



Treatment of Equine Facilities in State Programs Designed to Protect Agriculture

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Introduction

This Extension bulletin reports the results of a telephone survey of eleven northeastern states conducted in the year 2004. All eleven states have state-level or local programs related to *farmland preservation*, *farmland assessment* and *right-to-farm*.

Because these three programs confer substantial benefits on private businesses, questions of program eligibility are important—both politically and economically.

This Extension bulletin summarizes the eligibility criteria for *equine facilities* for all three types of programs across the eleven states surveyed. We believe that examining the treatment of equine facilities across states can highlight diverse, often unstated, policy objectives, such as preservation of a food and fiber industry versus the protection of open space without regard to the nature of agricultural activity.

The equine industry provides the perfect case study because it includes not only a traditional livestock breeding sector, but also a recreational service sector that is land-intensive but does not involve the breeding of plants or animals.

In addition, consumers (voters) participate in local equine activities in a way that is more intimate than

traditional agriculture. We might expect equine operations to be more viable than other agricultural products or services in rapidly-suburbanizing locations with affluent populations. Many fringe locations in the Northeast fit this description.

We hope that policy makers concerned with agricultural preservation and land use throughout the Northeast, as well as members of the equine industry everywhere, will find this Extension bulletin to be a valuable reference, as it attempts to lay out the present criteria and some options for reform.

Typology of Equine Facilities

In one category, we group together facilities that actively engage in the breeding, raising, or selling of horses. This part of the industry treats horses as an agricultural product or livestock.

In a separate category, we group facilities actively engaged in boarding and training horses and those that offer riding lessons. This is the service part of the industry.

Some facilities engage in both breeding and service activities, while others specialize within either category (boarding but not lessons, for example). Because the breeding vs. service distinction remains the



most important one for policy, however, we will note these anomalies only to the extent that they are formally recognized in state law.

Where is the Line Drawn?

Farmland Preservation Programs

Maine, New Hampshire, and Rhode Island extend eligibility for farmland preservation to all equine facilities regardless of activity.

At the other end of the spectrum, the states of Delaware, Massachusetts, Pennsylvania, and Vermont extend eligibility only to equine facilities that breed horses. In these states farmland preservation dollars are reserved for facilities engaged in “agriculture,” formally defined as the cultivation of land to produce a crop, or the raising and selling of animals. (A bill to make boarding, training, and recreational facilities eligible for farmland preservation in Pennsylvania had been introduced but not passed at the time this Extension bulletin was published.)

Maryland, Connecticut, New Jersey, and New York also consider breeding facilities to be agriculture, and unequivocally eligible for the state farmland preservation program. However, each state has different criteria for boarding/riding facilities.

The state of New York separates boarding from riding facilities. Equine boarding operations were added to the definition of “farm operation” in 2001. As a result, New York boarding facilities are eligible for farmland preservation as long as they consist of at least 7 acres, 10 horses, and \$10,000 in gross annual fees. Riding facilities that include horses for lease (riding lessons) are not eligible because they are not considered a farm operation.

In Connecticut, although equine facilities are technically eligible for farmland preservation, they are rarely chosen. Priority is given to operations engaged in “food or fiber” production. But this distinction occurs at the administrative level of the program: it is not written into the statute.

In Maryland prior to 2003, only equine facilities that consisted of breeding/selling horses were eligible for Green Print, the state farmland preservation program. No boarding/riding operations were eligible unless boarding was only a small part of the entire facility. In 2003 the state implemented a new policy to make farmland preservation more flexible.

The new policy is not statutory, and the state is working on a case-by-case basis to accept riding stables into the Green Print program. Maryland officials report that the rationale for this change is the presumed linkage between any equine operation and the growing of hay or other forage. Because non-breeding equine operations serve as customers to hay farmers, it is felt that they should be eligible, especially in the state’s primary agricultural districts.

In New Jersey, breeding facilities are eligible for farmland preservation because they produce an agricultural product. Other equine facilities are eligible only if their service functions (boarding, lessons, etc.) are “ancillary” to the raising of an agricultural product. The State Agriculture Development Committee is in the process of formalizing this policy to further define the term “ancillary.” Eligibility criteria for farmland assessment are currently more permissive because a riding facility could conceivably comprise the bulk of the operation (see below).

Farmland Assessment Programs

Under farmland assessment programs, farms can have all or parts of their land valued at agricultural use value for property tax purposes. Most states carry over the same distinctions and have the same eligibility requirements as for farmland preservation, but there are some differences and exceptions.

In Maine, Maryland, New Hampshire, and Rhode Island all equine facilities are eligible for farmland assessment regardless of their activities. Thus, these smaller New England states are as permissive in farmland assessment as they are in farmland preservation. Maryland, however, offers farmland assessment to equine service facilities that have only

recently become eligible for the preservation program on a case by case basis.

In Vermont, Massachusetts, Pennsylvania, and Delaware, only equine facilities that breed and sell horses are eligible for farmland assessment. This is consistent with these states' relatively restrictive approach to farmland preservation.

In New York, breeding operations are eligible for farmland assessment. The same distinction is made as before, however, between boarding and riding facilities, with only the former eligible to apply for farmland assessment.

In Connecticut, farmland assessment is evaluated at the local level, with each municipality interpreting the definition of agriculture in its own way. Thus a municipality could consider the land use benefits of a facility that does not actually produce an agricultural product. In practice, riding/boarding facilities are generally not approved for agricultural assessment, whereas breeding/selling facilities are.

To qualify for farmland assessment in New Jersey, at least five acres of land must be actively devoted to agricultural or horticultural production and the first five acres must produce at least \$500 in yearly gross sales. Under this standard, breeding horses or other livestock clearly counts as "agricultural production."

Commercial equine facilities providing services such as boarding or riding lessons are eligible if they are contiguous to land that would otherwise be eligible for farmland assessment. Although fees received for boarding or riding services cannot be counted in the initial agricultural sales threshold, the imputed value of hay grown on-site to feed boarded animals can be counted. These changes are the result of a 1995 revision to the state's Farmland Assessment Act.

Right-to-Farm Laws

Right-to-Farm laws are designed to protect agricultural facilities from nuisance lawsuits, or local laws that have the effect of inhibiting agricultural activities

(New Jersey's Right-to-Farm statute can actually pre-empt municipal ordinances). Although such laws might contribute to the preservation of an agricultural industry or open space by reducing costs to farmers, that is not their only purpose. They also help to codify important property rights, which may simply relate to "who was there first" or to a municipality's zoning classification. (Presumably, location in an agricultural zone ought to confer a right to engage in agricultural activity.)

Because the legal and social goals are a bit different—and also because enforcement of Right-to-Farm laws presumably requires a lower outlay of government funds than easement purchase—we might expect states to have different criteria for Right-to-Farm programs than they do for the other types of programs aimed directly at agricultural land and production.

Two states in particular, Connecticut and Massachusetts, extend Right-to-Farm protection to all equine facilities, regardless of activity. This contrasts with both states' formal or informal rules that restrict eligibility for farmland preservation and assessment programs to breeding facilities.

In Massachusetts, Right-to-Farm is a combination of many state laws that follow a broader definition of agriculture than that which is used in the first two programs. This alternative definition of agriculture includes the keeping of horses for any commercial purpose. This definition allows for all equine facilities to be protected by Right-to-Farm laws.

New Hampshire and Rhode Island follow the same eligibility standards for Right-to-Farm that they do for farmland assessment and preservation. State law protects all types of equine facilities as long as they are in compliance with regulations.

Pennsylvania extends Right-to-Farm protection only to those equine facilities engaged in breeding activities. This approach is consistent with the state's guidelines for farmland assessment and preservation.

New York protects breeding and boarding facilities but maintains the distinction between boarding and riding. It does not offer Right-to-Farm protection to riding facilities.

In Delaware, Maine, Vermont, and Maryland there is no statewide Right-to-Farm legislation; right to farm is handled at the local level, as follows:

Delaware. Complaints are handled at the local level. It is state policy, however, that facilities enrolled in the farmland preservation program are assumed to be protected from nuisance lawsuits as long as they are in compliance with local regulations. Officials report that Right-to-Farm is a negligible problem in Delaware because farmers have mostly other farmers for neighbors. As residential development accelerates, it is reasonable to expect that Delaware will enact state level Right-to-Farm legislation at some point in the future.

Maine. State investigators assist with complaints, but legal authority remains with local governments. This process applies to all facilities, including equine facilities.

Vermont. Each complaint is handled on a case-by-case basis by the town. The state will try again to pass a bill on water management practices that could some day provide a basis for immunity against certain lawsuits. As in Delaware, the strictly local approach appears to be the product of the relatively successful separation of farmers and residences thus far.

Maryland. There is no statewide right-to-farm legislation. Some counties protect all equine facilities; others do not. Farms must, however, be in compliance with the regulations imposed by each municipality.

To qualify for state Right-to-Farm protection in New Jersey, an operation must be considered a “commercial farm.” This means that the operation must have at least 5 acres, produce \$2,500 of agricultural products, and be eligible for farmland assessment. A farm with less than five acres producing \$50,000 worth of agricultural products would also qualify if it is otherwise eligible for farmland assessment.

Boarding/riding/training facilities are not currently protected under the state’s Right-to-Farm Act, although facilities that train their own horses for sale are eligible. The State Agriculture Development Committee is currently working on a rule to expand the list of equine activities eligible for Right-to-Farm.

Even if the list of eligible activities is expanded, an equine facility will be protected only if it complies with the Equine Agricultural Management Practices (AMP) guidelines recently compiled by the State Agriculture Development Committee and Rutgers Cooperative Research and Extension.

Political Analysis

All three of the programs discussed in this fact sheet are designed to preserve a viable agricultural industry at the state level. Two of the programs, farmland assessment and farmland preservation, also have open space preservation as an explicit goal.

If a state’s political leaders regarded open space preservation as a more important goal than support of the agricultural industry, we would expect the rules regarding equine eligibility to be more lenient. Lawmakers would be less concerned about exactly how to define agriculture, and more concerned with supporting any commercial enterprise that features animals, pasture, and has a rural feel to it. Riding and boarding facilities would presumably be eligible in such states.

Table 1 depicts our findings in graphical form, and can therefore be helpful for investigating hypotheses like this one. For example, the table may be roughly divided into states experiencing considerable urbanization pressures relative to their land areas (New Jersey, Maryland, Connecticut, Massachusetts) and those with many thousands of square miles of rural wilderness (Pennsylvania, New York, Maine).

A direct relationship between the problem of “urban build out” at the state level and relatively permissive rules for farmland protection is not evident from the data. Pennsylvania, for example, is more restrictive in its eligibility requirements than New York, and much more restrictive than Maine, in spite of the fact that rural open space is abundant in all three states.

At the other end of the urbanization spectrum, New Jersey, Connecticut, and Maryland appear to lie somewhere in the middle on eligibility, with Massachusetts among the most restrictive of this group of heavily-settled northeast corridor states. Interestingly, the New England states of Massachusetts, Vermont, and Connecticut appear relatively unfriendly to equine facilities—the last of these because of a peculiar food/fiber preference within production agriculture that is shared by none of the other states contacted.

An alternative perspective on the varying rules and regulations may be found by examining the presumed economic and political power of the equine industry. The final column of table 1 shows the equine industry's share of total agricultural revenues in each state.

It should be understood that this figure (from the federal census of agriculture) measures breeding activities only, and not boarding, riding, or the private ownership of pleasure horses. Thus, the figure in this column omits precisely that segment of the industry that stands to benefit from expanded eligibility requirements. To use this column as a rough measure of the equine industry's political clout, we must assume that the economic magnitude of the service side of the industry is roughly correlated with that of the breeding side, and that the political interests of these two segments of the industry are more or less aligned.

The findings on industry political clout are not straightforward, but there nevertheless seems to be a pattern. States with relatively small equine industries (as measured by the census) are “all over the map,” with Rhode Island, New Hampshire, and Maine easily the most permissive states in the sample; Delaware and Vermont among the most restrictive; and Connecticut and New York somewhere in the middle. It is almost as if the eligibility requirements do not matter much when the industry itself is a negligible factor in a state's agricultural economy. Thus, the rules can be either restrictive or permissive without having much practical impact.

The two states with the largest breeding industries and with well-known racing and breeding traditions

—New Jersey and Maryland—currently have eligibility requirements that are somewhere in the middle. These states are also actively trying to analyze and rationalize rules that currently exist. It seems reasonable to conclude that politically, the existence of a strong equine industry will be a factor in favor of permissive eligibility requirements. At the same time, the stakes of offering these privileges are much higher in big equine states, and will be scrutinized more closely by other agricultural interests competing for benefits. The result is likely to be a set of more carefully considered policies, the product of political compromise that splits the difference between competing interests.

Conclusion and Recommendations

It seems to us that the objectives of the three types of agricultural programs discussed here are not so different from each other that the eligibility criteria should vary across them. All three programs support agriculture in one form or another, and all three have at least an indirect positive impact on open space. Thus, there is considerable intuitive appeal to the approach taken by both Pennsylvania and Rhode Island—even though these states lie at opposite ends of the spectrum in their treatment of boarding and riding facilities.

Keeping definitions and eligibility requirements consistent across programs will surely make for simpler administration on the part of the state, and greater understandability and acceptance on the part of operators. One can hold this view without taking a stand on whether the state should be protecting only production agriculture (as in Pennsylvania) or whether it should be protecting any operation that is land-intensive, relies in some way on plants or animals, and contributes to rural character (as in Rhode Island).

Whether looking across programs within a single state, or even across states, there appears to be a certain randomness in eligibility requirements that cannot be easily explained. We do not assume that each rule and regulation we have uncovered has been the product of a careful process of analysis, deliberation, and political horse trading (no pun intended) driven by each state's economic and demo-

graphic condition. Instead, these policies could be the product of political inattention, especially in those states where the equine industry is very small.

The equine industry appears to do reasonably well in urbanizing environments. Any of these eleven states could find itself with a larger equine industry in the future than it has today; others states, especially those with racing industries at risk from regulatory changes, could find the industry moving in the other direction. The rules regarding equine eligibility for these three programs could, in theory, be universal throughout the northeast yet still be flexible enough to accommodate a wide range of existing and unforeseen circumstances. This suggests the value of a set of model statutes that could be drawn up for all eleven state legislatures to consider, with the help of industry representatives and a network of Northeast Extension personnel.

Finally, Maryland's decision to formally recognize the relationship between all equine facilities and the growing of hay and forage should remind us that distinctions that seem obvious at first glance—like that between production agriculture and equine “services”—are not quite so clear. There is plenty of room for additional research on the relationship between statutory requirements and each state's stated (or unstated) goals.




































































































Note:


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Table 1. Program Eligibility Depicted Graphically

State	Farmland Assessment	Farmland Preservation	Right-to-Farm	Equine as % of all Agricultural Revenues, 2002*
<i>Connecticut</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	0.57%
<i>Delaware</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	0.10%
<i>Maine</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	0.60%
<i>Maryland</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	1.84%
<i>Massachusetts</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	1.01%
<i>New Hampshire</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	0.60%
<i>New Jersey</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	2.44%
<i>New York</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	0.49%
<i>Pennsylvania</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	0.98%
<i>Rhode Island</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	0.78%
<i>Vermont</i>	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	Breeding  Boarding  Riding 	0.60%

KEY: Yes =  No =  Conditional = 
(see text)

* U.S. Census of Agriculture.

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