

In several of the New England states with Massachusetts leading the way the concept of dual use solar is expanding. Dual use is the policy of requiring agriculture use to continue on the land where solar projects are approved. Most of these projects are under 6-megawatts and work with the landowners on sighting and system design depending on the types of crops being produced. The University of Massachusetts is studying the crop production yields under the different arrays. For New Jersey farms to be able to use the same program changes would need to be made to the existing rules for renewable energy on farms expanding the 2-megawatt limit and the 10-acre cap on land use. These projects tend to be a partnership between the farmer and an energy provider. The energy provider supplies and owns the solar equipment and pays a fixed

rent to the landlord for a 20+ year contract. The company would be required to remove the project if a renewal of terms could not be reached.

New Jersey Farm Bureau supports a change in New Jersey Board of Public Utilities regulations to allow and encourage farmers to generate and sell solar energy in excess of their own use for additional income, to enhance the viability of the farm operation. BPU rules now allow for private systems to generate enough energy to offset on-site average annual energy use. Farm Bureau should work with the BPU to make sure rules are drafted to allow for the increased sale of energy beyond average annual use by farmers back to the grid at retail rates. Farm Bureau should also seek amendments to the legislation on renewable energy on farms to ensure when a project is being done on a preserved farm and the farm's buildings are being used that the full roof surface could be used rather than just the portion needed to meet the farms energy needs. This expansion of solar could bring extra income to a preserved farm situation with no additional impacts to the lands use.

Farm Bureau shall support on-farm alternate energy sources and review all municipal regulations that might interfere with their use and seek Right to Farm protections of those alternate energy uses as they relate to a working farm. Though Farm Bureau supports utilizing the natural resources of sun and wind on farms, New Jersey Farm Bureau opposes the concept of defining energy production as an agricultural commodity, to prevent abuses of the Right to Farm and Farmland Assessment Acts.

#### Industrial Scale Solar on Farmland

Legislation was approved this summer that would update the BPU incentive programs for industrial scale solar projects and in separate legislation allow for a pilot program and incentives for solar projects on non-preserved farms that continue active farming in and around the panels called dual use solar.

The package of legislation set a limit on the numbers of prime agricultural acres that can be used by solar projects with prohibition on preservation and protection lands in the Pinelands and Highlands regions. Farm Bureau shall support the use of dual use solar in the Highlands Preservation area and the Pinelands preservation area.

We are currently waiting for the BPU to publish the rules for the new programs. NJ Farm Bureau will comment on the proposals once released, encouraging a flexible pilot program for dual use, and ensuring that property rights and prime farmlands are protected in the industrial scale program.

Many preserved farms have rock ledges, unused gravel pits, old barnyards and other areas that are not farmed. In some cases, these unused or underused areas would be more suitable for solar or wind energy installations than other actively farmed portions of the preserved farm. As such, NJFB shall encourage the SADC to streamline the approval process for installations sited in these non-farmable areas on preserved farmland.

Ag-modified wetlands often serve as a buffer for active agriculture and could also be a suitable place for solar or wind energy installations. NJFB shall encourage the DEP to look into the potential for this concept.

Currently, state law requires that anyone working on a renewable energy installation that receives financial assistance from the Board of Public Utilities be compensated at the prevailing

wage rate. This requirement negatively impacts the renewable energy industry by dramatically increasing installation costs. Farm Bureau remains opposed to this policy since it impacts renewable energy installation prices such that these installations become unaffordable for farmers.

#### Other Renewable Energy Sources

New Jersey Farm Bureau supports and encourages the development and use of all renewable energy sources, including solar, wind, biodiesel, biomass, and geothermal. Farm Bureau believes that these technologies are inherently beneficial to the state and should be supported where applicable. Farm Bureau shall seek the enactment of legislative and/or regulatory initiatives that provide incentives for the use of renewable energy sources. Farm Bureau also supports the increased use of renewable energy by all state government agencies.

#### **ENERGY USE ON FARMS** (2021)

Farm Bureau should support the reinstatement of the farm exemption for demand meters to clarify that all farms, new or existing, are exempt from the need to install a demand meter. There are reports of utilities imposing significant fees on rural users seeking to go from two-phase to three-phase and or seeking to upgrade their services. To correct this problem, NJFB should urge the BPU to hold back utilities from imposing these onerous fees on rural energy users and create a program that provides farmers an incentive to switch to three-phase electric service.

The New Jersey Smart Start Buildings program was amended and shifted some of the programs to the utility companies. The Clean Energy Act required New Jersey's investor-owned gas and electric utility companies to reduce their customers' use of gas and electricity by set percentages over time. To help reach these targets, the New Jersey Board of Public Utilities approved a comprehensive suite of efficiency programs that was previously administered through the New Jersey Smart Start Buildings program. Projects funded under this program ended July 1, 2021.

The programs that will continue to be funded through the NJ Clean Energy program will be;

- New construction (residential, commercial, industrial, governments)
- Large energy users
- Combined heat and power and fuel cells
- State facilities
- Local government energy audits.
- Energy savings improvement program
- Solar and Community Solar

The Program areas to be served by the utilities.

- Existing Buildings (Residential, commercial, industrial, government)
- Efficient products (HVAC, appliance rebates, appliance recycling)

The NJFB should continue to promote and encourage opportunities for energy efficiencies and funding.

#### Energy Audits

There are a number of incentive programs available to farmers to help defray the costs associated with having an on-farm energy audit done. However, since funding is only available up to a certain amount, audits are often scaled-down to fall within cost constraints and are therefore not always exhaustive. NJFB should work to pursue additional resources for farmers seeking more complete energy audits and should work with NJAES, a process that started with the on-farm energy use seminars, to further this policy goal.

The Environmental Quality Incentives Program (EQIP) On-Farm Energy Initiative helps farmers and ranchers make voluntary improvements that can boost energy efficiency on the farm. Financial assistance is available to inventory and analyze farm systems that use energy and identify opportunities to improve efficiency through the development of an Agricultural Energy Management Plan. Growers report delays in completing these audits based on limited number of technical service providers. NJFB should communicate with NRCS the need for more NRCS-certified Technical Service Providers to perform energy audits on farms across the state.

### **LIVESTOCK INDUSTRY SUPPORT** (2021)

New Jersey's livestock industry is valued at nearly \$260 million annually. This includes equine, beef cattle, swine, poultry, sheep, lamb and goats. The state's beef and dairy industry alone was valued at \$47.5 million as of 2009, and sheep, lamb and goat production continue to grow to match market demand. Add to that New Jersey's equine industry – an industry that generates \$1.1 billion annually in positive impact on New Jersey's economy according to a 2007 study by the Rutgers Equine Science Center – and the combined strength of the state's livestock industry is clear. Too often, however, the industry is viewed for its component parts and not for its collective impact on New Jersey's agricultural economy. This narrow, compartmentalized view hinders access to research and vital support services essential for the livestock industry's success.

Currently, the state's livestock industry lacks a unified voice that is representative of the industry as a whole. A unified group representing all aspects of livestock production could play a key role by offering support and guidance on livestock issues. This could be an expansion of the Agricultural Animal Alliance (AAA) that was meeting through the animal science department at Rutgers and should consult regularly with the state's Department of Agriculture and Farm Bureau.

The Board of Mangers is undertaking a survey of livestock owners and operations in the state to better coordinate education and outreach efforts to the diverse livestock industry. Farm Bureau supports this effort and encourages our members to participate in the survey.

An issue impacting the livestock industry is the limited access to slaughterhouse facilities willing to cut and process animals for retail sale. For many small-scale livestock producers, the custom-cut retail market is essential for sustained viability. USDA slaughterhouse inspection standards, while rightly aimed at ensuring public health and safety, are not tailored to facilities that specialize in custom cutting for the retail marketplace. As a result, slaughterhouses interested in offering this essential service for small-scale livestock producers are forced to either scale up, making substantial investments to maintain compliance with USDA regulations, or move away from offering these services altogether. When the latter occurs, small-scale livestock producers lose access to this essential support service and are forced to travel greater distances – oftentimes out-of-state – to have their animals processed for retail sale.

To address this emerging need, the Hackettstown Livestock Auction Cooperative is in the process of seeking municipal approval to build an inspected slaughter facility to facilitate inspected slaughter for their customers so they can sell cuts of meat at retail. Facing strong resistance from the town they put the proposal on hold and are exploring with the County Commissioners and other private investors in building the facility elsewhere in the county.

Another key to the success of New Jersey's livestock industry is education. This includes education for producers and consumers. To take advantage of New Jersey's robust retail marketplace for livestock products, producers must continue to offer high quality products and redouble their focus on marketing. With both comes consumer awareness on the relative quality of locally produced livestock products. This education component includes essential extension research, marketing support and a unified voice to carry-forward the industry's message.

NJFB is uniquely positioned to assume a leadership role using publicity to build public support for this sector of the state's agriculture industry. Additionally, any marketing component should also include a branding program for New Jersey livestock products, similar to the "Jersey Fresh" program for fresh produce. This branding initiative should include quality grading standards developed by the statewide committee representing New Jersey's livestock industry.

New Jersey Farm Bureau should:

- Work with Rutgers/RCE to conduct a statewide summit of livestock producers.
- Establish needs growth and potential of statewide livestock industry
- Increase producer awareness of available USDA and other agency testing programs to diminish diseases such as Avian Flu.
- Monitor and mitigate prohibitive environmental regulations.
- Evaluate current staff and encourage the hiring of specialists in the livestock field.
- Help to establish a statewide committee, like the AAA representing all aspects of livestock production and work with this group to identify key industry needs going forward. NJFB should continue to support this committee once it has been established
- Support livestock and slaughter facilities that offer essential services for livestock producers including custom-cutting and processing for retail sale
- Work with NJAES researchers and the statewide livestock committee to identify and support current and emergent education and marketing opportunities to enhance New Jersey's livestock industry
- Generating public support and media publicity for the industry
- Support the establishment of a branding program for New Jersey livestock products that includes a quality grading standard to uphold the integrity of the label. This program, intended as a new marketing tool for New Jersey livestock products, should be established in consultation with the newly formed statewide livestock committee.

### **DRONES AND DRONE USE REGULATION** (2021)

With emerging technology comes opportunity for agricultural efficiency and increased productivity, unmanned aircraft systems or drones offer agriculture those opportunities. From aerial monitoring of farm fields for moisture as well as nutrition uptake to actual application of fertilizers and or, combatting crop damage caused by wildlife, treatments for pests and diseases the unmanned aircraft technology is already here. In 2019, NJFB contracted with Steward Green, a wildlife habitat planning and management consultancy, to use drone-based thermal imaging technology to estimate deer populations throughout New Jersey.

The growth in this technology marketplace is also expanding, especially in the hobby and personal use category. The rapid growth has alarmed regulators in all levels of government with local officials considering no fly zones in their towns and state laws being considered that could hamper the legitimate use of this technology by farmers.

Currently the Federal Aviation Administration (FAA) regulates the use of unmanned aircraft. The rules apply to licensed pilots, commercial users, and anyone operating an aircraft over 200 feet. As a farm using an unmanned aircraft for a commercial purpose you would be regulated, licensed and required to register your aircraft with the FAA.

To fly a drone as a commercial pilot in the state of New Jersey (i.e. for work / business purposes) you are required to follow the requirements of the FAA's Part 107 Small UAS Rule (Part 107), which includes passing the FAA's Aeronautical Knowledge Test to obtain a Remote Pilot Certificate.

To fly a drone as a hobbyist in the state of New Jersey (i.e. for fun / pleasure) you are required by the FAA to take The Recreational UAS Safety Test (TRUST). You are also required to follow the FAA's recreational model aircraft rules. One of those rules is that if your drone weighs more than 0.55 lbs (250g), you'll need to pay \$5 to get it registered. There are additional rules when it comes to airspace and altitude, keeping your drone within line-of-sight while you're flying, and more.

To fly a drone as a government employee in the state of New Jersey (i.e., for a police or fire department) you may either operate under the FAA's Part 107 rule or obtain a federal Certificate of Authorization (COA).

These are drone laws that apply to the entire state of New Jersey and were created by the New Jersey Legislature.

State and Federal offices of homeland security are also concerned with the growth and ease in use of this technology. For agriculture and other national security interest industries like energy, water, and the chemical industry, the ability to use the technology to cause harm, fly past secure areas on private property or into critical infrastructure is a concern.

Further, NJFB continues to express concerns for private property and privacy rights and seek to ensure that the public cannot intrude upon private property with a drone.

New Jersey Farm Bureau should work to make farmers aware of the benefits of this technology and work to ensure farmers that want to use it have access and to and the ability to use it. Farm Bureau should also ensure that regulations that restrict the use of this technology provide opportunities for agricultural to use these unmanned aircraft and protect agricultural operations from the abuses that can happen from irresponsible public use of unmanned aircraft.

### **FIRE CODES/BUILDING CODES** (2021)

The New Jersey Division of Fire Safety, a division of the New Jersey Department of Community Affairs (NJDCA), launched a state-wide enforcement initiative on farms in NJ. Within the Division of Fire Safety, the Bureau of Fire Code Enforcement is responsible for enforcing the State's Uniform Fire Code. The bureau was prompted to investigate farm buildings for any violations of the uniform fire code or building code depending on the age of the building. Initially, the New Jersey Department of Agriculture was consulted about the on-farm inspection directive. After meeting with the NJDCA, the New Jersey Department of Agriculture (NJDA) responded by notifying many agricultural organizations to help spread the word to local growers about inspections.

The initiative by the bureau was to be completed during the 2018 growing season. Initial inspection is still ongoing in some counties as of late summer 2019. NJ farms are exempt from type 4 permits which are required for buildings classified under the life hazard use rules. Although farmers are exempt for the registration process and type 4 permit fees, growers are still subject to the inspections and fire code regulations. This exemption only applies to commercial farm buildings, typical used as storage buildings or packing houses, but does not apply to labor housing or retail buildings.

After initial inspections, grower feed-back indicated the need for additional information about the requirements of the uniform fire code. Since this rule is newly enforced, statewide, there are questions regarding the interpretation of some of the rules and inconsistency of inspections that need clarification. Farm Bureau should work to encourage state regulatory agencies to provide training and guidance in order to promote uniformity of enforcement by inspectors at all levels of government, and to establish a speedy and responsive appeals mechanism. The NJDA created a factsheet for commercial farm buildings in 2004 that contains some information on fire codes, as well as building codes. This document has been a helpful guide to many farmers with the construction of new farm buildings. This guide needs to be updated to reflect the current building codes which include fire safety codes. Currently all structures on commercial farms, other than residences, are subject to municipal fire code inspections. A commercial farm is private property and may have structures that are not open to the general public. Owners of these commercial farms are entitled to privacy under the Fourth Amendment of the United States Constitution, and it is recommended that the inspection rules reflect the Fourth Amendment, limiting inspections to only those structures which are open to the general public. The New Jersey Farm Bureau working with the NJ State Board of Agriculture should seek regulatory relief from fire inspections and require inspections only on farm structures that are frequented by, and open to, the general public and/or more than ten employees.

There is a specific regulation that would have significant impact on most farms regarding the placement of fuel tanks on farms. The existing code does not allow for fuel tanks to be within 50 feet of any building. Since most fuel tanks are next to ag buildings providing easy access to electric service and have shown to be the safest location to prevent collisions when maneuvering large equipment on farms. The NJFB attended a fire code advisory meeting to recommend a regulatory change for fuel tanks. The council accepted the recommendation, but the process is still progressing through the administrative process for the regulatory change.

The NJDA has continued dialogue with the state to explore a workable solution involving ag labor housing fire code requirements.

The current status is farmers have been asked to comply with the parameters for the NJ fire code. The Department of Community Affairs provided a letter to the NJDA on February 4, 2020 and the NJDA wrote a cover letter to be included with the DCA letter. The information was distributed to the industry that described the requirements for ag labor housing to comply with the existing fire suppression codes. Existing pole barns, sheds, or similar structures being used as temporary farm labor housing must meet fire code regulations as well as any new building constructed for housing. If a structure was not previously approved for residential housing, then it will be considered change of use if to be used for housing and would require fire suppression systems. Those houses built prior to 1990 and built as a residential construction do not need fire suppression.



Growers with questions about the fire code regulations with respect to farm labor housing should review the letter the NJDA provided. The letter also includes instructions on how to request a variation for alternative fire sprinklers that require less water reserve. Some agricultural employers will need to retrofit existing labor houses to meet code requirements. NJFB supports continued efforts to explore alternative standards for seasonal farm labor housing including amending the requirement for fire suppression in single story farm labor housing and merging fire codes on farm labor housing with Department of Labor regulations. NJFB supports grant funding to help offset the expense of compliance.

### **SERVICE ANIMAL IDENTIFICATION** (2021)

As per a resolution passed at the 2019 Department of Agriculture Convention, the State Board of Agriculture, Rutgers and NJFB worked with the Seeing Eye Inc. to create posters, cards and a FAQ document regarding service animals at farm venues. Posters and cards were created, and the FAQ has been posted by Rutgers online. NJFB will continue to disseminate these resources.

New Jersey Farm Bureau should consider advising a change to the Americans with Disabilities Act (ADA) to require service ~~and comfort~~ animals, with the exemption of seeing eye dogs in harness, to have issued photo ID cards, identifying them as service animals. It should be noted that comfort animals are not covered under the ADA. This should include the name and phone number of the animal's veterinarian on the back. This would help open-to-the-public farms protect their animals/livestock from asymptomatic and symptomatic diseases and psychological distress. Photos could be taken, and ID cards issued through the existing Motor Vehicle Division or other government entities.

### **RIGHT TO FARM** (2021)

Next to the Farmland Assessment Act, the Right to Farm Act is the most important state policy to encourage and maintain agriculture in New Jersey. The amendments of 1998 strengthened the Act considerably, and subsequent legal judgments have upheld the power afforded to the County Agriculture Development Boards (CADBs) to adjudicate conflicts involving farm operations. The SADC and New Jersey Farm Bureau continue to encourage each CADB to write letters to all municipal attorneys explaining the legal decisions supporting the CADB's role in Right to Farm conflict resolution. The New Jersey Farm Bureau should act to request a concrete determination from the Attorney General that could be sent to any local judge that ignores the statutory requirement that Right to Farm conflicts must be taken to the CADBs first.

#### **Funding for CADB's**

Even with the updates to the Right to Farm Act many farmers are caught in the crosshairs of nuisance complaints. Those complaints cost the farmer and all municipal property taxpayers' time and money. New Jersey Farm Bureau shall seek amendments to the Right to Farm Act that would require a posting of a bond by those who file a complaint to cover all landowner and farmer's defense costs if farming activities are found by the CADB to be protected under the Right to Farm Act. Such bonds should also cover all costs incurred by township and county professionals who might need more technical expertise to deal with such issues than what are available on the CADB's or county planning staffs.

#### **CADB Volunteers**

The primary responsibility for support and implementation of the Right to Farm Act belongs with those who have knowledge of New Jersey agriculture, the CADBs and SADC. The authority held by CADBs creates a great opportunity for the agricultural community, but also a great

responsibility. More than ever, the CADBs need knowledgeable commercial farmers to lend their time and expertise. Ensuring an ample supply of volunteers for the CADBs is a critical first step in making the Right to Farm program work effectively. There is an increasing need for training of those volunteers in conflict resolution, hearing procedures and other aspects of the process to make sure they are qualified to carry out their duties is the second step. New Jersey Farm Bureau calls upon the legislature to allocate funding to the SADC for continued and expanded CADB training and educational activities.

Farm Bureau must strongly encourage participation on these boards and give the appropriate recognition to those who choose to serve.

New Jersey Farm Bureau will continue to push for alternate farmer members on the CADBs, to ensure the agricultural community still has a voice in the absence of its regular farmer members.

If CADB members are found to have a conflict of interest on an issue, NJFB supports allowing the board with consultation with the board attorney present to make a determination of the conflict and referring the case to a different CADB, so a timely hearing (within 90 days) and decision can be made on an application deemed complete.

#### Notice to Neighbors

Right to Farm experience in other states shows that regular notice to all landowners that agriculture is a publicly endorsed land use helps a great deal in educating newcomers to the rights of farmers. A model ordinance about notice or a clause added to the local Right to Farm ordinance could encourage more towns to head off conflicts before they become confrontational. The SADC has a model Right to Farm ordinance that municipalities may use. While the SADC cannot require that the model ordinance be used, NJFB urges the SADC to promote and strongly encourage its use by local municipalities to help create more uniform Right to Farm protection on the local level. Further, NJFB shall encourage the SADC to develop more educational materials to help municipalities gain a better understanding of the Right to Farm Act and the process through which complaints are handled. The SADC's informational booklets, "The Right to Farm Act in New Jersey" and "New Jersey Agricultural Mediation Program Handbook" both are valuable tools for farmers, their neighbors and municipalities.

#### AMP's

Farm Bureau shall actively seek to participate in any SADC working groups for future AMP development.

Farm Bureau encourages the SADC to put a high priority on adding, through regulation if needed, agricultural labor housing to its list of protected practices, and an accompanying AMP should be developed. Housing for agricultural labor is essential to many farming operations and the construction of labor facilities must be protected under the Right to Farm. NJFB also supports the creation of a new AMP for alcohol-based agritourism and one for shellfish aquaculture.

Farm Bureau shall urge the SADC to use the AMP re-adoption process (every seven years) to re-examine the NJAES recommendation guides that are referenced in the fruit and vegetable AMP's. In some cases, NJAES has published updated recommendation guides that should be given consideration by the SADC as replacements for what may be outdated reference documents within the AMP's.

Farm Bureau urges the SADC to work as quickly as possible to adopt the remaining renewable energy AMP's and guidelines for preserved farms. The SADC has made some progress by adopting the AMP for solar energy generation and the rule to allow for solar energy generation on preserved farms; however, farmers wishing to install wind generating facilities on any farm are still waiting for the ability to do so and are losing valuable tax incentive opportunities in the meantime.

Farm Bureau endorses an amendment to the RFT rules, including the AMP for On Farm Marketing Facilities, Activities and Events, to establish guidelines for the temporary use of off-site public road parking during the peak season and for specific events crucial to the continued operation and success of a farm, and to permit the CADB to approve the use of off-site public road parking as part of a SSAMP approval where a farm demonstrates the need for off-site public road parking, the dates and times when such parking is needed, and adequate protections are put in place such that the off-site parking does not pose a threat to the health and safety of the general public.

Activities not addressed by the On-Farm Direct Marketing AMP

Weddings and other life celebratory events may be an important tool in marketing the agricultural output of a farm and therefore, some level of them should be able to take place and be protected under the Right to Farm Act. However, there is also the possibility that New Jersey farms, preserved and unpreserved could be turned into wedding facilities where the main objective is not related to the agricultural output of the farm and the activities could reach a threshold where they should require municipal approval.

Through site-specific cases, the SADC has taken the position that weddings and other life celebratory events on farmland do not qualify for Right to Farm protection. Farm Bureau disagrees in some cases and believes that weddings and other life celebratory events may be considered protected under the Right to Farm Act if they are within certain parameters and if there is a relationship to marketing the agricultural output of the farm.

Because of the SADC's current interpretation, legislation is needed to clarify when these types of special events can be protected under the Right to Farm Act. NJFB shall urge the legislature to take action in a way similar to what was done in P.L. 2009, Ch. 213, the law that allowed for renewable energy development on preserved and non-preserved farmland, with one critical difference. Clarifying legislation must allow for a deliberative process by the SADC in cooperation with the agricultural community to adopt an Agricultural Management Practice for such activities.

In 2020, the SADC and Farm Bureau held meetings to establish recommendations for legislative consideration of policies on special occasion events on preserved farmland. The issue was put on hold for most of 2021 while conflicting pending legislation left the farm community in limbo. NJFB supports the original special occasion event legislation that incorporates the recommendations of both the SADC and NJFB to strike a balance regarding the amount of nonagricultural activities that can take place on a preserved farm. In tandem, an AMP needs to be created for alcohol-based agritourism. Farm Bureau will continue to support this process with other stakeholders and ensure its completion through the legislative process.

In 2014, the SADC adopted amendments to the Right to Farm procedural rules. Included in the amendments was a Model Site-Specific AMP Review Checklist developed by the SADC that

CADB's may use to assist in the review of Site-Specific AMP requests. The Model Checklist contains a wide variety of review possibilities so that if a CADB adopts the checklist, it may then be tailored to the specific SSAMP request based upon the complexity of the request. Historically, there was some misunderstanding among CADB's about the purpose of the checklist and whether or not it was a new requirement placed upon them by the SADC. SADC has clarified the purpose of this checklist with the CADB's and this is no longer an issue.

#### Right to Farm for beekeeping activities

Legislation to extend Right to Farm protections to commercial beekeeping operations has been signed into law. Farm Bureau should work with the SADC, New Jersey Beekeepers Association and CADBs to ensure that these new protections are implemented swiftly and consistently for commercial beekeeping operations throughout the state.

#### Conflict Resolution

NJFB supports a consistent conflict resolution process across the state and encourages open communications between the SADC and CADB's.

NJFB urges the SADC to respond quickly and strongly when conflicts arise as a result of a local municipality's lack of understanding of the Right to Farm Act and process. This action and involvement is critical when a township is proposing an ordinance that is clearly in conflict with Right to Farm. When such proposals are brought to the attention of a CADB and the SADC the boards should take action to address the municipal action before it becomes adopted and conflicts with the act or adopted AMPs.

NJFB believes that CADB decisions should stand without prejudice toward or action against the farm operator, while an appeal to the state level is pending as the conflict resolution process can take an extended period of time at great cost to the farmer.

NJFB shall seek clarification from the SADC on whether the CADB's can question and re-examine the standards that are set forth within an SADC adopted AMP during a Right to Farm conflict resolution.

In the course of farmers making appearances before a CADB on right to farm matters, there has been a question raised in Morris County about procedural rules affecting farms with an LLC business structure. The question dealt with the admissibility of having a farmer owner of an LLC be able to be a representative for that LLC in a right to farm or other matter before the CADB.

The SADC's Policy, Conflict Resolution Public Hearing Guidelines for CADBs, Policy (Right to Farm): P-2, Effective Date: July 27, 2000, section III. 4., provides that a close corporation may be represented before a CADB by a non-attorney who is a principal of the corporation. NJFB supports the revision of Policy P-2 to permit a closely held entity organized as an LLC (Limited Liability Company) to be represented before a CADB by a non-attorney who is an authorized member or officer of the LLC. This SADC policy revision took effect in September 2017.

#### Agricultural Advisory Committees

The formation of municipal Agricultural Advisory Committees (AAC) is a requirement for any town that participated in and accepted monies through planning incentive grant (PIG). This requirement ensures that towns receiving state farmland preservation monies solicit and incorporate local farmer input on all agricultural issues. There are increasing instances of

municipalities that received funds not utilizing the AACs as they promulgate new ordinances and policies that impact agriculture.

For this reason, the delegates of the NJFB call upon the SADC to promulgate guidance and rules to municipalities that received PIG monies which will require them to utilize and consult with AACs whenever any policies or ordinances are proposed that impact agriculture within the town.

#### Communication and Education

Farm Bureau shall actively distribute information about the Right to Farm to individual farmers via direct mail and fax broadcast to members listing this issue as a “topic of interest” on their membership application. New Jersey Farm Bureau should publish regular updates on proposed AMP’s, prominent cases that are pending and new innovations in the scope of this program. The county boards of agriculture should be updated on a regular basis.

New Jersey Farm Bureau recommends that the New Jersey Department of Agriculture booklet “Fact Sheet for Commercial Farm Buildings” be updated to reflect the Act’s role in farm building construction.

#### **FARMLAND ASSESSMENT** (2021)

Farmland Assessment taxation, passed in 1964, is probably the most important reason that the loss of farmland in New Jersey slowed dramatically from 1970 to date. Approximately 1.2 million acres receive that assessment now, of which more than 500,000 acres is cropland.

Higher taxes and perceived tax abuses continue to be high priority issues with the public. The need to educate them about Farmland Assessment and its positive effects is greater than ever. New Jersey Farm Bureau was active through the year in meeting with legislators on Farmland Assessment issues.

Farm Bureau should continue to:

- monitor the results of the new mandatory training program administered by the state Division of Taxation. This new training program, a continuing education requirement for all assessors in a municipality or county with at least one parcel assessed as farmland, is intended to ensure that all such assessors are educated about the minimum qualification criteria for farmland assessment eligibility and the generally-accepted farming practices outlined in the Department of Agriculture's advisory guidelines for farmland tax assessment.
- Send out a periodic update to all members on the latest court decisions or other issues about Farmland Assessment. One such decision maintained that local tax assessors must use F.E.A.C. established values, as opposed to market value of the crop, or other personal methodology, when determining an assessment for a farm property. Farm operators must appeal by April 1 if they believe the assessment is incorrect.
- Farm Bureau should work with the legislature to prevent any changes to the program that would negatively impact the land dedicated to agriculture or increase taxes already paid by farmers. Any legislative proposals should be carefully reviewed by Farm Bureau staff and other members of the agricultural community.
- Oppose the misapplication of remote imaging technology for the purpose of punitive assessments.

- Oppose the creation of other tax abatement programs that compete with Farmland Assessment by encouraging large property owners to remove their land from agricultural production in favor of a conservation or set-aside program.
- Due to an issue in Warren County and Northwest New Jersey, urge the Division of Taxation to adopt soil classifications determined or to be determined by Soil Conservation Districts based upon updated soil maps. Educate tax assessors on the use of those classifications for valuation purposes.
- There is a new GIS mapping tool that is available to assist landowners in determining their soil types for farmland assessment. The web-based mapping system is available at [njda.njmapper.com](http://njda.njmapper.com). This tool can assist farms to apply for reassessment upon request to their local assessors. NJFB should encourage the education of tax assessors on the use of this new mapping tool for valuation purposes.
- Oppose the use of municipal specific forms for farmland assessment. Every municipality should not be allowed to require additional forms with a requirement to use the state forms only. In addition, tax assessors should be required to notify landowners that have previously filed, of denial by December 31, to ensure time for an appeal.

The Farmland Assessment Act was amended in 2009 to allow forest stewardship activities to fulfill the farmland assessment criteria, even without tree harvest. Farm Bureau opposed this legislation. The forest stewardship program was adopted November 2017.

With the addition of the Forest Stewardship Program and the full implementation of the legislative changes made to the program in 2013 Farm Bureau recommends no further changes be legislated while we monitor the impacts of the implementation of the law and rules.

While New Jersey Farm Bureau supports the development and use of renewable energy, the organization does not support broadening of the definition of agricultural production to include the “harvesting of the sun or wind” for power generation.

#### Farm Building Taxation

The Farm Building Appraisal Manual, a subset of the Real Property Appraisal Manual for New Jersey Assessors addresses economic obsolescence, functional obsolescence, and depreciation, the key concerns in farm building appraisal. Also, a section on permanent greenhouse structures, formerly found in the commercial building chapter of the appraisal manual, has been moved to the farm building section of the manual.

The use of this manual by assessors began in the 2000 tax year. Any farmer filing an appeal due to a farm building over-assessment should have a copy of the Real Property Appraisal Manual for use in the appeal. This is available for purchase from the Division of Taxation.

Even with the existence of the Farm Building Appraisal Manual, instances of over-taxation are still being reported. Although copies of the manual are available to the public, it is a complex document, designed to be used and interpreted by assessors, not necessarily the general public. New Jersey Farm Bureau contracted a consultant to develop a “primer” to explain the rules of farm building taxation. Farm Bureau should review and seek any necessary updates to the “primer” as building codes and tax policy has changed.

### **TAXATION ISSUES** (2021)

#### Local Property Taxes

Because education in the State of New Jersey is funded mainly through the local property tax, the financial burden of education is unfairly placed primarily on property owners. This has become a growing financial hardship for farmland owners.

This method of school funding has also created a social climate that is hostile toward any new growth or development. Many municipalities are making land use and planning decisions based not on what is best for the environment or the community as a whole, but rather, as a means to slow or even stop development, in an effort to hold down school taxes. Many of these land use decisions, like down zoning, drastically diminish a farmland owner's equity.

To help protect the property rights and financial well-being of farmland owners, New Jersey Farm Bureau strongly supports a change in the method by which New Jersey schools are funded. We urge the Governor and Legislature to immediately address this issue.

An area of concern has grown with State institutions, particularly colleges, that have expanded and bought residential units for staff to use as a residence as part of their employment compensation. The concern is that these increasing tax-exempt residential buildings are consuming services as any other residence in the community but not contributing to the tax base. The NJFB supports the reexamination of tax-exempt status based on "exclusive use" be revised to allow municipalities to assess taxes fairly to all residents in the community.

#### State Inheritance and Estate Taxes

New Jersey is one of only seven states that impose an Inheritance Tax. The New Jersey inheritance tax ranges from 11%-16% depending on the class of beneficiary. New Jersey Farm Bureau continues to support the elimination of the New Jersey Inheritance Tax, or at minimum, an increased exemption amount for non-exempt inheritors.

#### State Income Taxes

Farm Bureau should work toward allowing New Jersey farmers to average three years income for purposes of state income taxes.

#### Federal Taxes

New Jersey Farm Bureau supports the permanent elimination of the federal estate tax and the federal capital gains tax.

New Jersey's land values are among the highest in the nation, and a large percentage of a farmers' assets are in the form of land, equipment, and structures, that are largely illiquid. The death taxes represent a regressive tax on assets that were already taxed at least once, and these taxes represent a disincentive to farmers to invest in their businesses to remain competitive in a market where margins are slim at best. The death tax can also make intergenerational transfer of farms difficult or impossible. This could also have an impact on preserved farms, forcing owners to liquidate to pay the tax.

New Jersey Farm Bureau calls upon the United States Congress to exempt all farms from the federal estate or death tax, and furthermore call on the New Jersey legislature to do the same.

Given the importance of the death tax issue to the New Jersey farm community, New Jersey Farm Bureau should use all available resources to expedite this resolution.

NJFB recognizes that this is a complex issue, and that any changes may require careful negotiation. Until a complete exemption from state and federal estate/inheritance taxes can be achieved for farms, New Jersey Farm Bureau urges its members to take all appropriate estate planning measures.

Farm Bureau supports eliminating the capital gains tax. Until this is possible, the tax rate should be reduced and assets should be indexed for inflation. In addition, there should be an exclusion for agricultural land that remains in production, for transfers of farm business assets between family members, for farmland preservation easements and development rights, and for land taken by eminent domain. At the very least, capital gains taxes should not be collected at death, and the unlimited step-up in basis of inherited assets should continue.

Currently, farmers who donate food through “gleaning” programs are not eligible for the tax deduction. New Jersey Farm Bureau shall support a modification to the current federal tax deduction for food donations, so that farmers donating their products could qualify.

### **WIC AND SFMN PROGRAMS** (2021)

Since 1994, The Women, Infant and Children (WIC) Farmers Market Program, has provided Jersey Fresh fruits and vegetables to a segment of New Jersey’s nutritionally at-risk population who wouldn’t normally purchase farm fresh produce. In 2002 a pilot program was started to address the fresh food needs of our senior citizens and to that end the Senior Farmer’s Market Nutrition Program (SFMNP) was started with great success for New Jersey’s direct farm marketers. Both programs have put federal food program dollars in farmer’s hands but unfortunately, they have not had as successful a rate of return.

New Jersey Farm Bureau supports exploring the development of greater access for WIC and SFMNP participants including making electronic reading devices available to more local area growers for food stamps. Clarifying requirements for participating farmers as well as alleviating some of the training hours in order to encourage more farmer involvement is supported by NJFB. As one means of increasing participation, NJFB supported a change in regulation that allows for redemption the of WIC checks at farmers markets and direct farm marketers participating in the program.

In 2019, NJ Department of Health was approved by USDA to authorize farmers markets to accept WIC/SFMNP rather than only individual farmers who go through the training. This was meant to allow more farmers to participate in the program without having to invest in it. It was also meant to allow urban growers on less than five acres to accept WIC and SFMNP through the markets they participate in. This workaround was unsuccessful in allowing growers on less than five acres to redeem WIC and SFMNP as most markets are understaffed and do not have paid market managers to facilitate the markets as the redemption mechanism.

In 2021, NJFB worked with Rutgers and other leading industry advocates to create an alternative criteria for urban growers to be able to redeem WIC & SFMNP. Without having to change the 5-acre rule, controlling state agencies could adopt alternate criteria and expand farm vendor eligibility for WIC and SFMNP. Urban farms located in, or adjacent to New Jersey ‘food desert’ communities that currently serve low-income households should be eligible to accept WIC & SFMNP. Approving these farm vendors offers low-income consumers more options to use their benefits on local food. Urban farm vendors will report the percentage of sales to customers using any form of supplemental food benefit (SNAP, WIC, SFMNP). A threshold of more than 50% of sales to lower-income consumers through voucher redemption will ensure



that approved urban farm vendors are serving households in the designated food desert areas. Initial certification could be done by the NJEDA through their newly developed criteria for New Jersey food desert communities, with annual reporting after year one showing at least 51% of sales are through the redemption of vouchers. The Rutgers Office of Urban Extension and Engagement (OUEE) could also provide training and technical assistance.

Every year, these programs are losing farmer participants and federal funds are being returned instead of being utilized. Farm Bureau shall continue to monitor what is going on with the program so that this decline in funding doesn't continue, allowing the program to be rebuilt with transparency.

Farm Bureau should work with the NJDA and NJDOH to identify and implement new strategies for enhancing redemption of SFMNP and WIC vouchers at community and retail farm markets throughout the state.

State managed resources/lists of farms and markets that accept WIC, SFMNP and SNAP need to be updated on an annual basis to remain current and useful to those wishing to use their vouchers.

### **NEW JERSEY DEPARTMENT OF AGRICULTURE BUDGET (2021)**

Farm Bureau supports restoration of full funding to the NJ Department of Agriculture and strongly opposes any further reduction of the Department's budget.

New Jersey's agricultural industry is growing and expanding each year. In order for this growth to continue, the industry requires certain basic services and programs from the Department of Agriculture. New Jersey Farm Bureau recognizes the difficult financial situation of the state; however, the Department of Agriculture should not be forced to make further cuts if they mean cutting vital services. With a hiring freeze in place and the retirement of key individuals, core functions of the Department are at risk.

The 2019/2020 budget saw the first increase for the NJDA with an appropriation of \$500,000 to administer and operate an industrial hemp program. Farm Bureau should continue to support this and additional funding for the department's critical programs in the upcoming budget and work with the governor the legislature and the State Board of Agriculture to ensure there is the necessary funding. Due to increased workloads, NJFB supports increases in the budget for the Beneficial Insect Lab and the Division of Animal Health.

NJFB will request additional State budget appropriations for:

- Jersey Fresh Marketing- of seafood/aquaculture products \$100,000;
- Deer Fencing for non-preserved farms \$500,000;
- Additional staff resources for the different divisions at a minimum of \$150,000 per hire for:
  - Agriculture & Natural Resources,
  - Plant Industry,
  - Animal Health,
  - Marketing and Development
  - Fisheries and Aquaculture.

## **EDUCATION POLICIES** (2021)

### **FFA/Food, Agriculture and Natural Resources Education**

Food, Agriculture and Natural Resources Education prepares people for careers and professional leadership in production, processing, marketing, and distribution of agricultural products, and for related careers in plant and animal technology (including aquatic life), economics, education, mechanics and engineering, natural resources and environmental technology, food science, biotechnology, politics, sociology, and international relations and trade.

Quality Food, Agriculture and Natural Resources Education programs consist of classroom/laboratory instruction by a certified teacher of agriculture; work-based learning through supervised agricultural experience programs; and leadership and career development through FFA.

New Jersey Farm Bureau is concerned about successfully meeting growing domestic and global demands for food and fiber and seeks to identify the future managers, producers, scientists, leaders and others who will ensure the future security and productivity of agriculture. We recognize the need for higher academic achievement among students, especially in math and science. We also recognize requirements for increased accountability, standards, rigor and relevance throughout the quality education systems.

To achieve this, New Jersey Farm Bureau endorses the implementation of rigorous and relevant secondary Food, Agriculture and Natural Resources Education programs in schools with approved agriculture programs, as well as in schools wanting to establish approved agriculture programs. New Jersey Farm Bureau recognizes the consistent use and positive impact of the national Curriculum for Agricultural Science Education (CASE) program throughout New Jersey. School districts, especially those with CASE, are establishing articulation agreements with 2- and 4-year postsecondary institutions to offer college credit for rigorous agriculture courses at the secondary levels. Therefore, agriculture students are receiving college credit for high school agriculture courses saving the time and money for content learned at the secondary level.

Recruitment of more students focused on agricultural sciences and Food, Agriculture and Natural Resources Education will be necessary to meet employment demands in the future. Marketing New Jersey's high-tech agriculture programs to students (and their parents) interested in pursuing professional agricultural careers is a priority and is necessary if we are to serve global needs for food and fiber.

The National Council for Agricultural Education and the National Association of Agricultural Educators (NAAE) recognizes the national shortage of agriculture teachers. New Jersey Farm Bureau supports the New Jersey State Teach Agriculture Results (STAR) program where a team of 12 people representing education, agriculture, FFA, Rutgers and Delaware Valley University to promote careers as agriculture teachers. New Jersey may lose up to 11 veteran agriculture teachers in the next few years. The STAR program implemented a recruitment campaign to build the supply of young people to replace those retiring. In addition, there is a continued need for both the School of Environmental and Biological Sciences and Graduate School of Education to strengthen the agricultural education program, including a qualified agricultural education professor, in order to meet the future needs of certified teachers of agriculture and the current shortage.

## **COMMUNICATION AND EDUCATION** (2021)

The general public overwhelmingly supports and wants to preserve New Jersey agriculture. We must not allow untruthful or distorted perceptions to cloud or weaken that public support. Farm Bureau, county boards of agriculture, commodity organizations and allied entities like CADB's and units of local government should speak out in support of the adopted policies for the industry. Public relations on behalf of agriculture must be a main priority of New Jersey Farm Bureau.

Farm Bureau shall continue to implement a proactive, planned approach to communicating agriculture's key messages. NJFB has developed an ongoing relationship with reporters in the print and broadcast media that serve New Jersey many of whom now seek the Farm Bureau's input when reporting on issues and stories that pertain to agriculture.

In addition, Farm Bureau staff and members shall all take an active role in daily scanning of newspapers for agriculturally related items and sharing those clips with the entire staff to ensure that current media coverage is being fully monitored and responded to in a timely manner when appropriate.

In addition to communicating our policy issues, New Jersey Farm Bureau must also promote the agricultural industry and the organization of Farm Bureau to the non-agricultural community. Agriculture needs to continue to build alliances and support outside the farm community to ensure that emerging issues are identified and addressed early by a strong coalition of support. Improving the overall agricultural literacy of the non-farming public must be a priority for New Jersey Farm Bureau. This can occur in a variety of ways including distribution of printed materials, a presence on the internet/social media, and through in-person contact at events like county fairs.

NJFB shall work with the county boards and other agricultural organizations to develop a network of well-informed farmers with strong communication skills to disseminate the industry's key messages. NJFB should specifically target graduates of the New Jersey Agricultural Leadership Development Program and members of the NJFB Young Farmers and Ranchers to participate in this network, in order to capitalize on the training they've received.

In addition to communicating with the media and general public, NJFB needs to keep legislators aware of how policy decisions may affect farmers.

To effectively communicate with legislators, New Jersey Farm Bureau shall:

- identify key issues of importance to agriculture and relaying that information to Farm Bureau members;
- assist its members by providing information about who New Jersey's legislators are and how they can be reached most effectively;
- encourage all members to take advantage of AFBF's online advocacy tools to communicate with Congress; and
- Identify those key members with the most knowledge of Farm Bureau policies and strongest communication skills, and nominate them to be part of the Farm Bureau Grassroots Outreach (GO) Team.
- Recruit members to New Jersey Farm Bureau's new Advocacy Action Team, to become more effective agricultural advocates on state legislative issues.

## **NJALT (NEW JERSEY AGRICULTURAL LAND TRUST) (2021)**

NJALT is now established and formally incorporated in the state of New Jersey as a non-profit corporation with 501(c)(3) designation with the IRS. The purpose of the Trust is to preserve agricultural land through easement and fee-simple purchases.

NJALT welcomes referrals from other Farm Bureau members. Farm Bureau continues to provide some financial support to NJALT so its services remain available to the membership and farm community at large.

New Jersey Farm Bureau shall continue to provide support to NJALT. County Boards of Agriculture are encouraged to seek out representatives from NJALT to help promote awareness of it with local farmers and farm owners.

Given the recent period of inactivity by the NJALT, NJFB staff will confer with its board members and seek its recommendations for future plans. Its 501C3 designation is a valuable feature that can support farmer-based land trust activity. However, there are several well-established environmental land trusts that have provided similar services. Should a niche for NJALT services be determined after this dialogue, the Farm Bureau directors should consider a renewal of effort.

## **NURSERY AND PLANT INSPECTIONS (2021)**

Part of New Jersey regulations include that all nursery stock be subject to inspection to confirm it is free of disease and insect pest organisms. Such pests could be damaging to the nursery industry and to NJ communities. It was deemed important that the Department of Agriculture be knowledgeable of all plant material as it is moved around the state and country. With new emerging plant diseases, it is important to have a strong well-funded nursery inspection program. Farm Bureau supports increasing funding for the Department and supports a review of the current fees and inspection program to ensure that all plant growers and sellers participate in the program.

The program review should ensure:

- All plants eligible for sale were to be inspected. A nursery certificate is provided to all nursery stock and displayed for all consumers to view.
- Regular filing of documents to secure the certification and appropriate fees are part of the process; there should be no exceptions to this regulatory process.
- There is uniform enforcement of the regulations. Overnight “nurseries” spring up just before major holidays, selling trees, plants and plant products competing directly with established nurseries that are playing by the rules and have completed amongst other things: application for a Certificate of Occupancy for the business, parking facility with adequate space and safety, sign permit, business permit, insurance (liability, fire, etc.), State tax designation, Municipal tax on occupied land for commercial use, Agricultural Certificate for plant material, Agricultural Certificate for new plants shipped in, as well as bathroom facilities for employees and customers.
- Farm Bureau, along with the New Jersey Nursery and Landscape Association and the New Jersey Landscape Contractors Association, should seek a formal hearing through the Department of Agriculture to examine the impacts of these temporary businesses, excluding non-profit organizations, on the nursery industry and the risks to plant health for New Jersey growers from these establishments.

- The division of plant industry should work on developing bio-security standards for nurseries to aid in the prevention of the spread of insect and plant disease pests.
- The emergence of the Spotted Lantern Fly in New Jersey and the establishment of a quarantine zone to contain the insect is the clearest example of why we need an active and fully funded Plant and Nursery inspection program

### **HIGHLANDS** (2021)

The Highlands Water Protection and Planning Act passed in 2004 continues to drive land use planning and development in the 859,358-acre region. The Highlands Regional Master Plan (RMP), adopted in 2008, is being implemented through the Plan Conformance process, approval of a few redevelopment sites, center designations, and through purchase of Highlands Development Credits by the Highlands Development Credit Bank. Currently the Highlands Council is undergoing a mandated re-examination process that will, among other tasks, compare economic conditions within the Highlands with the surrounding communities outside the line.

The environmental supporters of the Highlands Act and Regional Master Plan continue to protest that the water resources are still not adequately protected even though development demand has virtually disappeared. Landowners still get only promises of “just compensation” although a significant share of what farmland preservation funds were available has been spent on Highland’s farmland. There is more and more evidence that land values have dropped perhaps as much as 75%. The ability to use the Dual Appraisal method and having a consistent funding source are the best landowner equity tools available. This continues to be of critical importance to Highland’s farmland owners and Farm Bureau members.

The most significant effect of the Highlands Act, regulations and RMP was reduction in property values that made credit impossible for some. It also discouraged some from applying for farmland preservation in the belief that the development value was too low. There seemed to be poor understanding about using the Dual Appraisal method of valuing a property.

Another effect noted was being unable because of the rules or RMP to provide for housing family members. With the Highlands density limits and also overly strict deed restrictions in farmland preservation deeds, some landowners were highly frustrated and disappointed not to be able to provide for their family members on their own land.

This Council has established a special Land Preservation Committee and approved formalizing 2 land conservation programs, making progress on providing compensation for Highland’s landowners who have lost land value by their inclusion in the region.

The Highlands staff reports that it is making an effort to actively encourage Highlands towns to capture the benefits from creating a Receiving Zone in their communities. Any TDR planning grants will be strictly monitored to measure actual progress.

Finally, a further change in the Council’s priorities is demonstrated by the Plan Conformance approvals, many including designated Centers, and approvals of redevelopment areas, all encouraging growth where appropriate and creating opportunities to consider establishment of a TDR Receiving Zone.

Lack of “fair compensation” through some form of dedicated funding source that appeared to be promised by the Legislature in the 2004 Highlands Act is still the overriding concern of Highland’s landowners and New Jersey Farm Bureau. The RMP states that landowner equity is supposed to be supported in three ways: land or easement acquisition; transfer of Highland’s development credits, and the exercise of residential building opportunities exempt from both the DEP Highlands rules and the RMP. Now there are to be 5 ways, including those developed by the Land Conservation Committee.

The Legislature extended the Dual Appraisal method (where the municipal zoning and DEP Highlands rules as of before the Act was passed in 2004 are used to appraise farm property development potential) to June 30, 2019. This has produced higher easement values when Highlands landowners put their land in farmland preservation. In 2019 the legislature extended the dual appraisal method for another 5 years ending in 2024.

Landowners with mostly forested properties now will have ways to tap some of the equity in their land while retaining the farm. A forest easement purchase program allowed by policy in the RMP is included in the new land conservation rules being considered by the Highlands Council. Farm Bureau with the Department of Agriculture will make sure that the Council removes any obstacles to timely implementation of such a program in which the landowner can continue to follow a Woodland Management or Forest Stewardship plan to continue Farmland Assessment. As for the use of TDR as an equity protection tool, the Legislature prevented any practical use by stating that no Highlands municipality could be forced to develop a Receiving Zone. Maps in the RMP show that there are areas that have all the requirements to support such development. Legislation makes it possible for any town outside the Highlands to buy HDCs when seeking to increase the density of development. To date, eleven towns received Highlands TDR Feasibility planning grants, and are in various stages of considering use of this planning tool. Three (Newton, Passaic City and Vernon) have moved into Phase III, the critical Fiscal Analysis study that will determine how many credits could be traded at what price.

The Legislature in 2013 amended the statutes governing use of the cluster to make it possible to involve noncontiguous land parcels. This may prove to be an easier, less expensive, and more useful tool than full TDR. Farm Bureau will make sure that this alternative is enabled by changes to the RMP.

The only market for HDCs at present is the Highland Development Credit Bank that has been buying credits for \$16,000 each. Recent Highlands Bank research shows that so far the average price of a Highlands Development Credit for a residential property is \$10,135 per acre, not too different from the SADC average. The Highlands TDR Bank is currently out of funding and needs replenishment, two sources are a new water fee on larger development projects that use highlands region water to compensate for the open lands and dedicating a portion of the CBT funds for farmland and green acres preservation programs based upon the type of conservation easement placed on the land.

As for another Highlands equity recovery tool provided by the RMP, the residential exemptions promised by the Highlands Act are being used by many Highlands landowners to build housing for their families or even for sale. Several municipalities have been authorized to grant certain exemptions to eliminate the DEP review for Highlands landowners. There is a set process for applying for exemptions 1,2,4,5,6,7,8 and towns can charge a fee for processing. Even the Woodland Management Plan required for exemption 7 could have submission requirements and a fee for the “designated municipal official” to review them.

Detailed descriptions of these exemptions and a list of municipalities currently certified to approve them and other Highlands background can be found on the New Jersey Farm Bureau website at: <http://njfb.org/issues-policies/information-for-farmers/>

In the coming year NJ Farm Bureau shall improve the opportunities for compensation and equity protection by:

- Supporting timely implementation of the new land conservation programs and clarification of how they will apply to forested properties.
- Working to fund the HDC Bank annually so that it always has money to buy HDC credits since without mandatory Receiving Areas there is no market other than the Bank to buy credits. Ensure that the opening credit value is recalculated to be closer to the true property values being lost.
- Urging the HLC to support any and all farmland preservation funding from the Legislature,
- Monitoring the requirements municipalities now eligible to approve Highlands exemptions 1,2,4,5,6,7,8 can set and ensuring that they and any fees charged are properly scaled to the character of the project.
- Monitoring the activities of the Highlands Credit Bank and urge more progress in development of a viable TDR program, including the establishment of mandatory receiving areas that would provide a real market for Highlands Development Credits.
- Supporting the HLC in making planning expertise and funding available to towns where there is potential for development of a Receiving Zone, including the communities outside the Region but in Highlands counties where research shows capacity for the necessary increase in density of development.
- Work with the legislature on new initiative to fund the TDR bank in the highlands, including a permanent dedication of a portion of the CBT or annual appropriations in the budget.
- Support the ongoing efforts of the Highlands Development Bank to formalize the methodology for determining and utilizing Municipal Average Values for preservation compensation.
- Encourage the SADC to look at all the methods available when valuing lands for preservation in the highlands including using the models developed by the Highlands Council in determining credit allocations
- Advocate for a legislative change to NJSA 4:1C-31c allowing for a seller's appraisal and for the seller to be reimbursed for the cost of that appraisal, either by the county (Commissioners) or via a Highlands Council Municipal Grant.
- Support the appointment of a Landowner Advocate for the Highlands Council.

NJFB should continue to pursue septic density rule changes that are no more restrictive than areas outside the Highlands, using underlying soil types and alternative wastewater treatment systems.

In the Preservation Area septic density (and thus new development) is to be determined by using the nitrate dilution model that has been updated through regulation.

NJ Farm Bureau shall:

- Continue to work cooperatively with the Highlands Council members and staff throughout the plan conformance process. Farm Bureau urges Highland landowners to use the

greater influence they have with their own elected officials to effect changes for their benefit.

- Work to educate farmer members in the Highlands region about the risks and benefits of their towns conforming to the RMP and arm them with questions to ask their town decision-makers and talking points to use in public hearings on Plan Conformance. For Preservation Area farmers, Farm Bureau shall work to ensure that Municipal Plan Conformance does not negatively impact agricultural viability. For Planning Area farmers, Farm Bureau shall work to provide the proper tools to oppose or support the conformance process depending upon the impact conformance will have on agricultural viability.
- Challenge the Legislature and the Governor to assess the total economic impact due to the Highlands Act and RMP to educate themselves as to the total cost of the Highlands Act and its impact on NJ's regional economy.
- Monitor the development of required Agriculture retention and farmland preservation plans, and the municipal "consideration of Right to Farm Act provisions" in the new master plans and land use ordinances developed as part of Plan Conformance.
- Work with the NJDA in urging the Highlands Council and the DEP to assist the NJDA in formulating and distributing an official statement defining actions Highlands farmers may take without the cost and stress of preparing and filing a fully detailed expensive Highlands Development application.
- Educate new HLC members about Highland's agriculture. Provide them with up-to-date statistics about the industry and its value to the economy of the Region and the state. Plan and carry out another tour of Highland's farm operations for Council members and new HLC staff.
- Urge the Governor and the Senate to appoint the full number of Council members as soon as possible and to assure that membership of the Highlands Council includes stakeholders who own land in the Preservation Area.
- Support the functions of the newly formed agriculture advisory committee.
- Ensure that the Highlands Council not adopt forestry management rules specific to the Highlands that differ from any other statewide standards.

### **EMINENT DOMAIN** (2021)

Eminent domain gives governments the power to "take" private property for "public use" or "public purposes" while providing "just compensation" to the landowner. States have statutes and rules that set up a process to be followed that is supposed to be fair for all parties: the landowner, the government entity, and the general public that theoretically receives the ultimate benefit of the action.

New Jersey has its Eminent Domain Act of 1971 and the Local Redevelopment and Housing Act that set up a prescribed set of conditions for using the condemnation power and a legal process that must be followed.

In recent times there have been several court decisions approving the use of eminent domain to take farmland for various purposes such as open space, recreational facilities, or building schools. Most notably, the Mt. Laurel vs. Mipro decision by the Appellate Court said it was proper for a town to use eminent domain to preserve open space expressly to stop a development project.



The New Jersey Agricultural Development and Retention Act recognizes the possibility of using eminent domain to take farmland by setting up a process within the Act (NJSA 2:4C- 19) through which CADBs can “determine the effect of the use of this power upon the preservation and enhancement of agriculture in the Agricultural Development Area, the municipally approved program, and upon overall State agricultural preservation and development policies.” Government’s contemplating using eminent domain to acquire farmland in an Agricultural Development Area are required to notify the CADBs, or in counties with no CADB, the SADC. These boards review the reasons offered and can hold a public hearing before deciding whether there will be adverse effects on the Agricultural Development Area. In using this process, there have been instances when a CADB or the SADC determined that there would be no effects harmful enough for them to oppose the action.

Farm Bureau shall:

- Oppose the use of eminent domain to take farmland out of agriculture for open space acquisition or merely to obtain increased tax revenue for an agricultural property.
- Be a resource for farmers, municipal officials, the state’s planning entities, Highlands and Pinelands Councils, and state regulators on the process and impacts to farmers and farmland owners when Eminent Domain occurs.
- Work with the Legislature to amend the New Jersey eminent domain statutes to strengthen measures to protect active farmland from indiscriminate and ill-advised use of this powerful tool.
- Support proposed legislation restricting the use redevelopment incentives when agricultural lands are targeted as part of a redevelopment plan. We understand there are times when agricultural land needs to be developed but it should not be targeted with incentives to do so.

### **RELIEF FROM EXCESSIVE ENVIRONMENTAL REGULATIONS** (2021)

Ever since 1972 and the passage of the federal Clean Water Act the Legislature has repeatedly assigned to the New Jersey Department of Environmental Protection ever increasing power and authority to regulate a broad range of activities related to the use of our land, water, plant, animal, and other natural resources, often without precise detailed and quantifiable standards.

Each year New Jersey Farm Bureau has called upon the NJ Department of Environmental Protection to adopt an overall policy direction that would allow for simpler, less time consuming and expensive procedures for agricultural operations. Natural resource concerns could be addressed by development and implementation of a farm conservation plan along with practices from the national USDA-NRCS Field Technical Guide (FOTG).

The Flood Hazard Control rules ~~to~~ allow simpler, more streamlined procedures for many normal agricultural activities in riparian buffers or wetlands. Since adoption in 2016, these rules allow farm operators to self-certify that they are implementing an approved farm conservation plan covering riparian areas or apply for general permits that would allow common conservation practices. However, the \$1,000 fee remains in the final rule despite Farm Bureau objections.

NJFB stands with AFBF in supporting the repeal of the federal Waters of the US rule (WOTUS). Under the 2015 rule, farmers, ranchers and other landowners across the country faced new roadblocks to ordinary land-use activities. We support EPA in taking this important first step toward developing a new definition of waters of the United States that will protect water quality

while also promoting economic growth, minimizing regulatory uncertainty, and respecting the proper roles of Congress and the states under the Constitution.

NJ Farm Bureau must:

- Strongly affirm its support for DEP efforts to make the regulatory burden more appropriate for agricultural operations by allowing simpler, less expensive ways to get approval. This is essential to enable NJ farmers to increase their implementation of BMPs and access to USDA Farm Bill environmental protection programs to the same extent as farmers in other states.
- Find like-minded organizations to help prevent the loss of these welcome improvements to the rules in support of any movement by DEP to make necessary environmental regulation more practical and appropriate.
- Communicate this directive to the Governor, the Legislature, and farm conservation agencies.

We all can agree that environmental protection is important. Through good conservation and management practices agriculture can improve the environment. The public recognizes this, and the DEP should also recognize this in their development of rules and regulations. However, environmental protection regulations must also be tempered with consideration for the impacts they have on our economy and society and their ability to absorb the ever-increasing restrictions on our natural resources.

DEP's response to repetitive, sometimes anonymous complaints from members of the public against one farmer is perceived as wasteful of government staff and resources and of the affected farmer's time. Farm Bureau should encourage the DEP to develop protocol in cases of repetitive complaints from the public on the same issues. DEP should first investigate permits, licenses, or programs that are already in place on the farm, before going out to the farm property to investigate. Furthermore, when the complaint filer's issue has been investigated and DEP finds that the farmer is in compliance with required rules, permits, licenses, etc. the DEP should testify to the complainer that the issue has been investigated (date, time) and addressed and that the farmer/farm is in compliance.

### **U.S. CLEAN WATER ACT (2021)**

Waters of the United States (WOTUS)

The Biden administration has announced plans to issue a new rule returning the definition of Waters of the United States (WOTUS) to what it was in 1986, incorporating subsequent Supreme Court Guidance. Once that rule is complete, they plan to work on a new rule that broadens the WOTUS definition even further.

The EPA and U.S. Army Corps of Engineers have interpreted a recent district court ruling in Arizona as vacating the Navigable Waters Protection Rule nationwide. As a result, they are currently applying a WOTUS definition similar to what they have suggested will be issued in the coming months.

The new rules are expected to be much broader, having a greater regulatory impact on agricultural landowners. Farm Bureau will monitor the new rule proposals, participate in public hearing/stakeholder meetings and comment as needed.

NPDES Permits

The Clean Water Act (CWA) controls water pollution by regulating point sources that discharge pollutants in and around waters of the United States through the National Pollutant Discharge Elimination System (NPDES) permit program. The federal Environmental Protection Agency (EPA) has never required NPDES permits for the application of pesticides for agricultural crop protection, mosquito control, invasive aquatic weed control, forest canopy insect control, or other registered uses of pesticides when properly applied following FIFRA-approved label directions; and

In January 2009, U.S. Court of Appeals for the Sixth Circuit decision, in the matter of National Cotton Council of America et al. v. United States Environmental Protection Agency, vacated an EPA Final Rule which exempted pesticides applied in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the federal Clean Water Act's permitting requirements; and

The Court granted EPA a two-year stay of its decision, during which time EPA is developing general permits for four aquatic pesticide uses in the four states without CWA authority, and states which have assumed CWA authority may use these examples as models in adopting general permits for their states.

Several attempts by Congress to remedy this situation by clarifying FIFRA's sole primacy in regulating pesticide use failed to achieve final passage, including an attempt by the House to have this corrective language included as part of the new 5-year Farm Bill. This new permitting requirement is now in place.

This change will require NJPDES permits for pesticide applications made to or near the "Waters of the State," meaning the ocean and its estuaries, all springs, streams and bodies of surface or ground water and wetlands, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction, and this would place additional burdens on applicators, impact crops in fields, pastures and forestlands adjacent to farm ponds or bogs, ditches, streams or rivers, and interfere with the timely application of pesticides.

NJFB, working closely with NJDA, was able to effectively communicate with NJDEP about the potential impacts of this new permitting requirement should it be applied broadly (i.e. interpreted to include agricultural modified wetlands). These discussions have yielded favorable interim interpretations for farm operators, clarifying that this new permitting requirement does not apply to pesticide applications made "to" or "near" agricultural modified wetlands areas. Still, NJFB should:

- Continue to Work with American Farm Bureau Federation to support the passage of the federal legislation to clarify that this new permitting requirement does not apply to agricultural applicators, in the Senate and urge our Senators to support this measure. Even though the deadline for permit coverage has now expired, this issue can still be resolved legislatively.
- Work with DEP to maintain a general permit for agricultural applications that is not burdensome to applicators, that provides adequate protection against 3<sup>rd</sup> party lawsuits and is issued to allow farmers to make pesticide applications in a timely fashion.
- Ensure that sufficient federal resources are made available to offset the costs associated with getting permit coverage so that these costs are not shifted to state agencies and hardworking farm families.

## **MISUSES OF IMPERVIOUS COVER ORDINANCES** (2021)

Besides property flooding, ever increasing stormwater flows cause degradation of water quality through erosion of stream banks, and combined sewer overflows in many New Jersey communities. One prominent research study claimed that once a watershed contained more than 10% impervious cover (identified by GIS mapping), the streams would begin to degrade, water quality would be reduced and floods would cause loss of property downstream. The 10% limit was supposed to be used as an average across a whole watershed area, but NJDEP and some NJ municipalities have used it to limit impervious cover site by site affecting all new development.

New Jersey municipalities regulate the percentage of a lot or development area that may be occupied by structures and other surfaces impermeable to water. To comply with the NJ Stormwater Control Act, they have also been required to develop Stormwater Management Plans with impervious cover controls implemented by stream corridor protection and other ordinances.

Farm Bureau should continue to work with Rutgers University Impervious Cover Working Group whose research shows that not all stormwater runoff causes degradation of water quality in streams, ponds, and other water bodies and farms can provide especially good opportunities for stormwater management.

New Jersey Farm Bureau must work on this issue to meet both the needs of New Jersey agriculture and the legitimate concerns of municipalities and other regulators. Officials must be made to understand that the purpose of impervious cover regulations should be to limit stormwater runoff and not to control land use and limit agricultural development.

Farm Bureau shall:

- Continue to review and comment on any proposed impervious cover limitations so as not to tie the hands of future farmland owners.
- Support policies that have less restrictive impervious cover limits for agricultural buildings, allowing for a higher percent coverage than other uses while recognizing a farm's potential for groundwater recharge when stormwater is managed by appropriate design.
- If impervious cover statutes, regulations, or ordinances affecting farmland are proposed, then they must consider the following strategies:
  - Identify and encourage the maximum use of the whole farm to manage the stormwater created by roofs, roads, and other impervious surfaces while putting no strict limit on impervious cover.
  - Create trade-offs between site impervious cover and the many water recharge opportunities on farms.
  - Encouraging farmers to develop a conservation plan and obtain site planning assistance from the USDA-NRCS to deal with water quality and quantity
  - Creating statutes, regulations, and ordinances that allow for the development of site-specific designs that take into account the needs of each unique location – not the imposition of an arbitrary percentage of allowable cover.
  - Consider the Right to Farm and AMP process as they apply to the construction of agricultural structures.

- Continue to review and comment on the SADC recommendations on how to deal with soil disturbance and impervious cover limitations so that today's landowners do not tie the hands of future farmland owners.
- Prevent imposition of any absolute cap, using instead trigger percentages that enable the farmer to engage in a site-specific method to set limits in conjunction with the appropriate conservation plan and management practices.
- Ensure that municipalities and the SADC use the two Highlands triggers (3% and 9% additional impervious cover) for decisions about impervious cover on preserved farms instead of the NRCS 2% limit total for federal farmland preservation monies.
- Ensure that the SADC and municipalities use the Highlands definition of "agricultural impervious cover" that better accommodates real farm conditions. (Agricultural impervious cover means agricultural or horticultural buildings, structures, or facilities with or without flooring, residential buildings and paved areas, but shall not mean temporary coverings. Highlands Act Section 3).
- Because NJDEP has set the most limiting definition of "impervious cover" in the nation, NJ Farm Bureau should work with state agencies and groups to broaden (make less restrictive) DEP's definition of impervious cover. Farm Bureau should strongly oppose use of the DEP definition that considers even gravel an impermeable surface.
- Educate municipal officials, regulators, and landowners about the findings of the Rutgers research that provide a more reasonable way to quantify and manage impervious cover on farms: defining stormwater as connected to water bodies and disconnected so that land and vegetation can absorb and/or improve the quality of stormwater.

In March of 2019 the governor signed legislation creating the ability for a municipality or other government bodies to create stormwater utilities. This issue has been a major priority for environmental advocates over the past several years, one that will provide some oversight of stormwater run-off in the state. It does so by allowing for fees to be charged to owners of parking lots and other impervious surfaces for use in repairing failing stormwater retention facilities. Farm Bureau succeeded in having lands enrolled in farmland assessment exempted from the fees. While avoidance of another tax is welcome news, stormwater run-off from production agriculture farmland remains a top priority for the State Soil Conservation Committee and USDA-NRCS office. Farm Bureau should coordinate a discussion of those priorities with relevant county-state-federal agencies to assist the preparation of a status report and action plan in coordination with the further progress of this state legislation.

### **TRANSFER OF DEVELOPMENT RIGHTS (TDR) AND NONCONTIGUOUS CLUSTERING (2021)**

The planning concept Transfer of Development Rights (TDR) continues to be an option for municipalities who want to manage growth yet provide equity for their landowners. Four TDR programs have been developed in New Jersey in the past, one of which is still in the process of buying credits for development, the Pinelands Development Credit program.

In March of 2004, the Governor signed the first statewide TDR legislation. New Jersey Farm Bureau worked extensively with the bill sponsors, administration staff, and other constituent groups to make sure that any TDR legislation would be built upon the successes learned in the Burlington County TDR programs. The final statute has safeguards built in to protect landowner equity when establishing a TDR program on a municipal or regional level. A successful TDR program is one where all parties buy in and there are actual transfers made that result in the appropriate development.

As an equity protection tool, TDR has had very limited success in NJ, proving to be a more difficult planning tool to use than many planners expected.

As part of the 2004 legislation the Task Force succeeded in convincing the Legislature to make changes to both the MLUL and the TDR Act to enable use of noncontiguous clustering as a smaller scale way to achieve transfer of development potential from properties that could support it from those where preservation is desirable. Though the new statutory language does not strictly agree with Farm Bureau's concerns, it may be a much more practical tool than full-scale TDR.

Non-contiguous clustering means that if a municipality enables this tool in its ordinances, a landowner or two landowners could agree among themselves to transfer all the development potential from one property to another while preserving the remaining land. There would be no formal exchange of credits, only an agreed upon price.

Farm Bureau members must ensure that if TDR is being considered in their town, the equity-protection principles must apply.

Farm Bureau shall work with the new administration and explore the possibilities of statewide transfers of Pinelands and Highlands Development Credits. This program is already partially enabled by the existing state TDR Bank and state legislation establishing credits for landowners in both the Pinelands and Highlands regions. What is still needed is the facilitation through funding of the state TDR Bank or having the state harness the high-density development demand in growth areas like the Jersey City waterfront with areas of specific state restrictions like Pinelands and Highlands. In addition to harnessing high density development as discussed above, Farm Bureau supports using constitutionally dedicated CBT money to fund the sale of Highlands and Pinelands credits using farmland preservation money when it is a farmland easement and green acres money if it is an environmental conservation easement.

Farm Bureau shall seek the completion of its suggestions for legislation to create financial incentives for the redemption of TDR credits in the Highlands and Pinelands programs. Its planning consultant's recommendations are now pending with the Office of Legislative Services and being put into legislative language.

#### **ANIMAL CARE** (2021)

The State Veterinarian, housed within the NJDA, has drafted minimum standards for the care of farm animals, as required by state law. These were developed with the input of veterinarians and other livestock experts.

The adopted rule is the first of its kind in the nation to comprehensively address standards for livestock care as it relates it to animal cruelty. After challenges to the rules by animal rights groups the New Jersey Supreme Court upheld the authority and the expertise of the Department to promulgate the standards further stating, "Regardless of one's personal view of the overall regulatory scheme or of domestic livestock in general, the regulations as a whole are consistent with the meaning of the term "humane."

The Humane standards were readopted in 2017 with very little amendments or changes.

Last year, Farm Bureau worked with the Department of Agriculture on a handy brochure to explain the humane standards and the built-in bio-security protocols in the regulations and what steps a farmer or livestock owner should take in the event of an investigation to our members and those authorities responsible for animal abuse investigations. The brochure is available to Farm Bureau members and proved useful several times this year when SPCA agents were overly aggressive with farmers.

With the elimination of the enforcement role for SPCA's the state attorney general along with the county prosecutor's office have taken over implementing enforcement of animal cruelty statutes in NJ. This led to a budget increase in the department for staff to conduct and assist in livestock cruelty investigations. NJ Farm Bureau and the Department of Agriculture should continue to monitor the changes being made and will work to keep our members and those in enforcement informed about the role of Certified Livestock Investigators in livestock abuse investigations.

It is very important for New Jersey agriculture to have strong and working humane standards for livestock producers that are based upon science and that separate agricultural management practices from true animal abuse. This separation has been challenged in the past by legislation that would create a new standard for gestation crates in NJ that runs counter to the regulations developed by the Department of Agriculture.

The federal government through the USDA is working on a National Animal Identification System (NAIS). The program includes a Premise Identification (PI) component. All domestic species inclusive of all breeds, types and species of camelids (llamas and alpacas), cattle, bison, cervids (domestic deer and elk), equine, goats, sheep, swine and poultry will be included in the NAIS and PI development. NAIS and PI will be voluntary as the system is developed and phased-in overtime. After much push back from the livestock groups the NAIS rules now focus on animals that move off premise and across state lines.

This impacts the cattle and equine industries most and it is the animal owners' responsibility to keep records of the animals' movement for trace back ability in the event of a disease outbreak. NAIS is implementing electronic RFID (Radio Frequency Identification) button tags, hang tags, surgically implanted chips and other technologies to implement the NAIS program. Additionally, New Jersey Farm Bureau also supports the USDA Scrapie Eradication Program for sheep and goats and supports the USDA plan to phase in the NAIS tagging system to replace the current "scrapies" tag program in order to avoid duplication and undue expenses to those producers.

The New Jersey Farm Bureau supports the USDA concepts (Program Aid No. 1797 and 1800) and does not want the NAIS or PI programs to become a burden on any domestic animal producers. Farm Bureau also supports the avoidance of multiple identification programs, processes, or requirements. Farm Bureau will oppose the imposition of fees to producers for implementation of this program.

New Jersey Farm Bureau supports strong standards for the care and treatment of domestic livestock and continues to oppose any legislation seeking to regulate or ban the raising of livestock, including bills like the gestation crate and the "veal bill." Farm Bureau believes these farm activities should be regulated using the NJDA's animal care standards. Farm Bureau supports and encourages the NJDA to update the humane standards to align with American Veterinary Medical Association (AVMA) and industry best management practices.

Farm Bureau will seek protection from unauthorized entry of farms by persons seeking farm management practice documentation without first gaining permission from the farm operator. This recommendation should be forwarded to the NJDA-Division of Animal Health, which has responsibility for the regulations pertaining to the care/treatment of farm animals and the enforcement thereof.

### **LAND USE REGULATION** (2021)

Agricultural and forested lands continue to be the largest areas of remaining undeveloped land in the state that pay taxes while providing food and fiber products to New Jersey's economy. To ensure that landowners have the freedom and flexibility to use, acquire, and preserve the land, New Jersey Farm Bureau has been active in promoting the need for balanced land use regulation. This balance includes protecting farmland and open spaces, environmental integrity, agricultural economic viability, and landowner equity.

New Jersey municipalities have the power under the Municipal Land Use Law (MLUL) to plan and regulate the type and extent of land uses on private property in the name of public health, safety, and welfare. Many municipalities are using their zoning power for much more including: farmland and open space preservation, preservation of rural character, water quality improvement, and limiting population and growth. Since their master plans must be updated at least every 10 years, this gives them the opportunity to add or change tools to accomplish these goals. If zoning changes are made because of this reconsideration process, the MLUL requirement that all affected property owners be personally notified does not apply.

Farmland owners should be alert at key points during the master plan re-examination, master plan amendments, township committee passage of land use or police power ordinances such as those required by municipal stormwater management plans, and any municipal planning activities moving toward State Plan implementation or Highlands Plan Conformance.

Since a municipality's or a site's capacity for handling wastewater in rural areas continues to be measured by its capacity to dilute nitrogen by means of outdated technology such as septic systems, this could result in much larger lot sizes and reduced development density, a major change in the development potential of farmland. Municipal acceptance of clustering and onsite community wastewater systems are the landowner's only hope for development density that might approach what was in place before these plans go into effect.

New Jersey Farm Bureau should:

- Continue to urge its members to stay alert to land use planning changes in their municipality possibly coming with new wastewater management plans and the new State Strategic Plan and make sure they are in favor of the potential effects on their properties.
- Encourage the farm community to seek positions on local land use boards, environmental commissions and other municipal and regional decision-making bodies in order to have input on land use and zoning issues that impact agriculture.
- Encourage all members to participate in or monitor the actions of any municipal Agricultural Advisory Committee or to work to have the municipality create one to advise both the township committee and the planning board about land use planning and other regulation that effects agriculture. Help find funding for the Agricultural Advisory Committee to review their master plans and ordinances to assess whether existing documents do support the agricultural industry.



- Make a special effort to help Highlands farmland owners ensure that they receive the benefits that enhance agricultural viability outlined in the RMP to the maximum extent possible as their communities go through the Plan Conformance process.
- Under the Murphy administration, Farm Bureau members and county boards are advised to be alert for the resumption of strong growth management initiatives by the state that may change local land use plans and ordinances.
- Reemerging as a threat to farmland is solar development. With the passage of the successor SREC program, it is possible that NJ will lose up to 5% of ADA prime and statewide significant soils. SADC has been tasked with keeping track of the acreage removed from agriculture.
- Warehouse development is also an emerging threat to farmland. Due to the pandemic and increase in online purchased goods, NJ is the prime location for warehouse facilities with its active ports. 2020 saw the introduction of bills that would prohibit blighting farmland to be rezoned for warehouses as well as requiring a regional approach/approval process, of which the State Planning Commission would play a part of. NJFB supports protecting farmland with good soils; there needs to be a mechanism put in place to preserve farms in a timely manner that are under imminent threat of development.

The tool of choice to accomplish many municipal land use and environmental protection goals continues to be down zoning to create very large lots – 7, 10, 12, even 15 acres, in the name of Smart Growth and growth management. There is more and more evidence that this practice only makes large lot sprawl the development form of choice. Rural character and environmental benefits as well as savings in the cost of municipal services (apart from school costs) are lost instead of encouraged.

Carefully designed growth management includes larger lots along with agricultural development clustering to protect land, a better way to enhance the viability of agriculture than smaller lots and a hands-off approach to development. Every study of what's needed for agricultural viability nationwide has contained strategies for directing inevitable growth into smaller, more marginal land areas so the best land can be protected for farming.

The New Jersey Farm Bureau will continue to strongly oppose downzoning and:

- Work to ensure that affected property owners are notified whenever their land is included in a downzoning action, even when it results from the master plan re-examination process or change in a sewer service area.
- Challenge the continued use of the nitrate dilution model whenever it's being used as a political tool and manipulated to produce whatever zoning is wanted.
- Continue to press DEP to make the necessary revisions in the use of the nitrate dilution model in the Highlands a top priority.
- Continue to advocate strongly for towns to use clustering or "conservation zoning" and noncontiguous clustering techniques to prevent very large lot zoning that eats up large tracts of the best farmland and destroys the community's rural character.
- Encourage the SADC to require an equity protection statement in any county or municipal agricultural preservation/retention master plan, as well as measures that demonstrate strong support for agriculture as a business.
- The Farm Bureau directors were pleased to witness the final adoption of the amendments to the DEP Highlands septic density regulations, which effectively reduced by half, or more, those large lot guidelines of 25 and 88-acre minimum lots. This change was initiated by legal action of Farm Bureau on behalf of landowner property rights.

These amendments were nullified by the Legislature in January of 2018 and in December of that year DEP, under the Murphy administration, repealed the amendments.

### **BEEKEEPING INDUSTRY** (2021)

The commercial production of bees and their use in the pollination of crops is a vital component of New Jersey agriculture. This aspect of farming is not well known to non-farmers. Beekeeping needs to be supported and maintained in New Jersey.

To ensure a safe and plentiful supply of bees for New Jersey farmers, Farm Bureau supports the existing powers in the NJDA Division of Plant Industry, which are sometimes used to stop the movement of bees in response to disease and insect problems. To ensure the health of the bee population in New Jersey, funding for the Bee Inspection Program within the NJDA Division of Plant Industry should be increased to allow for the hiring of a second, full-time inspector.

A large segment of New Jersey's beekeepers are hobby beekeepers. Initial investments in bees and materials and the need to keep up on changing regulations and treatments for mites as well as damage from bears is becoming costly and burdensome to the growth of the industry.

New Jersey Farm Bureau supports the re-establishment of the Department of Agriculture's beekeeper education program that trains and establishes new beekeepers in the state. The program was run in partnership with Rutgers and the Ag Experiment Station. There is a critical role for the University to support through research and education and having the appropriate expertise and specialists to grow the program. This is an important program and should be continued, but with a focus on training people in commercial farming as a priority for participation in the program. NJFB should also support the continuation of the bee inspection program.

It is important that New Jersey Farm Bureau work with the Beekeepers Association and to assist them in finding ways to help the industry grow.

The package of bills to extend Right to Farm eligibility to any commercial beekeeping operation with gross sales of \$10,000 or more annually, establish the state's exclusive authority - through the state Department of Agriculture - to regulate apiary activities and create a penalty structure for the destruction of manmade native beehives was signed into law in 2015.

With the adoption of new beekeeping regulations, Farm Bureau should also work with the SADC, New Jersey Beekeepers Association and CADBs to ensure that the new Right to Farm protections for beekeeping activities are implemented swiftly and consistently for commercial beekeeping operations throughout the state.

The NJ Department of Health recently adopted new rules for home baked goods and the cottage food industry, these regulations include honey. No other state in the union regulates the bottling of honey, the cottage food rules are designed for bakers and preparers of foods not for someone packaging a raw agricultural product. New Jersey Farm Bureau should work with the NJDA, the NJDOH the beekeeper's association and Rutgers Cooperative Extension to address the problems this new regulation created for the industry and seek a solution for the regulatory overreach in the rule.

## **SEAFOOD GLEANING PROGRAM** (2021)

New Jersey is home to four of the largest commercial fishing ports in the United States. The annual harvest of New Jersey's fishing industry is valued at \$8 billion and is among the top in the nation, supporting 52,000 jobs.

It is estimated that 17 to 22 percent (approximately 2 billion pounds) of the entire U.S. fisheries catch is discarded each year. At any time, more than 1 million residents in New Jersey, including 375,000 children, suffer from food insecurity. That number is 49 million people, including 16 million children, nationwide. Utilizing a portion of that total discarded seafood could make an enormous impact on hunger, by securing a much-needed year-round source of protein for food banks, pantries and soup kitchens.

New Jersey's commercial fishers seek to reduce hunger by participating in a new program called "The United States Seafood Gleaning Program (USSGP)" to utilize discarded and wasted seafood by gleaning. The application and award of grants by the New Jersey Department of Agriculture (NJDA), United States Department of Agriculture (USDA) and the National Oceanographic and Atmospheric Administration (NOAA) would help expand this program.

The USSGP is partnering with seafood processors and distributors, food banks and other interested parties to develop an innovative and compelling program for the collaboration of fishers, aquaculturists, fish dealers and processors in New Jersey and along the East Coast to create usable fishery products from discards and underutilized species, thus helping to address food insecurity. To further NJFB support of the Seafood Gleaning Program in New Jersey, NJFB will advocate for legislation requiring all New Jersey fisheries management plans require consideration of gleaning on a voluntary basis.

New Jersey Farm Bureau supports the establishment of a US Seafood Gleaning Program, and advocates for the use of grants and donations from all appropriate sources. State funding for gleaning should be expanded to include seafood. NJFB supports the programs below.

For more than two years, AGS has operated a pilot program with Trinity Seafood and Fulfill food bank to glean fresh seafood from three local ports, process it into value-added product, and donate it to individuals in New Jersey's Monmouth and Ocean Counties. In the timeframe between 2019 and 2021, more than 200,000 meals have been delivered to Fulfill Food Bank for their clients.

National Marine Fisheries Service (NMFS), Greater Atlantic Region Office (GARFO) has initiated a Zero Discard Program to begin in January 2022. It is the first federally mandated gleaning effort to be conducted at the dock. Dockside gleaning will provide protein rich meals to thousands of individuals and families who are food insecure. America's Gleaned Seafood (AGS) looks forward to participating as the gleaning partner, and through its efforts will provide NMFS critical data which will improve fishery management plans and support the addition of new fishery management plans. AGS plans to work with processors and food banks in New Jersey and the Northeast to ensure the meals from the gleaned fish can be delivered to those who need it. AGS estimates the program will provide 240,000 to 800,000 meals in 2023. NJFB will advocate for AGS to be the gleaning partner of the Zero Discard Program, and will support the growth of AGS such that it can expand as the Zero Discard program expands.

NJFB shall in support of seafood gleaning, advise all gleaned seafood be compliant with regulations intended for safe human consumption and assure gleaned seafood should not affect the image of “Jersey Seafood,” “Jersey Fresh” or fresh seafood within the state.

### **OFFSHORE ENERGY** (2021)

The Bureau of Ocean Energy Management (BOEM) has designated seventeen lease areas, with six lease areas located offshore of New Jersey. Further leasing is underway for sand and gravel extraction, offshore aquaculture and other uses. These processes could be significantly improved, especially with regard to effectively engaging fishing communities and considering the needs of the commercial fishing industry.

New Jersey Farm Bureau supports the development of a regionally based, collaborative research and monitoring program to share accurate scientific information addressing the potential impacts of offshore development on fisheries. This should include identifying the monitoring, research and funding needs, as prioritized by the fishing industry. This program should also include the development of channels for collaboration on all phases of offshore development (planning, assessment, construction, operations and mitigation of fisheries impacts).

NJFB also supports broad monitoring for research relevant to offshore energy and other Outer Continental Shelf leasing that intersect with existing scientific efforts in regional-scale ecosystem monitoring, stock assessment and fisheries management.

On June 30, 2021 the New Jersey Board of Public Utilities (NJBPU) awarded a combined 2,658 MW of offshore wind capacity to EDF/Shell’s Atlantic Shores Offshore Wind and Ørsted’s Ocean Wind II, bringing the state’s total planned capacity to over 3,700 MW and moving New Jersey closer to Governor Phil Murphy’s goal of 7,500 MW of offshore wind by 2035 and 100 percent clean energy by 2050.

Based upon the tremendous uncertainty of offshore energy production, NJFB supports additional research and studies on the impacts of offshore energy development to the environment and commercial fishing industry on the following topics:

- Proprietary information on environmental impacts owned by offshore wind developers are not being shared with legislators and investors.
- There is a BPU/Rutgers study that shows a sum job loss in NJ with the development of stationary offshore wind development sites.
- There is evidence that land-based electric grid infrastructure cannot handle the contracted electrical production redirection of power moving east to west.
- The development of stationary offshore wind is anticipated to increase the mortality rate of the commercial fishing industry in the NY Bight area .6 - .8%.
- Standards for offshore wind development in the United States were finalized in 2021.
- Insurance for the construction and operations cannot be obtained by the development facilities until standards are written.
- Environmental impacts cannot be assessed until standards are developed within the United States.
- There are significant gaps in research on marine mammal corralling into shipping lanes by stationary wind turbines.

- There are no approved technology standards on counting offshore avian bird strikes by wind turbines at sea.
- There are no studies currently done on the electromagnetic field disturbance on the horseshoe crab migrations vital to NJ's ecosystems.
- Stationary offshore wind development will close over a thousand square miles of fishing grounds, increasing the need for imported seafood and specifically causing the NJ quahog clamming industry to lose 40% of their productive shellfish fishing ground.
- First responders will be needed for oil spills, worker rescues, injured worker transport, water rescues, etc.
- There will be a need for massive recycling programs and open landfill space, as wind turbines have a limited life span.
- Floating wind and hydrological electric generation can be developed using an eighth of the footprint, will comply with the Jones Act and is the technology that will soon be utilized on the west coast of the United States.

### **WINE INDUSTRY SUPPORT** (2021)

New Jersey Farm Bureau supports the fast-growing wine grape and wine production industry within New Jersey agriculture. It is a dynamic business with a strong potential for future growth among those entrepreneurs who have invested in these enterprises.

At the end of the legislative session in January 2012, the legislature passed the industry-supported wine shipping bill that expanded the number of outlets and permits direct shipping in and out of New Jersey by licensed wineries. This new opportunity to direct ship to customers has allowed for wineries to expand and grow in New Jersey. This growth has created a demand for farmers to grow grapes, but land availability is becoming an issue. New Jersey Farm Bureau should work with the wine industry and with the Agricultural Experiment Station on innovative ways to do long term land lease arrangements for grape production.

The use of marketing activities that include weddings and other life events at wineries and protecting them under right to farm along with the ability to use these marketing techniques on both preserved and non-preserved farms is critical to the industry. Establishing clear guidelines when meeting the criteria of "promoting and using the agricultural output of the farm" continues to be a goal of New Jersey Farm Bureau.

In 2014, a pilot program was legislated to permit and review special occasion events on preserved wineries. This program will last 44 months and sets limits on preserved farms that want to hold special events, based upon ordinances adopted by municipalities. The pilot program time frame was extended 2 additional years in 2018 to give the SADC time to publish rules to implement a regular program based in the pilot's findings. With the publication of the SADC findings the Legislature acted on several bills to address the recommendations in the report. Currently the assembly and senate have different versions of legislation. New Jersey Farm Bureau the NJ Wine growers and the NJ State Board of Agriculture are working to address the differences and seek to advance to the Governor a bill to allow for special occasion events on preserved farms including wineries.

### **MARKETING - JERSEY FRESH** (2021)

The New Jersey Department of Agriculture's Jersey Fresh promotion program has been a uniquely successful and nationally recognized effort to maintain the public's awareness of the availability and quality of New Jersey's agricultural products. As the program is expanded with

other branding names such as Jersey Grown, Jersey Bred, Jersey Seafood, and Jersey Firewood, it is important that proper funding be in place to further the state's marketing and promotional support. NJFB supports expanding the definition of Jersey Bred to include all poultry and livestock. NJFB supports the development of a Jersey Native designation.

The Jersey Fresh line item in the NJDA budget has been increased by \$100,000 in state funding this year. Otherwise, the state budget for Jersey Fresh remains low and barely covers the cost of the inspection and grading program. The marketing promotion is funded by USDA for specialty cropmarketing grants.

New Jersey Farm Bureau urges the governor and state legislature to restore funding to the Jersey Fresh promotion program so it can maintain and increase the successful promotion of the Garden State's agricultural, aquaculture, livestock, livestock products, meat products and horticultural products. New Jersey Farm Bureau would be supportive of reasonable increased producer fees to support the Jersey Fresh marketing program. Farm Bureau will work with the New Jersey Department of Agriculture to actively seek out other funding sources for the Jersey Fresh marketing program. All of these products should be eligible for Jersey Fresh promotion regardless of where they are processed.

Farm Bureau applauds the innovative use of social media by the program. Additionally, there should be a greater enrollment by produce farmers with Jersey Fresh Certification, and Farm Bureau will promote same among its membership.

### **MARKETING – LOCALLY GROWN** (2021)

The State Board of Agriculture (SBoA) developed a proposed regulation to define "locally grown" produce that was debated but voted down by delegates to a recent State Agriculture Convention.

Farm Bureau maintains its policy support for the SBoA's original concept of requiring the labeling of the origin of out-of-state produce if retailers wish to market it as "locally grown." NJFB will respect the SBoA's wishes of gaining an industry-wide consensus of support prior to further efforts of adopting this as a marketing rule for the Department of Agriculture. Farm Bureau

reminds its members in the produce industry that the intent of this original rule was to address the potential confusion for consumers about the term "locally grown" and the possible deception in retail marketing, without being an impediment to current sales of New Jersey produce.

Low, stagnant produce prices for wholesale growers in 2021 rekindled some interest in taking another look at the "locally grown" issue. In particular, outrage was expressed in August when a major chain store published a sales flyer that contained a promotion for "locally grown" while also showing a sale for branded imported California produce. The pandemic-related brisk sales of New Jersey produce during the 2020 growing season caused a welcome boost to local sales, but reportedly from growers went missing again in 2021.

Farm Bureau will continue its priority effort to promote locally grown New Jersey produce. In addition, further evaluation of other contributory factors (such as cheap imports, wholesale

marketing practices) to these low prices ought to be considered so that an appropriate level of attention is given to these issues for the discussion of locally grown labelling.

### **COUNCIL ON AFFORDABLE HOUSING (COAH)** (2021)

COAH was established following the 1975 and 1983 Mount Laurel decisions to ensure that every community in the state addressed the need and it developed the rules and standards by which municipalities plan for and build affordable housing. It's been reported that these decisions have made 68,000 units available for those who meet the liberal income qualifications. Others say that at least that many more are still needed.

The reconstituted COAH and Governor Christie considered and rejected opposing sets of third round rules leading the courts to start over by abolishing COAH and allowing the question to be settled in court. Municipalities are again being required to calculate their own fair share housing numbers to implement over the next decade. Many are now being sued to have them accept numbers calculated by the Fair Share Housing Center which the municipalities continue to regard as too high. That litigation at the end of 2016 resulted in the courts retaining jurisdiction to establishing housing obligation and reviewing projects.

Creation of affordable or workforce housing in even rural communities can benefit NJ agriculture by making more reasonably priced housing available for family members, farm employees, and local government employees such as schoolteachers, police and firemen. It also may present opportunities for growth in which land equity tools such as noncontiguous clustering could be used while providing affordable housing for those who qualify.

The COVID epidemic created a shift in development away from big cities and caused a housing demand shift toward suburban and rural areas of NJ, this trend if it continues could create a demand for new housing and renewed development pressure and increased need for more affordable housing.

NJFB should continue to work on finding ways to have ag labor housing count towards a town's COAH obligation, remove assessments for agriculture related structures, and provide for exemptions from fees for construction of farm family homes.

### **NEW USE AGRICULTURE** (2021)

New Jersey Farm Bureau should continue its leadership role in bringing about an increase in production opportunities in new use agriculture for farmers in this state.

The movement in American agriculture that seeks to use plant material raised on farms as a new, substitute source of material used in industrial and pharmaceutical products continues to expand. There are many proven technologies available for the conversion of carbohydrate material into many products as an alternative to a near-exclusive reliance on petroleum products. New uses for traditional crops for their health benefits are also being researched and refined. NJFB urges the NJAES to make new uses for agricultural crops a priority area of research.

By promoting this initiative, growers will put themselves in a position to capitalize on the emerging non-food, non-feed agricultural products market. This multi-disciplinary, multi-institutional initiative will draw upon the expertise of various sectors related to new use agriculture with growers and producers involved at every step of the process thereby enhancing their profitability.

### **VALUE-ADDED AGRICULTURE** (2021)

New Jersey Farm Bureau strongly believes that in order for farms to remain profitable, and therefore viable, they must constantly innovate and find new ways to market their products to appeal to a larger customer base. This can be done by finding new uses for agricultural products, but also by adding value to existing products. For example, farmers who process and or package their own products may see a competitive advantage in the marketplace.

New Jersey Farm Bureau shall support and work with industry partners to help farmers seek out and establish activities to add value to their products. In all of these endeavors, Farm Bureau shall work with the appropriate agencies to stress the importance of reasonable regulation to make the establishment of these activities viable. These endeavors may include the establishment of the following and every effort should be made to support them:

- Onsite pasteurization of milk
- Cottage food industry - New rules creating a cottage food operator (home baker) permit became effective as of October 4, 2021. New Jersey historically prohibited the sale of home baked goods but has now joined other states in allowing cottage food operations. The Department has been working on this issue for some time and carefully balanced allowing home bakers to operate small businesses while instituting appropriate safeguards.
- Local or regional slaughter facilities on or near farms. NJFB commends the efforts of the New Jersey State Board of Agriculture, NJDA and Rutgers for hosting seminars on the need for livestock processing in the state in 2019. The State of NJ must find a way to support and fund a meat processing facility in the state. There is greater than a six month wait for small farmers to get their animals into USDA certified butchering facilities in Pennsylvania.
- On-farm re-packing or co-packaging of food products.

The state Economic Development Authority has been directed by the Murphy administration to take a fresh look for economic development opportunities among existing business sectors in the state. In 2019, Governor Murphy signed into law bills that create EDA loan programs for farming equipment and the dairy industry. NJFB supports these programs and will seek to add more EDA opportunities for agriculture.

### **ON-FARM BREWING AND CRAFT DISTILLERY** (2021)

On-farm brewing licenses could provide an additional marketing opportunity to New Jersey farms and their farm products. New Jersey Farm Bureau has supported bills that would establish a farm brewery license that would permit farm breweries to produce malt alcoholic beverages for retail sale to consumers. In 2012 the governor signed legislation making changes to the brewery license that simplified and reduced the process by which a small micro-brewery would operate accomplishing much of what the “farm brewery” license does.

In August 2013 a new law that would permit craft distilleries went into effect. The bill creates a craft distillery license based on the following parameters: that the license holder manufacture less than 20,000 gallons annually; in order for the product to be labeled as a NJ-based product, at least 51% of the raw material used must either be grown in-state or purchased from providers located in-state; the producer can sell to licensed wholesalers and retailers and can additionally offer tours and, provided that an individual participates in a tour, sell product for consumption



on-site and for consumption off-site in a quantity of not more than 5-liters per tour participant and can also offer up to three free on-site samples (1/2 ounce serving) per visitor.

Farm Bureau should continue to support legislative efforts for simpler rules and reduced fees consistent with the farm winery law and rules, for other agriculturally based value-added alcohol products such as mead and ciders.

Farm Bureau should support efforts by the NJDA to establish standards for Jersey ingredients being used in distilling and brewing as to promote Jersey Fresh or made with Jersey Fresh ingredients. These rules can serve as incentives to use NJ agricultural products in the growing brewing, distilling marketplace.

New Jersey Farm Bureau should participate in a discussion to recognize on-farm brewing (micro-brewing) and distilling as an approved agricultural practice under specific criteria.

Farm based brewing distilling like wine making have an agriculture tourism connection and expanding farm-based brewing and distilling to promote use of “Jersey Fresh” products should be encouraged.

## **UTILITY LINE MAINTENANCE & EFFECTS OF UTILITY LINE DEVELOPMENT/EXTENSION** (2021)

The New Jersey Energy Plan puts emphasis on better use of current facilities and energy resources leading to improvements in delivery of power and energy sources. Expansion of major electric and gas lines through the northern part of NJ including the Highlands are considered critical to bringing more wind power and gas supplies from newly developed sources in PA to the consumers of New Jersey and the Northeast. This would help to raise the percentage of power produced by alternate fuels to the 2020 and 2050 goals.

The PennEast pipeline project threatened to cut through 100 acres of preserved agricultural land in Mercer and Hunterdon counties, which posed a potential threat to ongoing agricultural use of these lands.

The development of a PennEast pipeline has hit some regulatory roadblocks and a court ruling rejecting the group’s right to use eminent domain to take preserved properties for the project. After a win at the US Supreme Court granting them the right to pursue eminent domain, the project operators struck a deal with the state of NJ and are no longer developing the project.

Because projects like these are occurring at an even more intense pace in other parts of the United States, AFBF warns that farmland owners must take more care in agreeing to the terms of long-term leases or option agreements. Some of the questions a landowner must ask include:

- How will the “fair market value” of the easement or acquisition be calculated?
- Will owners of land needed to expand the utility/transmission line right of way receive a one-time payment or a yearly royalty like those who allow wind turbines or cell towers on their land?
- Who assumes liability for the construction and operation and who pays for the liability insurance? Is it included in a yearly payment?

- Does this land use reduce the value and usefulness of the property, such as impairing access, reducing the functionality of existing land and buildings? Compensation would be due for this impact.
- Will the company restore the land to its prior condition and agricultural use if and when the utility use ceases?

Based on the previous questions among others, In the coming year, NJ Farm Bureau will continue to work with the Department of Agriculture, SADC, Farm Credit East and RCE to help landowners protect their rights and what impacts they should try to receive compensation on.

Utility lines located on farmland can create a serious nuisance for farming options if they are not properly maintained. Large stanchions supporting overhead wires, if left unattended, can become a breeding area for noxious weeds, insects and diseases to the plant material on the surrounding farm acreage. Some utility companies have been reluctant to routinely clean these areas and in effect leave that work to local farmers at their expense. NJFB should encourage the BPU in addition to seeking legislative change requiring the proper maintenance of these areas, including the control of vegetation. New Jersey Farm Bureau will monitor this situation and advocate proper maintenance wherever it is appropriate. Similarly, gas and petroleum pipeline rights of way should also be maintained.

The NJFB should encourage the BPU to require update old equipment including poles which would limit repairs and outages. These updates such as having new utility poles compared to old, rotted poles could limit power outages and damage when severe weather events occur in the future. Utility companies should also maintain the height of utility lines that cross public roads in a way that prevents them from being caught or damaged by farm equipment and vehicles.

### **SALES TAX ISSUES (2021)**

The 2004 revisions to the sales tax code that deemed horse stall rentals as a sales taxable item has created confusion within the training and breeding industry. Because some of the animals are housed for production purposes, many mistakenly thought they were exempt from the need to collect sales tax. Additionally, stall rentals, the sale of claimed horses and the sale of horses are taxable in New Jersey, but not taxable in neighboring states. This tax directly impacts competitiveness of the racing and training industry here in New Jersey. Farm Bureau should work with the equine industry to create an exemption for these items. The Sales Tax Review Commission approved language in a bill that would end the sales tax on Equine operations, New Jersey Farm Bureau must work to complete the passage of this legislation.

An area of concern has grown within the agricultural industry with the method and interpretation of the New Jersey Division of Taxation as they determine farming enterprise qualifying for sales tax exemption (as referred to on the ST-7 form) and how it impacts state tax issues in areas such as but not limited to purchase of farm vehicles, farm use equipment and necessary farm supplies. Farm Bureau urges the NJDA to work with the Tax Division to adopt an acceptable set of definitions for farming enterprises.

Additionally, a clear definition needs to be developed of what constitutes a “farming enterprise” in New Jersey, to be recognized by all agencies and departments.

The Department of Agriculture has a comprehensive online guide to Farming and Sales Tax with special guides for the nursery and equine industries. Farm Bureau should continue to make the guides available to members and work with the Department of Agriculture and the Division of Taxation when updates are needed.

### **ASPHALT MILLINGS** (2021)

Farmers use reclaimed asphalt pavement (RAP) or asphalt millings to improve farm lanes and prevent mud tracking on public roadways from farm equipment. The asphalt millings make farm road improvements affordable for farmers; where purchasing new natural aggregate or using millings as a sub-base to a superficial natural aggregate layer is expensive and creates unnecessary hardship for farmers.

The Farm Bureau will work on getting NJDEP to provide an approval for this use or a Notice in the Response Action Outcome that an LSRP can rely on (similar to what we have for Historic Pesticides). The New Jersey Department of Environmental Protection has a guidance document available regarding the Reuse of Recycled Asphalt Pavement and Asphalt Millings. Any farm considering using these products should consult that guidance document before determining to use or accept millings on their property.

### **PINELANDS** (2021)

It is critical that New Jersey Farm Bureau continues an ongoing dialogue with the Pinelands Commission stressing the need to treat farm and forest landowners in the Pinelands with respect and in a way that protects their equity.

In 2009 the Pinelands Commission was considering a plan to create 2000 new PDC rights (500 Pinelands Development Credits, 4 rights = 1 credit) and allocate them to the Forest Areas. Caution should be exercised so as not to diminish the value of the existing PDCs by diluting the sending area supply with a wholesale addition of newly created PDCs from these Forest Areas. This proposal has been tabled, but NJFB should monitor any future attempts at reintroducing this concept.

There have been four special rounds within the preservation program since the implementation of the Pinelands formula in an attempt to compensate landowners through these special rounds. It is important that Farm Bureau continues its support for funding of farms in the Pinelands. Farm Bureau should ensure that the SADC evaluate Pinelands appraisals in a manner that is similar to preservation applications outside the Pinelands region. With changing PDC values farmers will be appraised on the formula and the PDC value to determine the best value for the landowner. New Jersey Farm Bureau may need to evaluate the base price for the formula to reflect the current values of PDC's.

As PDC values increased, more farmers elected to retire their credits. There are special cost share, such as deer fencing and other programs for farms that are enrolled in the preservation program and for farms that retire TDR credits. These benefits are currently not available for farms preserved through the retirement of PDC's. Farm Bureau should seek to work with those program administrators to amend statutes or rules to include farms preserved through the PDC program.

The Pinelands Commission is in the process of reviewing the CMP. Farm Bureau should oppose any CMP amendments that would diminish the demand for PDCs, work with Pinelands Commission members when necessary to help stimulate private-sector interest in Pinelands

Development Credits (PDC's) and closely review potential CMP amendments to suggest such changes. Furthermore, any discussion concerning amending the CMP to reflect a change in the PDC concept should not occur until farmer representation is restored to the Pinelands Commission.

There was a decision by the Pinelands Development Credit Bank Board that allowed for the donation of PDCs for a low-income senior housing development project. NJFB should oppose any future PDC donation requests made to the PDC Bank Board regardless of the projected use.

The Pinelands Agricultural Advisory Committee has been inactive for several years. It has been replaced by a formal agriculture advisory subcommittee, comprised of Commission members. The subcommittee's meetings are open to the public, but there is no formal obligation that they include agricultural interest from within the Pinelands region in these meetings. Farm Bureau should explore with Pinelands Commission staff the possibility of adding non-voting farmer members to this new subcommittee. Failing that, Farm Bureau should work to ensure that the recommendations of the subcommittee are representative of the interests of farmers from within the Pinelands region. The full Ag Advisory Committee should be re-activated for consideration of major agricultural policy matters.

This new agriculture advisory subcommittee is considering, among other things, a recommendation to the full Commission for the establishment of a new pilot program to authorize non-agricultural activities (i.e. weddings, festivals and other such events) on farms preserved under the Pinelands Development Credit program or in areas of the Pinelands where non-ag activities are limited to "low intensity recreation". Farm Bureau should monitor this process closely to ensure that this pilot program, if authorized, is adequately reflective of the needs of farm businesses within the Pinelands, consistent with allowances for such activities on farmland outside of the Pinelands and expansive enough to include events or activities where marketing the output of the farm plays a significant role.

Farm Bureau shall monitor the distribution of funds under the Garden State Preservation Trust to ensure that it reflects the geographic diversity of the state to the maximum extent practicable and feasible.

Funds allocated for Pinelands purchases by the GSPT shall only be used for farms within the Pinelands region, while there are active farmland applications pending. Landowners should be notified when and if funds are allocated for Pinelands purchases.

The NJFB supports the promotion of sound science when decisions are made when considering the need to use herbicides or pesticide in the Pinelands. The commission has an ongoing debate on using herbicides to control vegetative cover impacting fire towers and fire control projects in the preserve. Pinelands commission should not consider restricting the usage of pesticide or herbicides when needed to control a plant or pest.

With the ever-changing dynamics of agriculture, it is important that the Pinelands Commission support the Right to Farm within the Pinelands. Agriculture is an indigenous industry to be protected by the Pinelands Protection Act and Comprehensive Management Plan. Due to the diversity of crops and labor-intensive crops grown in the Pinelands, it is important that growers have the ability to expand all aspects of their business such as labor camps, packing facilities and supporting structures without onerous restrictions, such as having to purchase a PDC credit

or surrendering the same. It is important that the Pinelands Commission understands and supports the continuation and growth of agriculture within the Pinelands boundaries. Agricultural production areas should be permitted to have small business entities that support agriculture infrastructure.

Farm Bureau will also encourage the inclusion of farmland within the Forest Area into Agricultural Production Areas designation under the Pinelands Plan that will entitle them to allocation of Pinelands Development Credits and the accompanying share of GSPT.

The State Ethics Commission ruled that some Pinelands Commission members recuse themselves from all discussions concerning landowner and agricultural issues because of a perception of conflict of interest. The Pinelands Protection Act requires these interests to be represented and that agriculture be promoted and enhanced.

Farm Bureau should work to see that legislation to permit members of the Pinelands Commission to participate in discussion and vote on amendments to the comprehensive management plan becomes law. Failing a legislative remedy, NJFB should formally challenge the State Ethics Commission's ruling. Further, all discussion by the Pinelands Commission concerning landowner and farm interests should be suspended until full ag representation is restored.

The current Pinelands Comprehensive Management Plan (CMP) does not allow equine activity in the preservation district. The CMP only allows berry agriculture and horticulture of native plants and other agriculture activities compatible with existing soil and water conditions that support traditional Pinelands agriculture. Equine farms that existed prior to the act are allowed, but any new equine activity is not considered agriculture. NJFB should support an amendment to include equine agriculture in the preservation district.

Farm Bureau has affirmed its support for low impact/low intensity recreational uses on farmland in the Pinelands region. It also examined a Pinelands Commission staff proposal to create greater utilization of Pinelands credits (PDC's). This would be done in several ways, primarily by making all residential development application for designated growth zones include at least some use of Pinelands credits. After consultation with member farmers in the region and the Department of Agriculture, Farm Bureau endorses the concepts in the proposal and recommends development of a detailed proposed amendment to the CMP.

Farm Bureau believes that applications for new residential development should require some purchase of Pinelands Development Credits. We support the pending changes for the credit program to do this, without any exemption for affordable housing.

At the close of 2018, Farm Bureau has developed a legislative proposal to reinvigorate TDR credit redemptions in both the Pinelands and Highlands regional planning programs. Working with a planning consultant firm, the concept would authorize a linkage between state financial incentives for high density development in urban growth centers with a requirement to purchase HDC or PDC credits. This boost to the demand for already-allocated credits is expected to increase the value of these credits held by landowners in these heavily regulated regions, thereby helping to better equalize the economic impacts of these environmental planning programs. Farm Bureau is hopeful for legislative enactment during the upcoming year.

Farm Bureau shall also monitor the appointment process for the seven governor-sourced nominations to the 15-member Pinelands Commission by the Murphy administration. Among the seven, there ought to be individuals selected who can represent agriculture, local stakeholders and residents of the region.

### **MANDATED CONSERVATION EASEMENT DEED RESTRICTIONS** (2021)

The SADC, the DEP, and municipalities are authorized by N.J.S.A. 13:1D-9 to formulate comprehensive policies for the conservation of natural resources, to promote environmental protection, and prevent pollution of the environment of the State, and are authorized by N.J.S.A. 13:8B-3 to acquire and enforce conservation restrictions. Even the smallest permit or other approval can be used to require the landowner to prevent use of the rest of the property through a conservation deed restriction.

Through these easements the public gains control of the use of thousands of privately owned and maintained acres at no cost. Each conservation easement specifies what is to be protected and often what methods are to be used. No changes can be made in perpetuity without permission of the owner of the easement and amendment of the deed. A governmental entity or a nonprofit owner of the easement may have the right to inspect the property at any time and monitor to ensure that the deed requirements Farm Bureau should:

1. Remind the administration of the land use and land equity effects of this over-reaching practice. Landowners should not be forced by the need of a state government permit or approval to donate any future value of their property.
2. Work with the SADC to change the contents of their deeds of easement to be more like those used in New York State where the landowner receives an appraisal of and some compensation for all areas preserved for agriculture or natural resource protection.
3. Urge all Farm Bureau members to be careful to read all the small print when receiving any action from a state or municipal agency and review it with their own attorney to make sure such a sacrifice of land use and value is necessary.
4. Survey members for their experiences with this type of exaction and collect examples of conservation easement deeds imposed without compensation.
5. Ask DEP, the SADC, nonprofit land conservation organizations for statistics on how much privately-owned land is protected forever by these deed restrictions.
6. Seek legal opinion about how much legal support these easements could have and how to challenge the practice.
7. Use this information to develop guidance for Farm Bureau landowners about these conservation restrictions – their nature, their long-term effects, steps a landowner can take to avoid or change them. This could take the form of a section on the Farm Bureau web page, a guidance paper, and/or a future Update article.
8. Build an argument for legislation to outlaw this inequitable practice and find legislative support for a bill to deny state, county, local government agencies or nonprofits the ability to require conservation easements without compensation.
9. Report the findings of these activities to the Board of Directors in order to develop more action in the future.

### **DEER FARMING** (2021)

The deer farm industry has been strong in Europe, New Zealand and Canada for years. While the marketing of venison in the United States is still developing, deer farming is now growing throughout the United States. Some producers are new to agriculture while others are turning to deer farming as a way to diversify their farm operations.

Deer farming has been in existence in New Jersey since the early 1900's. The 2017 agriculture census shows 8 deer farms with 172 animals in New Jersey. This industry is currently regulated by the Division of Fish and Wildlife, Department of Environmental Protection. The Division does not seem to support the potential growth of this industry.

Legislation has been introduced that would transfer the oversight of the deer farming industry from the Department of Environmental Protection to the Department of Agriculture. This is the case in neighboring states including New York and Pennsylvania, where deer farming is becoming a fast-growing industry. New Jersey Farm Bureau supports this legislative change.

### **NEW JERSEY AGRICULTURAL LEADERSHIP DEVELOPMENT PROGRAM (NJALDP)** (2021)

New Jersey Farm Bureau has been a supporting sponsor of the NJALDP program since its inception. The NJALDP program has over the years seen much success in fostering the leadership skills of participants in the program and has created many new leaders in agriculture. The program has opened many doors and created opportunities for collaborations amongst participants and alumni which would not otherwise have been possible. In recent years, the program has undergone several drastic changes, including moving the management of the program, and also hiring an agricultural liaison to ensure the program meets the needs of the agricultural community.

Recently, the program resumed with a new class, working in conjunction once again with a program coordinator from Rutgers School of Environmental and Biological Science. New Jersey Farm Bureau will continue to support this program and assist when needed in its effort to enhance and benefit the agricultural community.

### **CONSERVATION DISTRICTS** (2021)

NJFB supports Soil Conservation Districts and recognizes them as partners in the good stewardship of our lands.

There is an opportunity for the Districts and the State Soil Conservation Committee to develop a higher profile with the current administration by offering to be part of streamlined government thru better coordination between the two entities. Better coordination can bring the ability to generate additional support income by expanding the services they provide to local and state government. New Jersey Farm Bureau should support an expanded role for the Districts as well as encourage the county boards to be more active with the local Districts and in the nomination process of members for the District Boards.

Climate change as a policy issue for our state and federal governments has rapidly ascended to a top priority, especially for the Biden and Murphy administrations. Mitigation plans are being debated actively. Agriculture and its large presence in the outdoor environment has been viewed as a potentially significant partner in off-setting greenhouse gas emissions, and to a lesser extent as a contributor to GHG.

A major strategy for climate mitigation is being developed by the USDA in the Biden administration behind the leadership of Ag Secretary Tom Vilsack. It is called "climate smart farm practices" and is akin to the system of soil conservation practices and recommendations employed by the state soil conservation districts. It is very likely that this strategy will further emerge in 2022 and become a welcome new grants program for farmers as land managers.

So far, it is envisioned to be a voluntary, incentive-based program for a wide application among farmers. NJFB recommends and calls attention to the potential favorable prospects and adaptation of it by the state via soil conservation districts.

### **GOVERNANCE BY INITIATIVE AND REFERENDUM** (2021)

New Jersey held a referendum on the 2013 State ballot to raise the minimum Wage in NJ. This process to raise the minimum wage circumvented the standard legislative process. Not only was NJFB opposed to the increase of the minimum wage via the NJ constitution, NJFB opposes the use of initiative and referendum type governance to impose new mandates and burdens on farm operators and farm businesses.

### **HISTORIC PRESERVATION** (2021)

In New Jersey, regulation of buildings, structures, landscapes and scenic corridors can develop at the local level through the master plan and ordinance development process. Nomination and listing as “historic” can be at the national and county level. Anything over 50 years old can be deemed “historic.” Anyone can nominate a property without the participation of the owner. New Jersey Farm Bureau supports a change in regulation that would require notification of a landowner prior to nomination of their property for historic status. Landowners should also be made aware if their property is being considered for inclusion in an historic district.

A focus on historic landscapes and scenic corridors is a concern for agriculture, not only because property values may be affected, but also because farm modernization or change to new crops or technology may be more difficult or impossible.

New Jersey Farm Bureau shall:

- Investigate the takings implications of designation of historic landscapes, “viewsheds,” and scenic corridors.
- Work with the SADC to find ways to additionally compensate farms for historic and scenic values when preserving a farm
- Be watchful for adverse actions on the local and municipal level and be prepared to educate town officials and the public regarding the cultural interpretation of agriculture and the historic role agriculture has and continues to fulfill in New Jersey’s landscape.
- Determine whether the Right to Farm Act requirement for an agricultural impact statement applies to these state-supported actions.
- Assert and reinforce the fact that agriculture in practice and agricultural chattel are the present-day evidence and artifacts that can aid in the interpretation of agriculture as a cultural resource to the general public.

### **BRIDGE CHANGES AND ROAD WIDENING** (2021)

Farmers in New Jersey typically farm many parcels of land and need to move large pieces of farm equipment on public roadways to get from one field to another. When bridges are upgraded or redesigned, they are often made impassable for some farm equipment. When this occurs, farmers have to re-route, often miles out of their way.

Farm Bureau encourages county and state entities, when contemplating a bridge re-design, to contact the farm community through the appropriate county board of agriculture. The agricultural community should be asked for their input on size, width and weight accommodations.



The farm community must meet with the NJDOT to discuss this concern and initiate efforts to help communities become aware of this need and better plan agricultural routes. There is precedent for this in a recent Delaware Valley Regional Planning Commission DVRPC transportation study for the Burlington Route 206 Farm Belt where agricultural routes were mapped by the farm community itself.

With increased traffic, the transportation infrastructure is continuing to be upgraded and expanded. New Jersey Farm Bureau recognizes the need for these improvements, but requests that the impacts of those changes, such as water runoff onto adjacent farmland, be addressed at the planning stages by the entity doing the project.

### **FARMING ON PUBLIC LANDS** (2021)

#### **State-Owned Land**

The NJDA has consulted with the DEP to develop a plan that could bring additional state-owned ground into farming. NJDA has proposed to use the Soil Conservation Districts to develop farm plans for these parcels, to ensure the land is being used in both an agronomic and environmentally sound way. New Jersey Farm Bureau commends the NJDA for its leadership role and hard work in this endeavor to help facilitate the farming of state-owned ground.

For future auctions of publicly held (state-, county- or municipally owned) farmland parcels, New Jersey Farm Bureau supports introductory per-acre bid rates of zero dollars. This approach will allow the private marketplace to dictate at auction an appropriate per-acre value for these farmland parcels. In addition, Farm Bureau supports a competitive open bidding process that ensures equal access for all interested farm operators to these publicly owned farmland parcels.

The Commissioner of DEP and the Secretary of Agriculture agreed to work together on land preservation with Green Acres focusing on urban areas and park land, while directing agricultural lands to the SADC for preservation. This arrangement needs to be continued and endorsed by the current administration in light of the limited funding for preservation.

For future purchases of active farmland, New Jersey Farm Bureau should seek to have the Farmland Preservation Program be given the opportunity to purchase the land or easements first, before Green Acres offers the land to management elsewhere.

Farm Bureau urges any government agency that receives any federal farm program funds to ensure that the maximum amount of funds available go to all qualifying New Jersey farmers. Long term leases of farmland are critical for the future viability of New Jersey agriculture. Many farmers prefer to lease because the land is too costly to buy. New and beginning farmers need land to work and a long enough lease to make investments in plant materials (such as grapevines) or certain farming methods (such as organic or low-input farming), cost effective. NJFB recommends the term for leases of currently fallow ground to be a 10-year duration, to give farmers sufficient time to invest in and prepare the land properly for agriculture.

Numerous questions have arisen among farmers who have an interest in the DEP program for leasing farmland parcels it governs to local farmers. Specifically, the process for auctioning land leases needs to be reviewed for update and flexibility. In Warren County, a farmer claims that DEP's maps of leased land to farmers do not fully coincide with the lease proprieties. In Sussex County, a farmer has unsuccessfully petitioned the DEP Office of Leases to have a nearby vacant farm parcel owned by the DEP made available for lease. He was advised that no further consideration could be given until another four years when lease renewals come to term.

Farm Bureau shall seek a dialogue with the DEP about the overall issue of farmland leases in partnership with the NJDA. These state assets can be a source of additional revenue to the state and financial viability for the farmers. An updated and efficient lease system is a goal to be shared with the farm community.

Farm Bureau shall:

- Not only work to have more state government land farmed, but also include any other public-owned lands.
- Insist that all land set aside through TDR or cluster development should be farmed or leased long term to someone who will actively farm it.
- Work with the appropriate State agencies to make them aware of the importance of agriculture and to urge them to make state-owned lands that are farmable available to local farmers without excessive regulation or interference with crop decisions.
- Insist on renewable leases to cover at least 5 years and longer when feasible. Very long term, inheritable or transferable leases should be used in New Jersey as they are in other states where appropriate.
- Work with the appropriate agencies to allow tenant farmers the ability to control wildlife on the farms that they lease, including the use of depredation permits, noise makers and other control measures.
- Oppose minimum bid prices for farmland that are artificially inflated, forcing farmers to either give up land previously farmed, or farm at a financial loss.
- Gather stakeholder input about the issue of government leasing policies for publicly owned lands. New Jersey Farm Bureau supports the formation of a task force, comprised of both farm and public entity representatives, to work together to find solutions to farmers' concerns.
- With the renewed state open space funding that was made available in 2016, work with the SADC on its implementation of the renewed funding for stewardship and soil/water cost share projects to ensure maximum distribution for production agriculture farmers.

#### **U.S. SOD PROMOTION PROGRAM** (2021)

New Jersey Farm Bureau should support the Turf Producers International (the trade association for turf grass farmers) in their efforts and application to USDA for the creation of the U.S. Sod Checkoff program. As part of the nearly \$500 million greenhouse nursery and sod industry in NJ, having a checkoff program dedicated to research and promotional activities could further expand the industry in NJ.

#### **STATEWIDE CONCEPT PLAN FOR AGRICULTURE** (2021)

There is a great need for an updated “master plan” for New Jersey agriculture. This plan should build upon past efforts led by the Rutgers Experiment Station for Vision 21 and previous work by the NJDA in the Blueprint Report for the Future of Agriculture (circa 1973). Farming overall is evolving rapidly in technology, marketing, consumer demand, land resources, labor and government policies at the federal/state/local level. The changes fostered by the intervention of the covid pandemic have also disrupted industry norms. As applied to unique conditions in New Jersey, this planning effort should encompass the state’s diversity of commodity type, farm business models and human resource availability as it envisions the future. Farm Bureau and its constituent county leadership will join in partnership with fellow farm leaders behind the leadership of the land grant institution to achieve these goals during the calendar year of 2022.

### **WAREHOUSES ON FARMLAND** (2021)

One other most well-defined trend in New Jersey land use activity is the development of large warehouse facilities to serve the commercial retail industry. The demise of “brick-and-mortar” shopping and outlets as well as the need for high tech oriented light industrial space fuels the demand for this new development. Frequently, many sites being selected for locating these warehouses are active farmlands.

Legislative proposals are now pending that call for added site plan review and inter-municipal consultation prior to approval of these development plans. Similar to the consideration of large solar panel development projects on farmland, some projects should be avoided to protect the ag viability of existing farms. Other situations may have less adverse consequences to farming, but should nonetheless be evaluated for its impact to local farming. In the event lands deserve regulatory protection, those landowners should be automatically qualified for equity compensation under the state or local farmland preservation program. Rules administered by the SADC including appraisal policies should be amended to reflect this new circumstance.

### **CYBERCRIME IN AGRIBUSINESS** (2021)

Family farms are not excluded from the threat of Internet hacking and cybercrime activity affecting their daily business. The FBI has contacted the American Farm Bureau and requested that it communicate a warning to all its farmer members regarding this risk to their business. Ransomware attacks, for example, can cause financial loss and negatively affect the food supply chain. Ransomware is considered to be the fraudulent entry and subsequent extortion attempt into the software programs of a business used to conduct normal financial and communications activity over the Internet. Cyber criminal threat actors exploit network vulnerabilities to modify data and encrypt systems in business sectors that are increasingly reliant on smart technologies, industrial control systems, and Internet —based automation systems. Food and agriculture businesses can suffer a significant financial loss resulting from ransom payments, loss of productivity and remediation costs, as well a loss of proprietary information and personally identifiable information.

Farm Bureau members are urged to become better educated about cyber crime risks. Recommended mitigation steps that can be taken immediately include regular backup of data, password protection back up, Network segmentation, use of strong passwords and their regular updating and others. The FBI welcomes contacts from local businesses who may be concerned about their exposure to cyber crime. Local FBI field offices are readily accessible; go to [www.stopransomware.gov](http://www.stopransomware.gov) for additional resources.

### **FILL DIRT ON FARMS** (2021)

What was once a common practice for farms in accepting fill dirt, soil and sometimes recycled material is now a matter of state regulation. Enactment of the “Dirty Dirt Law” (P.L. 2019, C. 397) imposes soil and fill recycling registration requirements among certain haulers of this material. (Truck hauling capacities of more than 15 cubic yards). In addition, some municipalities have now adopted ordinances binding on property owners requiring permits prior to accepting soil/fill material on their land. These permits include the need for soil quality testing that ensures the absence of toxic material in the fill. Farmers are cautioned to be aware of and stay compliant with these new rules before accepting fill dirt on their farms.

### **TRESPASS/VANDALISM** (2020)

Farming in the suburban/rural fringe areas of New Jersey continues to experience regular nuisance events from trespassing and vandalism. This pressure on agricultural operations is a

preventable source of increased costs of production and is an unnecessary hassle for those farmers. The increased interest in the “Rails to Trails” program as well as the development of other new walking and horseback riding trails nearby or through active farmland is likely to increase the incidents of trespassing, littering, and vandalism, making this issue of even greater importance. These problems can otherwise negate some of the advantage for being in direct proximity to large retail market opportunities.

Because those who recklessly drive onto farm fields are not aware of on-site conditions, they sometimes get stuck in wet soil or simply abandon the vehicle on the farmland property. In such an event, the vehicle ought to be kept on the premises by the local police until the landowner has been notified, has the opportunity to assess any damage to the property and also has determined who is responsible for reimbursement of the damage. New Jersey Farm Bureau shall seek whatever rule change is appropriate to have this procedure adopted throughout the state. We urge that balloonists and all-terrain vehicles be included in the same laws as motor vehicles concerning trespass.

State legislation to increase penalties for trespass and vandalism on agricultural lands was adopted in 2018. This legislation also simplifies the process for obtaining restitution for damages. Farm Bureau staff have updated a fact sheet to reflect these changes. The legislature is also considering additional legislation to increase penalties for vandalism.

New Jersey Farm Bureau supports more public education, and education of police and public officials in the form of brochures, billboard campaigns and/or booklets, regarding the consequences of trespassing and the theft and/or damage to crops. This would help promote a greater awareness in the public about the value of these crops to farmers and hence their importance in preserving a local source of food and scenic beauty.

NJFB opposes the concept of mandatory container deposit legislation because of the regulatory and financial burden it could cause for retail farm operations. NJFB encourages stricter enforcement of littering laws.

#### **TRADE PRACTICES/PRODUCE PRICES** (2020)

During the past year, an issue was raised about the importation of fresh market produce into regional terminal markets from Canada and Mexico. These imports have the appearance of “dumping,” whereby commodities with hidden advantages are shipped into U.S. markets and sold at prices that undercut or constrain the regional marketing from domestic or local growers.

During the past year, several South Jersey farmers called the problem of below-market imports into markets where they ship produce. Their complaint joins similar concerns voiced by farmers in the Hudson Valley of New York. Letters were written by Farm Bureau, the Atlantic County Board of Ag and others to their congressional representatives, the Trump Administration and the USDA asking for an investigation into these practices. This is now underway through a Sec. 201 inquiry by the International Trade Commission. NJFB calls upon the NJAES and its ag economics staff to conduct its own investigation to determine if there are any irregular activities harming the price of produce received by New Jersey farmers.

#### **BIO-ENGINEERED FOODS** (2020)

American agricultural technology has provided the leadership in the adoption of these processes into the food production system. Farmers are significant stakeholders in that system.

Bio-engineered foods are now under assault from criticism directed at the consumer health effects, environmental impacts and ethics of using this technology. Opposition is strongest in Europe and is now expanding to both developed and developing countries around the world. Critics have seized upon the public relations tool of stigmatizing the food supply among consumers through the news media, which in turn has caused some major food processors and food retailers to run scared. Farmers face the risk of market disruption and interruption of trade opportunities and those disruptions are increasing as countries try to use GMO bans as a trade barrier tool.

Several counties in other states have passed regulations banning the planting and use of GMO crops. It is important that sound science be used in establishing such regulations and that they be done as part of a national policy and not on a state or regional level.

Farmers are vulnerable to economic harm if the debate over bio-engineered products is won by those who have hidden agendas. Europeans seeking advantage in blocking food imports and anti-technology alarmists will overwhelm the political, regulatory and consumer markets with scare tactics unless their commentaries are confronted. At the same time, farmer interests are better served if they remain distinct from corporate entities that own the technology. It is still unclear whether the benefits of bioengineering in agriculture accrue to farmers if the fundamental relationship between the producer and the input companies results in more economic concentration. Not only might farmers lose freedom of choice among suppliers and buyers, but their role over time might evolve into being more of a manager and less as an independent business owner.

New Jersey Farm Bureau shall become proactive in the debate over bio-engineered foods. Grain producers for example are faced with a dramatic loss of market potentially without the intervention of credible voices in the debate. Emphasis needs to be placed on the safety of these modified foods and their importance in the worlds' economy and future food supply. Scientific research and findings support the safety of these foods. Farmers need to ensure however, that they not relinquish their place in the food production system even as they assuage consumer apprehension over the commercial use of this technology.

New Jersey Farm Bureau shall also support a greater effort of educating the public regarding the sound science of bio-engineered foods.

NJFB opposes state legislation that would require that every GMO food product that is offered for sale in the state to contain a label indicating that the product contains GMOs. The practice of labeling foods as "bio-engineered" or "made with bioengineered products" will serve no public service, and without public education could potentially frighten consumers away from safe, high-quality products.

NJFB continues to support voluntary labeling of bio-engineered food products as an alternative to mandatory labeling proposals.

NJFB will continue to monitor the federal GMO labeling requirement signed into law in July 2016 that required the Secretary of Agriculture to establish a national disclosure standard for bioengineered foods. The final rule for labeling bioengineered foods was adopted in February 2019 and the implementation date was January 1, 2020, but small food manufacturers (\$2,500,000 to \$10,000,000 in gross receipts) could delay implementation to January 1, 2021. Manufacturers can use this time to prepare for the mandatory compliance date on January

1,2022 when labeling will be required and the last date that preempted state labels may be put into commerce. The standard requires food manufacturers, importers, and certain retailers to ensure bioengineered foods are appropriately disclosed. Regulated entities have several disclosure options: text, symbol, electronic or digital link, and/or text message. Additional options such as a phone number or web address are available to small food manufacturers or for small and very small packages.

### **WATER SUPPLY** (2020)

Farmers are again advised to be very careful in keeping up with their DEP Bureau of Water Allocation certification renewals. Growers allowing certifications to lapse could lose their water rights. With serious competition for access to New Jersey's water supply, the agricultural industry may not regain the approvals for an increase in irrigation water use, once considered routine for agricultural diversions in some areas of the state. This is especially important as the division of water supply is scrutinizing any new allocation request or any unused allotment at time of renewal. Farm Bureau strongly urges compliance with the current water allocation program. The permit process has been streamlined to make it as efficient as possible. NJFB should also continue to advocate for the role that RCE agents play interacting with the DEP in the water allocation and permitting process.

The Delaware River Basin commission (DRBC) who once tried to require certification with their agency, is currently exempting farmers from their application process. NJFB should oppose any future requirement for certification or fees through the DRBC or any other agency. The certification process should be administered through the state bureau of water supply without fees.

The NJ Water Supply Authority has also been found to charge excessive fees for any new or additional water usage for farms that are located in basins under their purview. New Jersey Farm Bureau opposes any fees and duplicative paperwork that would be imposed outside of the NJDEP purview. The NJFB should work with the NJDA to ensure consolidation of the additional applications from water authorities with the DEP applications and eliminate the fees being imposed.

There have been municipalities in the state that have created ordinances regarding water supply. The municipalities have set standards requiring water withdrawal applicants to adhere to these municipal mandated guidelines. New Jersey Farm Bureau believes this is outside the jurisdiction of the municipality and demands the DEP to assert their exclusive authority for water use in the state. Local municipalities have no regulatory authority to require additional research for approvals.

As a result of completed and continuing studies evaluating the availability of water in various aquifers and watersheds farmers have experienced a reduction of water amounts allocated. Farmers in New Jersey cannot survive without an adequate water supply. Obtaining approval for water use on all farms is without doubt a major issue for the success of production and profitability. Farm Bureau should support the approval for agricultural water use by New Jersey DEP as the highest priority to ensure farm viability on all farmlands. New Jersey Farm Bureau recognizes the need to implement water conservation practices to secure this vital resource. In response to the effort to conserve water, NJFB should evaluate the possibility of preserving water reductions that are accepted by farms, to be placed in a bank for future or neighboring agricultural usage. NJFB should also encourage the requirement of municipalities in proximity to

the Tri-county pipeline in South Jersey to source public water needs from American Water pipeline that extends from Burlington County into Gloucester County.

The New Jersey water supply plan defines current water usage and trends in water usage from 1990 to 2015. The report documents agricultural water use has decreased from a high of 67,860,000 gallons per year in 1995 to 30,658,000 gallons per year in 2015. The report highlights agriculture uses about 30% of its allocated amount. The report highlights agriculture conservation practices impacting water usage but also reports the awareness of the need for more accurate water reporting. The DEP identifies the need to work with the NJDA, SADC, Rutgers to plan for future water supply needs and improve reporting data.

The NJDEP in an effort to address the concerns regarding water usage reporting the NJDA, NRCS and Rutgers Cooperative Extension were successful in acquiring farms willing to meter their water usage for the study. At issue is the need to more accurately align the amount of irrigation water needs requested by a farm operator in the water allocation program, versus the actual amount used now that is reported on a by the farmer. Any discrepancy of a significant amount can jeopardize water supply planning by the state. A grant has been awarded for the study, so there are no costs to farmer participants for this work in the 2020 growing season. The program unfortunately has experienced delays because of COVID-19 and were not able to install the meters before the growing season. The plan is to amend the grant and conduct the study in 2021. The NJFB will observe the results of this study for any potential future implications from the study since NJFB does not support mandatory water meter requirement.

Some progress has been made by Farm Bureau and others in having nursery water use during drought emergencies standardized with other agricultural exemptions in those circumstances. The State Assembly passed a resolution urging the Governor and DEP to treat nurseries and garden centers the same as agricultural food crops when imposing mandatory water use restrictions. New Jersey Farm Bureau also supplied a letter to the DEP water supply administrator encouraging a rule change to permanently fix this problem.

New Jersey Farm Bureau shall continue its work with the DEP on the permanent rules regarding emergency water use to ensure that these restrictions are not used in the event of another drought. It is not appropriate that a single segment of industry in this state should be restricted in the use of water. The nursery industry deserves the same access to water resources as all the other industries in the state. The nursery-landscape-garden center industry is committed to implement voluntary water conservation measures during drought periods and comply with mandatory restrictions that are in effect for all branches of commerce. Once permanent drought rules are established, they should be widely publicized, so the general public, as well as the agricultural industry will know what water uses are and are not permitted.

#### **INTEGRATED PEST MANAGEMENT (IPM) FUNDING** (2020)

Rutgers Cooperative Research and Extension (RCE) has delivered Integrated Pest Management (IPM) trapping and scouting services and educational programs to farmers statewide for over 35 years.

The IPM programs have helped farmers to improve pest management for crops in many ways. Precisely timed pesticide applications are made when economic thresholds are reached rather than spraying on a regular schedule, improving control of the target pest and saving farmers unnecessary spray applications, time, and money. Control recommendations through the RCE IPM program have allowed farmers to choose more environmentally friendly control measures,

such as mating disruption tactics, insecticides that are pest specific and that do not harm beneficial insects, trap crops, and other sound options for pest control. Additionally, IPM programs have assisted with reduction of pest resistance to certain pesticides, minimize pesticide use, minimize production cost, prevent wrongful use of pesticides, protect New Jersey food supply from foreign insects and disease, protect farm workers and children from pesticide exposure, improve environmental quality, reduce non-point source pollution, maintain export markets for New Jersey produce, and improve food quality through farmers being educated on alternatives to traditional pesticide use, as well as the proper use of low risk pesticides and fertilizers. This highly integrated program uses information gathered throughout the state once a week, or for some crops twice weekly, during the growing season, as well as from neighboring states. It brings the latest insect and disease forecasts and recommendations to growers who wish to participate in the RCE IPM programs and to all growers through the RCE Plant and Pest Advisory weekly newsletters and RCE website.

Budget cuts to the New Jersey Agricultural Experiment Station (NJAES) have jeopardized the future of the RCE IPM programs and services to farmers. New Jersey Farm Bureau recognizes the tremendous benefits IPM brings to agricultural production and the environment. New Jersey Farm Bureau supports the continuation of this program with its current delivery and needed staff to accomplish this and expansion of RCE administered IPM programs to the farmers of New Jersey. New Jersey Farm Bureau shall work cooperatively with RCE, agricultural producers and the state legislature to develop a permanent funding source for this valuable program.

New Jersey Farm Bureau shall continue to develop a public relations campaign to garner public support for continuing this program.

### **GLEANING** (2019)

The New Jersey Farm Bureau will continue to support gleaning as a way to provide nutrition to families in need and minimize food waste. Gleaning is the process of collecting excess food from farms, gardens, farmers' markets, grocers, restaurants, state and county fairs, and other sources in order to provide for those in need. Gleaning reduces the unnecessary wasting of quality food, and gives low-income populations access to fresh, nutritious foods that are sometimes not available in their communities. Farmers and individuals can get involved in gleaning by connecting with various non-profit organizations, such as the New Jersey Agricultural Society's Farmers Against Hunger program, which sponsors gleanings across the state.

The State of New Jersey recognized the importance of gleaning for the first time in 2016 by declaring the last week of September as "NJ State Gleaning Week", and officially recognizing Wednesday of that week as "Farmers Against Hunger Day". New Jersey held its first Gleaning Summit during this premier week, bringing together legislators, farmers, emergency feeding organizations and gleaning groups. New Jersey Farm Bureau supports the efforts of the New Jersey Agricultural Society to promote awareness about gleaning and continues to encourage farmers with excess produce to join the Farmers Against Hunger Program.

New Jersey Farm Bureau supports the current liability protection given to farmers through New Jersey law: Notwithstanding the provisions of any law to the contrary, an owner, lessee or occupant of agricultural or horticultural land shall not have a legal duty to protect a person who is invited onto the land for the purposes of picking or taking agricultural or horticultural products from the natural risks or hazards that are inherent characteristics of agricultural or horticultural land, and shall not be liable if such a person invited onto the land is injured because of any



natural risks or hazards that are inherent characteristics of agricultural or horticultural land. (L.1997,c.378,s.2. 2A:42A-10. Farmers immunity for invitees-pickers)

NJFB continues to support bills to provide financial incentives through tax deductions for donations well as clarifying liability in the food donation liability law for donations and gleaning.

### **COMMUNICATION WITH THE AGRICULTURAL COMMUNITY** (2019)

Farm Bureau will continue and expand its use of the New Jersey Farm Bureau website as a communication tool within the organization. Farm Bureau shall develop an online forum for farmers to discuss current issues of interest and concern with other farmers. Wherever possible Farm Bureau should encourage the adoption of Internet use and e-mail communication by its members. This can include workshops on this information technology if needed. Brochures and self-help advisory documents on topics like motor vehicle regulations, sales tax rules, farmland assessment, and other issues shall be developed and/or updated as necessary and made available to Farm Bureau members. In addition to online and printed information, Farm Bureau shall also continue to present seminars or workshops on timely subjects as needed throughout the state.

### **Farm Bureau Membership Recruitment and Retention**

The implementation of membership recruitment activities must be a priority for Farm Bureau. Farm Bureau staff shall work with county leaders to develop and conduct recruitment and retention activities, focusing on the “regular” Farm Bureau membership classification. NJFB will assist county leaders in this recruitment and retention effort by sharing membership renewal information with them regularly and by supplying them with applications and benefit brochures as needed.

### **AG CONVENTION/STATE BOARD OF AGRICULTURE APPOINTMENTS** (2019)

Each year the State Agricultural Convention meets to develop resolutions and policy directives for the NJDA. During the convention delegates have two important nominating functions. To nominate two members to the 8-member State Board of Agriculture where each member serves for 4 years and to nominate a farmer representative to the Fish and Game Council, one each from three regions in the state to also serve for 4 years.

Once the convention makes the nominations, they are sent to the Governor’s office for review, nominees are encouraged to file applications and any financial reports as soon as possible so the Governor can make a timely nomination. People appointed by the convention to these posts must also have the support of their home county Senator(s) before confirmation hearings can be held. Candidates are encouraged to begin the process and outreach to their senator(s) as soon as possible.

New Jersey Farm Bureau should help speed the process whenever possible by writing support letters to the Governor’s appointments office and by assisting nominees in their outreach to Senators. Farm Bureau has also been active in requesting hearings before the Senate Judiciary Committee for the nominees and should continue those efforts once the nominations have been made. The same effort should also be made for farmer appointments to other boards and commissions that call for farmer representation.

Current statutes permit for the State Board to temporarily fill a vacancy on the state board through nomination by the governor and advice and consent from the Senate. This appointment

remains until the next state agricultural convention where the person can be nominated to fill the unexpired term or another farmer may be selected.

However, for a sudden vacancy in the Fish and Game Council there is no statutory procedure for selecting a replacement other than the State Agricultural convention.

New Jersey Farm Bureau with the State Board of Agriculture reviewed options for having an alternate mechanism for temporary appointment of farmer members to the Fish and Game Council if a vacancy should occur after the convention has met. There are currently bills moving through the legislature that would address the early vacancy issue. Farm Bureau supports the passage of those bills.

New Jersey Farm Bureau also urges the State Board of Agriculture to work diligently to keep the farmer appointments to the SADC current at all times.

At the end of the 2017 legislative session a bill was passed to create an alternate farmer and public member for the SADC. For the Farmer member recommendations of a past State Board or SADC member are sent to the governor for his consideration the nominee must be approved by the Senate. Though not an ideal process it does allow for farmer representation on the board when a regular farmer member cannot attend.

#### **DAIRY** (2019)

NJFB believes there is an unparalleled value in having a locally produced supply of all food and agricultural products. Dairy farms not only provide a local and fresh source of milk and other dairy products, such as yogurt, cheese, butter, and ice cream, but they also provide large tracts of tax-paying, privately maintained open space. Unfortunately, the cost of production for these farms is often not offset by the money farmers receive from the various milk cooperatives and/or processors. In addition, New Jersey has only 39 commercial dairy herds remaining as of 2019. As we lose these dairies we lose irreplaceable pillars of the dairy infrastructure. In order to keep these vital farm properties open and actively devoted to the dairy industry, NJFB must work with the dairy community, the Department of Agriculture and Rutgers Cooperative Extension and small business development groups to find innovative ways to assist dairy producers, and to ensure that more consumer dollars go back to dairy producers.

Farm Bureau, through its dairy farmers, shall:

- Encourage dairy operators to take advantage of programs available to them for testing herds for Johne's. There are programs available through the Division of Animal Health and Extension to help diagnose and control this disease.
- Work with NRCS and the State Conservationist to ensure that all dairy producers are aware of the conservation programs and assistance available to them.
- Work with state legislators to develop and enact legislation that allows for the sale of raw milk in New Jersey.
- Work with the State Department of Health and interested consumer groups to develop regulations and standards to allow the sale of all raw milk and raw milk products within the State of New Jersey.
- Support value-added business endeavors that allow dairy producers to process their own milk to create locally produced dairy products that can be sold on-farm or through local businesses in an effort to promote local agriculture.

- Work with the State Department of Health and other related groups to develop or clarify reasonable regulations and standards to ensure on-farm milk/milk product processing is an easy, achievable opportunity.
- Promote the sale of on-farm pasteurized milk and milk products within the State of New Jersey.
- Identify current and potential farm markets and other agricultural enterprises that would be interested in the inclusion of a local source of dairy products to complement their current source of fresh market products that are currently sold.
- Identify and develop sources of funding through small business, rural enterprise development, or similar state sources of funding to promote business continuity and ensure a core base of dairy production in New Jersey.

The organizations involved with the EQIP Ag Water Quality Steering Committee must work together to find affordable systems for livestock farms to prevent and/or correct non-point source pollution problems. Farm Bureau should continue to support dairy farms by ensuring that adequate financial and technical assistance is available for farm improvements. Currently Farm Bureau is working on a bill that would exempt physical structures built as part of a water quality grant or cost share from local taxation as a property improvement.

New Jersey Farm Bureau supports federal legislation to raise tariffs on milk protein concentrate (MPC) to levels high enough that imported protein will not displace domestic use of non-fat dry milk in U.S. food manufacturing. We ask that the USDA and FDA enforce their standards on manufactured dairy products.

#### **ATTORNEY FEE SHIFTING** (2019)

NJFB supports the adoption of legislation that would provide for the assessment of attorneys' fees and costs against a complainant who commences an administrative or legal action against the owner or operator of a commercial farm that is dismissed by motion or otherwise determined to have been brought without substantial merit.

During the past two legislative years, a bill for this fee shifting was introduced and reviewed by the legislative committee. In seeking new legislation Farm Bureau should also review existing laws like the frivolous litigation statute to determine if they have any applicability in addressing the fee issue. Farm Bureau will continue its work on this issue and work towards final approval.

#### **HOTEL OCCUPANCY TAX/AGRITOURISM** (2019)

Currently a portion of the hotel room tax collected by the state is dedicated to funding travel and tourism promotion in the state. NJ Farm Bureau supports having a portion of the state-wide proceeds returned to the County Travel and Tourism Boards where the revenue has been generated to support local travel and tourism destination and promotion for agritourism farms.

There is a New Jersey Tourism Policy Council consisting of 23 members representing lodging, food service, eco-tourism, cultural, conventions, amusement, outdoor recreation and historical sector and the six tourism regions. New Jersey Farm Bureau should support legislation to amend the council for an additional seat to represent the agritourism industry.

#### **AGRITOURISM LIABILITY PROTECTION ACT** (2019)

Rising numbers of agritourism customers and visitors across the state have created higher risk and higher premium costs for those farm operators. Additionally, that increased risk may lead to

a rise in lawsuits by the general public who visit these locations. The situation deserves a review that would clarify customer versus business owner responsibilities for these agritourism activities (such as hayrides, petting zoos, pony rides, corn maze, etc.).

New Jersey Farm Bureau should seek state legislation that would provide farmland owners with liability protections for all public on farm activities, consistent with the protections afforded through the Pick Your Own and Equine Liability Protection Acts.

## **BROADBAND INTERNET/TELECOMMUNICATIONS IN RURAL AREAS OF NEW JERSEY** (2019)

Over the course of 2014 and 2015, Verizon, the major phone and internet service provider for NJ, has sought and received agreements with the BPU which, in sum, removes the requirement on Verizon to expand broadband internet service to any other areas of the state as well as the requirements that they maintain existing telecommunications infrastructure (ie.Copper telephone wire) across the state.

A petition was filed with the BPU by a group consisting of Cumberland County Freeholders, the League of Municipalities and municipalities in the four counties Cumberland, Salem, Atlantic and Gloucester. The complaint focused on poor landline service and lack of broadband service in the area and refusal to honor their original commitments under "Opportunity NJ". As a result of extensive political and local support and a overwhelming attendance at a public hearing an agreement was reached with Verizon and the NJBPU. Verizon agreed to monitor more closely it's deteriorating copper lines in rural South Jersey and potentially expand DSL internet service to 2,000 new homes or businesses. This was not considered a victory by the coalition since there is no mandate to expand FIOS to all communities in South Jersey. Some South Jersey towns will receive FIOS service although most rural areas remain excluded.

The NJFB will continue to voice the following issues in rural areas of NJ, where most farms are located:

1. Verizon considers 4G-based wireless service as broadband access, so if a home or business is in an area served by 4G wireless, then no fiber optic wire is required. Even though the Internet can be accessed with wireless devices, the bandwidth is not sufficient to conduct business or to enable students to do their homework.
2. The Verizon Wireless service coverage map at their website has been known to show better coverage than actually exists. Many areas of the state have non-existent or spotty, unreliable service.
3. Unlike wired broadband access (e.g., Verizon FIOS), wireless access is subject to data cap pricing making it a much more expensive solution.
4. The definition of broadband put forth in this settlement is seriously outdated and does not meet the current federal standard. Any attempt to define broadband should recognize that the speed benchmark will continue to increase as consumer demand grows.
5. DSL is not a long-term solution as it does not have adequate bandwidth to meet business requirements. When copper lines are not maintained, it is an even less plausible option.

6. For businesses in areas of telecommunications deficiency, it is increasingly difficult to compete on any level: locally, regionally, nationally, or globally.
7. Farm businesses cannot relocate land, which means the broadband infrastructure and wireless access must come to the agricultural areas.
8. Communities successful in the preservation of farmland and open space are being penalized. Because these communities will never have the population densities to cost-justify telecommunications infrastructure build out, there should be some "quid pro quo" consideration when deploying current technologies. Otherwise, the state inadvertently compromises the public's investment in farmland preservation by not ensuring that farm businesses remain viable over the long term.

Due to its criticality in sustaining society, agriculture must have the telecommunications infrastructure necessary to compete in today's economy and to keep pace with an ever-growing world population. The NJFB will join forces with the American Farm Bureau to elevate these issues to the federal level by sharing the New Jersey experience with the Broadband Deployment Advisory Committee (BDAC) of the Federal Communications Commission (FCC) in an effort to ensure that:

1. Rural areas of New Jersey are included in broadband federal funding map(s); and
2. Meaningful broadband benchmarks are established and re-established as technology advances.

The NJFB should help promote the ReConnect Program, an innovative new pilot program that offers unique federal financing and funding options in the form of loans, grants, and loan/grant combinations to facilitate broadband deployment in areas of rural America that don't currently have sufficient access to broadband. This pilot program will generate private sector investment to deploy broadband infrastructure to provide high-speed internet e-Connectivity to as many rural premises as possible. States, local governments, or any agency for-profit corporations or limited liability companies among others are eligible to apply for the funds through USDA Rural Development. Cumberland County is currently exploring submitting an application for the next round of funding.

### **PROPERTY RIGHTS** (2019)

Farm Bureau shall seek the enactment of state policy to protect all property owners from the adverse effects of excessive land use regulations. This policy should resemble the property rights protection legislation in the state of Florida known as the Bert Harris Act or Measure #37 of Oregon. Those laws both recognize that while some laws, regulations and ordinances may not amount to a constitutional taking, they can still cause an inordinate burden or "regulatory taking" on property owners, and such burden should be compensated for.

In September 2013 the Governor signed legislation clarifying two important rulings impacting eminent domain; (*Gallenthin v. Paulsboro*; 2007) which found that "underutilization" is not a sufficient justification for eminent domain unless the property otherwise meets the criteria for blight. This law adds clarifying language to the "Local Redevelopment and Housing Law". Additionally, the law would codify another court ruling (*Harrison Redevelopment Agency v. DeRose*; 2008) which called for proper due process and early notification procedures if eminent domain is being considered for redevelopment purposes.

Farm Bureau should make sure all members have access to the latest information about regulation that would affect property rights and values including eminent domain, on the NJFB website.

### **THE LANDSCAPE PROJECT** (2019)

The Landscape Project mapping of alleged habitat for threatened, endangered or “rare” animal species continues to be the most powerful land use mapping tool with the potential to make vast acreages of New Jersey land difficult if not impossible to use. This mapping is being used to reduce development potential on farmlands and could make it difficult to build necessary farm structures that might enhance farm viability.

Grassland birds continue to be one of the highest priority species for the Landscape Project. These include species that make their homes on hayfields, cropland, airport edges - anywhere there are large tracts of native grass plants. Bog turtles, barred owls and timber rattlesnakes are other species of concern being found on New Jersey farm properties.

On the federal level, Court decisions have forced the US Fish and Wildlife Service to perform an economic impact assessment before declaring an area as habitat. New Jersey Fish and Wildlife should have to do the same before green lining thousands of undeveloped acres in New Jersey. NJFB must work to require that there be science based physical evidence in addition to habitat potential before any regulatory action may be taken regarding restricting land use by NJ DEP and other land use regulatory bodies.

Farm Bureau shall:

- Urge the NJ Division of Fish and Wildlife report on a regular basis sightings of new animal species with the potential to be regulated in NJ and a report on their possible habitat and food choices.
- Continue to question the lack of scientific basis for the Landscape Project mapping, the lack of public review through the formal rule making process, and guard against further restrictions on the ability to farm profitably.
- Advocate for a change to the Landscape Project procedures to require a detailed, specific economic impact assessment for all properties affected by this regulation. A thorough analysis of the real Agricultural Impact must be required as well.
- Encourage the New Jersey Department of Agriculture to participate fully with the DEP in the development and implementation of reasonable landscape project regulations that enable viable agriculture instead of prohibiting it.

### **PRODUCT DISPARAGEMENT** (2019)

Growers of fruits and vegetables in recent years have suffered a loss of sales in the marketplace from unsubstantiated attacks challenging the safety of these food products. The issue of residues from agricultural chemicals in particular, like the ALAR scare on apples, is frequently a target of these misguided campaigns. The absence of scientific fact and the deliberate appeal to fear in an unsuspecting consuming public are used to disparage the safety and quality of fresh farm products. The fact that these products are marketed on a generic basis rather than through a brand name contributes to the problem.

Producers of generic products have no specific protection against libel and cannot recover damages from those who engage in produce disparagement.

Several states have adopted legislation to give growers some legal protection from this problem. The New Jersey Farm Bureau directors should evaluate this situation and seek appropriate remedial action to protect its produce industry and any commodity group having the same problem.

Farm Bureau shall be active in mitigating any undeserved negative publicity toward local produce in the wake of federal warnings resulting from contamination outbreaks, such as what affected romaine lettuce during the spring of this past year. The past FDA public notice to avoid consumption of all romaine lettuce had a significant impact on the sale of Jersey product. The NJFB and NJDA need to work with FDA on future outbreaks to prevent disparagement of a whole industry. The food safety task force of the NJDA have developed plans to stem any misdirected warnings to consumers about the safe wholesome condition of New Jersey produce.

### **STATE PURCHASE OF NEW JERSEY AGRICULTURAL PRODUCTS** (2019)

State government institutions purchase millions of dollars' worth of fresh produce each year for prison inmates, school children and the residents of special needs facilities. Despite the ready availability of high-quality farm commodities and value-added products from New Jersey farms at competitive prices, there is presently no state policy or mandate for these institutions to purchase in-state product. In August 2011 the Governor signed the bills creating the opportunity for state agencies to look at New Jersey agricultural products first. NJ Farm Bureau will follow the rulemaking process as guidelines for implementation are developed.

Since 2002 the NJDA and the Department of Corrections have been continuing a program that allows for the Corrections Department to buy New Jersey produce directly from local growers.

Since procedures were streamlined to help promote the purchase of Jersey Fresh produce by state agencies the New Jersey Farm Bureau should continue to support such programs and continue to explore new avenues to have state agencies purchase Jersey Fresh produce.

New Jersey Farm Bureau has worked with New Jersey Farm to School Network and Division of Food and Nutrition in the NJDA to promote the value of Jersey Fresh produce to be included in NJ school meal programs. One success is the "Jersey Fresh Farm to School Week" that occurs the last week of September and will highlight and promote the value and importance of New Jersey agriculture and fresh foods produced in New Jersey, and the value and importance of fresh farm foods for children, their general health, and their success in school.

Farm Bureau should continue to support efforts to expand purchase programs beyond schools and corrections and look at opportunities to work with other institutions and organizations that can promote the use and purchase of local food and agriculture products.

In past budgets, the governor has increased annual appropriations for the purchase of nutrient dense food by Emergency Feeding Operations. We applaud the intent of the program and its goals, but respectfully request that at least \$1 million of these funds be specifically used for the direct purchase of Jersey Fresh produce in each future growing season as long as the fresh purchase program is funded. In addition, NJFB should include New Jersey farm produced, value-added products in all discussions and actions taken where appropriate.

### **AMERICAN FARM BUREAU** (2018)

New Jersey Farm Bureau encourages American Farm Bureau to maintain a budget that will meet the needs of this national organization. The American Farm Bureau Federation should consider publishing a national publication. Currently, only a small fraction of the membership receives the AFBF News. We recommend that the publication be an extension of our agricultural and free enterprise philosophies.

### **POLICY IMPLEMENTATION** (2018)

To aid in the implementation of the above adopted New Jersey Farm Bureau policies, the NJFB president, with advice from the first vice president, shall develop a list of actions for farm bureau to undertake, as contained in this policy document. The NJFB Board of Directors then shall, before the end of the calendar year, approve of and prioritize said "action list." NJFB staff will then use this priority listing as a blueprint for actions in the coming year.

### **SCHOOL GARDENS** (2017)

There are almost 200 school gardens statewide in both public and private schools, the benefits of which help students learn among other things:

- How food grows and where it comes from;
- Offer a positive peer-supported opportunity to try "green" things, removing the stigma of vegetables;
- Open up curricular ties to rudimentary agricultural science lessons that lend themselves to further exploration in FFA and Agricultural Education programs and then on to Land Grant universities;
- Create life-long "customers" to keep fruit and vegetable farmers farming in the next generation.

New Jersey Farm Bureau and the county boards of agriculture should seek out opportunities to work with school garden programs and expand the work in school gardens. One of the stumbling blocks of an expanded school garden network is the lack of a state directive on school gardens. In the new legislative session New Jersey Farm Bureau should work with interested organizations on passing legislation to standardize school garden programs that include education in math and the sciences as well as in life skills, so all Jersey Students have a better understanding of healthy and nutritious foods and the food supply.

### **USE OF FOOD BY-PRODUCTS/SOURCE SEPARATED FOOD WASTE** (2017)

Waste material recycling, if done properly, can be a significant way to conserve natural resources and energy. Composted material used as an input for soil nutrients and replenishment is also a potential way to merge waste disposal with farm production practices. Both recycling and the use of compost materials are generally seen as beneficial to society and usually having a positive environmental impact.

An Agricultural Management Practice (AMP) for the land application of food processing byproducts was adopted by the SADC in 1999. Farmers land-applying these products should follow the guidelines provided in the AMP to receive full protection under the Right to Farm law. Farm Bureau should make farmers aware that this AMP is available for their use.



Legislation was passed to encourage food waste recycling with the goal of encouraging its use for energy production. Farm Bureau worked to ensure that food waste used by farmers for animal feed or for composting would remain acceptable recycling alternatives.

Farm Bureau supports the current regulation that calls for the feeding of food waste products to be under the authority of the Department of Agriculture, and calls for it to remain within NJDA

With the increase desire to have food waste used for animal feed there is a need for additional research to develop AMP's for such uses. The NJFB would support research to develop best management practices to make the use of food waste for livestock feed practical and limit neighbor conflicts.

Both the farm and food industry need research to develop best management practices in order to make this practical. Some of the negative results on farms that have initiated the practice are listed below:

- Storage and smell of the organic material particularly when disturbed
- Extreme smell of the manure generated by the food source digestion
- The lingering putrid odor of the manure when spread on fields
- Acidosis created in the cattle's stomach when fed this food source—the recommendation of free choice of sodium bicarbonate did not solve odor problem.

Suggested areas that could be researched, but not necessarily limited to:

- Ration of feed: percentages of grains, roughage, food waste and effect on odor, nutrition, and weight gain.
- Economic methods of this manure as a fertilizer whether spreading, injecting etc. to reduce odor
- How all these factors impact animal feeding operations/concentrated animal feeding operations, AFO/CAFO.
- Are there any public health concerns because of high levels of gases in the air outside?  
On farm or fields after spreading  
(Need more scientific data other than the current state policy of nose sniffing—too subjective.)

### **HISTORIC PESTICIDES** (2016)

The use of persistent pesticides primarily for crop production left residuals in soils that exceed current NJDEP soil remediation standards. These pesticides typically include arsenic and various organo-phosphate pesticides such as Chlordane, Dieldrin, DDT along with others. The NJDEP has determined that these residuals may pose a human health risk in residential settings. In March 1999, the Historic Pesticide Contamination Task Force issued their final report entitled "Findings and Recommendations for the Remediation of Historic Pesticide Contamination".

Since the time that document was published, the Department has approved various technical options to address historic pesticide residuals on agricultural land when it is converted to residential use. The NJDEP does not require any evaluation or remediation for land which will remain in agricultural use.

Passage of the Site Remediation Reform Act in 2009 changed the process and regulations regarding Historic Pesticides. These changes were fully implemented in 2012 which now

require that a Licensed Site Remediation Professional (LSRP) specify requirements and issue the final approval for the remediation of historic pesticides. In August 2016, the NJDEP Site Remediation and Waste Management Program issued the report, "Historically Applied Pesticide Site Technical Guidance." This document is intended to serve as guidance for those conducting remediation to ensure compliance with NJDEP rules.

### **WETLANDS** (2016)

#### **Exemption for Ongoing Farming Activities**

Legislation has been approved (2015) amending the freshwater wetlands protection act to provide that a cranberry bog or blueberry field that is maintained within the prior five years in accordance with the standards set out in the amendment shall be considered an established, ongoing farming operation, and shall not be deemed abandoned. The lack of a commercial harvest or production of a crop on or from the bog or field shall not be a determining factor as to whether the agricultural use has been abandoned.

NJFB continues to seek clarity in NJDEP policy on the interpretation of "normal farming activities" which are exempt from the Freshwater Wetlands rule. NJFB will continue to work with NJDA and NJDEP in obtaining clarification.

Farmers with appurtenant woodland may find themselves on the wrong side of the DEP's rules. Currently, only farms with Woodland Management Plans can harvest forest products in wetlands and transition areas. Farm Bureau should work through the DEP rules to secure an exemption for owners of appurtenant woodland to allow the harvesting of forest products, in wetland and transition areas without a woodland management plan, as long as the BMP manual for forestry and wetlands is followed.

#### **Wetlands Mitigation Projects on Farmland**

Over the past several years, concerns have been raised by the agricultural community including Warren County about the potential impact of certain wetlands mitigation projects approved by DEP on the hydrology and drainage capabilities of surrounding farmland. New Jersey Farm Bureau should work with the Department of Agriculture and the State Board of Agriculture on policies and procedures for DEP and private/public entities with mitigation obligations to incorporate when considering mitigation projects that could affect surrounding farmland. Such considerations should include, but are not limited to, an evaluation of any drainage or other water flow impacts that may result on adjacent farmland when a property is converted to wetlands for mitigation purposes and whether additional limitations or requirements should be considered for mitigation project proposals in the Highlands, Pinelands, Bayshore and Agriculture Development Areas that contain soils of local or statewide importance or are designated prime agricultural soils. Also, public health issues should be of serious concern.

Farm Bureau should aggressively address the issue of loss of productive farmland, degradation of adjoining farmland, creation of wetland buffers which affect adjoining farms, agricultural pest habitat created, loss of land value to adjoining lands and public health issues caused by mosquito breeding habitat created in mitigation.

### **RAILS TO TRAILS INITIATIVES AND OTHER PUBLIC TRAILS ISSUES** (2015)

Over the years the public has adapted abandoned rail lines as hiking and bike trails; today there are 18 around New Jersey, six each in North, Central, and South Jersey. In addition, counties and municipalities have developed greenway plans that cover many hundreds of acres along

streams or adjacent to other public open space. A Trails Advisory Committee has been created, with no representation from farmland or open space landowners, and a Trails Plan adopted by DEP.

Trail managers and advocates recognize the opposition of adjacent landowners who must deal with problems of litter, increased liability, trespass and vandalism, unauthorized motorized vehicle access, setbacks from pesticide spraying, limited access to the farmer's own fields, and sometimes damage to crops or cropland. Trail managers and advocates say the lack of maintenance or provision of a responsible party for a landowner to call about problems is caused by lack of funding. Any funding for trails goes towards acquiring the land or rights of way, not towards solving the repercussions the trails cause.

In some instances, the purchase of development easements on a farm is contingent upon the landowner granting a conservation easement along any stream that is part of the county or municipal greenway system. This can happen without the extra compensation such a taking should warrant, as well as no attention to the landowner's legitimate concerns.

Farm Bureau shall work to ensure that sufficient safeguards for agricultural uses can be demonstrated to the New Jersey Farm Bureau directors on a case-by-case basis for any projects that are proposed. The Legislature and the DEP must find the resources to provide the maintenance and security enforcement necessary for existing trails before new ones can be developed. Adding landowner representation to the Trails Advisory Committee would help to keep attention on these ongoing problems.

#### **COMMUNITY FARMERS MARKETS** (2015)

Farmers' Market is a public market for the primary purpose of connecting and mutually benefiting New Jersey farmers, communities and shoppers while promoting and selling products grown and raised by participating farmers. The purpose of a community farmers market is to enhance direct marketing opportunities for farmers, to connect farmers and local consumers, and to maintain the viability of rural communities through farm-based economic development. Farmers markets throughout the state need to be professional and well run to serve the interests of the farmer and the community to ensure their long-term success. Products sold should be produced within New Jersey when available. Brokers should be strictly prohibited.

New Jersey Farm Bureau should support the efforts of the farm community in recognizing the need to develop guidelines or regulations to keep community farmers markets Jersey markets. New Jersey Farm Bureau should urge the NJDA to work with the State Department of Health to institute uniform policies for community farmers markets across the state. Farmers selling at markets in different towns often face varying regulations based upon the whim of the local health department officials. Local health department officials must be better educated on how to deal with farmers market entities.

New Jersey Farm Bureau should seek to promote NJFB membership opportunities to patrons and supporters of community farmers markets.

New Jersey Farm Bureau should explore new mechanisms to enhance the influence of farmer-participants at community farm markets in the overall decision-making about market management. This might include encouraging boards of directors for community farm markets to maintain a seat on the board for a participating farmer, or a pre-season meeting hosted by the

market manager and other key staff where participating farmers can make recommendations about market management protocols for the upcoming season.

### **DEFINING 'FARM MARKETS'** (2015)

Direct marketing is becoming an increasingly popular business enhancement tool for farmers throughout the state of New Jersey. These direct marketing activities include establishing on-site farmers markets and roadside stands, participating in community tailgate farmers markets and other means of selling products direct to consumers.

There are other retail establishments also identified as “farmers markets” but there is no farmer involved and much, if not all, of the product being sold is coming from out-of-state or third-party sources. These types of farmers markets undercut business opportunities for community farmers markets, road stands, tailgate markets and other venues specializing in locally grown produce.

New Jersey farmers report that these so-called farmers markets sometimes mis-label goods to give consumers the false impression that these products and production of these products happens in state. Maintaining the integrity of the “farmers market” label by clearly distinguishing between those producing and selling these local products and those that do not is integral in further developing consumer awareness of retail opportunities to purchase in-state products. A similar resolution was adopted by the State Board of Agriculture at its 2014 convention.

Farm Bureau shall support the State Board of Agriculture to work in close coordination with farmers throughout the state that participate in direct marketing activities, to investigate ways to formally identify and distinguish these farm markets that truly specialize in selling local products and take the appropriate steps to make any needed corrections to avoid this type of false representation of farmers and false labeling of produce sales.

### **SENATE AGRICULTURE COMMITTEE** (2013)

Agriculture, the third largest industry in New Jersey, impacts the food supply, the economy, the landscape and general health and well-being of New Jersey and its citizens.

Currently, the New Jersey State Senate does not have a Senate Agriculture Committee. Bills dealing with agricultural issues are typically assigned to existing Senate Committees. In the Assembly, the Assembly Agriculture and Natural Resources Committee routinely considers legislation impacting the agricultural sector and is made up of legislators with high concentrations of agriculture in their districts or those who otherwise have a keen interest in and an understanding of agricultural issues. A stand-alone Senate Agriculture Committee would offer a similar venue for agricultural issues to be considered. With this in mind, NJFB should work with Senate leadership to pursue the establishment of a stand-alone Senate Agriculture Committee comprised of Senators with an interest in agricultural issues.

Because Committee chairpersons are often hesitant to reduce the scope of the subject areas that their respective committees consider, the establishment of a standalone Senate Agriculture Committee could be met with some resistance. NJFB should work to ensure that unless and until a Senate Agriculture Committee is created, the existing committees to which agriculture-related bills are referred take up these bills regularly and in a timely manner.

### **COUNTY BOARDS OF AGRICULTURE** (2013)

Farm Bureau will continue to promote farmer participation in the county boards of agriculture. There should be some recruitment of new people to add fresh input to the boards, especially where a few individuals have done most of the work for many years. The Young Farmer & Rancher program may aid in the recruitment of new members, some of whom may be interested in assuming leadership roles at either the county or state level. Farm Bureau will continue its project of increasing its farmer membership throughout the organization. This project of farmer member recruitment and retention will necessitate participation on the local level with members from each county board involved.

Each County Board of Agriculture should find ways to work with New Jersey Farm Bureau on membership recruitment and retention activities as well as member engagement in legislative and public outreach on agriculture issues.

New Jersey Farm Bureau must continue its effort to provide each county board of agriculture with up-to-date information regarding their legal requirements for tax purposes.

### **MASTER GARDENERS** (2013)

For over 25 years the Master Gardener program has been training volunteers who assist Rutgers New Jersey Agricultural Experiment Station (NJAES) Cooperative Extension in its mission to deliver horticulture programs and information to the general public. Since 1984 over 8,000 volunteers have completed the program and dedicated over 2 million hours to Rutgers Cooperative Extension programs in their counties. The work the volunteers do - answering homeowners general gardening questions - has played an important role in freeing up time for County Agents to work with producers and professionals in agriculture.

The Master Gardeners play a critical role in delivering to the general public the knowledge and work that the Extension has to offer. The Master Gardener program offers a natural link for New Jersey Farm Bureau to expand how it communicates with the general public. In the upcoming year New Jersey Farm Bureau should find ways to partner with the Master Gardener program, not only to grow membership, but to share with an interested audience the role agriculture plays in the state, its economy and the communities of New Jersey.

### **BISON PRODUCTION AND INSPECTION** (2009)

Bison are not currently considered a meat animal by the USDA. Because of this, the inspection process for bison meat products is much more costly than for other meats. NJFB supports a USDA regulation change to include bison on their list of meat animals.

### **BEEF PROMOTION** (2007)

New Jersey Farm Bureau continues to support the mandatory beef check-off program and related activities of the National Cattlemen's Beef Association and the New Jersey Beef Council for the promotion of beef and beef-related products, consumer education and beef research activities.

### **LITIGATION POOL** (2006)

New Jersey farmers are sometimes the recipients of unfair and arbitrary enforcement actions arising from either government enforcement agencies or litigation. These normally occur in instances of labor management, environmental issues, land use or farm management practices. Agriculture is a profession dependent on the use of natural resources and a substantial amount of labor, and is therefore, vulnerable to such legal action on many fronts. An individual farmer is

in an unfair position to defend him or herself from "test cases" brought by advocacy groups or government agencies.

Settling these cases because of financial limitations despite one's feelings of guilt or innocence is undesirable both to the individual farmer and the farm community as a whole. There may be other farmers in the state who have encountered similar problems and should have their information pooled with other farmers' experiences. The Farm Bureau directors will develop a working policy and protocol to educate and assist farmers on legal problems arising from environmental, labor and right to farm disputes. Such a protocol should include swift and strong support from Farm Bureau in any cases that could set a precedent for farmers statewide.

#### **PROBLEM SOLVING SERVICES** (1999)

One of the core services provided by Farm Bureau for its members is informal constituent assistance when help is needed. Many farmers call or write letters to the Farmhouse with questions, requests for information or ideas about how to handle problem situations. Some of these questions involve compliance status with government regulations. Others are in regard to miscellaneous aspects of farm operations and management. Farm Bureau shall respond to these farmer calls within 24 hours. This interaction is an excellent way to surface information about the need to create, modify or eliminate current regulations through formal contact with government agencies or the legislature.

There is a benefit to coordinating this effort with similar work being done by the Department of Agriculture and Rutgers Cooperative Extension. Information fact sheets and other "how to" and "do's and don'ts" guidelines can be stored and retrieved on the Farm Bureau communication tools. Farm Bureau shall, during the upcoming year, attempt to strengthen these services through such coordination and documentation of this base of knowledge and experience for the membership.

Members are cautioned that the key to gaining flexibility in the interpretation of rule compliance judgment calls is good faith efforts at using recommended management practices. Farm organization influence is diminished by the few who skirt recommended practices and create undesirable impressions with the public about agriculture.

#### **FARM BUREAU POLITICAL POSITION** (1999)

Farm Bureau represents all the farmers and rural interests in New Jersey and represents their public policy interests. Farm Bureau should encourage individual farmers or groups of farmers to evaluate positions of candidates for elective office that affect their interests and to publicly express their endorsements therefore.

Agricultural issues are non-partisan and benefit all citizens of the state. When the agriculture community seeks to fill appointments to boards and commissions, political party should not be a factor in the nomination or subsequent appointment.

#### **ENGLISH - OFFICIAL LANGUAGE** (1999)

State legislation is pending that would designate English as the official language of the state. We also support the same for adoption by the Congress of the United States. While we appreciate the ethnic diversity that makes this country great, our government has limited resources and must not be forced to make unnecessary expenditures for the printing of various documents in multiple languages. We should provide public education and training to help those in need to learn English, but at the same time establish the language as the official basis for

governmental and business transactions. An important aspect of English as the official language of the United States is that it establishes a common, unifying theme in the world's most widely diverse and constantly changing culture.