

APPENDIX

Interim Report:
Pilot Program for Winery Special Occasion Events



New Jersey State Agriculture Development Committee
June 2018

IX

Background

P.L. 2014, ch. 16, "the Winery Special Occasion Events Law," was enacted in July 2014 to allow wineries to conduct special occasion events on preserved farmland under certain conditions as part of a 44-month pilot program. Following the pilot program's expiration on March 1, 2018, the Legislature authorized extending the pilot program for two years and directed the State Agriculture Development Committee (SADC) to provide an interim report on the implementation and operation of the pilot program to date.

Wineries are subject to the pilot program only if they conduct special occasion events on the preserved premises. They are not subject to the pilot program if they do not conduct special occasion events or conduct them only within exception areas – areas that were excluded from the Farmland Preservation Program deed of easement at the time of preservation. The law characterizes a special occasion event as a "wedding, lifetime milestone event, or other cultural or social event as defined by the appropriate county agriculture development board."

The SADC initially identified 20 preserved farms with wineries that potentially could be subject to the pilot program. Two farms subsequently were deleted from the list – one ceased production and the other was in an eight-year farmland preservation program that expired. One newly established winery was added to the list, resulting in a revised list of 19 wineries associated with preserved farmland. While not all the wineries on this list conduct special occasion events, they have been the subject of the SADC's outreach efforts on the pilot program.

The SADC has collected two complete years of pilot program information (registrations/certifications/surveys), which is the basis for this interim report.

SADC Pilot Program Procedures

The SADC established the pilot program framework in October 2014, identifying the roles that the law set forth for the agency, county agriculture development boards (CADBs), affected wineries and municipalities. The SADC met with CADB staff and wineries to review their responsibilities under the pilot program and also conducted outreach to potentially affected host municipalities.

From the outset the SADC has viewed its primary role in administering the pilot program as a collector of information to assist the Legislature in making an informed decision on future actions at the conclusion of the pilot program. The SADC established pilot program procedures in August 2015, including requiring that participating wineries provide certain documentation. Specifically, wineries were required to provide to the SADC by October 15, 2015 (and subsequently by March 31, 2016 and 2017) a completed registration form and a signed certification form acknowledging understanding of, and compliance with, the pilot program's requirements as set forth in the law. The registration form asks for a short description of the farm operation and requires wineries to list the various types of special occasion

events they anticipate conducting in the upcoming year, the dates to the extent known, the expected number of attendees and the location (e.g., the winery or another farm structure).

Wineries also have been required to provide to the CADBs by March 31, 2016 and 2017 a signed form certifying that they meet the law's income requirement, i.e., that the winery's gross income from special occasion events accounted for less than 50 percent of the annual gross income of the winery during the prior calendar year. As part of that they were required to specify the percentage of winery income that special occasion events constituted for the prior calendar year.

The SADC in October 2017 voted to adopt rules to formalize its existing winery pilot program procedures and to implement the provision of the law allowing for the SADC or CADBs to request audits if necessary to ensure compliance with the law's gross income requirement. The law specifies that audits of wineries be conducted by an independent certified public accountant approved by either a CADB or the SADC, with the costs paid by the owner or operator of the winery.

The SADC's regulations were developed to ensure equitable treatment of wineries statewide by establishing uniform audit procedures for the State agency's audits of wineries, and also to serve as a resource to assist CADBs that may choose to follow these procedures. In developing the rules, the SADC consulted with a certified public accounting firm with extensive experience with winery accounting. The rules, approved by the SADC for adoption in October 2017, take a phased approach to income verification in order to minimize documentation that wineries must provide to demonstrate compliance with the law's income limit and to avoid, to the maximum extent possible, requiring winery owners to conduct audits at their own expense. No audits have been requested to date.

Wineries in the Pilot Program

Registration

In 2015, the following 5 wineries that conduct special occasion events on the preserved premises registered under the pilot program:

- Cape May Winery and Vineyard, Lower Township, Cape May County
- Laurita Winery, Plumsted Township, Ocean County
- Old York Cellars, East Amwell Township, Hunterdon County
- Unionville Vineyards, East Amwell Township, Hunterdon County
- Willow Creek Winery, West Cape May Borough, Cape May County

In 2016, two additional wineries registered:

- Southwind Vineyard and Winery, Deerfield Township, Cumberland County
- Iron Plow Vineyards, Mansfield Township, Burlington County

All seven of these wineries also registered in 2017, and the SADC considers these wineries to be part of the pilot program. (While a couple of additional wineries submitted registration forms to be helpful or err on the side of caution, they indicated they do not conduct special occasion events on the premises and, therefore, the SADC does not consider them subject to the pilot program at this time.)

For all but one winery, the registration forms generally provided adequate detail to understand the various types of special occasion events that wineries intended to conduct. The winery that was the exception did not provide sufficient descriptions of events and also had issues with completeness on its certificate of compliance form. While the winery whose reporting indicates it holds the most frequent and largest events did not list all types of events that it hosts on its registration form, the SADC was able to pick up the additional information from the CADB's thorough reporting on approvals of events pursuant to the SADC's delegated authority.

Timeliness of submissions among all wineries improved since 2015 as they became more familiar with the registration process. All participating wineries have submitted the most recent registration and certification forms that were required by March 31, 2017.

Wineries reported farming between 3 and 50 acres of grapes and selling the majority of their wine onsite; two reported selling their wine exclusively onsite.

Reporting

The seven wineries participating in the pilot program report hosting a variety of events – weddings, wedding rehearsal dinners, other sit-down wine-paired dinners and food events, birthday parties, bridal and baby showers, funeral memorial gatherings, corporate events, fundraisers, open mic events, wine and art events, and wine and other festivals. Some reported holding few events, while one of the more active wineries regularly hosts a variety of events, including weddings for 100 to 200 people, as well as various types of weekend festivals that can attract several thousand visitors per day. While wineries generally are able to identify the types of events they anticipate hosting in the upcoming year, it has been more difficult to quantify the actual number of events as wineries schedule them on an ongoing basis throughout the year.

Income certification forms for the seven wineries reported that the percentage of their gross annual income derived from special occasion events in calendar year 2016 (the most recent year-end reporting) ranged from 1 percent to approximately 29 percent. Pursuant to the winery special occasion events law, gross income from special occasion events includes, but need not be limited to, admission fees; rental fees; setup, breakdown and cleaning fees, and all other

revenue that is not directly related to the agricultural output of the winery, but is received by the winery in conjunction with conducting a special occasion event. Therefore, it does not include income from wine sales or from the sale of complementary and supplementary products related to the winery's wine, such as wine glasses, winery-branded T-shirts, bottle openers, etc.

The winery law requires that special occasion events be conducted in an existing permanent agricultural building, a temporary structure (e.g., open canopy, tent or other portable structure), a farm or open air pavilion, or another structure used in the normal course of winery operations and activities. Three wineries reported holding special occasion events outside such structures: Two reported outdoor wedding ceremonies, another a music festival for up to 100 people and open mic nights for two dozen behind the winery, and the third holds several mostly outdoor events (e.g., food truck and other festivals) that can attract a few thousand visitors per day and cover a sizable portion of the winery's grounds (encompassing an estimated area of about 5 acres) where the winery states that it has established multiple points of sale.

For a summary of the most recent winery registration/certification of income information, please see Attachment A.

Wineries Associated With Preserved Farms

All 19 wineries associated with preserved farmland (including the 7 in the pilot program) were mailed questionnaires in June 2016 inquiring about calendar year 2015 event activities. They were asked the acreage and origin of grapes and other fruit used to make wine; the volume of wine produced; how they market wine; what food, other beverages or services are offered and which individual or entity receives payment; fees; their position on whether events are an essential marketing tool for New Jersey wineries; their best-guess estimate of the number of new visitors to the winery as a result of events; the percentage of the winery's total income derived from events; any conflicts with neighbors or municipalities; suggestions for improving the pilot program, and any other feedback they wanted to provide.

Participation in the survey was voluntary. Five wineries completed the 2016 questionnaire, and the summary below is based on information they provided on calendar year 2015 event activities.

Acreage and Origin of grapes/fruit

Four wineries reported grape acreage ranging from 11 acres to 40 acres, with the fifth winery – which produces pear and apple wines – reporting 4.5 acres of fruit. Grapes or fruit grown on

the preserved farm or on other land that was in common ownership or leased, accounted for 75 to 100 percent of the wine produced by the wineries. Three wineries used grapes from out-of-state, which accounted for between 1 percent and 20 percent of wine produced by those wineries. Wine production for the responding wineries ranged from about approximately 1,200 to 19,000 gallons in 2015.

Marketing Wine

Most wineries indicated that on-site tasting rooms and on-site retail/wholesale sales accounted for approximately 60 to 75 percent of winery income from wine sales; the exception was a small winery that reported 20 percent of its wine sales came from its on-site tasting room and wholesale sales, with the remainder from off-site wine festivals. It hosts no public events other than occasional Garden State Wine Growers Association (GSWGA) Wine Trail Weekends.

For the other wineries, private and public events accounted for an estimated 5 to 40 percent of their wine sale income. Three wineries required (and the fourth stated intentions to require in the future) a minimum wine purchase for weddings and other life milestone events, e.g., one case per 25 guests. Responses varied regarding whether minimum wine purchases were required at other types of events. For example, one winery stated that a minimum wine purchase was required at all events, pointing to the inclusion of wine tastings as part of the ticket price. Another winery also indicated that wine tastings are included with admission for its wine festivals and stated that a minimum wine purchase for private events will be required under new management. Another winery requires minimum wine purchases only for weddings and other life milestone events, but not for public events out of concern for potential abuse.

Other reported means of marketing included through authorized outlets such as restaurants or liquor stores, farmers markets and online sales. Three wineries that market through these outlets report that they account for 2 to 31 percent of winery income from wine sales.

Food/other beverages/services

Where food was provided during events, most wineries reported it was provided by an outside caterer with no revenue-sharing to the winery. One winery did not respond to the question of who other than an outside caterer provided food, but indicated that the winery received 12 percent of a caterer's food sales. The majority of wineries allow caterers to provide non-alcoholic beverages during events. Only one winery stated that it sometimes permitted other alcoholic beverages to be provided (by an outside caterer or by party hosts for weddings) at certain events. The small winery that participates only in GSWGA events stated that no beverages are provided other than the winery's wine.

The majority of wineries listed a number of ancillary services associated with conducting events and indicated that all fees went to a third-party provider. These services include flowers, music, linens, tables, tent, music/entertainment, photographs and officiants. Four wineries reported receiving rental fees for events (e.g., facility/room, tent, equipment, supplies), with two indicating that they received admission fees and one charging a fee for setup, breakdown and cleaning fees.

Winery Event Income

Winery events, including wine sales at such events, accounted for between 5 and 60 percent of winery income in 2015.

New visitors

Wineries were asked to quantify to the extent possible the number of new visitors to the winery as a result of events in 2015 and the percentage of those visitors who subsequently returned as customers, based on records available to them or their best guesses. One winery that holds smaller events (three weddings in 2015 with no more than 150 guests) sees an estimated 10 percent of wedding guests again who become regulars. Other responses: For private and corporate events, one winery sees a return of hosts a couple of times a year and "maybe one out of 25 guests" who attended an event return based on a sign-up form in the tasting room that asks how visitors heard of the winery; 55 percent of visitors to the winery are new and about half return, based on one winery's educated guess and guest interviews. Another winery believes that most of the 8,000 guests at events in 2015 (not including the tasting room) were new to the winery and stated that many become club members and regulars. It also receives many inquiries from those who have attended other private events. The winery that only participates in GSWG events indicated no new visitors as a result of events.

Conflicts

Asked about conflicts with neighbors or a municipality, one winery indicated that a neighbor complained about music. The winery asked all musicians to lower music and monitor this, as well as relocated the music area. Another winery stated that the CADB wanted sand removed from the premises and it complied. (The CADB had determined that the importation of sand for a giant sand sculpture that was erected violated the farmland preservation deed of easement.)

Other feedback

The winery that only participates in GSWG events agreed with the statement that events are an essential marketing tool for New Jersey wineries, while the other four wineries strongly agreed with that statement. Wineries view events as a great way to market and advertise their wine and to attract visitors to their rural settings. One winery operator stated that events also

allow New Jersey wineries to compete with other wineries in neighboring states that reportedly hold these types of events. Another winery operator indicated that while they "hate" events, they regularly field calls from people asking what events are scheduled and if there are none the people do not visit. "Wineries must host events to draw people to our rural settings."

One winery manager stated that without event revenue the winery may have been forced to close. He believes that New Jersey wineries are at a disadvantage to those in the Napa Valley, Sonoma or other established wine regions where wine tourism is already inherently part of the local economy. While these wineries can sell wine by simply being open, a New Jersey winery not already in a well-trafficked area may struggle to see a single customer on a weekday. He also stated that New Jersey wineries are at a disadvantage regarding production. With humid, warm summers, New Jersey grape growers must use a disproportionately larger number of vineyard laborers to tend the vines than wineries on the West Coast. "The regulatory burden, additional labor, cost of land and scale of operations makes it incredibly difficult to compete in the wholesale market." He believes that life celebratory events are a legitimate way for a winery to generate awareness of the winery brand and drive traffic to the winery in a wine region that is working to earn legitimacy.

On the other hand, he is not in favor of permitting such events carte blanche. He believes that an open-ended approach can leave the door open to a business using preserved farmland as a catering hall or banquet facility. He also expressed concern about maintaining the authenticity and integrity of New Jersey farm products. At the conclusion of the pilot program, he expects certain limits will be in place and would like to see consideration for greater allowances for wineries that are 100% estate, mostly estate or at least sourcing exclusively from New Jersey. Regulations he would find reasonable include correlating an allowed percentage of facility rental revenue to total annual winery revenue; correlating an allowed dollar amount of facility rental revenue to total acres grown or gallons of verified New Jersey grown wine; and requiring a certain threshold of acres grown in order for private events to be allowed on the property.

Another winery that holds frequent and often large special occasion events recommended that the SADC take a favorable view of agritourism on preserved farms and encourage the young industry to be inventive. The winery manager stated that more people stay longer at vineyards than at other farms in New Jersey. He believes this is because of the events conducted and the enormous capital investment required to create a proper setting. "Americans are rediscovering farming and they are most pleased to see where a product comes from, how it is grown, produced and marketed. Our wines are truly farm to table and NJ residents appreciate knowing the source of their wine enjoying the hospitality used to sell it and sharing the experience with family and friends."

The winery that only participates in GSWGGA events noted that it is a very small winery that has no interest in conducting special events on the preserved farm now or in the future.

Two wineries did not respond to the questionnaire, but submitted letters with comments. An attorney for the first winery, which is participating in the pilot program, stated that New Jersey wineries have competitive disadvantages compared to those in other states and called for streamlining regulations and minimizing bureaucratic obstructions. He recommended the permanent adoption of the special occasion events legislation and a further liberalization of its requirements to enable farms to become sustainable and promote economic growth, new jobs, increased tourism and more revenues. He suggested that "agricultural output" of a winery on a preserved farm should be interpreted to include products that the preserved winery produces, which are manufactured from fruit, produce and/or any other products from any New Jersey farm. He stated that failure to encourage agritourism will increase the exodus of farmers and investment revenues to states that are more farm-friendly.

In contrast, the letter from the second winery owner, which does not participate in the pilot program, stated that weddings do nothing to help market estate wines and advocated stopping the pilot program. He stated that large wedding mill wineries are not really in the vineyard and winery business. He recommended that if the purpose of special occasion events is to market the winery's wines, wine should be the only alcohol served at the event. The focus should be on farming grapes and crafting quality wines.

For a summary of winery survey information, please see Attachment B.

County Agriculture Development Boards (CADBs)

Special Occasion Event Definitions

The winery special occasion events law directed CADBs to adopt a definition of what constitutes a special occasion event in each individual county. Eight CADBs have adopted such definitions to date: Burlington, Cape May, Cumberland, Gloucester, Monmouth, Ocean, Warren and Hunterdon.

Several CADB administrators met early in the pilot program to share ideas and there are similarities among several of the county definitions. Five CADBs – Burlington, Cape May, Cumberland, Gloucester, Hunterdon – adopted definitions that included broad language describing public or private gatherings organized or held to recognize, celebrate, commemorate or discuss a specific person, purpose, event or cause.

The Cape May and Cumberland CADBs limit alcohol at the event to the winery's wine and list specific examples of events that qualify as special occasion events.

Monmouth and Hunterdon's definitions clarify that they apply to events that are not otherwise permitted under the Farmland Preservation deed of easement or under the SADC's On-Farm Direct Marketing Agricultural Management Practice (AMP), which sets forth the standards that commercial farms must meet in order to receive Right to Farm protection for on-farm marketing activities. (The SADC considers activities that meet those standards to also be permitted on preserved farms.)

Warren County defines a special occasion event as one that does not threaten the public health, safety or welfare, or the agricultural production of the preserved farm, or otherwise violate the terms of the Farmland Preservation deed of easement. The Burlington CADB's definition refers to events that are of the appropriate scale so as not to significantly interfere with use of the land for agricultural purposes, and establishes that events with 250 or fewer guests are of the appropriate scale; any event that exceeds that threshold requires prior approval from the CADB.

The Ocean CADB adopted the most detailed definition of special occasion events, defining the terms "wedding," "lifetime milestone events" and "other cultural or social events" and requiring CADB prior approval for events that will attract 225 or more people, be held outside the main winery building or outside patio area, or occur on a day other than Friday through Sunday or a State or federal holiday.

The Ocean CADB further adopted a checklist for the winery to complete when seeking prior permission for an event requiring its approval, detailing aspects such as the location and hours of the event, any municipal approvals required, and the expected number of visitors and wine sales.

There are 18 CADBs, 11 of which have winery operations associated with preserved farms. Of those 11 CADBs, three have not adopted a special occasion event definition (Mercer, Salem, Sussex). Mercer and Sussex have indicated that their wineries have large exception areas where special occasion events are not subject to the pilot program, while Salem stated that its one winery sells wine only through a small shed. All CADBs with wineries in the pilot program have adopted definitions.

Delegation of SADC Approvals

P.L. 2014, c. 16 requires that wineries obtain SADC approval for any special occasion event held on a day other than Friday-Sunday or a State or federal holiday, or CADB approval if the SADC

delegates that approval authority to the CADBs. The SADC acted in August 2015 to conditionally delegate to the CADBs its authority under the law for such approvals.

Ocean and Cape May are the only CADBs to date to report approving events pursuant to that delegated authority. The Cape May CADB approved requests for a weekly Wednesday Grill Night from June to September in 2016. It approved a similar request in 2017, along with a request for a one-day tasting event with unamplified in-house music for approximately 100 attendees in the winery's tasting building. The Ocean CADB issued approvals for more than two dozen delegated events – many of them multiple-day or repeating events — under this delegated authority over the course of the pilot program. The CADBs appear to have considered all of the factors required as part of the SADC's conditional delegation of authority (e.g., number of attendees/cars, traffic, amplified music).

CADB Feedback

The SADC in June 2016 mailed questionnaires to the 11 CADBs that have wineries associated with preserved farmland. They were asked whether they have adopted a special occasion event definition, and for calendar year 2015, whether they had issued approvals of events on a day other than a Friday-Sunday or State/federal holiday pursuant to the SADC's conditional delegation of its authority; whether they were aware of any conflicts with municipalities or neighbors; their impression of winery and municipal understanding of the winery special occasion events law, and winery compliance with the law. They also were asked for any additional feedback they would like to provide. All 11 CADBs returned completed questionnaires.

At that time, six CADBs had adopted special occasion event definitions and two CADBs – Ocean and Cape May – had issued approvals of events in accordance with the SADC's conditional delegation of that authority for certain events. None of the CADBs was aware of any municipal conflicts. Most felt that wineries and municipalities understood the pilot program and the law.

The CADBs did not report issues with winery compliance in 2015, however, the Ocean CADB noted that it had adopted its definition in July 2015, but was unable to obtain from the winery an application for special occasion events until January 2016. The CADB had informed the winery it would be in violation of the pilot program law if it was not in compliance with the County's special occasion event definition by then.

The Ocean CADB has jurisdiction over the winery in the pilot program reporting the most frequent and often large special occasion events. It stated that the CADB had devoted a substantial amount of staff and Board time and effort to administering the pilot program at the county level. The review of events at the winery was a regular meeting agenda item and the

review of winery special occasion events occupied most of its time. The CADB indicated that the municipality was supportive of the pilot program and the winery, but that more communication was needed between the CADB, the town and the winery to ensure proper approvals. The Ocean CADB stated that it has approached the pilot program as an effort to collect data with the hope that this will help provide a clear path for a more focused and balanced approach to allowing certain appropriate events at preserved farm wineries.

The SADC reached out to CADBs again in August 2017 to solicit any additional feedback on the pilot program. The Ocean CADB was in the process of compiling a comprehensive report chronicling its implementation of the pilot program at the county level, which it adopted on March 1, 2018. The report noted the large volume of special occasion events held by the winery. The CADB estimated that between January 1, 2016 and March 1, 2018, the winery conducted special occasion events on approximately 324 days out of the 571 days (57 percent) the winery was open for business.

The CADB's definition of special occasion events permits the winery to hold such events without prior approval provided that attendance is limited to under 225 persons, the event is contained to the main winery building and attached patio, and the event occurs on a Friday, Saturday, Sunday, State or federal holiday. For special occasion events that do not meet those thresholds, the winery is required to submit a checklist to help the CADB review a request and evaluate any potential impacts on the preserved farm.

The CADB reported that from January 1, 2016 to March 1, 2018, the winery submitted 86 checklists for special occasion events occurring on 246 days. (That does not include special occasion events limited to the main winery building, such as weddings, which do not require checklists.) Many of the checklists submitted were for events where more than 1,500 people were expected to attend, requiring submission of a temporary parking plan, approvals by the local municipality, as well as consideration of other concerns depending on the type of event. The CADB noted that review and processing of the checklists alone represented a significant increase in the amount of time the Ocean County Planning Board staff has dedicated to the Ocean CADB (more than 86 staff hours for routine reviews, not counting additional hours dealing with specific issues that arise).

While the CADB report is supportive of special occasion events under certain conditions, it did identify some significant concerns. The report noted an October 2017 two-day food truck festival, described as a mostly outdoor event with wine service, 20-30 food trucks, vendors, live music, line dancing, live animal displays, demonstrations and vineyard tours, with food service provided by the winery's existing food service in addition to the food trucks. An estimated 10,000 to 20,000 people attended, far exceeding projected attendance. The event resulted in

several complaints directed to the County, Township and SADC, including complaints concerning the total number of attendees; the ability of winery visitors to efficiently enter and leave the onsite and offsite parking; the increase in traffic resulting in traffic congestion; public intoxication; sanitation, and safety. The CADB reported that it was in the process of obtaining more information about the complaints and addressing them with the winery.

The Ocean CADB also found the winery in violation of the special occasion events law for hosting two Dance Night events and two Food Truck Festivals in 2016 using structures or areas of the preserved farm where gas and electrical service connections had been installed, but not approved by the Township. The CADB had denied approval for the events until the necessary permits were in place. The CADB forwarded its findings to the SADC, which in April 2017 also determined that the winery was in violation of the special occasion events law for two separate offenses, contrary to N.J.S.A. 4:1C-32.8a.(5). The SADC referred the matter for further action to the Attorney General's office, which filed a complaint in Superior Court to initiate a proceeding in accordance with the Penalty Enforcement Law as required under the winery special occasion events law. This case was recently settled.

The CADB report noted the Board's concern that income from third-party vendors at special occasion events is not considered in the law or pilot program. The law requires that the gross income generated by the winery from all special occasion events must account for less than 50 percent of the gross income of winery. A vendor may pay a small flat fee to the winery for the right to sell products during a special occasion event, however the gross sales for all products sold are not captured in financial reporting procedures. "This failure greatly frustrates the determination by a local County Agriculture Development Board as to whether a specific special occasion event is an appropriate mechanism to increase the gross revenue generated by a preserved winery or whether the preserved winery is merely a 'backdrop for unrelated commercial activities,'" the report stated. The Board believes that limitations must be developed not only on the amount of income permitted by third-party vendors, but also that the size and scope of third-party vendors must be in relative relation to the winery's ability to sell wine.

The Ocean CADB's report indicates that the Board has been consistently committed to ensuring the viability of farms into the future and specifically the economic prosperity of the County's preserved farmland. As such, the CADB recommended continuation of the special occasion events law with several suggested conditions, including affording all preserved farms the same ability to hold special occasion events; limiting the frequency, size and scope of special occasion events; requiring CADB prior approval of all special occasion events; seeking a new and separate revenue source from the Legislature to fund the increased CADB oversight and administrative costs; and establishing a uniform procedure for all preserved farms limiting the

number of third-party vendors and accurately capturing the amount of all sales related to nonagricultural products sold by the third-party vendors during a special occasion event.

Please refer to Attachment C for a summary of CADB questionnaire responses and Attachment D for the Ocean CADB's report on the pilot program and its full list of recommendations.

Municipalities

The SADC in June 2016 mailed questionnaires seeking feedback on winery special occasion events to the 17 municipalities that have at least one winery associated with preserved farmland. Twelve (71 percent) responded. They were asked if in calendar year 2015 the municipality had taken any actions to enforce its ordinances, adopt new ordinances or revise existing ordinances as they apply to special occasion events at a winery; whether a winery had sought site plan or other applicable development approvals; any concerns regarding special occasion events on preserved or nonpreserved farmland; any positive or negative impacts regarding special occasion events, and any other comments they wanted to provide.

Ordinances/Concerns

Pohatcong Township, Warren County, reported adopting a special occasion events ordinance in 2016 that defines special event as a public gathering that will likely require the expenditure of Township resources (public safety, public works). The special event permit was adopted to ensure the Township could provide adequate safety and controls. East Amwell Township, Hunterdon County, had no special events ordinance, but hoped to adopt one in the near future. No wineries had applied for site plan approval or other applicable development approvals in 2015.

Pilesgrove Township, Salem County; Mansfield Township, Burlington County, and East Amwell Township stated common concerns regarding sanitation and public safety issues – e.g., bathroom facilities, parking and traffic – regardless of the preservation status of the land. East Amwell listed additional concerns – e.g., meeting the conditions of original approvals; clear definition of special occasion events (the Hunterdon CADB had not yet adopted a definition); music amplification control; alcoholic beverage control; noise and light pollution; and any limitations on the frequency of special events. Since East Amwell had no special events ordinance at the time of its response, the Township indicated that it was generally unaware of the occurrence of such events. The Township stated that it would benefit from being notified to provide some oversight on health and safety issues, especially compliance with applicable Board of Health regulations and ensuring adequate traffic and parking control.

Special Occasion Event Impacts

The majority of municipalities felt that special occasion events have a positive impact on their communities, including by promoting tourism, other businesses in the municipality and the municipality itself, as well as helping to keep preserved farms economically viable. East Amwell was the only town to point to a negative impact – i.e., occasional music amplification causing a disturbance to neighboring residents – although it was supportive of the winery pilot program and hoped it could be expanded to other types of preserved farms.

The SADC reached out to municipalities again in August 2017 requesting any additional comments, feedback or recommendations that they wanted to provide. The mayor of Plumsted Township, Ocean County, which hosts a winery that holds frequent and often large events – including the food truck festival that unexpectedly attracted 10,000 to 20,000 attendees in one weekend – recommended the establishment of maximum attendance numbers for any winery holding special occasion events based on roadway infrastructure, arrangements for offsite parking and size of the facility. While he stated that it is positive that special occasion events have become popular, the unintended consequence is gridlock due to the traffic volume. Other businesses suffer huge loss in sales and local residents are unable to drive out of their driveways. He also stated that there should possibly be a required number of security personnel on site, depending on attendance, which would help reduce the number of drunken incidents. He also stated that there should be tight control of individuals' alcohol consumption.

For a summary of municipal questionnaire responses, please refer to Attachment E.

OBSERVATIONS TO DATE

Based on the information collected to date, the SADC offers the following observations:

A. Special Occasion Event definition issues:

- Because counties are required to adopt special occasion event definitions individually, not all wineries are subject to the same allowances, permissions or requirements – creating a patchwork of standards and an uneven playing field across the state.
- CADBs generally adopted very broad definitions that essentially permit any event for any purpose, with little or no relationship to the sale of wine products. Some do not distinguish between special occasion events and typical winery marketing events that wineries already are permitted to conduct on preserved farmland outside of the pilot program – instead categorizing all events as special occasion events. Several do not address potential physical impacts and the protection of the preserved farm as an

agricultural resource.

- There is likely confusion over what constitutes a special occasion event versus an expressly permitted winery marketing event on a preserved farm.
- There is likely confusion between special occasion event definitions for purposes of the pilot program (i.e., what is permitted on a preserved farm) vs. what is permitted and eligible for protection under the Right to Farm Act.

B. Documentation issues:

- There is an inability to verify information reported by the wineries. If the information submitted is needed to ascertain compliance with the law, the information needs to be sufficiently documented.
- The SADC should explore whether certain winery information sought from wineries under the pilot program can be accessed from data supplied to other State agencies (e.g., the Division of Alcoholic Beverage Control) in order to reduce winery reporting requirements under the pilot program to the extent possible.
- The law provides for audits, however the SADC recognizes that the audit process can be burdensome to wineries. Its recently adopted audit rules take a phased approach to income verification in order to minimize documentation that wineries must provide to demonstrate compliance with the law's income limit and to avoid, as much as possible, requiring winery owners to assume the cost of conducting audits. It is not yet known whether wineries will find those documentation requirements overly onerous.
- There has been inadequate reporting by one of the seven wineries in the pilot program, which is significant given the small number of wineries participating and the number of special occasion events held at the winery.
- There was a limited response to the voluntary questionnaire sent to wineries – 26 percent completed it. Fifty percent of applicable wineries in the pilot program completed it (3 of 6 wineries – the seventh winery currently in the pilot program was not operational during the time period covered by the questionnaire).
- Some wineries indicate that the reporting and documentation requirements are overly burdensome and counter to efficient use of their resources.

C. Administrative Issues

- Not all CADBs have the staff resources, time or inclination to follow up with wineries to ensure that they are applying to CADBs for required approvals on delegated days or otherwise operating in compliance with the pilot program.
- There is a sizable administrative burden on one particular CADB that has oversight of a winery that holds frequent and sometimes large-scale special occasion events, but no funding source to provide for the increased and substantial staff time, legal fees and other administrative costs of administering the program.
- The importance of adequate oversight is underscored by the findings of that CADB and the SADC that the winery violated the pilot program on at least two occasions in connection with lack of compliance with municipal permitting related to public health and safety.
- The law directed CADBs to define special occasion events in each individual county – i.e., to determine what events are permitted on preserved farmland under the pilot program. However, the responsibility for pursuing penalties for violations under the law was given to the SADC, placing the State agency in the unusual position of enforcing county standards that it had no role in developing.
- The requirement that the SADC pursue enforcement of the special occasion events law through the Penalty Enforcement Act – which requires the agency to seek fines or suspensions in Superior Court instead of directly imposing such sanctions – impedes the ability of the SADC to promptly address violations.

D. Impact Issues

- Large and/or frequent special occasion events can have negative community impacts as seen with the October 2017 food truck festival that attracted 10,000 to 20,000 people for the weekend and prompted complaints about traffic congestion, public intoxication, sanitation and safety.
- The provision in the winery special occasion events law directing that special occasion events be held in permanent or temporary structures – presumably to limit impacts to the preserved farm and/or neighbors – is not consistently followed. If it is not practical to restrict special occasion events to such structures, an alternative limit should be considered to minimize event impacts.
- It is not uncommon for wineries to host occasional wine-paired dinners and other food events, and some wineries reportedly have incorporated restaurant operations to

accommodate events. Appropriate parameters are necessary to ensure that wineries on preserved farms operate primarily as wineries and not restaurant facilities.

NEXT STEPS

With the two-year extension of the winery pilot program pursuant to A2787, the SADC will continue the winery registration/certification process in 2018 and 2019. The SADC also will again reach out to wineries, municipalities and CADBs to seek additional information and any feedback on the pilot program that they have not already provided, including annual reports that the CADBs are newly directed to prepare pursuant to A2787.

The SADC has established, in cooperation with New Jersey Farm Bureau, a Special Occasion Events Working Group that has been meeting regularly since June 2017 to examine special occasion events as they apply not only to wineries, but to all types of preserved farms that may have an interest in holding special occasion events. The working group intends to make recommendations to the Committee for consideration.

The SADC looks forward to reviewing those findings, which it anticipates will inform recommendations the agency will make to the Legislature on future actions for consideration. Those recommendations will be issued in the SADC's final pilot program report to the Legislature.

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State of New Jersey

DEPARTMENT OF STATE

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PHILIP D. MURPHY
Governor

TAHESHA WAY
Secretary of State

SHEILA Y. OLIVER
Lt. Governor

July 9, 2018

Dear Chairman Beach and Members of the State Government, Wagering, Tourism and Historic Preservation Committee:

Thank you for inviting the Division of Travel and Tourism here today. I also would like to thank the Legislature for its continued support and Governor Murphy and Lt. Governor Oliver for their steadfast leadership and devotion to our mission. Thank you to our gracious host, Amalthea Cellars, and congratulations on your recent accolades from the Beverage Testing Institute for your "Europa 1." This blend of Cabernet Sauvignon, Merlot and Cabernet Franc, recently received a score of 97 points and a platinum medal, something the institute does not grant easily or often. Out of 8,400 wines the institute reviewed over the past three years, 97 is the highest score that's been awarded. Only nine wines have earned it.

Officially nicknamed "The Garden State" since 1954, New Jersey has been working diligently for years to revitalize its farming sector. The slogan has long confounded travelers whose only glimpse of the state is from its New Jersey Turnpike, with views of refineries and fuel tanks.

However, New Jersey has found innovative ways to pump up its Garden State credibility, boosted by proximity to neighboring New York City and Philadelphia, whose citizens often consider New Jersey their own backyard. New Jersey's location may very well be the reason the legislature approved the nickname in the first place in 1954.

New Jersey is ripe for the picking for New York and Philadelphia, and is able to serve the huge markets the state is strategically right in the middle of. What's more? New Jersey remains a vegetable-producing powerhouse, ranking among the top 10 producers of crops including cranberries (third biggest in U.S.), bell peppers (third), peaches (fourth), spinach (fourth), cucumbers (fifth) and blueberries (fifth).

Agritourism is now a source of income for one in five farms in New Jersey, which relies more heavily on agritourism than other states. While New Jersey ranks 40th in the U.S. in total farm sales, it is ninth in the nation in terms of agritourism income. With roughly one-tenth of the U.S. population living within 100 miles of central New Jersey, the state is in a geographic sweet spot for agritourism.

It's a popular choice for lots of consumers because it can be so flexible; an agritourism experience could be an afternoon at the local farm or a weekend enjoying wine trails.

Agritourism opportunities in New Jersey are plentiful and presently include on-farm direct marketing, for example farm stands and pick-your-own operations, to farm tours, hunting, fishing, wine tasting, hiking, farm festivals, hayrides and corn mazes.

Agritourism continues to grow in popularity and we are excited to help promote this growing niche market. The Division of Travel and Tourism is housed within the Department of State and our leadership, Secretary of State Tahesha Way, and we are extremely grateful for her support of tourism industry here in New Jersey.

A focus for the Division this year will be on Secretary Way's vision of being more inclusive. The Division of Travel and Tourism is looking to incorporate the agritourism market into our public relations campaigns. We are currently in the process of securing a public relations firm and will work to include this segment aggressively.

The Division is currently in conversation with the Department of Agriculture to discuss how we can cross-market Jersey Fresh products. People are becoming increasingly aware of the food they eat, where it comes from and the work that goes into producing it – educating children and adults alike about the processes that bring food from the farm to the supermarket is an important part of an agritourism venture.

Creating traditions, like going to see new lambs in the springtime, or picking strawberries together to make a fruit pie, or even choosing and cutting the family Christmas tree each year, are important to many families who value the simple things in life and hope for their children to do the same.

The growth of agritourism is not a phenomenon unique to New Jersey. Across the United States, agritourism is emerging as an important product and market diversification strategy for farmers. The potential benefits of agritourism also extend beyond the farm gate. Agritourism activities can create positive interactions between non-farmers and farmers and raise awareness about agriculture. This understanding ultimately benefits farmers because it may help reduce right to farm conflicts and garner public support for farm retention policies.

In addition, agritourism contributes to and enhances the quality of life in communities by expanding recreational opportunities, diversifying economic bases, and promoting the retention of agricultural lands. In New Jersey, working agricultural landscapes reflect the efforts of generations of farm families and often provide a defining sense of culture, heritage, and rural character.

Agritourism provides educational opportunities for school children and adults to learn about the state's agrarian heritage, the production of food, and resource stewardship. Not to mention, many agritourism operations provide consumers with direct access to fresh, locally-produced farm products.

Behind all of those bushels and cases of goodies are many New Jersey-grown stories of family farms, plenty of which invite you to come and take a look—and taste – and sip.

A study commissioned by the Garden State Wine Growers Association revealed that New Jersey's wine, grape and related industries had a total economic value to the state of \$323 million in 2016.....an increase of nearly 40% from the \$231 million economic impact in 2011! The report also estimates that about 109,000 people visited New Jersey wineries in 2016, an increase in 13.5% just five years prior.

We are excited to continue to spread the word that New Jersey wine is a serious, global contender. The progress the tourism industry has witnessed could not be possible without your ongoing support. You have given us the tools we need to best serve the people of the great state of New Jersey.

With your continued backing, I am confident that we will not only meet, but exceed the ambitious goals we have set for ourselves in the coming year. Please let me know if I can be of any assistance or if I can provide you with more information.

Thank you.

Sincerely,

Jeffrey Vasser
Acting Executive Director of the New Jersey Division of Travel and Tourism

Good afternoon Chairwoman Cruz-Perez, Chairman Beach, and members of the Senate Economic Growth and State Government Committees. My name is Eric Orlando and I am Vice President at the Kaufman Zita Group and Executive Director of the Brewers Guild of New Jersey. Here with me today is Gene Muller, the founder of Flying Fish Brewing Company located up the road in Somerdale, NJ. The Brewers Guild of New Jersey is a trade association comprised of limited licensed breweries ("microbreweries") and restricted licensed breweries ("brewpubs") which produced an estimated 75% of the craft beer brewed in the state, employing hundreds of New Jersey residents in well-paying manufacturing, service and sales positions. According to the latest statistics from the NJ Division of Alcohol Beverage Control (NJABC), there are currently 88 limited license breweries operating in the state, with 23 more applications pending before the agency as of June 2018. Also, there are at least a dozen brewpubs operating in the state with more likely on the way. For some context, there were about two dozen limited breweries operating in 2010 in New Jersey, meaning New Jersey could see a 500% increase in breweries operating in the state by the end of 2019. While these figures are extremely positive, the state still ranks 45th per capita in the amount of craft breweries operating, with state's like Pennsylvania (6) and New York (5) ranking in the Top 10 in the number of breweries operating in their respective states.

Some may ask, how do breweries in New Jersey fit into the promotion of state agritourism? For your information, New Jersey breweries have a strong connection to our state's agricultural community already. For years, New Jersey breweries have used items like honey, blueberries, peaches and pumpkins from local producers for their beers routinely. Breweries have begun to source core ingredients from upstart hop and specialty grain producers which have popped up in the last five years to cater the state's growing craft beer industry. Guild members Cape May Brewing Company and Flounder Brewing Company both produce beers approved by the state's Jersey Fresh program to carry the "Jersey Fresh" label and have been involved recently in marketing efforts with

the state Department of Agriculture. Finally, the Guild estimates New Jersey breweries donate upwards of 4 million pounds of spent grain to local farmers for animal feed annually. So, the connection is there, and vitally important to the state's craft beer and agricultural industries alike.

The Guild has a simple ask today: please make sure New Jersey's breweries are a part of the state's agritourism and overall tourism promotion efforts going forward. The committees present today can have an immediate impact to deliver on this request by continuing the advancement of two initiatives. The Guild would request that Assembly Bill 3921 sponsored by Assemblyman Mazzeo and Senate Bill 2580 sponsored by Senators Kean and Cruz-Perez be posted in the Senate Economic Growth Committee as soon as possible. The legislation would create permits allowing the sale of New Jersey craft beer, wine, spirits, cider and mead to be sold at New Jersey seasonal farmers markets for take-home consumption. Border states like Maryland, Pennsylvania and New York already allow this privilege for their state's craft beverage producers, expanding sales and marketing opportunities for breweries and the other agri-businesses which set up shop these farmers' markets. The other initiative was approved by the Senate State Government Committee in May of this year. Senate Bill 1909 sponsored by Chairman Beach would require the Division of Travel and Tourism to establish three regional brewery tourism trails in consultation with the NJABC and the Guild. This legislation awaits further action in the Senate Budget and Appropriations Committee.

More long-term, there are several ideas and policies which could be borrowed and mimicked from our out-of-state neighbors and the state wine industry and its vineyards where we all sit today. Here is a concise, concrete list to consider to help promote craft beer tourism, agritourism and the communities which host these local businesses:

- The Guild supports the introduction and advancement of brewery-specific legislation similar to Senate Bills 1057 and 1082 sponsored by Senators Van Drew, Gopal, Cruz-Perez and

Singleton offering loans and grants to New Jersey wineries for various capital improvements and expansion. Pennsylvania has had a similar financial assistance program for there state's breweries for years with great success.

- The Guild supports the introduction and advancement of brewery-specific legislation similar to Assembly Bill 1287 sponsored by Assembly Majority Leader Greenwald and Assemblywoman Murphy. New Jersey breweries would like to create a state-backed, industry-involved promotion board and marketing account derived from a small portion of the tax revenue generate from the sale of New Jersey craft beer. The state's wine industry has enjoyed the benefit of their promotion program since 1985. In recent fiscal years, the state's wine industry has had access to as much as \$260,000 to promote their industry. In Pennsylvania, Governor Wolfe awarded over \$700,000 in grants in February 2018 to breweries, non-profits, universities and trade groups to promote Pennsylvania craft beer. Its time for New Jersey to have a similar program.
- There is a bill pending in the Senate sponsored by former Senator Bob Gordon waiting to be taken up the current membership. Senate Bill 633 would allow the state's breweries, wineries and distilleries to sell each other's products from their licensed locations. States like Pennsylvania, New York and Delaware already allow this, with Delaware signing their law last month to much fanfare, with Delaware Governor Carney stating "*Delaware has a thriving craft beverage industry that helps drive our \$3 billion tourism economy. We're always looking for ways to support our craft breweries, wineries and distilleries.*"

The Guild knows that if New Jersey gets behind the agritourism and overall tourism aspects of this industry, the state, its farms and its communities can reap the financial benefits seen throughout the country. To support this assertion, I will leave you with one final example of how craft beer tourism can impact a local community. Russian River Brewing Company in Santa Rosa, California holds an

annual beer release of its renowned, highly-sought after Pliny the Younger India Pale Ale. The Sonoma County Economic Development Board commissioned a survey in February 2018 around the beer release and the two-week event held in Santa Rosa and surrounding towns. The survey counted 12,552 guests who visited specifically for the event, with 67% coming from outside the local area. The survey found overnight visitors spent an average of two nights at a local hotel or AirBnB at a rate of \$200 a night. Visitors came from 40 states and 17 foreign countries. Overall, the event had a \$3.3 million impact on the local economy according to the survey. These numbers were generated from a brewpub no larger than your average local bar or restaurant because of one reason: craft beer.

Gene and I are here to answer any further questions you may have. Thank you for allowing us to testify this afternoon.