

Special Occasion Events on Preserved Farmland:
Initial Report to the Governor and Legislature

July 25, 2024

State Agriculture Development Committee

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Background

P.L. 2023, c.9 became law on February 3, 2023. The law recognizes that holding special occasion events (SOEs), under certain conditions, could have positive effects on preserved farms. The SOE law's findings and declarations include the following:

With proper oversight, special occasion events on preserved farmland can have minimal impact on the land's viability for farming and provide for new business opportunities for farmers in the State without displacing agricultural or horticultural production as the first priority use of preserved farmland or disrupting neighborhoods that surround preserved farms. (N.J.S.A. 4:1C-32.15e.)

The SOE law amended the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., to allow SOEs to be held on preserved farms, provided the owner or operator of the farm receives prior written approval from the easement holder and meets other statutory requirements. The law also allows municipalities, under certain circumstances, to require an application for approval of the SOE, and contains limits on the cost and scope of the application.

An SOE is defined as a “a wedding, lifetime milestone event, or other cultural or social event conducted, in whole or in part, on preserved farmland on a commercial farm.”

For the purposes of the SOE law, SOEs do not include the following:

- Activities eligible for Right to Farm Act protection;
- Recreational uses already permitted under the farmland preservation deed of easement; and
- Weddings held for the owner, operator, or employee of the commercial farm or weddings held for certain family members of the commercial farm owner.

Reporting Requirements

The SOE law requires the State Agriculture Development Committee (SADC) to submit an initial report to the Governor and Legislature by August 1, 2024 on SOEs authorized under the law. Updates to the report are required on an annual basis, and a revised report is required once every four years.

The report must include at least the following:

- Number of commercial farms on which SOEs were held;
- Number of guests, type, and frequency of events;
- Extent to which disputes are reported between commercial farms and neighboring properties, municipalities, and the easement holder and SADC;
- Frequency of violations of the SOE law; and

- Frequency of unintended undesirable consequences of SOEs, such as possible instances of the removal of land from active agricultural or horticultural production to host events.

Report by Rutgers - The New Jersey legislature's Joint Budget Oversight Committee tasked Rutgers, The State University of New Jersey (Rutgers), with studying the SOE program. Rutgers published a report dated July 15, 2024 that includes components similar to this SADC report. Rutgers will continue to study the program and publish annual reports through 2026. A copy of the current Rutgers study is in the Appendix.

Outreach and Education

The SADC invested time and resources in developing SOE educational and administrative materials for outreach to the agricultural community following the enactment of the SOE law. The goal has been to help farmers, county agriculture development boards (CADBs), and others understand the SOE law, application process, and requirements.

The following is a synopsis of the SADC's outreach efforts:

- Developed and posted SOE guidance documents and information on the SADC website;
- Sent guidance documents to all farmland preservation easement holder partners;
- Conducted SOE outreach presentations for farmers, CADBs, nonprofits, county planners, Rutgers Cooperative Extension, Municipal Clerks association, other municipal officials, and the public;
- Included information on the SOE law in the SADC's annual newsletter sent to all preserved farm owners;
- Sent an outreach letter to each winery that had participated in the previous winery SOE pilot program; and
- Shared information on the SOE law when attending monthly CADB meetings.

SOE Quantitative Data

Number of commercial farms on which SOEs were held; number of guests, type, and frequency of events; and related information - The SOE law requires easement holders to forward a copy of SOE approvals to the SADC, and it requires participating farms to provide an annual certification to the easement holder with information on SOEs held during the prior calendar year. Easement holders share these certifications as well as SOE applications with the SADC.

From this information, the SADC is aware of 22 farms having submitted SOE applications between February 3, 2023 and July 10, 2024. Fifteen (15) applications have been approved,

2 have been denied, and 5 are currently under review. Of the nine farms whose applications were approved in 2023, five of the farms held SOEs in 2023. According to their annual certifications, these five farms held 2, 4, 5, 8, and 13 events, respectively, or a total of 32 SOEs in 2023. These SOEs included 20 weddings, 5 lifetime milestone events, and 7 cultural or social events and had an attendance range of 50 to 1,100 people per event. The median number of guests was 122.5, and the overall total number of guests was 5,915. A few additional details on the types of events held in 2023 include the following:

- Weddings – ceremonies and receptions.
- Lifetime milestone event parties – “Sweet 16”; graduation; birthday; baby shower; and anniversary.
- Cultural or social events – fundraisers, including one for the American Cancer Society and another for scholarships for the children of fallen military and first responders; public community events, e.g., Easter egg hunt, Irish Fun Day, Ecuadorian carnival, and Tico festival; and an end of season party for a field hockey team.

Additional events noted on farms’ SOE applications that may not have been held as of the issuance of this report include the following:

- Lifetime milestone events – anniversaries; showers; reunions; celebrations of life; and family events.
- Cultural or social events – corporate, business, church, nonprofit, cultural, and other fundraiser and community events. Specific events proposed have included a veteran’s benefit; community festivals: farm-to-table dinners hosted by local chefs; vendor showcase events where bridal/event vendors can advertise their services; horticulture trips for school children; agriculture-related classes; events with a focus on Hispanic and other ethnic communities; rodeos; barbecues; harvest events; star-watching gathering; observing fireworks originating offsite; and a koi festival.

Issues, Observations, and Other Data

Municipal approvals of SOEs – The SOE law has been the subject of varied interpretations by municipalities as to the municipal role in the SOE approval process due to ambiguous statutory language regarding the extent to which municipalities can regulate SOEs. Some are requiring farms to obtain planning and/or zoning board approval on the grounds that the activities require submission of site plan and/or variance applications under local land use ordinances. Other municipalities allow SOEs without land use board approvals and have relatively basic review processes, simply requesting information to address public health and safety concerns that are typical of special events.

Some municipalities, including those requiring land use board approval, have expressed the view that a process should exist accommodating an opportunity for the affected public to comment on proposed SOEs so that relevant health and safety issues can be evaluated and, if necessary, addressed. Members of the Municipal Clerks Association of New Jersey requested, during the SADC's outreach to the organization, that more guidance be provided on what the municipal role should be.

Of the nine farms whose SOE applications were approved by the easement holder in CY 2023, two farms have yet to hold SOEs because they could not get municipal land use board approval. A third farm, which similarly got easement holder-approval but could not get local approval, held SOEs anyway.

The time and expense associated with site plan and/or variance application reviews and approvals, and the potential for subsequent litigation, presumably were not what was envisioned when the SOE law was enacted.

Clarification of the SOE law - The inconsistent regulation of SOEs by municipalities may stem from the fact that SOEs are non-agricultural activities and, accordingly, are ineligible for protection under the Right to Farm Act.

The SOE law at N.J.S.A. 4:1C-32.17a.(4)(a) and (b) contains open-ended language that all applicable laws and regulations apply to SOEs, implying that customary land use board approval is required, but then provides that compliance with such laws and regulations can be reviewed and approved merely through the filing of an application form with, and the payment of a fee of no more than \$50 to, the municipality. See the Appendix for copies of letters from attorneys representing a municipality and a landowner with conflicting interpretations on the extent to which municipalities can regulate SOEs.

The Legislature should clarify whether SOEs are subject to the typical municipal land use review process and, if so, the parameters of such review. Further clarification of N.J.S.A. 4:1C-32.17a.(4)(a) and (b) would help the SADC draft regulations implementing the SOE law.

Extent of disputes between commercial farms and municipalities - Some farmers have not held SOEs because they have been unable to obtain land use approval, leading to disputes with municipalities. In one case, a municipality began developing an ordinance that would make SOEs a permitted use and enable the municipality to approve SOE applications. The process of developing the ordinance has led to disputes between farms and the municipality, as there has been disagreement on the scope of municipal review. A golf course/country club that had previously received site plan approval to hold events has also expressed opposition to less rigorous review of SOE applications, asserting that commercial farm events would enjoy an unfair competitive advantage.

Extent of disputes between commercial farms and neighboring properties - There have not been any disputes between farms and neighbors reported to the SADC. However, disputes with neighbors are anticipated as more SOEs are held in the future.

Extent of disputes between commercial farms and easement holders - One CADB easement holder has an informal policy that it will not approve SOE applications if the proposed events are not permitted uses by the municipality, and instead directs that municipal approval must be obtained before the commercial farm can obtain CADB approval. This approach resulted in a dispute regarding the length of the CADB approval process. The SADC could help clarify through regulations that easement holders do not have to wait for municipal approval to complete their part of the SOE review and approval process.

Extent of disputes between commercial farms and the SADC - The SADC is not aware of any SOE-related disputes between farms and the SADC at this time. To date, the SADC has received and approved three SOE applications from farms on which it holds the farmland preservation easement.

Frequency of violations of the SOE law/events held without approval - The SADC is aware of events being held that appear to be SOEs and that should have received prior approval from the easement holder. A possible reason for unpermitted SOEs is a lack of awareness or understanding of the SOE law. The SADC believes that not all farms received information about the SOE law despite the SADC's broad outreach to the agricultural community in Spring 2023. Some farms also might have heard about the law but did not pay attention to the details.

The SADC, as part of its outreach, sent a letter to each of the six (6) wineries that had participated in the previous winery SOE pilot program. Of these 6 wineries, only one submitted an SOE application for weddings, which the easement holder approved; all six have continued to advertise for or hold events that appear to be SOEs. These events include weddings, rehearsal dinners, bridal showers, engagement parties, anniversaries, birthdays, baby showers, graduations, bachelorette/bachelor parties, end of life celebrations, artisan markets, boutique local vendor fairs, holiday vendor events, food truck festivals, music festivals, youth singing competitions, fundraisers, dance parties, corporate events, health and wellness events, St. Patrick's Day celebrations, girls' night out-male dance shows, comedy shows, concerts, and community events.

Some examples of unapproved events that have taken place on other preserved farms include a rock concert, pop-up makers' market, cannabis wellness fair, farmers' market-style events utilizing off-farm vendors, Latin music concerts, and country nights with line dancing and dinner. Some of the farms that received SOE approval in 2023 also listed, on

their 2023 end-of-year certification forms, specific events held prior to getting SOE approval.

The SADC, along with agricultural community partners, will provide more education and outreach to make sure that farms are aware of the SOE law and to help them achieve compliance.

Frequency of unintended undesirable consequences of SOEs, such as possible instances of the removal of land from active agricultural or horticultural production to host events

- The SOE law states that SOEs should have a minimal impact and “shall be designed to protect the agricultural resources of the land and ensure that the land can be readily returned to productive agricultural or horticultural use after the event.” The small number of SOEs approved and held so far makes it difficult to identify with greater particularity the frequency of negative impacts on a preserved farm’s agricultural viability, but it is expected that more data will be collected on this issue as the program develops.

Many SOE applications have proposed using crop fields for temporary parking, raising the potential for damage to farmland acreage and/or preventing the affected area from being actively farmed. Another concern is SOEs supplanting farming as the primary use of the land.

One recently approved SOE application involved a preserved farm that had been purchased by a hotelier. The new owner invested heavily in the farm’s ability to hold SOEs, renovating and stabilizing an old farm building. There did not appear to be a commensurate level of investment in the production aspects of the farming operation. The displacement of agricultural or horticultural production as the first priority use of a preserved farm, or the business opportunity of holding SOEs becoming a driver in the sales of preserved farms, are also significant concerns.

Positive consequences of SOEs - Anecdotally, SOEs appear to have helped landowners generate additional income as well as create or retain customers for their farm products. SOE attendees presumably enjoy their time on the farm and might come back as farm customers in the future. One winery owner was clear regarding his view of SOEs: after having made significant investments in the farm’s agricultural operations, tasting room, and on-farm direct farm marketing activities, he saw SOEs as another income stream benefiting the farm.

SOE interest from all farms - Inquiries to the SADC indicate that unreserved farms are also interested in holding SOEs. Whether or not unreserved farms can hold SOEs ultimately depends on their ability to get municipal approval. Some municipalities have special events ordinances that cover preserved and unreserved farms, and some towns are in the process of creating such ordinances.

SOEs with a connection to the farm's agricultural operation – Some farms have proposed events that are SOEs but that also include aspects of on-farm direct marketing that otherwise might be eligible for Right to Farm Act protection. One farm held cultural and social events, such as fundraisers and ethnic festivals, that included primary elements like car shows, live music, DJs, dancers and dancing, comedians, vendors, food, beer, and local sponsors. At the same time, the farm made its products and farm activities available. Its farm stand and farm-to-table food truck were open, and hayrides, crop mazes, and farm animals were made available for use and viewing by the public. Another farm reported that during the weddings and another event that it held, it used the farm fields for hayrides and pumpkin/sunflower picking. The farm similarly reported having hayrides and offering farm products for sale during a birthday event.

The SOE with the greatest agricultural connection might be a proposed koi festival that the SADC approved in June 2024. The preserved farm where the event will be held is owned by a business headquartered on the exception area of the farm that builds, maintains, and services fishponds and related landscaping. The business also imports, raises, and sells koi on the preserved farmland. The SOE would, in part, showcase the farm's koi while also promoting the owner's non-agricultural business operations.

Looking forward

A goal of the SOE law is to create new business opportunities for preserved farms. Some farms have begun to take advantage of this new ability to hold a limited number of non-agricultural events on the farm, helping their "bottom lines" while providing scenic venues for private parties, public events, and community gatherings.

Continued outreach and education are needed to ensure all preserved farms are aware of and remain in compliance with the law to avoid enforcement actions. Implementation issues, such as the appropriate extent to which municipalities can regulate SOEs, will need to be addressed. Experiences with the SOE program over time will also provide more data on the positive and negative consequences of SOEs, including any impacts to preserved farmland and ensuring that agricultural and horticultural production remain the first priority use of the land.

Appendix

1. SOE Law – P.L. 2023, c.9
<https://www.nj.gov/agriculture/sadc/documents/rules/SOElaw.PDF>
2. SADC Guidance Document – SOEs Overview
<https://www.nj.gov/agriculture/sadc/documents/farmpreserve/postpres/SOEsOverview.pdf>
3. SADC Guidance Document – SOEs Q&A
<https://www.nj.gov/agriculture/sadc/documents/farmpreserve/postpres/SOEsQAndA.pdf>
4. SADC Newsletter – New Jersey Farmland Preservation News, Summer 2023
<https://www.nj.gov/agriculture/sadc/documents/publications/summer2023newsletter.pdf>
5. SADC Outreach Letter to Wineries That Participated in Winery SOE Pilot Program, March 6, 2023.
6. Letter from Joseph D. Nicola, Jr., Esq., attorney representing a farm in Mannington Township, October 26, 2023.
7. Letter from William L. Horner, Esq., attorney representing Mannington Township, December 4, 2023.
8. Letter from John Jackson, attorney representing Eagle Oaks Golf Course and Country Club, May 14, 2024.
9. Chart with SOE applications and easement holder actions (2/3/23 – 7/10/24), and CY 2023 events.
10. Rutgers SOE Study dated July 15, 2024.

1. SOE Law - P.L. 2023, c.9

<https://www.nj.gov/agriculture/sadc/documents/rules/SOElaw.PDF>

This is a courtesy copy of P.L. 2023, c.9. For an official copy of this or any other New Jersey statute, visit the New Jersey Legislature's website at www.njleg.state.nj.us, select the link for "Statutes" and use the site's lookup options.

CHAPTER 9

AN ACT concerning special occasion events on preserved farmland and supplementing Title 4 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.4:1C-32.15 Findings, declarations.

1. The Legislature finds and declares that:
 - a. Over 2,800 farms comprising over 247,000 acres of farmland have been preserved in New Jersey since the inception of the State's farmland preservation program;
 - b. The original intent of the farmland preservation program was to prevent suburban sprawl and the conversion of agriculturally suitable land to other purposes, and to keep agriculture as an economically viable industry within the State;
 - c. Keeping agriculture as a sustainable industry in the State ensures residents have continued access to fresh food with low environmental impact;
 - d. The growing interest in agritourism, i.e., activities that attract the public to working farms for enjoyment or education of visitors and generate supplementary income for the farmer, has provided farmers with supplemental revenue and enhanced opportunities to market the State's agricultural and horticultural products; and
 - e. With proper oversight, special occasion events on preserved farmland can have minimal impact on land's viability for farming and provide for new business opportunities for farmers in the State without displacing agricultural or horticultural production as the first priority use of preserved farmland or disrupting neighborhoods that surround preserved farms.

C.4:1C-32.16 Definitions.

2. As used in P.L.2023, c.9 (C.4:1C-32.15 et seq.):

"Applicant" means the owner, and in cases where the owner is not also the operator of the farm and the operator is the person seeking to hold the special occasion event, then the operator of the commercial farm who applies pursuant to subsection c. of section 3 of this act for approval to hold a special occasion event.

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

"Commercial farm" means the same as that term is defined in section 3 of P.L.1983, c.31 (C.4:1C-3), except that "commercial farm" shall not include a farm that qualifies for farmland assessment pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), based entirely on a woodland management plan or a forest stewardship plan pursuant to section 3 of P.L.1964, c.48 (C.54:4-23.3).

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

"Exception area" means a portion of the applicant's landholdings that is excluded from the premises and, although identified in the deed of easement, is unencumbered by the farmland preservation deed restrictions set forth in the deed of easement.

"Grantee" means the entity to which the development rights of a preserved farm were conveyed pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes. "Grantee" shall include all entities which lawfully succeed to the rights and responsibilities of a grantee, including, but not limited to, the grantee's successors and assigns.

“Nonprofit entity” means a corporation organized pursuant to the “New Jersey Nonprofit Corporation Act,” N.J.S.15A:1-1 et seq. or a corporation organized pursuant to Title 16 of the Revised Statutes.

“Occupied area” means any area supporting the activities and infrastructure associated with a special occasion event including, but not limited to: an area for parking, vendors, tables, equipment, infrastructure, or sanitary facilities; an existing building; or a temporary or portable structure.

“Owner” means the record owner of the preserved farmland.

“Permittee” means the owner, and if applicable, the operator of the commercial farm to whom permission to hold special occasion events has been issued by the grantee.

“Preserved farmland” means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, a county, a municipality, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any other State law enacted for farmland preservation purposes.

“Special occasion event” means a wedding, lifetime milestone event, or other cultural or social event conducted, in whole or in part, on preserved farmland on a commercial farm. "Special occasion event" shall not include:

(1) an activity which is eligible to receive right to farm benefits pursuant to the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.);

(2) a recreational use permitted pursuant to a farmland preservation deed of easement; or

(3) a wedding held for:

(a) a spouse, parent, child, grandparent, grandchild, sibling, niece, nephew, or cousin of the owner of the commercial farm; or

(b) the owner, operator, or an employee of the commercial farm.

"Winery" means a commercial farm where the owner or operator of the commercial farm has been issued and is operating in compliance with a plenary winery license or farm winery license pursuant to R.S.33:1-10.

C.4:1C-32.17 Special occasion event, preserved farmland, compliance, Farmland Preservation Program.

3. a. Notwithstanding any law, or any rule or regulation adopted pursuant thereto, to the contrary, a person may hold a special occasion event on preserved farmland, provided that the grantee determines the preserved farm complies with the terms of the Farmland Preservation Program deed of easement recorded against the preserved farmland, the person complies with the requirements set forth in P.L.2023, c.9 (C.4:1C-32.15 et seq.), and the special occasion event is held in compliance with the requirements of this section and the rules and regulations adopted by the committee pursuant to section 6 of P.L.2023, c.9 (C.4:1C-32.20).

b. The owner or operator of a commercial farm located on preserved farmland that produces agricultural or horticultural products worth \$10,000 or more annually may hold special occasion events on the farm. The special occasion event shall comply with the following requirements:

(1) A special occasion event shall have a maximum duration of two consecutive calendar days if the event is marketed as a single event. An event shall be considered a single special occasion event, even if the event lasts for more than one day, if the event:

(a) is marketed as a single event;

(b) occurs only on consecutive days; and

(c) does not last for more than two days.

(2) A special occasion event shall not interfere with the use of the preserved farmland for agricultural or horticultural production. The special occasion event shall have minimal effects on the occupied area and shall be designed to protect the agricultural resources of the land and ensure that the land can be readily returned to productive agricultural or horticultural use after the event.

(3) A special occasion event that involves the service of alcoholic beverages shall comply with all applicable State and local laws, regulations, resolutions, and ordinances.

(4) (a) All applicable State and local laws, regulations, resolutions, and ordinances including, but not limited to, those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety shall apply to the special occasion event and all activities related thereto. To comply with local laws, regulations, resolutions, and ordinances, the municipality may require that an owner or operator of a commercial farm located on preserved farmland submit an application to the municipality for approval and may designate an office or agency of the municipality to review municipal applications for conducting special occasion events. A municipality may require a municipal application if the special occasion event would:

(i) generate a parking or traffic flow situation that could unreasonably interfere with the movement of normal traffic or emergency vehicles or other organized group sharing similar common purposes or goals proceeding in or upon any street, park, or other public place within the municipality; or

(ii) require the expenditure of municipal resources or inspections from agencies or authorities of the municipality.

(b) For a municipal application submitted in accordance with subparagraph (a) of this paragraph, the municipality shall not charge an application fee of more than \$50. The municipal application shall not require more information than an identification of locations of where tents and other temporary structures, sanitary facilities, parking, and access and egress will be located for each event, where music will be played, the number of expected guests, and other information that may be of public concern and would be required of a similar event when conducted at a public park or another public venue.

(5) (a) No new permanent structures shall be constructed or erected on preserved farmland for the purpose of holding a special occasion event, and improvements to existing structures shall be limited to the minimum required for the protection of health and safety.

(b) No permanent structure constructed fewer than five years prior to the date of application to the grantee to hold a special occasion event pursuant to subsection c. of this section shall be used for the purpose of holding the special occasion event.

(c) The installation and use of tents, canopies, umbrellas, tables, chairs, and other temporary structures on preserved farmland for the purpose of holding special occasion events shall be a permitted use provided that the tent, canopy, umbrella, table, chairs, or other temporary structure conforms to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code, which have been adopted by the Commissioner of Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively. The permitted use of tents, canopies, umbrellas, tables, chairs, and other temporary structures allowed by this subparagraph shall be limited to the timeframe encompassing the first day of April through November 30 of each year.

(d) No public utilities, including gas or sewer lines, shall be extended to the preserved farmland for the purpose of holding special occasion events, except that electric and water service may be extended to preserved farmland for the purpose of holding special occasion events.

(6) Parking at a special occasion event shall be provided through the use of existing parking areas on the farm and curtilage surrounding existing buildings to the extent possible. Additional on-site areas required to provide temporary parking shall comply with the standards for on-farm direct marketing facilities, activities, and events adopted by the committee pursuant to the “Right to Farm Act,” P.L.1983, c.31 (C.4:1C-1 et seq.).

(7) The occupied area associated with a special occasion event shall be no more than the lesser of 10 acres or 10 percent of the preserved farmland.

c. A special occasion event shall not be held on preserved farmland unless the applicant obtains approval to hold special occasion events, in writing from the grantee, prior to holding a special occasion event. If the applicant is the operator, but not the owner, of the farm, then the operator shall submit to the grantee a notarized affidavit from the owner authorizing the application. Once approval is obtained from the grantee, a permittee shall be required to submit an application pursuant to this subsection not more than once annually, and an individual application shall not be required for each special occasion event.

(1) A grantee whose approval is required for a special occasion event to be held on preserved farmland shall develop an application process by which an owner or operator of a commercial farm located on preserved farmland may apply for approval. The application shall, at a minimum, allow the grantee to determine:

(a) that the commercial farm located on the preserved farmland produces agricultural or horticultural products worth \$10,000 or more annually, and this may include an attestation that the commercial farm located on the preserved farmland produces agricultural or horticultural products worth \$10,000 or more annually;

(b) the number of special occasion events to be held on the commercial farm during the calendar year;

(c) the maximum attendance of the special occasion events;

(d) the acreage of the occupied area, as delineated on a map or aerial photograph, to be used for the special occasion event; and

(e) whether the farm is in compliance with its farmland preservation deed of easement.

(2) The grantee shall approve an application made pursuant to this section upon a finding that the special occasion events on the preserved farmland that are the subject of the application comply with the requirements of this act and any rules and regulations adopted by the committee to implement this act. The grantee shall forward a copy of its approval to the committee and to the board in the county in which the preserved farmland is located.

(a) If the grantee is a qualifying tax exempt nonprofit organization as defined pursuant to P.L.1999, c.152 (C.13:8C-3), the grantee may approve, approve with conditions, or deny the application submitted pursuant to this section.

(b) If the grantee does not respond to a written request to hold special occasion events within 90 days following receipt of a request, then the request shall be deemed approved.

(c) If the grantee denies an application made pursuant to this section, the grantee shall provide a reason for the denial and an opportunity for the applicant to reapply with an amended application.

(3) An applicant shall annually certify to the grantee, in a form and manner to be prescribed by the grantee, information about the special occasion events held in the prior calendar year that were approved pursuant to this section, including, but not limited to, the date, occasion, and approximate number of attendees of each event. The grantee shall forward a copy of the certification to the committee.

d. A commercial farm shall not hold more than one special occasion event with over 100 guests per calendar day. A commercial farm may hold 26 special occasion events each

calendar year, of which only six special occasion events may have 250 guests or more in attendance at any time during the event. A special occasion event held by or for a nonprofit entity shall not count against the limitations on events provided by this subsection if the event has fewer than 100 guests and the permittee does not charge for, and receives no fees or compensation for hosting the event, other than for reimbursement of out-of-pocket expenses. The maximum reimbursement to the permittee shall not exceed \$1,000.

e. A retail food establishment other than a temporary retail food establishment, as those terms are defined in the State Sanitary Code adopted pursuant to section 7 of P.L.1947, c.177 (C.26:1A-7), shall not operate on a commercial farm in support of a special occasion event. The limitations of this subsection on the use of a retail food establishment shall not apply to a retail food establishment based at the commercial farm.

f. Nothing in P.L.2023, c.9 (C.4:1C-32.15 et seq.), or the rules and regulations adopted by the committee pursuant to section 6 of P.L.2023, c.9 (C.4:1C-32.20), shall apply to any special occasion event that is not held, in whole or in part, on preserved farmland on a commercial farm, including, but not limited to, exception areas.

C.4:1C-32.18 Inspection, preserved farm, grantee, committee, compliance determination, appropriate credentials, rights, limitations.

4. a. The grantee and the committee shall have the right, without advance notice, to inspect a preserved farm on which special occasion events are held, upon presentation of appropriate credentials during normal business hours or during a special occasion event, in order to determine compliance with the provisions of P.L.2023, c.9 (C.4:1C-32.15 et seq.).

b. A permittee engaged in conducting special occasion events on preserved farmland shall not be subjected to an inspection for any particular type of event authorized pursuant to P.L.2023, c.9 (C.4:1C-32.15 et seq.) more than once per year without good cause demonstrated by the grantee or committee.

C.4:1C-32.19 Violations, penalties; notification, hearing, rights.

5. a. A permittee who violates the provisions of this act shall be liable to a civil administrative penalty of up to \$1,000 for the first offense, up to \$2,500 for the second offense, or up to \$5,000 for a third and subsequent offense. Each day in which a violation occurs shall be considered a separate offense.

b. In addition to the penalties established pursuant to subsection a. of this section:

(1) for a second offense, the committee shall suspend the permittee from holding special occasion events for a period of up to six months;

(2) for a third offense, the committee shall suspend the permittee from holding special occasion events for a period of six months up to one year; and

(3) for a fourth or subsequent offense, the committee shall suspend the permittee from holding special occasion events for a period of at least one year, or permanently suspend the owner or operator of the commercial farm from holding special occasion events.

c. No civil administrative penalty pursuant to subsection a. of this section or penalty established in subsection b. of this section shall be imposed pursuant to this section until after the permittee has been notified of the alleged violation by certified mail or personal service. The notice shall include:

(1) a reference to the section of the statute, regulation, order, or condition alleged to have been violated;

(2) a concise statement of the facts alleged to constitute a violation;

(3) a statement of the amount of the civil administrative penalty that may be imposed and the duration of the suspension that may be imposed, if any; and

(4) a statement of the right of the permittee to a hearing.

d. The permittee served with notice pursuant to subsection c. of this section shall have 20 days after the receipt of the notice to request in writing a hearing before the committee. The committee may retain the matter for a hearing before the committee or transmit the matter to the Office of Administrative Law in accordance with the provisions of the “Administrative Procedure Act”, P.L.1968, c.410 (C.52:14B-1 et seq.).

(1) If the hearing is conducted by the committee, the hearing shall be conducted in accordance with relevant provisions of the “Administrative Procedure Act”, P.L.1968, c.410 (C.52:14B-1 et seq.) and regulations adopted pursuant thereto, and shall provide opportunity for testimony from the municipality in which the preserved farmland is located. After the hearing, if the committee finds that a violation has occurred, the committee may issue a final order assessing the amount of the civil administrative penalty set forth in the notice and imposing the suspension, if any.

(2) If no hearing is requested, then the notice shall become a final order 20 days after the date upon which the notice was served. Payment of the civil administrative penalty shall be due, and duration of the suspension, if any, shall begin, on the date when a final order is issued or the notice becomes a final order.

e. The committee shall notify, in writing, the grantee and the board in the county in which the preserved farmland is located when it suspends a permittee from holding special occasion events pursuant to subsection b. of this section.

C.4:1C-32.20 Rules, regulations.

6. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the committee may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the committee deems necessary to implement the applicable provisions of this act, which shall be effective for a period not to exceed 12 months. The committee shall thereafter adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to implement P.L.2023, c.9 (C.4:1C-32.15 et seq.), including any rules and regulations necessary to determine compliance with the requirements of section 3 of P.L.2023, c.9 (C.4:1C-32.17). The rules and regulations adopted pursuant to this section shall provide forms, processes, and procedures that are the least burdensome as feasible and which are necessary to implement P.L.2023, c.9 (C.4:1C-32.15 et seq.). A grantee may accept applications pursuant to this act and approve applications for special occasion events that comply with the provisions of this act prior to the adoption of the rules required under this section. Upon adoption of rules and regulations pursuant to this section, all approvals pursuant to this act shall comply with the rules and regulations adopted by the committee.

C.4:1C-32.21 Report to Governor, Legislature.

7. a. The committee shall report on special occasion events as authorized by P.L.2023, c.9 (C.4:1C-32.15 et seq.). All grantees shall provide the committee with data requested in relation to the report. The report shall include, but shall not be limited to, an exploration of the following:

- (1) the number of commercial farms on which special occasion events are held;
- (2) the number of guests, type, and frequency of events;

(3) the extent to which disputes are reported between: commercial farms and neighboring properties, commercial farms and municipalities, and commercial farms and the grantee or committee;

(4) the frequency of violations of P.L.2023, c.9 (C.4:1C-32.15 et seq.); and

(5) the frequency of unintended undesirable consequences of special occasion events, such as possible instances of the removal of land from active agricultural or horticultural production to host events.

b. The committee shall submit the initial report conducted pursuant to this section to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on or before the first day of the 18th month next following the effective date of P.L.2023, c.9 (C.4:1C-32.15 et seq.). Following submission of this initial report, the committee shall submit to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1):

(1) an update of the report on an annual basis; and

(2) a revised report, once every four years beginning after submission of the initial report, summarizing the successes and drawbacks of special occasion events, and recommending any administrative and legislative changes.

8. This act shall take effect immediately, except the authority of a municipality to require an application by a winery pursuant to paragraph (4) of subsection b. of section 3 of this act shall take effect on January 1, 2023.

Approved February 3, 2023.

2 SADC Guidance Document - SOEs Overview

<https://www.nj.gov/agriculture/sadc/documents/farmpreserve/postpres/SOEsOverview.pdf>

Special Occasion Events - Overview

Special Occasion Events on Preserved Farmland – P.L. 2023, c.9.

Introduction

P.L. 2023, c.9 became law on February 3, 2023. The law recognizes the positive effects that holding special occasion events (SOEs) on preserved farms can have, under certain conditions. Among these are helping sustain the agricultural industry, enhancing the growing demand for agritourism activities on farmland, and improving the viability of the state's farm operations without displacing agricultural or horticultural use of the land, or disrupting neighborhoods that surround preserved farms.



What an SOE Is

An SOE is a cultural or social event, including a wedding, held on preserved farmland. For the purposes of P.L. 2023, c.9., SOEs do not include the following: activities eligible for Right to Farm Act protection; recreational uses already permitted under the farmland preservation deed of easement; and weddings held for the owner, operator, or employee of the commercial farm or weddings held for certain family members of the commercial farm owner.

Who May Apply to Hold SOEs

The owner or operator of a preserved farm that is also a “commercial farm” may apply to hold SOEs. The preserved farmland must produce agricultural or horticultural products worth \$10,000 or more annually to qualify to hold SOEs. If the applicant to hold SOEs is a farm operator, and not the farm owner, the operator must obtain written authorization from the owner to apply.

How Many SOEs May be Held

Farm owners or operators can receive approval to hold up to twenty-six (26) SOEs per calendar year on the preserved farm. Up to six of the SOEs may have 250 or more guests in attendance at any time during the event. If a farm holds more than one SOE on the same day, only one of the SOEs on that day may have 100 or more guests. An event is considered a single SOE if the event lasts not more than two consecutive days and is marketed as a single event. Further, events held by or for a nonprofit entity do not count as an SOE if the event has fewer than 100 guests and the permittee does not charge for and receives no fees or compensation for hosting the event, other than for reimbursement of out-of-pocket expenses, which cannot exceed \$1,000.



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Special Occasion Events - Overview

Area Used to Hold SOE's

The area used to host the SOEs is referred to as the "occupied area", and includes all areas needed for structures, parking, and other infrastructure. The occupied area may be up to 10 acres or 10% of the preserved farmland acreage, whichever is less. SOEs may not interfere with the use of the preserved farm for agricultural or horticultural production and shall have only minimal effects on the occupied area and ensure that the land can be readily returned to productive agricultural or horticultural use after the event.

SOEs can be held outside, or inside a building that is at least 5 years old at the time of application for the SOE. No new permanent structures may be constructed or used to host SOEs, and improvements to existing structures are limited to the minimum required for the protection of health and safety. Temporary structures or tents may be used, provided they comply with applicable construction and fire codes and are limited to use between April 1 to November 30.

No public utilities other than electric and water service may be extended to the preserved farm for holding SOEs. Parking areas for SOEs must use existing parking areas and land around existing buildings to the extent possible. Additional temporary, on-site parking areas are required to follow standards previously adopted by the SADC in regulation (N.J.A.C. 2:76-2A.13).

How it Works

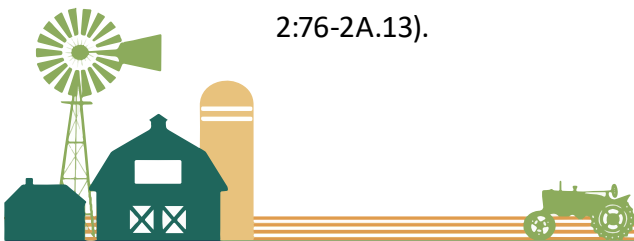
Farm owners, or farm operators with written authorization from the owner, can submit an SOE application to the holder (grantee) of the Farmland Preservation Program (FPP) deed of easement.

The easement holder, typically a county agriculture development board (CADB), board of county commissioners, nonprofit organization, or State Agriculture Development Committee (SADC), will review the application. The grantee must first confirm that the farm complies with its FPP deed of easement in order for it to be eligible to hold SOEs.

The grantee has 90 days in which to review the application and "shall" approve the application if it adheres to the requirements in the law and to forthcoming regulations promulgated by the SADC.

If the grantee does not respond to the application within 90 days, the application is deemed approved. A nonprofit grantee can approve, approve with conditions, or deny the application. A grantee cannot require a farm to submit an application to hold SOEs more than once annually.

Once an applicant receives approval to hold SOEs, the applicant is required to report annually to the grantee information about the SOEs held in the prior calendar year, including information on the dates, type of SOEs, and number of attendees of each event held. The Grantee is required to send a copy of this information to the SADC.



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Special Occasion Events - Overview

County, Nonprofit, and SADC Roles

Counties and nonprofit partners are responsible for accepting, reviewing, and acting on SOE applications from farms for which they hold the FPP deed of easement. No additional approval by the SADC is required; the SADC, like its partners, only reviews and acts on SOE applications from those farms on which it holds the easement. Partners must forward a copy of all SOE approvals and annual reporting information received from farms holding SOEs to the SADC.

The SADC is directed to develop and adopt regulations governing the SOE program, however, applications may be submitted to and processed by the easement holder prior to the SADC adopting SOE rules. The SADC also is required to regularly report to the legislature on implementation of the program.

Municipal Role

All applicable State and local laws and regulations apply to the holding of SOEs, including but not limited to those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety. If the SOEs proposed by a farm would generate parking or traffic flow that could unreasonably interfere with normal traffic or emergency vehicle movement, or require the expenditure of municipal resources or inspections from agencies or authorities of the municipality, a municipality may require the submission of a municipal SOE application to review compliance of a farm's proposed SOEs with local laws. Municipalities may not charge more than a \$50 application fee and may not require more information than would be required for similar events conducted at a public park or another public venue.



For More Information

Please see the SADC website, www.nj.gov/agriculture/sadc, for a copy of the SOE law and an SADC Q&A document. Farm owners and operators, as well as farmland preservation partners, also can contact the SADC at (609) 984-2504 and ask for David Kimmel.



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3. SADC Guidance Document - SOEs Q&A

<https://www.nj.gov/agriculture/sadc/documents/farmpreserve/postpres/SOEsQAndA.pdf>

Special Occasion Events - Q&A

Special Occasion Events on Preserved Farmland – P.L. 2023, c.9.



SOE Basics and How to Apply

What is a Special Occasion Event (SOE)?

An SOE is a cultural or social event, including a wedding, held on preserved farmland. For the purposes of P.L. 2023, c.9., SOEs do NOT include the following: activities eligible for Right to Farm Act protection; recreational uses already permitted under the farmland preservation deed of easement; and weddings held for the owner, operator, or employee of the commercial farm or weddings held for certain family members of the commercial farm owner.

Does a farm need approval to hold Special Occasion Events (SOEs) on preserved farmland?

Yes, a farm must get prior written approval to hold SOEs on preserved farmland. SOEs cannot be held unless the farm first obtains approval from the farmland preservation deed of easement holder – the “grantee”. Holding SOEs without having obtained approval from the grantee is a violation of the deed of easement and the law.



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Special Occasion Events - Q&A

Who can apply for a permit to hold Special Occasion Events (SOEs)?

The owner or operator of a preserved farm that is also a “commercial farm” may apply to hold SOEs. The preserved farmland must produce agricultural or horticultural products worth \$10,000 or more annually to qualify to hold SOEs. A farm operator must obtain written authorization from the owner to apply.

- For the purposes of the SOE law, a “commercial farm” means the same as defined in the Right to Farm Act (see below), with one exception: it does not include a farm that qualifies for Farmland Assessment based entirely on a woodland management plan or a forest stewardship plan.
- “Commercial farm” means (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), (2) a farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c.48 (C.54:4-23.1 et seq.), or (3) a farm management unit that is a beekeeping operation producing honey or other agricultural or horticultural apiary-related products, or providing crop pollination services, worth \$10,000 or more annually.

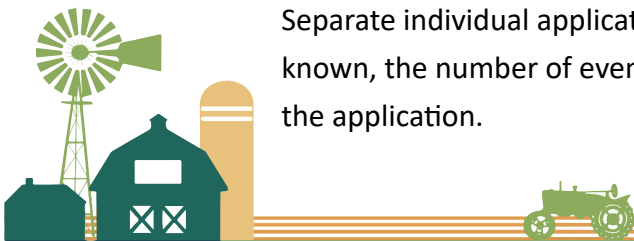
Who should SOE applications be submitted to? (Who reviews applications to hold SOEs)?

SOE applications are to be submitted to the holder of the farm’s farmland preservation deed of easement – known as the “grantee” of the easement. This typically is a county agriculture development board (CADB), a county board of commissioners, a nonprofit organization, or the State Agriculture Development Committee (SADC).

If a farm wants to hold multiple SOEs, should they all be included in the same application?

Yes, a single application is to be submitted for all the SOEs to be held on the farm during the calendar year.

Separate individual applications are not required for each separate SOE. To the extent known, the number of events and the estimated attendance must be submitted as part of the application.



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Special Occasion Events - Q&A

How often is a farm required to submit an SOE application? (Is an application required each year?)

Once a farm's application to hold SOEs has been approved, the farm shall be required to submit a new application not more than once annually. The easement holder will determine how often an application is needed, whether it be annually, biennially, etc.

Is a farm required to submit an SOE certification each year?

Yes, after each calendar year, a farm that had received approval to hold SOEs must complete and submit a certification to the grantee. The certification is basically a report of the SOEs that were held that year. The information required through the certification form will include at least a list of the number and type of SOEs that were held, their dates, and the number of attendees at each event.

Can easement holders accept and approve SOE applications prior to the SADC adopting SOE rules?

Yes, the SOE law took effect on February 3, 2023. This means farms can immediately apply for permission to hold SOEs. The SADC is required to adopt rules to fully implement the SOE program, but the law explicitly allows farms to apply for, and grantees to approve, based on the law's requirements, the holding of SOEs prior to the adoption of SADC rules.

What happens if an SOE application is denied?

If the easement holder denies an application, it must provide a reason for the denial and an opportunity for the applicant to reapply with an amended application. If the easement holder is a nonprofit, the nonprofit may approve, approve with conditions, or deny an SOE application it receives.

"Special occasion events" as defined in P.L. 2023, c.9.:

"Special occasion event" means a wedding, lifetime milestone event, or other cultural or social event conducted, in whole or in part, on preserved farmland on a commercial farm. SOEs shall not include the following:

- Activities that are eligible to receive Right to Farm Act protection;
- Recreational uses permitted under the farmland preservation deed of easement; or
- Weddings held for the owner, operator, or an employee of the commercial farm, or for a spouse, parent, child, grandparent, grandchild, sibling, niece, nephew, or cousin of the owner of the commercial farm.



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Special Occasion Events - Q&A



SOE Details – Number of Events and Conditions

How many SOEs can a farm hold, and how large can they be?

A farm may hold up to twenty-six (26) SOEs per calendar year, of which six (6) may have 250 or more guests at any time during the event.

Can a farm hold more than one SOE on the same day?

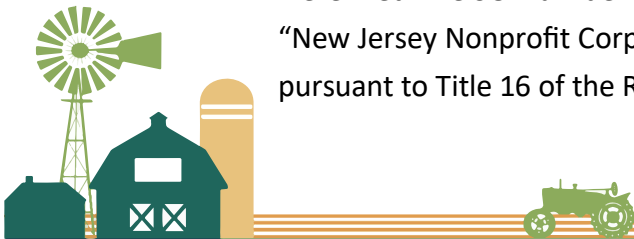
Yes, but if a farm holds more than one SOE on the same day, only one of those SOEs may have 100 or more guests.

Can a farm hold SOEs that last more than one day?

Yes, an SOE can last for two (2) consecutive days if the event is marketing as a single event. If an event lasts for more than two days, it would be considered as multiple SOEs.

If an SOE is held for a nonprofit, does it count towards the farm's limit of 26 SOEs per calendar year?

An SOE that is held by or for a nonprofit (as defined in the SOE law) does not count towards the 26-event limit if the event has fewer than 100 guests and the farm does not charge, or receive fees or compensation, for hosting the event (other than being reimbursed up to \$1,000 for out-of-pocket expenses). For example, if a farm wanted to hold its church's annual picnic at the farm or proposed hosting a fundraiser for the local fire department or land trust, the events would not count towards the 26-event limit if the above conditions were met. The SOE law defines a nonprofit as "a corporation organized pursuant to the "New Jersey Nonprofit Corporation Act," N.J.S.15A:1-1 et seq. or a corporation organized pursuant to Title 16 of the Revised Statutes."



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Special Occasion Events - Q&A

What part of a preserved farm can be used for SOEs?

The area used to hold SOEs may not be more than 10 acres or 10% of the preserved farmland, whichever is less. The SOE law defines this area as the “occupied area” and includes any area that supports the SOE activities including, but not limited to parking, vendors, tables, equipment, infrastructure, sanitary facilities, existing buildings, and temporary or portable structures. All aspects of an SOE must fit within the occupied area. The occupied area could be a single area, or it could be multiple non-contiguous areas on the farm.

Can SOEs interfere with the use of preserved farmland for farming?

No. SOEs may not interfere with the use of preserved farmland for agricultural or horticultural production. SOEs shall have only minimal effects on the occupied area, be designed to protect the agricultural resources of the land and ensure that the land can be readily returned to productive agricultural or horticultural use after the event. For example, if a farm proposed holding a mud run (that would involve digging up farmland and creating a mud pit), the proposed SOE would be denied because the SOE’s proposed use of the land would not be protective of land’s agricultural resources.

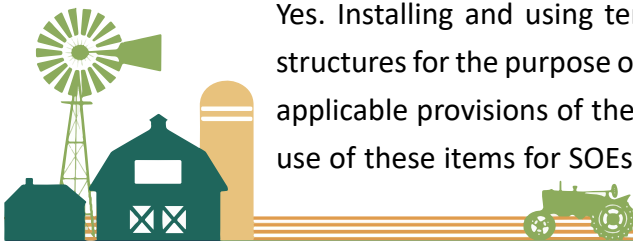


Can SOEs be held in permanent structures on the preserved farm?

Yes, however no new permanent structures may be constructed or used for the purpose of holding SOEs. Specifically, no permanent structures constructed within five years of the application to hold SOEs may be used to host an SOE. Improvements to existing structures shall be limited to the minimum required for the protection of health and safety. For example, holding SOEs and having visitors on the farm might require accessibility improvements, such as installing a handicapped ramp to a building, or require modifications to structures such as additional lighting or ingress/egress.

Can tents and temporary structures be used as part of holding SOEs?

Yes. Installing and using tents, canopies, umbrellas, tables, chairs, and other temporary structures for the purpose of holding SOEs is permitted, provided these items conform to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code. The use of these items for SOEs also is limited to the timeframe from April 1 to November 30.



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Special Occasion Events - Q&A

Can additional utilities be added for the purpose of holding SOEs?

Electric and water service may be extended to the preserved farmland in support of holding SOEs. Other public utilities, such as gas and sewer lines, may not be extended for the purpose of holding special occasion events.

What are the rules for parking for SOEs?

Parking for SOEs must be provided through existing parking areas and the area surrounding existing buildings to the extent possible. If additional on-site areas are required for providing temporary parking, this additional parking must comply with the SADC's standards for on-farm direct-marking facilities, activities, and events in N.J.A.C. 2:76-2A.13.

Can a retail food establishment be operated on a farm in support of an SOE?

If a retail food establishment is already based at the farm, then the farm can use the establishment as part of an SOE. Otherwise, the farm can only operate a temporary retail food establishment, as defined in the State Sanitary Code, N.J.A.C. 8:24, as part of the SOE.

Does the SOE law apply to events held on exception areas?

If an SOE is held ENTIRELY in an exception area, the SOE law does not apply. If an SOE is held in part on an exception area and on part of the preserved farmland, then the SOE law does apply to the part of the event occurring on the preserved farm.

If a farm is not in compliance with its farmland preservation deed of easement, can it hold SOEs?

No, a farm must be in compliance with its farmland preservation deed of easement in order to be eligible to hold SOEs.

Are there any rules about serving alcohol at SOEs?

Yes, SOEs that involve the service of alcoholic beverages must comply with all applicable State and local laws and regulations.

What other applicable laws must be followed?

All applicable State and local laws and regulations also must be followed, including but not limited to those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety.



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Special Occasion Events - Q&A

What is the difference between recreational events permitted under the deed of easement (to which the SOE law does not apply) and recreational events that are not permitted under the deed of easement (for which a farm could seek approval through an SOE application)?

The standard deed of easement says that certain recreational uses are permitted and that income may be derived from them (activities such as hunting, fishing, cross country skiing, and ecological tours) if they use the premises in its existing condition and do not interfere with the use of the land for agricultural production. The standard easement also says that other activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited. If a potential recreational activity is already permitted by the deed of easement, the easement holder should not include it an SOE approval.

For example, suppose a preserved farm holds “goat yoga” in a barn on certain days of the week. People come and put yoga mats down on the floor, and a yoga instructor leads the class. Such an activity would be considered a recreational use that uses the property in its existing condition and is therefore permitted under the deed of easement and does not require SOE approval. However, if the same farm wanted to host a yoga event, where tents are erected outside, portable seating is provided, and vendors set up tables to sell food and yoga supplies, the event would constitute an SOE and require approval. The evaluation of events is fact sensitive, and the grantee reviewing the activity will need sufficient detail to distinguish a permitted recreational activity from one that requires approval as an SOE.



How can a grantee tell the difference between special occasion events (SOEs) and on-farm direct marketing (OFDM) activities and events?

By definition, SOEs are social and cultural events that are not eligible for the benefits and protections of the Right to Farm Act (RTFA). If a farm is conducting marketing-related events that fit within the RTFA On-Farm Direct Marketing Agricultural Management Practice (AMP) rules, N.J.A.C. 2:76-2A.13, such events would not count as SOEs. If a farm plans to hold both types of events – SOEs as well as events that could be eligible for RTFA protection – the farm must request a Site-Specific Agricultural Management Practice (SSAMP) determination from the CADB to identify which events are protected under the RTFA. The remaining events would count as SOEs.



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Special Occasion Events - Q&A

Administration of the SOE Law – Approvals, Reports, Inspections, and Violations

What is the easement holder's role regarding reviewing SOEs?

Easement holders (the “grantees”) are responsible for accepting, reviewing, and deciding SOE applications from farms on which they hold the farmland preservation deed of easement. If they do not respond to an SOE application within 90 days of receiving a complete application, the request to hold SOEs is deemed automatically approved. Grantees must forward a copy of any SOE approvals to the SADC. No additional approval by the SADC is required. The SADC, like its partners, only reviews and acts on SOE applications from those farms on which it holds the deed of easement.

Grantees also are responsible for obtaining farms' annual SOE certification forms, forwarding copies of the certification forms to the SADC, and providing the SADC with requested data for the initial and annual reports that the SADC is required to submit under the SOE law.



What can easement holders do to determine whether the preserved farmland produces agricultural or horticultural products worth \$10,000 or more annually?

Easement holders are required to develop an application process that allows them to make determinations such as whether the preserved farmland's annual production is at least \$10,000.

The application process could ask the applicant for production information (such as the farm's Farmland Assessment forms), an attestation, or something else. The SADC has developed a sample application form and as well as a production estimator tool (a basic spreadsheet with instructions) that easement holders may use. For a copy of the sample application and spreadsheet tool, please see the SADC website, www.nj.gov/agriculture/sadc/.



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Special Occasion Events - Q&A

What is the municipality's role regarding reviewing SOEs?

A municipality may require the submission of an application if the SOEs would:

- Generate a parking or traffic flow situation that could unreasonably interfere with the movement of normal traffic or emergency vehicles or other organized group sharing similar common purposes or goals (on any street, park, or other public place within the municipality); or
- Require the expenditure of municipal resources or require municipal inspections.

Municipalities may not charge more than a \$50 application fee, and the application may not require more information than the following:

- The locations of tents and other temporary structures, sanitary facilities, parking, and access and egress for each event;
- Where music will be played;
- The number of expected guests; and
- Other information that may be of public concern and would be required of a similar event when conducted at a public park or another public venue.

In order for the municipality to play its appropriate role under the SOE law, the SADC recommends grantees submit a copy of SOE applications to the municipality in which the farm is located, so that the municipality is aware of the request to hold SOEs.

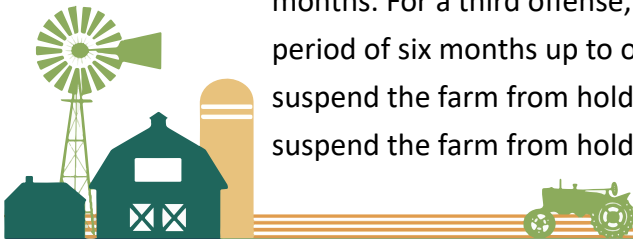
What are the inspection protocols for farms with SOEs?

The grantee and SADC have the right, without advance notice, to inspect preserved farms on which SOEs are held in order to determine compliance with the SOE law. Such an inspection may occur during an SOE event.

What are the penalties for violating the SOE law?

A farm that violates the SOE law shall be liable for a civil administrative penalty of up to \$1,000 for the first offense, up to \$2,500 for the second offense, or up to \$5,000 for a third or subsequent offense. Each day in which a violation occurs is considered a separate offense.

For a second offense, the SADC shall suspend the farm from holding SOEs for up to six months. For a third offense, the SADC shall suspend the farm from holding SOEs for a period of six months up to one year. For a fourth or subsequent offense, the SADC shall suspend the farm from holding SOEs for a period of at least one year, or permanently suspend the farm from holding SOEs.



NEW JERSEY
State Agriculture Development Committee
P.O. Box 330
Trenton, NJ 08625-0330

phone: 609-984-2504
email: sadc@ag.nj.gov
web: www.nj.gov/agriculture/sadc

Special Occasion Events - Q&A

Who is responsible for enforcement of the SOE law?

The SADC is responsible for enforcement of the SOE law. This includes providing notification of alleged violations and, if requested by the farm, holding a hearing. If the SADC finds that a violation has occurred, the SADC may issue a final order imposing the civil administrative penalty and, if applicable, a suspension from holding SOEs.

Can SOEs be held on farms preserved with federal funding?

Yes, farms preserved with federal funding can apply to hold SOEs. Easement holders (grantees) can approve a farm's application provided the holding of SOEs is consistent with the language in the farm's specific federal deed of easement. Grantees will have to review the specific language in the easement. Additional review and approval by the federal government (USDA Natural Resources Conservation Service (NRCS)) is not required; however, grantees may consult NRCS on a case-by-case basis concerning the grantee's interpretation. NRCS review and approval is necessary only when the easement terms require it or in the event NRCS must exercise its enforcement rights.

If the easement holder is a county, is it the county or CADB's responsibility to administer the SOE law?

The law refers to the "grantee" as having the responsibility of administering the SOE law. Some easements list the grantee, i.e., the easement holder, as a county board of commissioners; some list the CADB; and some list both. If a county is the easement holder, the board of county commissioners would have to determine whether it or the CADB would be responsible for administering the SOE law.



NEW JERSEY
State Agriculture Development Committee
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Trenton, NJ 08625-0330

phone: 609-984-2504
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web: www.nj.gov/agriculture/sadc

Special Occasion Events - Q&A

Will the SADC create a template SOE application form that partners could use?

Yes, in addition to a general SOE Guidance Document and this Q&A Document, the SADC has created a sample application form. Please see the SADC website, www.nj.gov/agriculture/sadc/, for a copy of this document.

Where can someone find more information on the SOE law?

Please see the SADC website, www.nj.gov/agriculture/sadc/, for a copy of the SOE law and related SOE materials. Farm owners and operators, as well as farmland preservation partners, can also contact their easement holder, or they can contact the SADC at (609) 984-2504 and ask for David Kimmel.



PLEASE NOTE: This guidance document is not intended to provide legal advice. If you have any questions, please contact the SADC.



NEW JERSEY
State Agriculture Development Committee
P.O. Box 330
Trenton, NJ 08625-0330

phone: 609-984-2504
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web: www.nj.gov/agriculture/sadc

4. SADC Newsletter – New Jersey Farmland Preservation News, Summer 2023
<https://www.nj.gov/agriculture/sadc/documents/publications/summer2023newsletter.pdf>



SUMMER 2023

NEW JERSEY FARMLAND PRESERVATION NEWS

Newsletter For Owners & Operators of Preserved Farmland
Published by the State Agriculture Development Committee (SADC)



40 Years of Farmland Preservation in New Jersey!

Forty years ago, on January 27, 1983, the Agriculture Retention and Development Act and the Right to Farm (RTF) Act were signed into law, which, together, created the New Jersey Farmland Preservation Program (FPP). The program will reach the extraordinary milestone of 250,000 acres of farmland preserved sometime later in 2023!

This accomplishment would not have been possible without the strong commitment of all the county, municipal, and nonprofit farmland preservation partners, and even more importantly, the decision by farmers and farmland owners to permanently protect their land and leave a conservation legacy forever.

Thanks to these cooperative efforts, New Jersey continues to move closer to the goal of ensuring that agriculture has an adequate land base for the future and that our farms remain an important part of the Garden State's economy, its community, and the everyday lives of all NJ citizens. 250,000 acres left to go!

Preservation Stats (as of August 2023)

Total Farms Preserved: **2,843 Farms**

Total Acres Preserved: **249,855 Acres**

Most Farms Preserved: **Hunterdon County, 466 Farms**

Most Acres Preserved: **Salem County, 43,207 Acres**

500,000
ACRES
PRESERVED

400k Acres -
Preserved

250k Acres
Preserved
2023

100k Acres
Preserved





What is the State Agriculture Development Committee (SADC)?

The Right to Farm Act created the State Agriculture Development Committee, which administers the New Jersey Farmland Preservation Program, as well as the Right To Farm program.

The SADC consists of eleven members:

- Six citizens who are appointed by the Governor with the advice and consent of the Senate
 - Four “Farmer” members and one alternate Farmer Member who must be actively engaged in farming
 - Two members who represent the general public
- Five Ex-Officio members representing certain state agencies

Meet the Committee:

Chairman

Joe Atchison, Assistant Secretary of Agriculture

Farmer Members

Martin Bullock, *Monmouth County*

Scott Ellis, *Mercer County*

Peter Johnson, *Burlington County*

Richard Norz, *Somerset County*

Roger Kumpel, *Burlington County* (Alternate Member)

Public Members

Charles Rosen

Tiffany Bohlin

Ex-Officio Members

Julie Krause representing the State Treasurer

Lauren Procida representing the Department of Environmental Protection Commissioner

Gina Fischetti representing the Department of Community Affairs Commissioner

Brian Schilling representing the Rutgers School of Environmental and Biological Sciences Executive Dean

Soil Protection Standards



The SADC has completed a multi-year process developing proposed regulations known as “Soil Protection Standards” (SPS), which clarify the terms of the farmland preservation Deed of Easement recorded on preserved farms.

This effort resulted from a 2018 New Jersey Supreme Court case involving soil destruction on a farm. The SPS will define what activities constitute disturbance and clarify how much of a preserved farm can be disturbed. Traditional farm practices such as normal and deep tillage, creation and maintenance of cranberry bogs, temporary coverings (like weed fabric), and livestock areas are considered exempt, as are certain conservation practices like grassed waterways and diversions designed to address water and erosion. The SPS concentrates on soil disturbing activities such as buildings, pavement, soil compaction, parking areas, and cut/fill activities.

All preserved farm owners will receive a package in the mail starting in early August 2023 with a map of their farm and specific details of the proposed SPS, which limit disturbance to 12% or four acres of the farm, whichever is greater, and define the ability to request waivers as needed.

If you have any questions regarding the proposed SPS, or if you are a preserved farm owner and do not receive your package by the first week of September – please contact: Dave Clapp, David.Clapp@ag.nj.gov or (609) 913-6563.



New Farmland Preservation Sign Unveiled In Honor of 40th Anniversary

The Preserved Farmland Sign Program is back on track with an upcoming delivery of brand-new signs and we are excited to introduce a new small sign with a single cedar post! The traditional sign measure 3'x4', nestled inside a frame and 10' cedar posts, the new sign is 18"x24" and hangs on a single 10' post (as pictured below).

There are three ways to request your free preserved farmland sign:

1. Fill out the online application on our website and www.nj.gov/agriculture/sadc/documents/signorderform.pdf
2. Send Heidi Winzinger an email at Heidi.Winzinger@ag.nj.gov with the type of sign, your contact information, and the farm location information.
3. You can also call our office main number, 609-984-2504, and ask a staff member to take your order over the phone.



Preserved Farmland Owners & Operators are Welcome to Join the SADC Monthly Public Meeting!

The SADC meets most months on the fourth Thursday at 9 AM. The public is welcome to attend. Agendas, presentation graphics, and instructions for in-person and remote viewing are posted on the home page of the SADC's website before the meeting. www.nj.gov/agriculture/sadc.

If you have any questions related to the SADC monthly meeting, please don't hesitate to get in touch with Jess Uttal at Jessica.Uttal@ag.nj.gov or call 609-913-6567.

Farmland Preservation Bumper Stickers & Bumper Magnets

Get them while they last! Give them to friends, family, and neighbors! To request additional stickers or magnets, email Heidi.Winzinger@ag.nj.gov or call 609-913-6554 with your name, address, and # of stickers/magnets you'd like!



Left: Bumper Magnets

Right: Bumper Stickers



New Jersey Farmland Preservation Program

5. SADC Outreach Letter to Wineries That Participated in Winery SOE Pilot Program, March 6, 2023.



State of New Jersey

STATE AGRICULTURE DEVELOPMENT COMMITTEE

PHILIP D. MURPHY
Governor

PO Box 330
TRENTON NJ 08625-0330

DOUGLAS H. FISHER
Chairman

SHEILA Y. OLIVER
Lt. Governor

SUSAN E. PAYNE
Executive Director

March 6, 2023

[WINERY THAT PARTICIPATED IN SOE WINERY PILOT PROGRAM]
[ADDRESS]
[ADDRESS]

Dear **[WINERY]**,

This letter is sent to inform you of **very important** changes to state law regarding the ability to hold “special occasion events”, or SOEs, on land preserved through the state’s Farmland Preservation Program (FPP). An SOE is defined as a “wedding, lifetime milestone event, or other cultural or social event” conducted on a preserved farm.

As you are aware, **[WINERY]** was part of a pilot program created in 2014 in which wineries located on preserved farmland were permitted to hold SOEs, subject to the law’s provisions at that time. Following the pilot program’s expiration in early 2018, the pilot program was extended for an additional 2 years, expiring in May of 2020 - at the onset of the COVID-19 pandemic. Since that time, no legal authority has existed for wineries located on preserved farmland to hold SOEs.

Therefore, we are pleased to inform you that Governor Murphy has signed new “special occasion events” legislation which became law on February 3, 2023 (P.L. 2023, c.9). This new law permits SOEs to be conducted on all preserved farms (not just wineries) under certain conditions.

It is critically important that if you wish to hold SOEs this year, that you contact the grantee identified in your FPP deed of easement as soon as possible to seek approval of holding SOEs. Conducting SOEs that have not received grantee approval constitute a violation of the FPP deed of easement and the new law.



The new SOE law provides an application process through which the owner or operator of a commercial farm that is located on preserved farmland and that produces agricultural or horticultural products worth \$10,000 or more annually, can receive approval to hold up to twenty-six (26) SOEs per calendar year on their preserved farm. *Please keep in mind that SOEs are over and above any kind of direct marketing events that are eligible for protection under the Right to Farm (RTF) Act.*

We want to share some key provisions of the law, including the following:

1. **The law is effective *immediately*** – this means that landowners/operators of preserved farmland can immediately apply for permission to hold SOEs. Under the law the SADC is required to adopt rules to fully implement the program; however, it explicitly allows landowners to apply for, and grantees to approve, the holding of SOEs prior to the adoption of SADC rules.
2. **Landowners will only apply to the Grantee identified in their Farmland Preservation Program Deed of Easement for permission to hold SOEs** - once approved by the Grantee, the approval is effective – the request is NOT subsequently sent to the SADC for approval. Only farms for which the SADC is the grantee identified in the FPP deed of easement will seek approvals from the SADC. The grantee has 90 days to respond to an application to hold SOEs – and if it does not respond to the application, the request to hold SOEs is deemed automatically approved.
3. **Up to 26 SOEs can be held each calendar year** – and of those, up to 6 can have 250 people or more in attendance.
4. **The “occupied area”** – the size of the area used to support the activities and infrastructure associated with holding SOEs, including parking, can be up to 10 acres or 10% of the preserved farmland, whichever is less.
5. **SOEs are not eligible for Right to Farm protection** – SOEs are those social/cultural events held on a farm that are NOT eligible for RTF protection. So, if a preserved farm is entitled to hold marketing-related events under the SADC’s Right-to-Farm rules (pursuant to the On Farm Direct Marketing AMP (see N.J.A.C. 2:76-2A.13, et seq.)), such events do not count as SOEs. The 26 SOEs permitted under the new law would be over and above those events protected under RTF.
6. **The law does not apply to Exception Areas** – the law applies only to SOEs held in whole or in part on preserved farmland. Any SOEs held entirely within exception areas are not affected by the law.
7. **\$10,000 production requirement** – the owner/operator of the commercial farm located on preserved farmland must produce agricultural or horticultural products worth \$10,000 or more annually to be eligible to hold SOEs.
8. **Deed of Easement compliance required** – the preserved farm must be in compliance with the Deed of Easement for the owner/operator to be eligible to hold SOEs.
9. **Municipalities “may” require a review of proposed SOEs** – SOEs must comply with all applicable state and local laws and regulations including, but not limited to, those concerning food safety, litter, noise, solid waste, traffic and the protection of public health and safety. Municipalities may require a review of an SOE application if the holding of the SOEs would generate parking/traffic flow situations that could unreasonably interfere with the movement of normal traffic or emergency

vehicles or require the expenditure of municipal resources or inspections. Municipalities are limited to charging no more than \$50 for an application fee and may not require more information than would be required of similar events when conducted at a public park or another public venue.

10. **Events can be held inside or outside** - temporary tents are permitted within the occupied area, but no new buildings can be constructed to hold SOEs. Any building in which SOEs are to be held must be at least 5 years old prior to the application for its use in a SOE. The use of temporary tents is limited to the timeframe from April 1 to November 30.

The SADC has sent the above listed information to every County Agriculture Development Board (CADB) administrator and nonprofit land trust participating in the FPP to provide some insight into this new law and facilitate its implementation. In addition, the SADC is drafting a sample Application Form, Application Checklist, and a companion Guidance Document to assist both our program partners and landowners in understanding and implementing the new law.

To assist you in successfully transitioning to the new SOE law, we are enclosing a copy of the deed of easement for your preserved farm which identifies **[EASEMENT HOLDER]** as the grantee. The appropriate contact at **[EASEMENT HOLDER]** is **[CONTACT NAME]** and can be reached at **[PHONE]** and **[EMAIL]**. Please reach out to **[CONTACT NAME]** as soon as possible to discuss submission of an application if you intend to hold SOEs this year.

As soon as the SADC's guidance and application documents are available, we will send you a copy. Until then, or if you have any questions, please don't hesitate to reach out to our office. Dave Kimmel, Ag. Resource Specialist, is the SADC's main point of contact for implementation of the SOE law (David.kimmel@ag.nj.gov).

On behalf of the entire SADC, thank you for your time and attention to this important issue.

Sincerely,



Susan E. Payne
Executive Director, SADC

Cc: SADC members
[COUNTY NAME] CADB

6. Letter from Jospheh D. Nicola, Jr., Esq., attorney representing a farm in Mannington Township, October 26, 2023.

LAW OFFICES
DiNICOLA & DiNICOLA, L.L.C.
SINGLE MEMBER LIMITED LIABILITY COMPANY
381 SOUTH GOLFWOOD AVENUE
CARNEYS POINT, NJ 08069-2833
PHONE: 856-299-0281
FAX: 856-299-0268

JOSEPH M. DiNICOLA, JR
MANAGING MEMBER/OWNER
E-MAIL: jrdinicola@dinicola.com

JOSEPH M. DI NICOLA
Of Counsel
E-MAIL: jdinicola@dinicola.com

October 26, 2023

Via email only: mvm@maddenmadden.com

Madden & Madden
Attn: Michael V. Madden, Esquire
108 Kings Highway East, Suite 300
Haddonfield, NJ 08033

**Re: Robert DiGregorio - 80 Warren Road, Mannington, NJ
SOE Land Use Approval**

Dear Mike,

I wanted to follow up with you regarding the phone conversation we had with Mr. Horner in regard to Mr. DiGregorio's use of the above referenced property for approved special occasion events (SOEs) pursuant to N.J.S.A. 4:1C-32.15 et. seq (SOE Act). What I came away with from that discussion was that there would, more likely than not, be no meaningful settlement discussions regarding the lawsuit between Mr. DiGregorio and Mannington Township without an ultimate resolution to the land use issue. As such, I have put a significant amount of time, research and contemplation into the issue and wanted to provide you with my findings and conclusion in regard to the matter. For clarity purposes, the issue of concern is whether or not my client, after receiving the appropriate approval for SOEs from the Salem County Agriculture Development Board is also required to obtain land use approval from Mannington Township for having such activities on his property. My ultimate conclusion after much deliberation is that Mr. DiGregorio does not require land use approval while conducting SOE events on his property. In furtherance of this analysis, I attach to this letter the following exhibits:

- Exhibit A – Senate Bill No. 757 as originally introduced.
- Exhibit B – Senate Bill No. 757 as amended by the Assembly Agriculture and Food Security Committee dated March 21, 2022.
- Exhibit C – Assembly Agriculture and Food Security Committee Statement to Senate Bill No. 757 dated March 21, 2022.
- Exhibit D – The enacted N.J.S.A. 4;1C-32.15 et. al., signed into law on February 3, 2023.

LAW OFFICES
DiNICOLA & DiNICOLA, L.L.C.

Madden & Madden
Attn: Michael V. Madden, Esquire
October 26, 2023
Page 2

To minimize the length of my discussion in this letter, my opinion comes with the understanding and the agreement that Mr. DiGregorio has received appropriate approval from the County of Salem to hold the SOEs and meets all other statutory requirements for the SOEs as provided for under New Jersey law. Therefore, the only discussion that this letter contemplates is whether or not Mannington Township land use approval, specifically a use variance and site plan, are required.

As we have discussed, the SOE Act provides that a municipality, through the adoption of an ordinance may authorize municipal review of any SOE through an application that requires the applicant to provide information that will permit the municipality to review the proposed event. The items that the municipality is to look at as listed in the statute are ensuring that food safety, litter, noise, solid waste, traffic and the protection of health and safety are all complied with. The municipality can ask that the applicant provide information as to how sanitary facilities, parking, access and egress, the number of expected guests and any other information that would be required for the protection of the public health and safety. It has always perplexed me as to why the legislature, who has stated in part in its findings and declarations that the purpose of the statute was to provide for new business opportunities for farmers within the State, would enact a law that required an applicant to not only obtain municipal land use approval but then place even further burden upon the farmer to address what is essentially the land use issues of each specific event. This just simply never seemed logical to me. For example, if an individual wished to begin to operate a catering hall business in an area that was not approved for said use, they would be required to obtain both use variance and site plan approval. However, once that approval has been received, they would not then also be subject to subsequent municipal review for each independent event. The whole purpose of the law was to provide further opportunities for farmers so why would a more burdensome municipal review of the events be created than what would normally be required by any other use in any other zone.

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Attn: Michael V. Madden, Esquire
October 26, 2023
Page 3

As such, I found it appropriate and prudent to do a review and of the legislative history of this law. My findings from this review are as follows.

Senate Bill No. 757 of the 220th Legislature, which was eventually enacted and codified as N.J.S.A. 4:1C-32.15 et. seq., was initially introduced back in July 2020. However, it did not receive legislative attention until it was reintroduced in the 2022 session. Attached Exhibit A is the language of the originally enacted legislation. A review of Exhibit A shows that the legislature, from the bill's inception, recognized that there was a need to address how the SOEs would interplay with municipal local zoning ordinances. On page 4 of the attached marked Exhibit A, you will see that the legislation states in part in Section 2.b.(4) that SOEs shall comply with the following requirement:

All applicable State and local laws, regulations, resolutions and ordinances including, but not limited to, those concerning food safety, litter, noise, solid waste, traffic and the protection of health and safety shall apply to the special occasion event and all activities related thereto.

Further, and more interestingly, Section 2.e states the following:

Notwithstanding any law, or any rule or regulation adopted pursuant thereto, to the contrary, a special occasion event during which fewer than 250 people will be in attendance as guests at any time may be held without a variance or site plan approval.

The legislature, by drafting the above referenced paragraph clearly shows that they contemplated and understood that local municipal zoning requirements needed to be addressed within the legislation.

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Madden & Madden
Attn: Michael V. Madden, Esquire
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The bill in March 2022 found its way to the Assembly Agriculture and Food Security Committee. The Committee, after significant review, made amendments to the bill and issued a first reprint and amended legislation on March 21, 2022, which is attached hereto as Exhibit B. In turning to page 12 of Exhibit B you will note that the municipal agency review application section was added. The statute now stated the following:

- (4) (a) All applicable State and local laws, regulations, resolutions, and ordinances including but not limited to, those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety shall apply to the special occasion event and all activities related thereto. To comply with local laws, regulations, resolutions, and ordinances, the municipality may designate an office or agency of the municipality to review applications for conducting special occasion events. A municipality may require and application if the special occasion event would:
- (i) Generate a parking or traffic flow situation that could unreasonably interfere with the movement of normal traffic or emergency vehicles or other organized group sharing similar common purposes or goals proceeding in or upon any street, park, or other public place within the municipality; or
 - (ii) Require the expenditure of municipal resources or inspections from agencies or authorities of the municipality.
- (b) For an application submitted in accordance with subparagraph (a) of this paragraph, the municipality shall not charge an application fee of more than \$200. The application shall not require more information that an identification of locations of where tents and other temporary structures will be located for each event, where music will be played, the number of expected guests, and other information that may be of public concern and would be required of a similar event when conducted at a public park or another public venue.

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Madden & Madden
Attn: Michael V. Madden, Esquire
October 26, 2023
Page 5

Furthermore, the amendments eliminated the section that discussed or contemplated any need for a variance or site plan approval. These two amendments together, in my mind, would be sufficient to demonstrate that the Committee was shifting the requirement of variance and site plan approval and substituting for it an alternative municipal review for each special occasion event. However, this is not an assumption that must be made if you review Exhibit C, page 4, which is a continuation of the Committee's notes regarding the amendments that were made, you will note the highlighted section states the following:

Remove application requirements as conditions for hosting special occasion events, except that a municipality may require application to a municipal agency, with certain limitations.

As such, it is clear the Committee removed any variance or site plan requirement("application requirements") and substituted in a municipal application for each specific event as detailed in the amended legislation. This makes sense considering the amendments made by the Committee provide for what is mostly zoning considerations, including parking, number of guests, ingress and egress, hours of operations, noise considerations and other information that may be of public concern.

These amendments as detailed above were ultimately what was enacted in the final legislation, which is attached hereto as Exhibit D, with the only exception that the municipal application fee was reduced from \$200 to \$50. If you review page 2, 3 and 4 of Exhibit D you will confirm same.

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Attn: Michael V. Madden, Esquire
October 26, 2023
Page 6

Mr. Horner has previously provided me the case of Villari v. Zoning Bd of Adjustments of Deptford, 277 N.J.Super.130(1994). The premise of the case is that Right to Farm Act does not exempt certain commercial farm activities from local municipal land use act ordinances. In pertinent part, the court found that the Right to Farm Act does not contain such "clear and compelling evidence of legislative intent to displace municipal power over zoning in so far as it applies to commercial agricultural uses". It is clear to me, when evaluating all that is laid out above, that there is clear and compelling evidence that the SOE Act as amended and enacted, removes the requirement of any SOE of municipal land use law ordinances. The legislature initially contemplated some municipal zoning ordinance compliance, later amended the legislation to remove zoning ordinance compliance and supplemented with alternate less burdensome municipal agency review on an event-by-event basis.

This analysis and interpretation of the legislative history is consistent with the bill's findings and declarations and the overall intent of the SOE Act. As such, Mannington Township's municipal power over zoning of approved SOEs has been displaced through the SOE Act. Therefore, my client has no legal obligation to obtain any zoning approval from Mannington Township and will continue to hold said events in compliance with the SOE Act, the Salem County Agriculture Development Board Approval Resolution No. 2023-4 and all other State and local laws, regulations, resolutions, and ordinances. Please allow this letter to serve as notice to Mannington Township that, in the event that Mannington Township attempts to prevent, issue violations, or fine Mr. DiGregorio for holding SOEs on his property, Mr. DiGregorio will immediately file for declaratory judgement and injunctive relief requesting, and likely getting, attorney fees and sanctions against both the Township and municipal representatives individually. You asked that the land use issue regarding this matter be brought to some conclusion prior to settling the overall litigation with Mr. DiGregorio, I believe that my research and the above analysis does same.

LAW OFFICES
DINICOLA & DINICOLA, L.L.C.

Madden & Madden
Attn: Michael V. Madden, Esquire
October 26, 2023
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If you should have any questions in regard to the above, please do not hesitate to contact me, I remain,

Very truly yours,

Joseph M. DiNicola, Jr.
Joseph M. DiNicola, Jr.

Enclosure

cc: William Horner - via email only: wlh@hornerlaw.net
Miriam Edelstein - via email only: medelstein@costellomains.com
Robert DiGregorio - via email only: rsd90w@gmail.com

JMDjr/cmc

z:\my documents\client files - civil\13553 - digregorio, robert s. - mannington twp\ltr to madden - soe land use approval.docx

7. Letter from William L. Horner, Esq., attorney representing Mannington Township, December 4, 2023.

HORNER & HORNER, L.L.C.

ATTORNEYS AT LAW

67 MARKET STREET

P.O. BOX 66

SALEM, NJ 08079

TEL (856) 935-0958

FAX (856) 935-1708

December 4, 2023

WILLIAM C. HORNER
(RETIRED)
WILLIAM L. HORNER
wh@hornerlaw.net

Via Mail and Email

Joseph M. DiNicola Jr.
DiNicola & DiNicola, LLC
381 S. Golfwood Avenue
Carneys Point, NJ 08069

**Re: Mannington Tp./Robert S. DiGregorio – SOE Land Use Approvals
80 Warner Road (Block 3, Lots 17 & 19)**

Dear Mr. DiNicola:

Thank you for your October 26, 2023 letter to Michael V. Madden, Esq., and your analysis of the legislature's enactment of the SOE law. Mr. Madden and I have discussed your letter and have agreed that I should issue a response in my capacity as Mannington Township Solicitor.

The legislature's ultimate decision *not* to cause the SOE law to expressly preempt the need for site plan and variance approval, and its inclusion of a broad statement, in *N.J.S.A. 4:1C-32.17.b.(4)(a)*, confirming applicability of all "state and local laws, regulations, resolutions, and ordinances," reflects the legislature's intention to require SOE applicants to obtain the one-time Municipal Land Use Law approvals that are necessary to conduct SOEs at a particular farm, while appropriately *constraining* municipalities' non-MLUL police powers to ensure that any subsequent per-event municipal application process will not be too expensive or otherwise overburdensome. Further, the SOE law's requirement for compliance with all state and local laws, regulations, etc., is *mandatory*, as indicated by the word "shall," while the SOE law's per-event municipal permitting allowance is *optional*, as indicated by the word "may." Finally, the optional municipal per-event application process is specifically intended to ensure the event's compliance with local "ordinances" and "resolutions," which would, of course, include land use *ordinances* and land use board *resolutions* of approval.

All of the above supports Mannington Township's conclusion that the SOE law simply allows development easement holders ("grantees") to grant permission to preserved farm owners and operators to use preserved land in a manner that is contrary to the statutory and regulatory restrictive covenants that are imposed upon preserved farms. Indeed, the narrow focus of the SOE law (even its single, limited reference to the Right to Farm Act's "on-farm direct marketing" regulations, which pertains only to "temporary parking areas"), is to protect the *farmland*, not the public. The only mention of "public health and safety" in the entire SOE law is in *N.J.S.A. 4:1C-32.17.b.(4)(a)*, where the SOE law confirms the applicability of all "state and local laws, regulations, resolutions, and ordinances" for such protections.

This conclusion is further supported by the SOE law's lack of any clear statement of MLUL preemption. The legislative history you have provided brings to mind the holding in *Villari v. Deptford Zoning Board*, 277 N.J.Super. 130 (App.Div. 1994), in which the Appellate Division declined to recognize any "implied preemption" of the MLUL and its important public purposes by New Jersey's initially-enacted RTFA. Considering the *Villari* holding, it is noteworthy that the legislature, in enacting the SOE law, did *not* include the sorts of MLUL-type safeguards that feature prominently in the post-*Villari* amended RTFA. Unlike the public-health-and-safety-based land-use-board-style review that must be conducted by

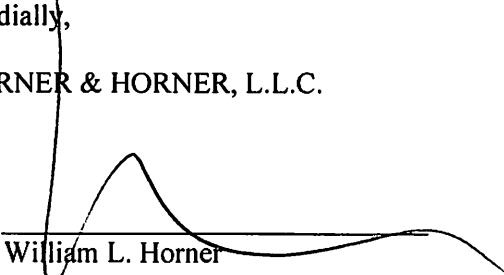
County Agriculture Development Boards for RTFA site-specific agricultural management practice (SSAMP) applications, and unlike reviews of development applications under the MLUL, the SOE law involves no public hearing; no evidence or sworn testimony; no right to public participation; no notice to 200-foot property owners; no requirement for a resolution setting forth findings and conclusions; no requirement for published notice of SOE approvals; and no opportunity to appeal to the SADC. Most strikingly, unlike the RTFA, the SOE law contains no language implicating a “*den Hollander* balancing test” or other requirement for DOE grantees to give due consideration to municipal land use regulations and objectives, nor is there any requirement for DOE grantees to confirm compliance with all applicable State and Federal laws and regulations, and no direct threat to public health and safety. Even the section of the SOE law that provides for farm “inspections” by DOE grantees (*N.J.S.A.* 4:1C-32.18) contains no reference to public health, safety and welfare concerns, and such inspections are limited to no more than once per year without “good cause.” Again, the intention of the SOE law is to protect preserved farmland from the impacts of SOEs, with protection of the public being accomplished through compliance other state and local laws and regulations. But even beyond the conspicuous absence of these sorts of critical RTFA- and MLUL-type protections from the SOE law, Mannington Township believes it is fundamental that if the legislature had truly intended for the SOE law to preempt the MLUL, the legislature would have said so clearly in its final draft of the SOE law, in the same sort of direct language that was proposed in, and rejected from, its initial draft.

For all of the above reasons, Mannington Township’s position is that an SOE approval is simply permission granted by a DOE grantee to a commercial farm owner or operator to use preserved land in a manner that is contrary to express statutory, regulatory, and contractual DOE restrictions. As such, an SOE approval is an approval to use land, but it is not a land-use approval in lieu of MLUL requirements.

As we have discussed, please continue to encourage your client to obtain all necessary Mannington Township Planning Board approvals before conducting any SOEs at his farm. At present Mannington Township has not enacted a per-event municipal application process as allowed by the SOE law, so at this time Planning Board approval is all that would be needed. The Township is prepared to enforce any violation of municipal land use requirements and does not want any such enforcement to jeopardize carefully planned third-party special occasion events.

Cordially,

HORNER & HORNER, L.L.C.

By: 
William L. Horner

WLH:jcc

Cc: Esther A. Mitchell, Mannington Township Clerk/Administrator (via email only)
Michael V. Madden, Esq. (via email only)
Miriam Edelstein, Esq. (via email only)

8. Letter from John Jackson, attorney representing Eagle Oaks Golf Course and Country Club, May 14, 2024.



JOHN J. JACKSON III
CERTIFIED BY THE SUPREME COURT
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May 14, 2024

Via E-Mail

Attn: Mayor and Council
Howell Township Municipal Building
4567 Rt 9 North, 2nd Floor
Howell, NJ 07731-3382
governingbody@twp.howell.nj.us

Re: Objection to Ordinance #0-24-14

Dear Mayor Berger, Deputy Mayor Nadel, Councilwoman O'Donnell, Councilman Gasior, and Councilwoman Fischer:

We represent Eagle Oaks Golf and Country Club. Please allow this correspondence to serve as our client's request that the Mayor and Council decline to adopt pending Ordinance #0-24-14 amending land use regulations pertaining to "Farm Related Special Events". Eagle Oaks respectfully requests that the governing body take into account that the proposed regulations would put established and lawful banquet operations at an unfair competitive disadvantage to the operations that the proposed ordinance would enable.

Lawful banquet operations, such as Eagle Oaks, have evolved after substantial economic investment and considerable entrepreneurial risk. In addition, lawful facilities are required to obtain site plan approval, building permits, and to install considerable infrastructure such as irrigation, drainage, parking, lighting, buffering, and a myriad of other site requirements that require substantial investment. In addition, established facilities are required to pass environmental muster and secure outside agency approvals such as Monmouth County soils, NJDEP, etc. In contrast, the proposed regulations would foster practices that would allow the circumvention of the ordinary regulatory controls that govern improvements at establishments such as Eagle Oaks.

Howell's land use regulations exist to regulate businesses and ensure that businesses such as Eagle Oaks comply with zoning and planning requirements for the safety and well-being of the community. We respectfully submit that allowing farm related special events in the proposed manner rises to the level of a violation of the Equal Protection Clause of the United States Constitution and could potentially lead to legal challenges.

Perhaps more importantly, the proposed ordinance will have the consequence of significantly impacting the residents and businesses near where such events are allowed, because such events will have a deleterious impact by creating traffic congestion, noise, light pollution, and environmental damage. Site plan regulations that apply to other businesses such as Eagle Oaks have the advantage of requiring that proposed development comply with extensive zoning regulations and that the proposal be reviewed and scrutinized by numerous municipal officials, such as the Board engineer, the Board planner, the municipal engineer, and the myriad of building and construction officials. Even worse, it is difficult to envision how a farm can comply with the Americans with Disabilities Act regulations.

Eagle Oaks has established itself as a premier destination that is superbly managed and has evolved into an asset for Howell Township. The success of Eagle Oaks is the consequence of careful planning, hard work, and substantial investment. Allowing farm related special events at facilities that are not required to make a similar investment would allow the competitors to profit to the detriment of not only the established businesses, but also to the public who would not be able to enjoy the benefits of the protections afforded by a rigorous site plan approval process.

We are hopeful that the Howell Township Council will take these factors into consideration and decline to adopt the above-cited pending ordinance and related ordinances.

Very truly yours,

s/ John Jackson

JOHN JACKSON

9. Chart with SOE applications and easement holder actions (2/3/23 - 7/10/24), and CY 2023 events

Chart with SOE applications and easement holder actions (2/3/23 - 7/10/24), and CY 2023 events

County	Municipality	Application Date	Types of SOEs in Application	Number and Size (Estimated Attendance) of SOEs Proposed in Application	Easement Holder	Action taken by eaement holder	Date of action taken by easement holder	SOEs Held in CY 2023 (Per End-of-Year Certification Submitted By Farm)
Warren	Franklin	4/21/23	<u>Weddings</u> - Receptions <u>Lifetime Milestone Events</u> - Birthday, graduations <u>Other Social/Cultural Events</u> - Veterans fundraiser	<u>6 SOEs</u> Weddings - 4; 80-180 ppl LMEs - 1; 50-150 ppl Other S/C events - 1; 100-150 ppl	Warren CADB	Approval	11/16/2023	No SOEs held in 2023
Burlington	Southampton	5/9/23	<u>Other Social/Cultural Events</u> - Small private events in picnic areas - family get togethers, reunions, star watching, observing fireworks originating from offsite	<u>26 SOEs</u> Other S/C events - 26; 20-30 ppl	Burlington CADB	Approval	6/14/2023	No SOEs held in 2023
Salem	Mannington	5/15/23	<u>Weddings</u> - Ceremonies, receptions <u>Lifetime Milestone Events</u> - Private parties – including birthdays, anniversaries, graduations, showers, celebrations of life, etc. <u>Other Social/Cultural Events</u> - Township Recreation Committee fundraising event (County food vendor barbecue)	<u>20 SOEs</u> Weddings - 6; 50-200 ppl LMEs - 6; 30-150 ppl Other S/C events - 8; 35-50 ppl	Salem CADB	Approval	7/26/2023	<u>5 SOEs</u> Weddings - 2 (105, 70 ppl) LME - 2: Birthday (85 ppl), anniversary (120 ppl) Other S/C events - 1: Mannington Recreation Field Hockey end of season party (65 ppl)
Ocean	Plumsted	6/12/23	<u>Weddings</u> - Ceremonies, receptions	<u>8 SOEs</u> Weddings - 8; usually < 175 ppl	Ocean CADB	Approval	10/23/2023	<u>8 SOEs</u> Weddings - 8 (180, 140, 130, 100, 150, 150, 100, 150 ppl)
Ocean	Jackson	6/23/23	<u>Other Social/Cultural Events</u> - Cultural events focused on South American traditions showing importance of folklore, music, dance, food, and arts	<u>6 SOEs</u> Other S/C events - 6; 200-300 ppl	Ocean CADB	Approval	9/13/2023	<u>2 SOEs</u> Other S/C events - 2: Ecuadorian carnival to celebrate the culture and identity, and bring the community together (120 ppl); Easter egg hunt (300 ppl)
Mercer	Robbinsville	6/30/23	Application: looking to use preserved farm for temporary parking for event not occuring on the farm	n/a	Mercer CADB	Denial	8/7/2023	n/a
Monmouth	Upper Freehold	7/11/23	<u>Weddings</u> - Ceremonies, receptions <u>Lifetime Milestone Events</u> - Birthday parties, graduations, other celebrations of life <u>Other Social/Cultural Events</u> - Corporate events, community events, farm to table dinners	<u>20 SOEs</u> Weddings - 10; 50-300 ppl LMEs - 5; 25-300 ppl Other S/C events - 5; 25-300 ppl	Monmouth CADB	Approval	9/5/2023	No SOEs held in 2023

Chart with SOE applications and easement holder actions (2/3/23 - 7/10/24), and CY 2023 events

County	Municipality	Application Date	Types of SOEs in Application	Number and Size (Estimated Attendance) of SOEs Proposed in Application	Easement Holder	Action taken by eaement holder	Date of action taken by easement holder	SOEs Held in CY 2023 (Per End-of-Year Certification Submitted By Farm)
Hunterdon	Readington	7/13/23	<u>Other Social/Cultural Events</u> - Public events and fundraisers - Fundraisers for veterans group, American Cancer Society, Irish Friday, Tico, Saucetoberfest	<u>5 SOEs</u> Other S/C events - 250-1,000 ppl	Hunterdon CADB	Approval	9/14/2023	<u>4 SOEs</u> Other S/C events - 4: Fundraiser for scholarships for children of fallen military and first responders (car show, live music, fork to table food truck) (150 ppl); fundraiser for American Cancer Society (live bands, local vendors, local sponsors, Moose Lodge selling beer and wine) (800-1,000 ppl); Irish Fun Day (band, dancers, music, Flounder Brewing providing beer, farm food truck) (375 ppl); Tico Festival (celebrating independence of central America, music, comedians, DJs, dancing, vendors, food vendors, kids activities, Jeep expo) (900-1,110 ppl)
Gloucester	Monroeville	8/1/23	<u>Weddings</u> - Ceremonies, receptions <u>Lifetime Milestone Events</u> - Birthdays, baby showers, bridal showers, graduation parties	<u>15 SOEs</u> Weddings - 10; 75-150 ppl LMEs - 5; 40-100 ppl	Gloucester CADB	Approval	11/28/2023	<u>13 SOEs</u> Weddings - 10 (100, 125, 90, 140, 130, 140, 150, 80, 80, 110 ppl) LME - 3: Sweet 16 party (70 ppl), graduation party (50 ppl) baby shower (60 ppl)
Ocean	Plumsted	8/9/23	<u>Weddings</u> <u>Lifetime Milestone Events</u> - family events or owner rodeo harvest farm stand events <u>Other Social/Cultural Events</u> - hosting farm to table events, barbecues	<u>18 SOEs</u> Weddings - 4; 250 ppl LMEs - 4; 100 ppl Other S/C events - 10; 200 ppl	Ocean CADB	Under review (current application)	Under review (current application)	n/a
Monmouth	Howell	10/12/23	<u>Weddings</u> - Ceremonies, receptions <u>Lifetime Milestone Events</u> <u>Other Social/Cultural Events</u> - maybe church and nonprofit events	<u>18 SOEs</u> Weddings - 10; 80-200 ppl LMEs - 14; 25-250 ppl Other S/C events - 2; 200 ppl	Monmouth CADB	Approval	11/1/2023	No SOEs held in 2023

Chart with SOE applications and easement holder actions (2/3/23 - 7/10/24), and CY 2023 events

County	Municipality	Application Date	Types of SOEs in Application	Number and Size (Estimated Attendance) of SOEs Proposed in Application	Easement Holder	Action taken by eaement holder	Date of action taken by easement holder	SOEs Held in CY 2023 (Per End-of-Year Certification Submitted By Farm)
Warren	Frelinghuysen	12/12/23	<u>Other Social/Cultural Events</u> - Community classes, NRA gun safety class	<u>14 SOEs</u> Other S/C events - 14; 10-25 ppl	Warren CADB	Denial	1/23/2024	n/a
Middlesex	Cranbury	1/24/24	<u>Weddings</u> - Ceremonies, receptions <u>Lifetime Milestone Events</u> - Birthday and anniversary parties <u>Other Social/Cultural Events</u> - hosting horticultural trips for children, social events focused on serving Hispanic and other ethnic communities	<u>21 SOEs</u> Weddings - 7; <=200 ppl LMEs - 7; 50-150 ppl Other S/C events - 7; 100-250 ppl	Middlesex CADB	Under review (current application)	Under review (current application)	n/a
Middlesex	Cranbury	1/24/24	<u>Weddings</u> - Ceremonies, receptions <u>Lifetime Milestone Events</u> - Birthday and anniversary parties <u>Other Social/Cultural Events</u> - hosting horticultural trips for children, social events focused on serving Hispanic and other ethnic communities	<u>21 SOEs</u> Weddings - 7; <=200 ppl LMEs - 7; 50-150 ppl Other S/C events - 7; 100-250 ppl	Middlesex CADB	Under review (current application)	Under review (current application)	n/a
Middlesex	Cranbury	1/24/24	<u>Weddings</u> - Ceremonies, receptions <u>Lifetime Milestone Events</u> - Birthday and anniversary parties <u>Other Social/Cultural Events</u> - hosting horticultural trips for children, social events focused on serving Hispanic and other ethnic communities	<u>21 SOEs</u> Weddings - 7; <=200 ppl LMEs - 7; 50-150 ppl Other S/C events - 7; 100-250 ppl	Middlesex CADB	Under review (current application)	Under review (current application)	n/a
Hunterdon	Alexandria	2/27/24	<u>Other Social/Cultural Events</u> - Koi fest	<u>1 SOE</u> Other S/C event - 500 ppl	SADC	Approval	6/27/2024	n/a
Camden	Voorhees	3/5/24	<u>Weddings</u> - ceremonies, receptions <u>Lifetime Milestone Events</u> - private parties (for milestones, businesses, etc.) <u>Other Social/Cultural Events</u> - hosting nonprofit, corporate, or other private group having a cocktail or sit-down type of event, such as a fundraiser or other social events or celebration	<u>26 SOEs</u> Weddings - 13; 100-350 ppl LMEs - 7; 50-249 ppl Other S/C events - 6; 100-1,000 ppl	SADC	Approval	4/25/2024	n/a

Chart with SOE applications and easement holder actions (2/3/23 - 7/10/24), and CY 2023 events

County	Municipality	Application Date	Types of SOEs in Application	Number and Size (Estimated Attendance) of SOEs Proposed in Application	Easement Holder	Action taken by eaement holder	Date of action taken by easement holder	SOEs Held in CY 2023 (Per End-of-Year Certification Submitted By Farm)
Somerset	Montgomery	4/1/24	<u>Weddings</u> - ceremonies, receptions <u>Lifetime Milestone Events</u> - private parties (for milestones, businesses, etc.) <u>Other Social/Cultural Events</u> - hosting nonprofit, corporate, or other private group having a cocktail or sit-down type of event, such as a fundraiser or other social events or celebration	<u>26 SOEs</u> Weddings - 10; 100-250 ppl LMEs - 14; 100-250 ppl Other S/C events - 2; 50-250 ppl	SADC	Approval	5/23/2024	n/a
Monmouth	Colts Neck	5/16/24	<u>Weddings</u> - Ceremonies, receptions <u>Lifetime Milestone Events</u> - private parties for birthdays, anniversaries, corporate events, etc. <u>Other Social/Cultural Events</u> - farm to table dinners hosted by local chefs, nonprofit social events open to public pending ticket purchase directly from nonprofit, vendor showcase events where bridal/event vendors advertise services in public setting	<u>12 SOEs</u> Weddings - 4; 175-225 ppl LMEs - 4; 125-225 ppl Other S/C events - 4; 30-225 ppl	Monmouth CADB	Approval	6/4/2024	n/a
Hunterdon	Readington	6/25/24	<u>Lifetime Milestone Events</u> - Quinceras <u>Other Social/Cultural Events</u> - Costa Rican tradition events (church service and walk through woods event; bull riding, traditional food, dancing, live music, and more event), country nights, horse show with live music and traditional Columbian food,	<u>20 SOEs</u> LMEs - 250-300 ppl Other S/C events - 100-1,500 ppl	Hunterdon CADB	Under review (current application)	Under review (current application)	n/a
Somerset	Hillsborough	2024	SADC has not received a copy of the SOE application from the CADB.		Somerset CADB	Approval (CADB administrator said SOE application was approved.)	SADC has not received a copy of the resolution from the CADB.	n/a
Somerset	Montgomery	2024	SADC has not received a copy of the SOE application from the CADB.		Somerset CADB	Approval (CADB administrator said SOE application was approved.)	SADC has not received a copy of the resolution from the CADB.	n/a

10. Rutgers SOE Study dated July 15, 2024

ANNUAL EVALUATION OF SPECIAL OCCASION EVENTS ON PRESERVED FARMS: CALENDAR YEAR 2023

JULY 15, 2024

SUBMITTED TO THE
NEW JERSEY LEGISLATURE'S JOINT BUDGET OVERSIGHT COMMITTEE
AND THE
STATE AGRICULTURE DEVELOPMENT COMMITTEE

Brian J. Schilling, PhD

Director - Rutgers Cooperative Extension
Senior Associate Director -
New Jersey Agricultural Experiment Station



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Staff of the New Jersey Agricultural Experiment Station:

Jeffrey Everett, former Associate Director of Agricultural Retention and Development
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Rhonda Breen-Simone, Administrative Coordinator – Office of the Director of Extension
Michele Coyne, Administrative Assistant – Office of the Director of Extension
Elaine Griffin, Director – Office of Grants Facilitation

Staff of the State Agriculture Development Committee:

Susan Payne, Executive Director (through June 2023)
Charles Roohr, Acting Executive Director
David Kimmel, Agricultural Resource Specialist
Matthew Distaulo, Chief of Fiscal Operations

Special thanks to all **CADB administrators, municipal partners, and landowners** who participated in surveys and interviews which served as the foundation of this report.

Your time and valuable feedback are greatly appreciated!

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I. INTRODUCTION

On February 3, 2023, P.L. 2023, c.9 became law. This law, (herein, “Special Occasion Events legislation” or “SOE legislation”), recognizes the positive effects that holding Special Occasion Events (herein, “SOEs”) can produce for preserved farms in New Jersey, under a permitted program with specific conditions. Until the adoption of the SOE legislation, preserved farms were limited to only holding events for the purposes of marketing agricultural and/or horticultural products grown and/or raised on the farm, an allowance memorialized through the On-Farm Direct Marketing Agricultural Management Practice (NJAC 2:76-2A.13), under the New Jersey Right-to-Farm Act (NJSA:4.1-C). Provisions therefore exist to allow owners of preserved farms to engage in agriculture-related educational activities and farm-based recreational activities that relate to the marketing of farm output, as well as “ancillary entertainment-based activities, commonly used as incidental components of on-farm direct marketing activities that are accessory to and serve to increase the direct market sales of the agricultural output of a commercial farm ” (<https://www.nj.gov/agriculture/sadc/rtfprogram/amps/adoptedamps/onfarmdirectmarketing.html>). The SOE legislation provides a new opportunity for owners of preserved farms to diversify their income and to contribute to the improvement of the State’s overall agricultural viability.

This report satisfies the charge outlined in a May 3, 2023, memorandum issued by the New Jersey Department of the Treasury’s Office of Management and Budget (herein, “OMB”) to the State Legislature’s Joint Budget Oversight Committee (herein, “JBOC”), which directs researchers at the New Jersey Agriculture Experiment Station (herein, “NJAES”) to:

“Study the Special Occasion Events on Preserved Farmland Program that is administered by the State Agriculture Development Committee. The study will evaluate a variety of key performance indicators concerning the use and implementation of the program which may include the number of participating commercial farmers, number of guests at events, types of events, frequency of events, financial or other benefit derived from the program, among others. The findings and recommendations will be published in a public report.”

This report, *Annual Evaluation of Special Occasion Events on Preserved Farms: Calendar Year 2023* (herein, “*Annual Report*”), is an independent evaluation performed of the implementation and outcomes of the Special Occasion Events program. It summarizes detailed analysis of SOE permits and certification reports submitted to the State Agriculture Development Committee (herein, “SADC”), as well as information collected from interviews with SOE applicants (preserved farmland owners), easement holders of preserved farmland, County Agriculture Development Board (herein, “CADB”) administrators, municipal staff, and other important partners in the agricultural industry. The report also provides recommendations for strengthening the SOE Program in future years. It is anticipated that this evaluation will, in part, contribute to fulfilling the SADC’s statutory annual program reporting requirement to the Governor and the Legislature.

The *Annual Report* is therefore organized in a manner that addresses each of the requirements outlined in the charge to NJAES (May 2023 OMB memorandum), as well as the SOE legislation (C.4:1C-32.21):

- I. [Introduction](#): Brief background of the SOE legislation and the framework of the *Annual Report*
- II. [SOE Statute](#): Definition of SOEs, eligibility, allowances, and restrictions; application process

- III. [Development and Publication of the Report](#): Purpose, study team, and methodology for collecting and analyzing quantitative and qualitative data
- IV. [Data Analysis](#): Findings of data derived from SADC records, SOE permit applications, and certification reports. These data are supplemented by structured interviews with preserved farmland owners/operators, municipal officials, and easement holders (e.g., staff from the SADC and CADBs).
- V. [Outcomes of Holding SOEs on Preserved Farms in 2023](#): Direct and indirect economic impacts of holding permitted SOEs on preserved farms, and information related to disputes, and unintended and/or undesirable consequences
- VI. [Equity](#): Review of equity disparities found in the SOE Program, and recommendations for bridging those gaps
- VII. [Evaluation of the 2023 SOE Program and Recommendations for 2024 and Beyond](#): Key findings with recommendations for improvements to the SOE permit and/or review process, inconsistencies with municipal and/or CADB review, and disputes between commercial farmers and neighbors/easement holders/municipal Ordinances and/or procedures.

II. SOE STATUTE

“With proper oversight, special occasion events on preserved farmland can have minimal impact on land’s viability for farming and provide for new business opportunities for farmers in the State without displacing agricultural or horticultural production as the first priority use of preserved farmland or disrupting neighborhoods that surround preserved farms.”

Source: “Findings and Declarations” of the SOE legislation [C.4:1C-32.15(e)]

Through the development and adoption of the SOE Legislation (P.L. 2023, c.9), the Legislature has found that allowances for SOEs on preserved farms upholds the original intent of the farmland preservation program, specifically to keep agriculture as an economically viable industry within the State of New Jersey. The SOE legislation provides additional sources of revenue for preserved farmers in New Jersey, where the cost of living is already ranked as the 5th highest in the nation (*Forbes Advisor, June 2024*). Allowances for SOEs on preserved farms provides options for gatherings and celebrations in an agricultural setting, helping to satisfy the growing interest in agritourism, as well as expanding the range of venues available for lifetime and milestone events. Finally, permitting SOEs on preserved farms is viewed as a potential strategy to help retain farmland and enhance the economic viability of the agricultural industry in the long-term through a diversified and resilient income structure for farmers.

Definition of Special Occasion Event

The SOE legislation defines a Special Occasion Event as, “a wedding, lifetime milestone event, or other cultural or social event, conducted in whole or in part on preserved farmland on a commercial farm”.

SOEs are not:

- ✘ Activities or events that are eligible for protection under the New Jersey Right-to-Farm Act
- ✘ Recreational uses permitted pursuant to a farmland preservation Deed of Easement
- ✘ A wedding held for a spouse, parent, child, grandparent, grandchild, sibling, niece, nephew, or cousin of the owner of the commercial farm
- ✘ A wedding held for the owner, operator, or an employee of the commercial farm

Eligibility for Holding Special Occasion Events on Preserved Farms

In order for an owner of a preserved farm to hold SOEs, the commercial farm must produce agricultural and/or horticultural products worth \$10,000 annually. Additionally, the preserved farm must be in compliance with all aspects of the Deed of Easement.

Allowances and Restrictions for Holding Approved SOEs

Allowances and restrictions for holding approved SOEs are established in §C.41:1C-32.17(b) as follows:

- ☑ A commercial farm may hold up to 26 SOEs during a calendar year, of which only 6 may have 250 guests in attendance at any time during the SOE.
- ☑ A commercial farm may not hold more than 1 SOE with over 100 guests on 1 calendar day.
- ☑ If the SOE is marketed as a single event, the maximum duration of the SOE is 2 consecutive calendar days.
- ☑ An SOE held by or for a non-profit entity does not count towards the limitation of events prescribed in the legislation if that event has fewer than 100 attendees, and that the SOE permittee does not receive any compensation or fees* for holding the SOE.
**The SOE permittee may be reimbursed for out-of-pocket expenses incurred from holding the SOE, not to exceed \$1,000*
- ☑ SOEs shall not interfere with the use of the preserved farmland for agricultural and/or horticultural purposes.
- ☑ SOEs and the corresponding occupied area (i.e., area supporting the activities and infrastructure associated with a SOE, such as parking, sanitary facilities, temporary structures, etc.) shall be designed to protect agricultural resources of the land, having minimal effects on the land.
- ☑ The land must be readily returned to productive agricultural or horticultural use after the SOE.
- ☑ SOEs that involve the service of alcoholic beverage must comply with all State and local laws, regulations, resolutions, and ordinances.
- ☑ Retail food establishments, other than temporary retail food establishments, are not permitted to operate in support of an SOE on a preserved farm.
- ☑ All applicable State and local laws, regulations, resolutions, and ordinances including, but not limited to, those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety shall apply to the SOE and all related activities.
- ☑ No new permanent structures shall be constructed or erected for the purposes of holding SOEs. Improvements to existing structures shall be limited to the minimum required for the protection of public health and safety. No permanent structure constructed fewer than 5 years prior to the date of the SOE application to the grantee shall be used for the purpose of holding SOEs.
- ☑ The use of tents, canopies, umbrellas, tables, chairs, and other temporary structures is permitted provided that they conform with all applicable provisions of the State Uniform Construction Code and the Uniform

Fire Code during the limited timeframe of April 1 – November 30.

- Public utilities shall not be extended for the holding of SOEs on preserved farmland.
- Existing parking areas and curtilage surrounding existing buildings should be used to the extent possible. Additional parking areas to provide temporary parking must comply with the standards established in the On-Farm Direct Marketing Agricultural Management Practice.
- The occupied area associated with SOEs shall be no more than the lesser of 10 acres or 10% of the preserved farmland.
- All SOEs must be held under an approved SOE Permit.

SOE Application and Certification Process

An SOE cannot be held on a preserved farm unless the applicant obtains approval, in writing, from the grantee. Applicants are not required to submit an application more than once annually (once approved), and that application can include the anticipated SOEs for the calendar year.

Grantees are required to develop an application that can be used by an applicant for SOEs on preserved farmland. As detailed in §C.41:1C-32.17(b), the application must allow the grantee to determine, at minimum:

- Satisfaction of the agricultural/horticultural production requirement (\$10,000 or more, annually)
- The number of SOEs to be held during the calendar year
- Maximum number of attendees permitted at the applied for SOEs
- Acreage of the occupied area for the proposed SOEs (including a map or photograph depicting the location of the occupied area)
- Whether the commercial farm is in compliance with the Deed of Easement

Grantees (i.e., the holders of farmland preservation easements) have the option of approving, approving with conditions, or denying the application within 90 days of the receipt of a complete application. Approved applications must be forwarded to the to the SADC and the appropriate CADB. If the grantee denies an application, a written response detailing the reason for denial and an opportunity to reapply with an amended application is to be sent to the applicant. Failure of the grantee to respond to a complete application within 90 days will result in that application being deemed approved.

Applicants who receive approval to hold SOEs on preserved farms are required to submit a certification report to the grantee, detailing information about SOEs held in the prior calendar year (date, occasion, number of attendees, etc.). The grantee is responsible for developing the form and/or manner in which the certification is to be submitted, and for forwarding the required certification reports to the SADC.

Municipalities may require a separate municipal application if the SOE would generate a parking or traffic flow situation that interferes with the movement of general traffic or emergency vehicles, or would require the expenditure of municipal resources or inspections. The purpose of this municipal review is to ensure that the applicant is conforming with local laws and ordinances, including but not limited to, noise, food safety, traffic, and public health and safety. Municipalities are able to designate an office or agency of the municipality to review these applications and can charge a review fee not to exceed \$50. If a municipality establishes this separate application process, applicants for SOEs must submit the application, and comply with requirements established by said municipality.

III. DEVELOPMENT AND PUBLICATION OF ANNUAL EVALUATION AND REPORT

As stated in C.41:1C-3.21-7, a report is to be submitted to the Office of the Governor and the Legislature by the SADC that specifically details:

- ❑ The number of commercial farms on which SOEs are held
- ❑ The number of guests, type, and frequency of events
- ❑ The extent to which disputes are reported between:
 - Commercial farms and neighboring properties
 - Commercial farms and municipalities
 - Commercial farms and the grantee or Committee
- ❑ The frequency of violations
- ❑ The frequency of unintended, undesirable consequences of SOEs

Independent from this formal statutory reporting requirement, researchers at Rutgers University's New Jersey Agricultural Experiment Station were tasked by the Legislature's Joint Budget Oversight Committee to "evaluate a variety of key performance indicators concerning the use and implementation of the program." The scope of inquiry included the evaluation of the SOE program from the perspective of landowners, municipalities, and counties to identify the benefits realized by farmers, obstacles encountered in the application and/or approval process, gaps in equity, jurisdictional issues, and potential improvements for the future of the program.

Methodology

To prepare the *Annual Report*, the following methodology was implemented:

1. A study team was formed comprising:
 - ❑ Brian J. Schilling, PhD, Director - Rutgers Cooperative Extension (Principal Investigator)
 - ❑ Jeffrey Everett, Associate Director of Agricultural Retention and Development, New Jersey Agricultural Experiment Station (* until March 2024)
 - ❑ Tara Kenyon, AICP/PP, Principal - Kenyon Planning, LLC
 - ❑ Kevin Sullivan, Assistant Director of Statistical Analysis – New Jersey Agricultural Experiment Station
2. David Kimmel, Agriculture Resource Specialist at the SADC, served as the administrative liaison between the project team and SADC.
3. SADC staff compiled and organized the data into a database developed from all submitted certification reports and related permitting/application information obtained from grantees and landowners for SOEs in

2023. These data were independently analyzed and summarized by the study team.

4. Questionnaires were developed to gather feedback from landowners, municipal partners, and CADB administrators, and to ensure that the required elements of the *Annual Report* are satisfied. Respondents shared their individual experiences about the application process, permitting, benefits, unintended or undesirable consequences incurred, changes to relationships, income generated, and more.
5. Data from the SADC's database were further analyzed to identify trends, similarities and differences between farms holding SOEs and municipalities in which they were held, and to drill down specific information about types of SOEs, number of attendees, and more. Data were then converted into a visual representation for use in the *Annual Report*.
6. Outreach to landowners, municipal partners and the CADB administrators was implemented as follows:
 - A virtual focus group was held with the CADB administrators on May 22, 2024. Prior to this focus group, the questionnaire was distributed to all 18 CADB administrators electronically. 14 CADB administrators attended the focus group, and 16 administrators submitted written responses to the questionnaire.
 - Requests for interviews were sent to municipal staff in the 9 communities where SOEs were held or applied for in 2023. Staff from all 5 municipalities in which SOEs were held in 2023 participated in interviews.
 - Interviews were organized with landowners who held and/or applied for SOEs in 2023. 5 of 5 landowners who held approved SOEs participated in interviews.
7. Interviews were carefully documented, and key findings were compiled and analyzed. These key findings were then cross-referenced with data procured from certification reports submitted for 2023.
8. The economic impact analysis, using the IMPLAN modeling system, was conducted to assess the direct and indirect economic benefits of holding SOEs in 2023 to the farmer and the State of New Jersey.

IV. DATA ANALYSIS – SOEs HELD IN 2023

Data for the *Annual Report* were obtained, organized, and analyzed from certification reports submitted from the landowner to the CADB and SADC during the calendar year of 2023. This section of the *Annual Report* details the number, types, and frequency of SOEs held, the number of attendees at SOEs, and trends identified.

County	#SOEs Approved by Easement Holder	#SOEs Held	# of Farms Where SOEs Were Held
Burlington	26	0	0
Gloucester	15	13	1
Hunterdon	5	4	1
Monmouth	46	0	0
Ocean	14	10	2
Salem	20	5	1
Warren	6	0	0
TOTALS	132	32	5

Exhibit 1: SOEs Approved by Easement Holder and Held in New Jersey in 2023

As shown in Exhibit 1 (above), 132 SOEs were approved at the CADB level in 7 counties (Burlington, Gloucester, Hunterdon, Mercer, Monmouth, Ocean, and Salem). Of those approved, only 32 SOEs (24.2%) were actually held on 5 permitted farms, located in 4 counties. The main reason for the remaining 100 approved SOEs not being held was the lack of municipal approval, followed by landowners choosing not to hold SOEs due to limited timing for planning and preparation. Accounts from landowners, municipalities, and counties will be discussed in greater detail in Section 5. SOEs are categorized into 3 general categories: weddings, lifetime milestone events, and cultural/social events. Exhibit 2 below shows the distribution of the 32 SOEs held in 2023 by general category.

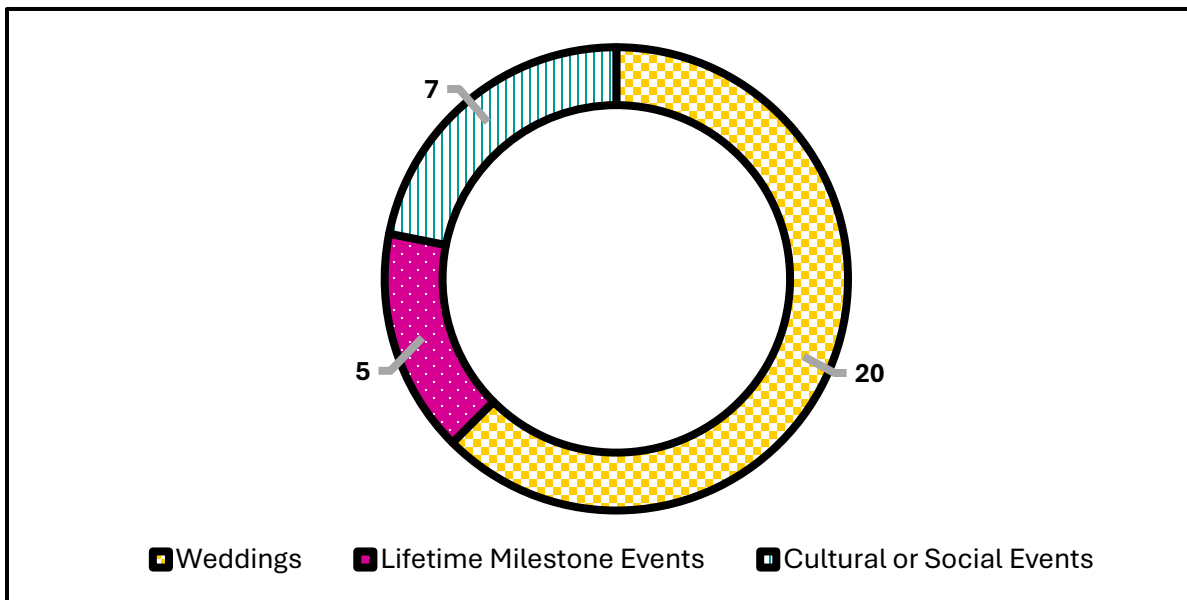


Exhibit 2: Types of (n=32) SOEs Held in 2023 (General Categories)

Weddings are self-explanatory and comprise the largest share of SOEs held in 2023. Cultural and social events make up the second largest share of SOEs held in 2023 and include celebrations of cultures and gatherings of different interest groups. Lastly, lifetime milestone events, which include celebrations such as birthday parties, bridal and baby showers, anniversaries, and graduations, make up the remaining share of the SOEs held in 2023.

Exhibit 3 summarizes the specific types of the (n=32) SOEs held in 2023.

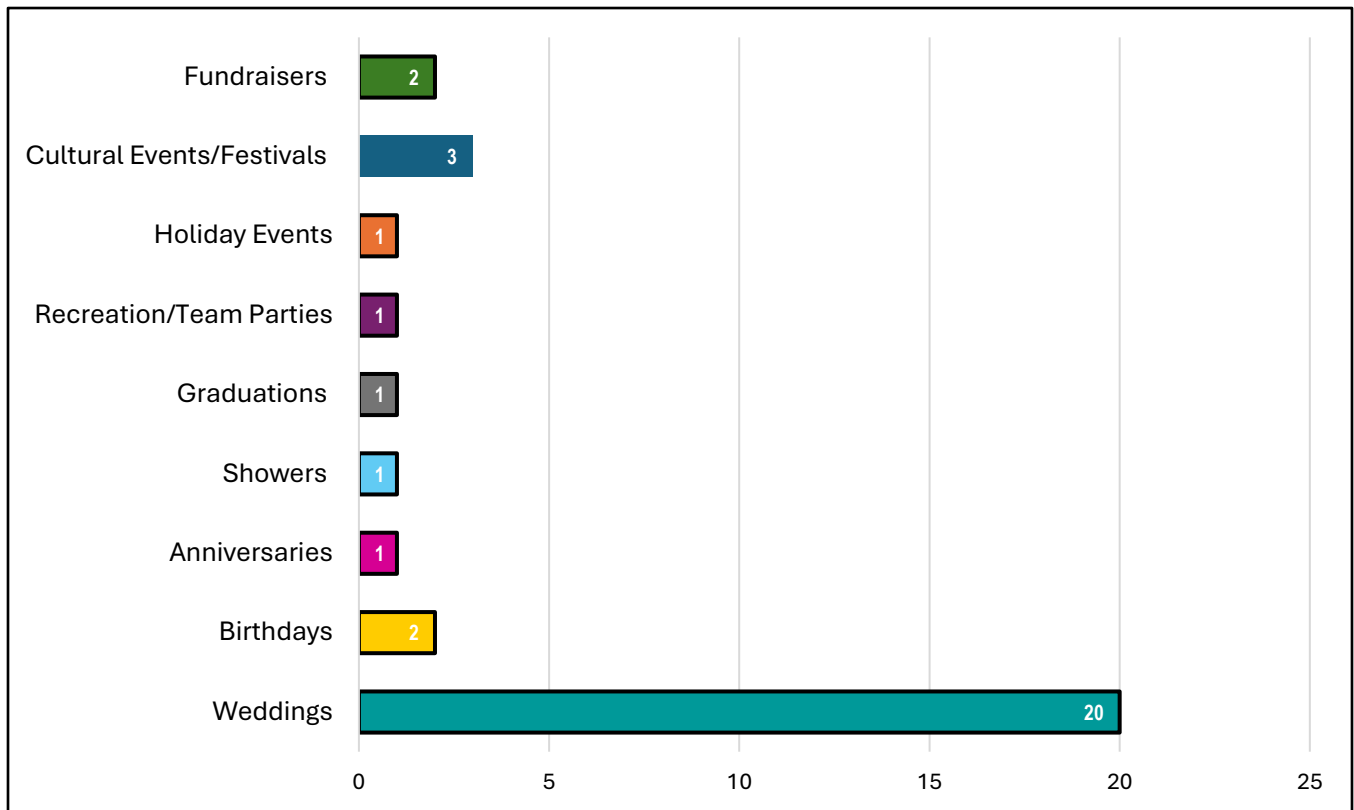


Exhibit 3: Types of SOEs Held in 2023 (Specific Categories)

In 2023, a total of 5,915 people attended the 32 reported SOEs held across 4 counties:

- Hunterdon County (n=2,625 SOE attendees)
- Ocean County (n=1,520 attendees)
- Gloucester County (n=1,325 attendees)
- Salem County (n=445 attendees)

The largest numbers of attendees were reported at weddings (n=2,420/41% of total attendees in 2023), cultural events and festivals (n=1,595 attendees/27% of total attendees), and fundraisers (1,150 attendees/19% of total attendees) [Exhibit 4].

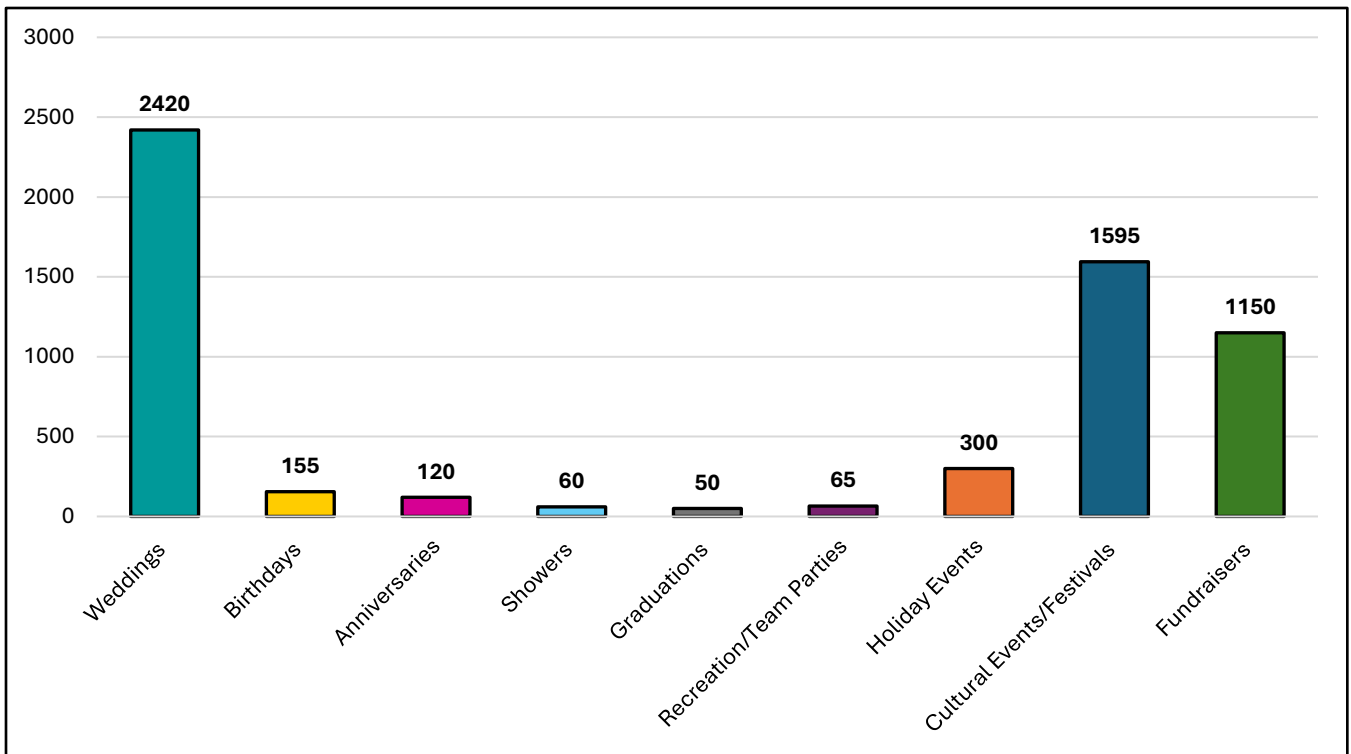


Exhibit 4: Reported Number of Attendees at SOEs in 2023 (by Specific Type)

When looking at the 32 SOEs held in New Jersey in 2023, the average number of attendees at an SOE was 185. The largest SOEs, in terms of average attendance, tended to be fundraisers (which drew an average of 575 attendees across 2 separate events), followed by cultural events/festivals (which drew an average of 532 attendees across 3 separate events), and lastly holiday events (which drew in 300 attendees at 1 event). Exhibit 5 details the average number of attendees by specific types of SOEs.

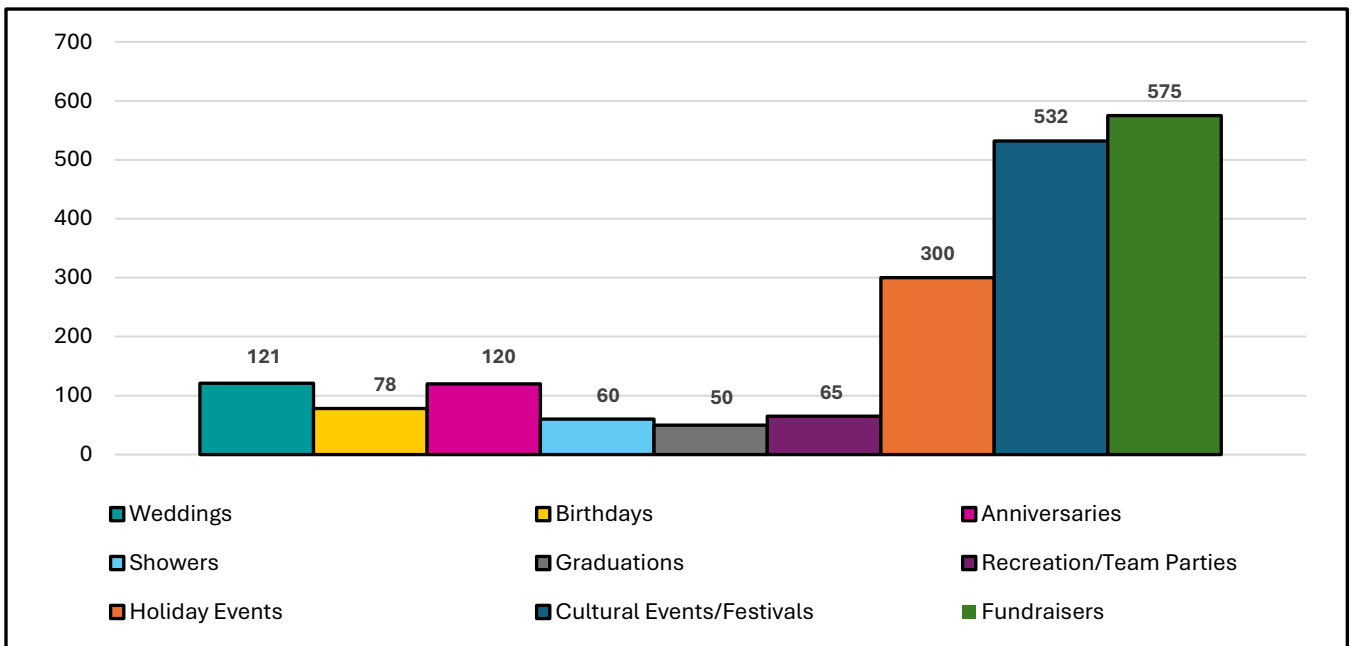


Exhibit 5: Average Number of Attendees at SOEs in 2023 (By Specific Type)

In 2023, most SOEs were held during the month of September (10), followed by October (9), and then by May and November (4) [Exhibit 6]. This frequency tracks with the “wedding season” in New Jersey. According to *The Knot’s Real Weddings Study* (<https://www.theknot.com/content/fall-most-popular-wedding-season?>), a report that surveyed 10,000 couples married in 2023, 42% of weddings took place between September and November. Temperate weather conditions and the view of fall foliage were cited as the primary reasons for this finding.

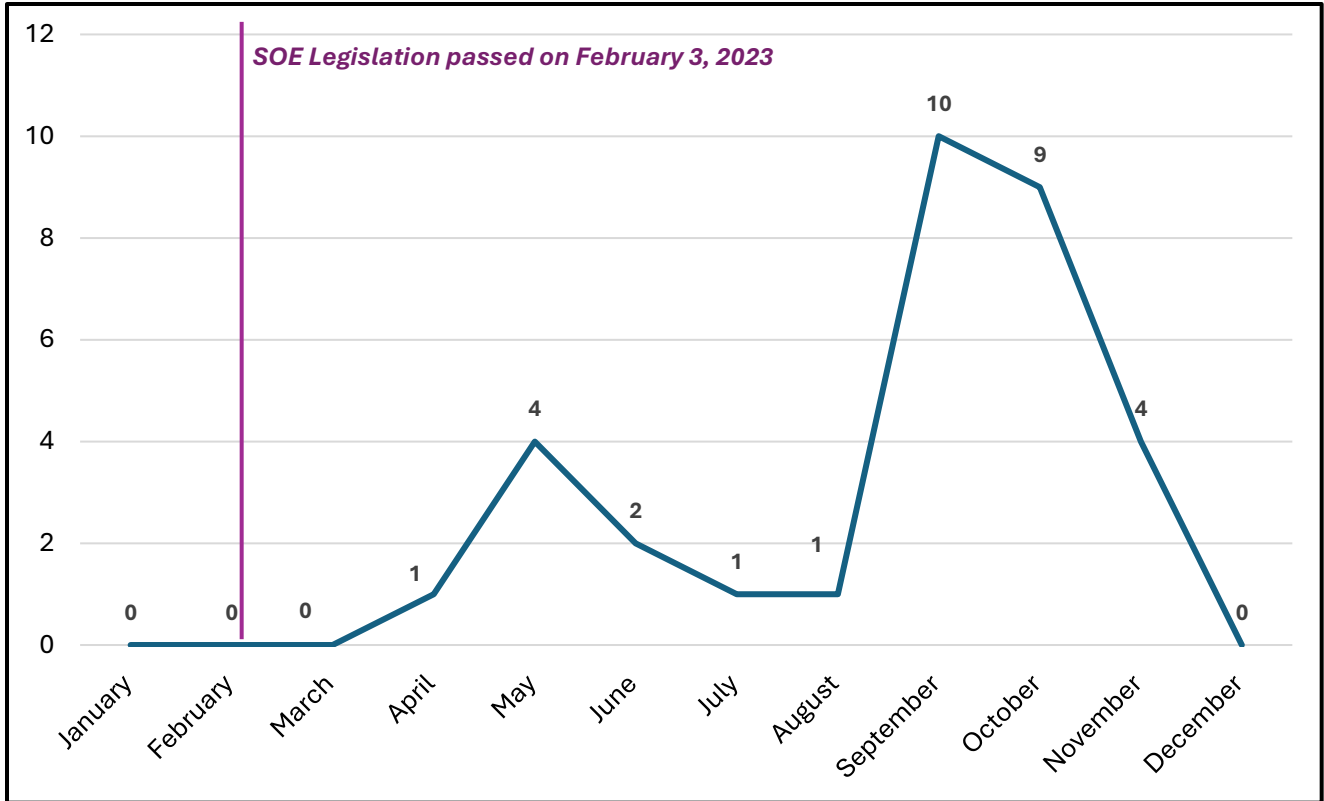


Exhibit 6: Frequency of SOEs Held in 2023 (By Month)

The highest number of attendees reported at SOEs held in 2023 occurred in the month of September (n=2,160), followed by July (n=1,000), and then October (n=970) [Exhibit 7]. These reported attendance numbers generally track with the distribution of SOEs held across the year as reported in Exhibit 6, except for July. This difference is due to a large fundraiser held in July in Hunterdon County.

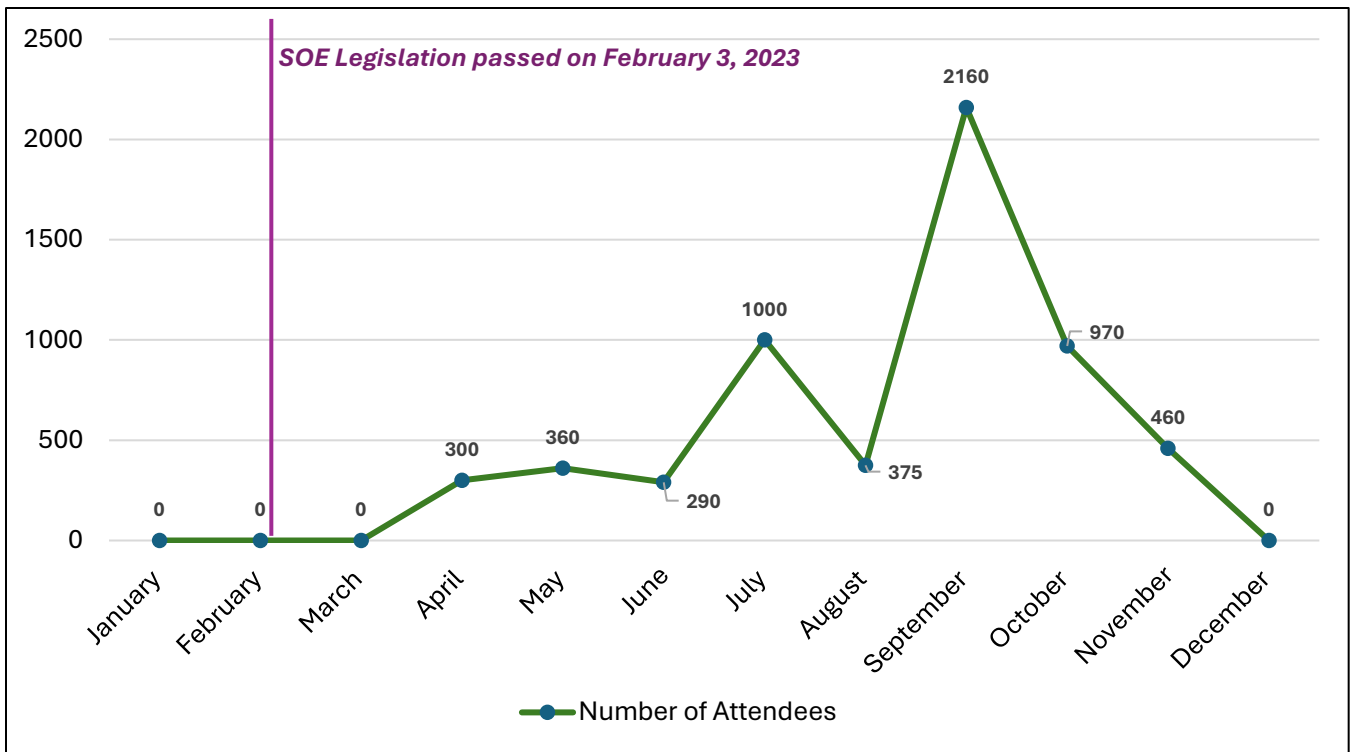


Exhibit 7: Number of Attendees at SOEs (By Month)

V. OUTCOMES OF HOLDING SOEs IN 2023

Holding SOEs on preserved farms has the potential to provide positive impacts not only directly to the farmer and/or landowner, but also to the surrounding community and for the viability of the agricultural industry in New Jersey. At the same time, the SOE statute (P.L. 2023, c.9) states an intent to avoid “displacing agricultural or horticultural production as the first priority use of preserved farmland or disrupting neighborhoods that surround preserved farms.” This section of the *Annual Report* will review the following topics:

- ❑ Direct and indirect economic impacts
- ❑ Disputes between farmers and neighboring property owners, municipalities, easement holders, the CADB, or the SADC
- ❑ Violations issued to farmers holding permitted SOEs
- ❑ Undesirable and/or unintended consequences experienced by farmers holding permitted SOEs

Direct and Indirect Economic Impacts

Economic impact analysis involves the assessment of changes in overall economic activity measured as output (i.e., farm revenues in the current context), value-added to the economy, or employment that occurs because of a change in one or more specific industries or sectors of the economy. Such studies provide generalized estimations of economic interrelationships and dependencies and are useful for examining the effects of changes in one industry on other industries. The analysis requires the development of economic factors (called multipliers) that reflect the infusion of dollars into a region based on the direct introduction of new dollars and the re-spending of those dollars by employees and industries and the reallocation of tax dollars. Economic impact analysis for SOEs was conducted with IMPLAN Professional® Version 3.0. IMPLAN is a widely used input-output modeling system that uses a regional social accounting system to estimate economic impact relationships in over 500 industries.

Economic multiplier effects can be divided into both indirect and induced impacts. Indirect impacts represent the response by all industries within New Jersey to output changes in a single industry (in this case, SOEs on preserved farms). Industries producing goods and services utilized by preserved farms expand their output as demand for such goods and services grows with agricultural output. Industries supporting the SOEs also face increased demand for their goods and services, and so forth. These backward linkages continue until leakages (imports, wages, profits, etc.) stop the cycle. In addition, induced impacts represent the change in household spending due to special events and their supporting industries. For example, when a dollar in wages is earned by a SOE worker, that dollar will be used to purchase a variety of goods and services from other industries.

The farm revenues attributed to New Jersey SOEs have a ripple effect that extends throughout the New Jersey economy. The primary data gathered from the structured interviews provided information about farm revenues generated from SOEs. This information allowed for the estimation of economic impacts from holding permitted SOEs in 2023 using the IMPLAN model. As shown in Exhibit 8, the direct output (revenue) impact from SOEs is estimated to be \$360,000 across the 5 landowners who held them, based on survey responses. Each reported revenue level was multiplied by a value corresponding to the midpoint of the reported revenue category, or the minimum value for the highest category, which is open-ended (i.e., \$250,000). Thus, we believe the economic

impact estimates presented below are conservative. Note, less precise revenue *categories* were used (as opposed to requesting actual dollar estimates) to increase the likelihood of landowners providing economic information associated with SOEs. In one instance, a landowner did not report SOE revenue earned in 2023 and the study team estimated it from online event promotions, data from certification reports, and other data sources.

SOE Revenue Category	# of respondents	Estimate of Direct Impact (\$ revenue/output)
\$0 ¹	4	\$0
\$10,000 - \$24,999	2	\$35,000
\$25,000 - \$49,999	2	\$75,000
\$250,000+	1	\$250,000
Total	9	\$360,000

Exhibit 8: Direct Economic Impact (\$ Output) Attributed to SOEs Held in 2023

Exhibit 9 presents the economic impact of New Jersey SOEs in CY23. The IMPLAN model was used to estimate the direct, indirect, and induced impacts on output, employment, and labor income. At an aggregate level, the total output (revenue) impact of New Jersey’s SOEs was estimated to be \$664,000.

Impact Type	Direct Effect	Indirect & Induced Effects	Total Effect
Revenue/output (\$ dollars)	\$360,000	\$304,000	\$664,000
Labor Income (\$ dollars)	\$111,000	\$107,000	\$218,000
Employment (jobs)	6.0	1.8	7.8

Exhibit 9: Estimated Impacts of SOEs Held in 2023 to the New Jersey State Economy

The total labor income impact of holding permitted SOEs on preserved farms in 2023 to the State was estimated to be \$218,000. The total number of jobs generated during this same timeframe is estimated at 7.8 (this employment impact can be thought of as number of full-time equivalent jobs per year). The employment impact highlights the difficulty of accurately counting fractions of jobs for a short-term impact such as those from SOEs (i.e., it is reasonable to expect that there were part-time workers hired who may have worked for a few days, or even hours,

¹ \$0.00 Category represents those who were approved to hold SOEs, but did not in 2023, as well as those who held SOEs for non-profit entities, and did not earn a profit on those events.

in support of an SOE). Labor income impacts, as opposed to employment impacts, may present a more intuitive impact. Labor income is more relatable since it is an estimate of how much workers were collectively paid for working SOEs during the study period of February 3, 2023, through December 31, 2023.

The economic impact analysis also showed that holding permitted SOEs on preserved farms in 2023 generated an estimated \$32,000 in new State and municipal tax revenue. This estimate of tax revenue includes sales and use tax, personal income tax, local property tax, and corporate business tax.²

In summary, the SOE Program did produce additional income for farmers, as well as increased tax revenue for the municipality in which the SOEs were held and created jobs.

Disputes, Violations, and Unintended Undesirable Consequences

§C.4:1C-32.21 specifically requires examination of disputes and violations associated with the passage of the SOE statute:

- The extent to which disputes are reported between:
 - Commercial Farms and neighboring properties
 - Commercial Farms and municipalities
 - Commercial Farms the easement holder and/or SADC

- The frequency of violations

- The frequency of unintended and/or undesirable consequences of SOEs, such as possible removal of land from active agricultural or horticultural production to host events

The information in the section has been compiled through the following sources:

- CADB Administrators Questionnaire
- CADB Administrators: Focus Group (May 22, 2024)
- Municipal Partners Questionnaire
- Interviews with Municipal Partners: Conducted between May 23, 2024, and June 20, 2024
- Landowners Questionnaire
- Interviews with Landowners: Conducted between May 29, 2024, and June 12, 2024

Disputes Between Commercial Farmers and Neighboring Properties

Of the 16 CADB administrator responses obtained, only 1 CADB administrator reported receiving an informal complaint about SOEs during the calendar year 2023, consisting of emails and phone calls to the CADB about preserved farmers holding SOEs without a permit. To address these concerns, CADB staff contacted the landowner

² IMPLAN's estimated tax impacts are based on actual taxes collected by governments in the given data year (i.e., estimated tax impacts are not based on tax rates). IMPLAN allocates taxes by labor income in each sector and distributes by type of tax based on the Annual Census of Government Finances distribution.

in question to explain the SOE legislation and offer assistance. The CADB also forwarded a copy of the SADC's guidance documents and application for SOEs on preserved farms.

Of the 8 responses obtained from municipal partners, none reported any complaints being submitted from neighboring properties to the municipality directly. Complaints from other entities were received, which will be discussed later in this *Annual Report*.

Of the 9 responses obtained from landowners, only 1 reported receiving a complaint from neighboring property owners. This complaint was more abstract or conceptual in nature, with the neighboring property owner expressing their disagreement with the allowance for SOEs on preserved farms. No official complaint was submitted to the municipality or CADB, and no further action was taken.

Disputes Between Commercial Farmers and Municipalities

CADB administrators did not report receiving formal notice regarding any disputes between commercial farmers and municipalities. In counties where there are disputes between commercial farmers and municipalities, the CADB administrators have become aware of these issues through unofficial means, such as word-of-mouth, social media, and printed advertisements.

3 of the 9 landowners who held SOEs or applied for the ability to hold SOEs in calendar year 2023 reported disputes with municipalities:

- [Landowner A](#) stated that he paid over \$10,000 in fees related to municipal requirements (hiring of professionals, attorney review, escrow) and 1 year attempting to get municipal approval before he “gave up”. This landowner received approval from the CADB very quickly, with the condition that municipal approval was required. Once the SOE application went to the municipality, Landowner A stated that they “kept moving the goalposts”. A Use Variance was required, which was very costly and took a great deal of time. Just before Landowner A withdrew his application, the municipality informed him that if approved, SOEs on the farm would be limited to 4 per year (including SOEs held for nonprofit entities) and parking for 40 cars. Additionally, what the landowner perceived to be extensive and expensive building modifications were being imposed to address public health and safety needs.
- [Landowner B](#) reported that the process with the municipality was “terrible”. This municipality, according to Landowner B, views SOEs on preserved farms as “commercial uses, not agricultural uses”. In this instance, the landowner has delivered the SOE application to the municipality, held the SOEs on the preserved farm, and filed the required certification report under the approval of the CADB, but without receiving municipal approval.
- [Landowner C](#) was told by the municipality that a Use Variance would be required, and to expect that the process would take approximately 1 year. Landowner C knew that the process would be very expensive and would impose “extensive improvements” [for public health and safety] to the buildings onsite. When the SOE legislation was passed, Landowner C began scheduling SOEs, but had to cancel them and refund the deposits, which “really hurt them financially”. This landowner also stated that one of the major concerns for them is that the municipality could inspect the property the day of the event, leading to a fear that the SOEs could be shut down without notice.

Municipal staff from municipalities where SOEs were applied for and held provided their feedback as it relates to disputes between commercial farmers and the municipality. 1 municipality stated that the SOE legislation “has created bad relationships between farmers and the municipality, and between the municipality and other businesses.” A second municipality stated, “Because farmers feel they are entitled to these events, they do not understand the importance of municipal review as it relates to public health and safety”. A third municipality reported that they are close to taking legal action against a farmer who continues to hold SOEs on a preserved farm which was given approval by the CADB, but not the municipality itself. This municipality strongly feels that SOEs on preserved farms are a commercial use, and therefore, for the public good, must be reviewed and improved as such.

Disputes Between Commercial Farmers and the Easement Holder and/or SADC

Of all the responses received from CADB administrators, municipal partners, and landowners, no disputes were reported between commercial farmers and the easement holder and/or the SADC. In contrast, most landowners interviewed stated that their interactions with processes and staff at the CADBs and/or SADC were “great”, “simple”, and “very easy”.

Through the CADB Administrators Focus Group, held on May 22, 2024, most CADB administrators reported that they work with applicants for SOEs to prepare the application and mapping, and that most approvals at the county-level occurred in less than 3 months. Additionally, most CADB administrators replicated the SADC’s application as their SOE application, and all CADB administrators reported using the SADC’s guidance documents when reviewing the SOE program and in working with preserved farmers.

Frequency of Violations

CADB administrators did not report issuing any violations to SOE permittees during calendar year 2023. During the Focus Group held on May 22, 2024, CADB administrators were asked if they plan to incorporate the monitoring of approved SOEs as part of their regular workplan and/or annual monitoring of preserved farms. All CADB administrators stated that there was no plan for these actions because most SOEs are held “off-hours” and because CADB staff and resources are already overwhelmed and limited.

1 municipality reported issuing a violation for a landowner that continues to hold SOEs on their preserved farm under the auspices of CADB approval. This violation stated that the SOEs must stop immediately, or legal action will be taken. At the time of the publication of this *Annual Report*, no official legal action has been taken.

Only 1 landowner reported receiving a violation during the calendar year 2023. This “violation” was sent to the landowner from the municipality and consisted of “threatening letters from the zoning officer telling him to cease holding SOEs”. In this instance, the landowner has chosen to continue hosting SOEs on his preserved farm with the approval of the CADB. If legal action is brought against this landowner, he has stated that he will also counteract with legal action.

Frequency of Unintended Undesirable Consequences of SOEs

3 of the 16 CADB Administrators reported noticing unintended, undesirable consequences as a result of allowing SOEs on preserved farms during calendar year 2023:

- ✘ [CADB Administrator A](#) stated that 1 preserved farmer (who did not apply for an SOE permit during calendar year 2023) expressed that it was “unfair” to preserved farmers who took an exception area.
- ✘ [CADB Administrator B](#) stated that because the income generated from SOEs has the potential to be substantially higher than income generated from farming, “decision-making is being clouded”. This administrator expressed a concern that owners of preserved farms could become more focused on holding SOEs rather than farm production because the payoff could be larger, which was not the original intent of the New Jersey Farmland Preservation Program.
- ✘ [CADB Administrator C](#) stated that the SOE Program is “more work for CADBs who are already stretched in terms of staff and resources.” It was noted more broadly that with new regulations being introduced and implemented across the State for farmland preservation and post-preservation matters, CADB administrators are very limited in the additional work they can take on and effectively complete.

Similarly, 3 municipalities responded noticing unintended, undesirable consequences as a result of allowing SOEs on preserved farms during calendar year 2023:

- ✘ [Municipality A](#) stated that SOEs are “basically a commercial use that changes the character of the neighborhood”. This municipality also voiced the concern that allowing SOEs on preserved farms to skip past the planning and zoning process removes the opportunity for public comment. Because “SOEs pose a major impact to public health and safety”, the public should be provided the opportunity to comment on the operation and its impacts, including increased traffic and stormwater runoff, access for safety professionals, and more.
- ✘ [Municipality B](#) stated that they are working “in the trenches” of this program and have become the “bad guy” to the agricultural community and commercial businesses. This municipality does not feel supported from the CADB on implementing the SOE Program, and is concerned with the lack of coordination with the Municipal Land Use Law (§40:55D-1 et seq.)
- ✘ [Municipality C](#) reported that “relationships with farmers have been negatively impacted”. This municipality cited that a significant amount of time and money has been spent in dealing with SOEs at the municipal level.

VI. EQUITY

Understanding the difference between equality and equity is the foundation for ensuring all landowners seeking to hold SOEs on preserved farms not only can, but will, as time goes on. Equality means providing everyone with the same resources to achieve the same goal; however, it may not consider differences in the actual needs of the people involved. Equity is realized when the people trying to achieve the same goal are given what they need to do so. In the case of equity, some people will be given different, more, or less resources based on their actual needs.

The funding used to support this assessment derives from Coronavirus State and Local Fiscal Recovery Funds, which requires aligning the project's work with the State of New Jersey's equity strategy in the *2021 New Jersey Recovery Plan Performance Report*. One of the important evaluation points for the *Annual Report* is to understand potential barriers or factors causing differential access to the opportunities to holding SOEs as prescribed by the SOE legislation. This feedback has been gathered through interviews conducted with landowners, municipalities, and CADB administrators associated with SOEs that were held in calendar year 2023, as well as with applications that were submitted but did not result in SOEs being held.

Through this feedback, several areas where potential inequities have or can occur have been identified, along with potential recommendations for mitigating these inequities as they relate to the holding of permitted SOEs on preserved farms.

1. [Interpretation of the municipality's role and requirements can lead to inequities from the beginning of the application process through the determination for approval, modification, or denial.](#)

§C.4:1C-32.17(4) states,

“To comply with local laws, regulations, resolutions, and ordinances, the municipality may require that an owner or operator of a commercial farm located on preserved farmland submit an application to the municipality for approval and may designate an office or agency of the municipality to review municipal applications for conducting special occasion events”.

This section goes on to state that municipalities may require a municipal application if the proposed SOEs would generate a traffic or parking flow situation or require the expenditure of municipal resources or inspections. Additionally, municipalities can charge a maximum of \$50 as an application fee. Importantly, §C.4:1C-32.17(4)ii.b states,

“The municipal application shall not require more information than an identification of locations of where tents and other temporary structures, sanitary facilities, parking, and access and egress will be located for each event, where music will be played, the number of expected guests, and other information that may be of public concern and would be required of a similar event when conducted at a public park or another public venue.”

Municipalities across the State have been implementing this allowance for municipal review of SOE applications in different ways. Some municipalities have required a Use Variance application through the Zoning Board of Adjustment or Land Use Board. In these cases, landowners are subject to much greater fees, including escrow, and often need to hire Professional Engineers, Planners, and attorneys. Other municipalities have taken a softer approach and are willing to approve SOEs on a preserved farm with the

approval of the easement holder and minor review from the designated agency within the municipality (typically the Zoning Officer or Municipal Clerk). Practically, this means that a preserved farmer in one area of the State may be required to undergo a full variance application with its associated public hearings, evidence, and site plans, while another farm seeking to hold the same permitted SOEs may only have to complete a simple application, obtain approval from the easement holder, and pass inspections of the Municipal Board of Health and Fire Marshall. This difference in review of the same legislation may therefore present inequities in SOEs being held on preserved farms, while also creating a tenuous relationship between the municipality and landowner.

Additionally, landowners who obtain Use Variance approval are most likely required to implement various improvements to the building, access to the property, and more. These costs are beyond the initial approval, which typically ranges between \$5,000 and \$10,000, depending on the application.

- ☑ **Recommendation:** The SOE regulations, once promulgated by the SADC, should carefully review the difference in municipal review across the State and provide a baseline of what can be reviewed for SOEs on preserved farms. Because the New Jersey Municipal Land Use Law regulates the site plan approval and variance approval process, this concept will require identification of areas where the SOE legislation and the MLUL are not aligned.

2. Marketing of the SOE Program should be more inclusive in terms of language and technology.

Landowners of preserved farms and farmers themselves often require a variety of methods of outreach when it comes to new programming, allowances, and restrictions. In some cases, social media and internet postings will not reach all farmers who would benefit from a specific program. In some areas of New Jersey, bilingual marketing is a must due to the primary languages spoken by farm owners, operators, and employees or and other language or technology competencies.

11 of the responding CADB administrators provided outreach to the municipalities in their county and/or preserved farmers during calendar year 2023. This outreach typically consisted of posting the application and SADC guidance on the municipal CADB's website, mailing a letter to preserved farmers with the information about the SOE legislation, or discussing the new opportunity with preserved farmers during annual easement monitoring.

3 Municipalities reported the creation or modification of ordinances specific to SOEs on preserved farms, which would trigger the public notice requirement and 2 public hearings at meetings of the municipal governing body (one for introduction, and one for adoption). 1 interviewed municipality created a new ordinance specifically for SOEs on preserved farms, but at the time of the publication of this Report, the ordinance was not yet adopted due to conflicts with the agricultural community. 2 of the interviewed municipalities modified an existing Special Events Ordinance to add language specific for SOEs on preserved farms. This modification would trigger the same public notification requirements. Separate outreach to educate the agricultural community about the SOE legislation was not reported at the municipal level.

Landowners who applied for or held SOEs in 2023 and were interviewed for the *Annual Report* reported learning about the SOE legislation through the New Jersey Farm Bureau Newsletter, their CADB administrator, or from attending a training held by the SADC.

- ☑ **Recommendation:** Information about SOEs on preserved farms should be disseminated in printed and digital formats. Translation or translational services should be made available into the most prominent language (other than English) in the area. Partnering with agencies such as the Rutgers Cooperative Extension, NRCS Field Offices, and the New Jersey Farm Bureau could be a way to provide outreach to a larger sector of the agricultural community, as they work with these agencies more frequently, and would be more apt to easily find the information.

3. **The restriction of buildings permitted for SOEs on preserved farms is limiting to some farmers.**

§C.4:1C-32.17(5) states, “No new permanent structures shall be constructed or erected on preserved farmland for the purpose of holding a special occasion event, and improvements to existing structures shall be limited to the minimum required for the protection of health and safety. No permanent structure constructed fewer than five years prior to the date of application to the grantee to hold a special occasion event (pursuant to subsection c. of this section) shall be used for the purpose of holding the special occasion event.” Some of the landowners and CADB administrators noted that this section of the SOE legislation is a “missed opportunity”. For example, a farm with a building in need of rehabilitation cannot be used to hold an SOE due to safety concerns, lack of necessary amenities, or lack of desire for people to hold SOEs there. These conditions can lead to an inequity for landowners who do not presently have the infrastructure in place.

1 CADB administrator offered that allowing these buildings to be rehabilitated and used would be better than having their use be abandoned and ultimately be demolished. Allowing buildings that are less than 5 years old to be used would have the same effect now versus years from now, providing supplemental income simply by accommodating for a building that is already in place.

- ☑ **Recommendation:** The SADC should review this section of the SOE legislation carefully to determine if the restrictions in terms of existing buildings are necessary. If these buildings are already erected, allowance to rehabilitate and/or use them would not be a heavy lift and would bridge this gap for preserved farmers. The Rural Microenterprise Rule (P.L. 2015, c.275) provides specific standards for permitted square footage that can be rehabilitated and expanded upon on preserved farms under certain circumstances. This legislation could serve as a model when considering similar allowances for the use of existing buildings for SOEs.

VII. EVALUATION OF THE 2023 SOE PROGRAM AND RECOMMENDATIONS FOR 2024 AND BEYOND

As discussed throughout the *Annual Report*, the SOE legislation and its implementation was evaluated through data obtained from SOE applications and certification reports, as well as extensive interviews with CADB administrators, municipal partners, and landowners who applied for and/or held SOEs in its inaugural year. This process has led to a database of findings, which ultimately highlighted the most prominent issues for SOEs on preserved farms. This section of the Report discusses the 3 most discussed issues from each category of interviewees and provides recommendations for consideration by the SADC when developing the regulations moving forward.

CADB Administrators – Top 3 Issues

1. CADB administrators agree that the approval and enforcement of SOEs is or should be under municipal jurisdiction.

Of the 16 CADB administrators interviewed, all but 1 agreed that the approval of SOEs should be under the jurisdiction of the municipality. As such, all CADB administrators forward the SOE application to the appropriate municipal staff. In some cases, CADB administrators will immediately forward the application and then give the required approval as the easement holder. In other cases, the CADB will approve the SOE application first, but require municipal approval to actually hold the SOEs. This process has effectively left the actual authority to municipalities. Because the language in the SOE legislation is somewhat vague, municipalities are left to interpret the level of municipal review, which can be as light as a permit application to as heavy as a requirement for full Use Variance review.

CADB administrators have noted that they will often help landowners complete the application and mapping, however the SOEs cannot be held until the municipality issues its findings and requirements. While this is a task that is within their purview and expertise, the CADB administrators generally feel that approval of SOEs is beyond the scope of their charge and CADB members and has a greater impact on municipalities in which SOEs are held. Additionally, CADB administrators agree that enforcement of municipal requirements should be left to the municipality that has imposed them to ensure that any enforcement is being properly handled.

2. Most CADB Administrators did perform some type of outreach as it relates to the allowances included in the SOE legislation.

All 16 interviewed CADB administrators reported using the guidance documents and application package prepared by the SADC as outreach documents or slightly modified them as a way of customizing them for their farmers. Most agreed that guidance documents and applications developed by the SADC were comprehensive and effective in capturing the necessary information for review.

In performing outreach, most CADB administrators reported posting the SOE legislation, guidance documents, and application package to their websites. 2 CADB administrators reported publishing articles informing the public about SOEs in their counties' Rutgers Cooperative Extension newsletters or County newsletters for a larger reading base. 5 CADB administrators reported using direct mailings to preserved

farmers in the county.

3. CADB administrators report that they are already stretched with stewardship and post-preservation matters, making the approving and enforcing of SOE permits very difficult.

All interviewed CADB administrators collectively agreed that the workload imposed upon them specifically related to stewardship and post-preservation matters has drastically increased over time. The development of the On-Farm Direct Marketing Agriculture Management Practice and draft Soil Protection Standards have increased the amount of work for CADB administrators and their Boards in terms of document review, presentations, follow-up, monitoring, and enforcement. This work is in addition to the easement acquisition work of farmland preservation and requires a significant amount of time and expertise.

The CADB administrators feel that they do not have the capacity to monitor permitted SOEs, especially those that are held after-hours or on weekends when CADB and other county staff are not available. During Annual Monitoring, which occurs during typical County government business hours, SOEs will most likely not be occurring making enforcement difficult. In the event that a CADB administrator was able to monitor an SOE, they would not be able to enforce the municipal requirements involving site improvements and public health and safety matters.

A related comment from the majority of CADB administrators was that they would be amenable to allowing the SADC to have jurisdiction over the approval along with the municipalities. These CADB administrators felt that the SADC has a better understanding of the SOE Program, would serve as a more appropriate liaison between municipalities and applicants, and has more capacity to undertake the required review and enforcement. This feedback, in conjunction with the feedback discussed in #1 in this section, further explains why CADB administrators agree that the approval and enforcement of SOEs should be under municipal and/or SADC jurisdiction.

Municipal Partners – Top 3 Issues

1. There are many different interpretations of the SOE legislation at the municipal level, which is ultimately creating different experiences for farmers.

When asked, “What is the process for reviewing and approving SOEs, and how long does the process typically take?”, 2 of the 8 municipalities stated that there is no application or permitting in place, as the SOE legislation permits SOEs on preserved farms. 1 of these municipalities stated that there is no need for a municipal application because “preserved farms are entitled to hold 26 of these a year”. Both municipalities responded “None” when asked about the typical timeframe for approval.

3 municipalities reported that the application is submitted to the Municipal Clerk who then “blasts its out” to the relevant municipal departments (typically Fire, Health, Construction Code, Zoning, and Planning) to collect requirements needed for approval of the SOE application. The Clerk then forwards these requirements to the applicant. If the applicant satisfies all requirements, a permit is approved. For all 3 municipalities, the process typically takes between 1 and 2 months.

The remaining 3 interviewed municipalities have taken a different approach, requiring official review.

- [Municipality A](#) is not approving SOEs at this point until a proposed ordinance for SOEs on preserved farms is adopted. This Ordinance will require site plan review and potential site improvements to address concerns related to public health and safety. The municipality believes that SOEs are a “planning and zoning issue, not an agricultural issue”. This process has been ongoing for over 1 year.
- [Municipality B](#) requires a full Use Variance approval, which includes submitting the required site plans and studies to the Land Use Board. Public notice and presentation at public meetings are required by the applicant. If approved, the Zoning Officer is charged with enforcement. The municipality firmly believes that SOEs are a “planning and zoning issue, not an agricultural issue”. This process typically involves 3 months or more.
- [Municipality C](#) views SOEs as a commercial use, and therefore must go through the established variance process. Because there has been opposition to this process, the Township’s attorney has become the contact person for SOEs on preserved farms. This process has become contentious in this community and has been ongoing for longer than 1 year.

Municipalities who require variance approval are of the mindset that the large-scale nature of SOEs which can bring hundreds of people to the site will lead to public health and safety concerns, which, if not properly addressed, can create dangerous situations for residents. Municipalities A, B, and C all stated that they are agriculturally friendly communities who do not have a problem with preserved farms holding SOEs, if they are held safely and efficiently. The main concerns expressed through these interviews include the ingress and egress of the buildings being used, compliance with maximum occupancy standards, fire prevention, traffic control, and encroachment onto neighboring properties or adversely affecting the use and enjoyment of neighboring properties.

Lastly, Municipalities A, B, and C referred to the inconsistencies between the SOE legislation and the New Jersey Municipal Land Use Law. The MLUL prescribes the process for site plan, subdivision, and variance review and approval at the municipal level, which requires setbacks, improvements for public health and safety, stormwater management, traffic control, and more. These municipalities cited the lack of consistency with these requirements, which are the standard of practice for municipalities in New Jersey. In addition to causing confusion for municipal staff, these inconsistencies have led to different implementation approaches by municipalities, and in some cases, have fractured relationships between the municipality and the agricultural community.

2. [Monitoring and inspecting permitted SOEs will be difficult to implement at the municipal level.](#)

All of the 8 interviewed municipalities agreed that monitoring and inspecting permitted SOEs will be difficult, as these events typically take place outside of regular working hours. Municipal staff understands the importance of inspecting the properties with approved SOEs to ensure conformance with requirements, specifically as they relate to public health and safety, however the actual logistics of conducting these inspections is still undetermined.

The majority of respondents reported that monitoring and inspecting would be the responsibility of the municipal Zoning Officer, which aligns with the premise of SOEs being treated the same as commercial

operations. 1 municipal Zoning Officer expressed a concern about inspecting weddings for family members of the owner/operator on a farm. §C.4:1C-32.16, the definition for SOEs exempts weddings held for “as spouse, parent, child, grandparent, grandchild, sibling, niece, nephew, or cousin of the owner of the commercial farm”. This specific Zoning Officer raised concerns about validating that a person meets this criterion in a reasonable manner, especially on the day of the wedding. This added responsibility can create a hostile or embarrassing situation for all involved and goes beyond the scope of the regular duties of municipal staff.

3. Municipalities have raised concerns about the lack of opportunity for public comment in the SOE legislation.

3 of the 8 interviewed municipalities raised concerns about the removal of public comment for SOEs that do not go through an established variance process. During a site plan, subdivision, or variance application, the applicant is required to present the project during a public meeting of the Planning Board, Zoning Board of Adjustment, or Land Use Board. This process also requires notice to neighboring property owners within 200’, and to municipalities with borders within 200’ of the subject property. The SOE legislation leaves the level of municipal review up to municipalities, leaving some SOE applications to be approved without public notice or comment about the proposed SOEs and their potential impacts.

Landowners – Top 3 Issues

1. There is confusion about the role of municipalities and the CADBs as it relates to SOEs.

9 landowners were interviewed, which included the 5 farms who held a total of 32 SOEs in 2023 and 4 farms who applied for SOEs in 2023 but did not hold actual events in 2023. The questionnaire for landowners asked about the application and review process with the CADB and the municipality separately – the responses received varied significantly depending on where the preserved farm was located:

- 3 of the 9 landowners described the application and review process with the municipality as “terrible”, while at the same time describing the process with the CADB as “easy”, “great”, and “absolutely great”. In all 3 of these cases, the CADB approved the SOEs applied for with the requirement that the municipality must also review and approve before the events could be held. Once the SOE application was before the respective municipality, these 3 landowners were required to hire professionals, submit engineered site plans, apply for a Use Variance, retain legal counsel, and/or make extensive site improvements for public health and safety.
- The remaining 6 landowners described the application process with the CADB and municipality as “simple”, “great”, “easy, and “very easy”. 5 of these 6 landowners were not required to appear or present before the municipal Planning Board, Zoning Board of Adjustment, or Land Use Board. 1 of these landowners was required to appear before the Planning Board but was not required to submit engineered site plans or make extensive site improvements to the farm or its facilities.
- All 9 of the landowners described the application and review process with the CADB as “great”, “simple”, and “easy”.

At the end of each interview, landowners were asked what recommendations they would suggest regarding the SOE legislation or overall program itself. 2 of the 9 interviewed landowners stated that the municipalities “have way too much power”, and that “SOE applications should not be required to have full municipal review or variance requirements”. 2 landowners supported these recommendations with the comment that “the municipal role needs to be made clearer”. 1 landowner ended his interview by saying, “the municipality has the power to make the process difficult depending on where you live”.

2. The main reason for holding SOEs was to generate supplemental income.

When asked, “Why did you decide to hold SOEs on the farm?”, 7 of the 9 interviewed landowners responded, “to generate supplemental income”. The secondary response was “to help with marketing”.

When asked, “What were the benefits of holding SOEs on your farm in 2023?”, the main response was that income increased and that SOEs brought more customers, especially repeat customers, to the farm.

All 5 of the landowners who held SOEs in 2023 indicated that their objectives and expectations for holding SOEs were met. The remaining 4 landowners did not actually hold SOEs in 2023, even if they had received the required CADB and municipal approvals.

The direct financial benefit to the 5 farms that held SOEs in 2023 is estimated to be \$360,000, with an additional revenue impact of \$304,000 being stimulated in other supporting businesses and through increased household spending. The economic impact analysis also showed that holding permitted SOEs on preserved farms in 2023 generated an estimated \$32,000 in new State and municipal tax revenue.

In summary, landowners were hoping to generate supplemental income and increase their customer base through holding SOEs. Initial evidence suggests that participation in SOEs in the inaugural year of the program may be limited by a combination of (1) landowner awareness of the new program, (2) confusion about application and approval processes, and (3) a truncated planning window for SOE’s (i.e., the statute was passed shortly before the beginning of the 2023 production season).

3. SOEs play a part in diversification of the agricultural business, a goal for agricultural retention in New Jersey.

4 of the 9 interviewed landowners reported that SOEs, along with On-Farm Direct Marketing activities and events, are necessary for retaining the industry of agriculture in New Jersey. Many farmers need additional streams of income to remain economically viable in New Jersey due to high land prices, increasing fees for agricultural inputs and support services, increased labor costs, and changing regulations. In addition to new revenue streams, SOEs can help to bring new and repeat customers back to the farm to purchase agricultural products, while also marketing the farm a place for future SOEs, direct agricultural sales, and agritourism.

1 landowner stated that she initially intended to hold SOEs “to save the farm.” The agricultural industry is not as profitable as it once was, and according to this landowner, it’s “nearly impossible to survive” with agricultural production alone.

Another landowner commented that the age of a New Jersey farmer is steadily increasing, which is opening the industry up to new and younger farmers. According to this landowner, “These young farmers are going to need diversity in income in order to make it. SOEs are important to supplement this income”.

Lastly, one landowner stated, “This has been a great opportunity for farmers to bring in extra income during the short period of time that farmers have to generate income for the year”.

Recommendations for 2024 and Beyond

- ☑ The SADC should carefully consider the intent of the SOE legislation as it relates to the role of municipalities and provide clear guidance as to what the level of review by municipalities should entail. Specifically, the allowance for a municipality to require a Use Variance, full site plan approval, and/or public noticing/hearing processes should be clarified as part of the promulgation of the SOE regulations developed by the SADC. Not only will this make the job of the municipality more defined and efficient, but it will also help the CADBs in understanding their role, while providing clear expectations for landowners seeking to host SOEs on preserved farms.
- ☑ Similarly, the SADC should clarify the review and approval processes that can be imposed by municipalities and easement holders to ensure that landowners receive equitable treatment, regardless of where they live in New Jersey. Special attention should be paid to staff capacity and expertise at the local and county levels, as well as the potential burdens imposed on applicants in terms of cost, time, and required improvements.
- ☑ The mapping requirements that are part of the SOE application are extensive and may exceed the capacity of many agricultural operations. It is recommended that these mapping requirements be reviewed and simplified to the extent practicable. For example, consider whether mapping with GIS-based software is necessary, or whether the submittal of a sketch accompanied by a site inspection is a feasible alternative.
- ☑ Monitoring and enforcement of permitted SOEs needs to be addressed and clarified. Compliance with the SOE permit is important, however the ability to monitor for and enforce compliance is difficult due to jurisdictional confusion, timing of SOEs in connection with CADB and municipal staff hours, all while understanding all of the requirements imposed by separate entities.
- ☑ The SADC should investigate the impacts of restrictions on usage of existing buildings less than 5 years. If these buildings are already erected, allowance to rehabilitate and/or use them would potentially bring them into compliance with modern safety standards, while giving farmers the opportunity to host SOEs now.
- ☑ Information about SOEs on preserved farms should be disseminated in printed and digital formats, with consideration of language and technology accessibility and competencies. Partnering with agencies such as Rutgers Cooperative Extension, NRCS Field Offices, and the New Jersey Farm Bureau would potentially expand outreach to a larger sector of the agricultural community, as they work with these agencies more frequently. SADC should consider in-service trainings with agricultural industry and other

partners to help disseminate information within the farming industry.

- ☑ An informational/promotional campaign about SOEs should be launched to raise awareness of the new allowances and restrictions set forth in the SOE legislation. Venues for this campaign should be places where landowners and farmers would be more likely to frequent (major agricultural conventions, meetings of the County Boards of Agriculture, Rutgers Cooperative Extension County offices, farm commodity/other agricultural association meetings, etc.). Sessions could be offered in-person and virtually and should be held at various locations across the State.

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