

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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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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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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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?

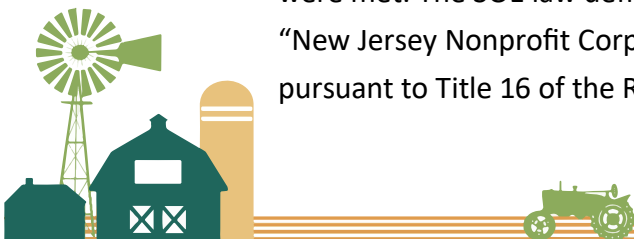
Yes, but if a farm holds more than one SOE on the same day, only one of those SOEs may have 100 or more guests.

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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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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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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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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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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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.

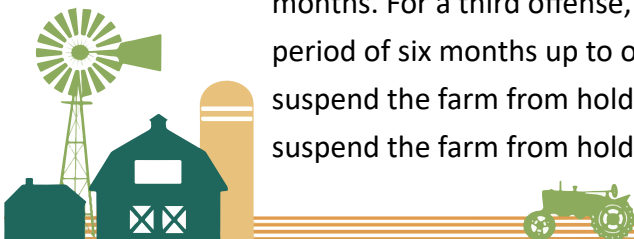
What are the inspection protocols for farms with SOEs?

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.



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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.



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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.



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