

**Hunterdon County Agriculture Development Board Meeting**  
**Rt 12 County Complex Building 1 Assembly Room**  
**November 10, 2021 @ 8:00 pm**

**Members in Attendance:**

Dave Bond-Chair  
Bob Hoffman-Vice Chair  
Christian Bench  
Susan Blew  
Dave Kyle  
Gerry Lyness  
John Perehynys  
Marc Phillips  
Liz Schmid (*Via Phone*)

**CADB Staff Present:**

Shana Taylor, Esq. County Counsel  
Aaron Culton, Esq., Asst County Counsel  
Bob Hornby, CADB Administrator  
Carrie Fellows, Director, Planning  
Katherine Fullerton, Supervising Planner  
Kevin Milz (HCSCD)  
Megan Muehlbauer (NJAES)

*This meeting was held in person with respect to Public Health guidelines.*

**Open Public Meeting Act:**

**Chairman Bond opened the meeting at 8:00 p.m. and read the Open Public Meeting Act:**

*"This meeting is being held in accordance with the provisions of the Open Public Meeting Act. Adequate notice has been provided by prominently posting and maintaining so posted throughout the year on the first floor of the County Administration Building, Main St., Flemington, New Jersey a public place reserved for such announcements, and by mailing on or before January 15, 2021, to The Hunterdon Democrat, Star Ledger, The Trenton Times, The Courier News and The Express Times newspapers, and TAP Into it newspaper and designated by the Hunterdon County Agriculture Development Board to receive such notices, and by filing with the Hunterdon County Clerk a schedule of the times and dates of such meetings."*

**Pledge of Allegiance:**

**Roll Call:** Not Present: Ted Harwick & Forest Locandro

**Approval of Minutes:**

- **Minutes of the October 14<sup>th</sup> CADB Meeting** – Liz Schmid made a MOTION to approve, John Perehynys SECONDED. All in favor by Voice Vote. Dave Kyle & Christian Bench ABSTAINED.

**Communications and Administrative Business:**

- **CADB Staff Update** –
  - **Beam farm** (Bethlehem Twp.) - Issued Certified Market Value, landowner asked for a 30-day extension to November 12.
  - **Onuschak Farm** (Franklin Twp.) – Under final legal review. Still hoping to close this year, dependent upon landowner resolving mortgage.
  - **Magnolia Creek Farm** (Franklin Twp.) – Final approval from State Agriculture Development Committee (SADC) at their October meeting. Survey out for bid.
  - **Grochowicz Farm** (Hampton, Glen Gardner, Bethlehem) – County Counsel working out final details, hoping to close November 19.
- **Staff Activity**
  - Bob stated he received 1 new signed application that will come before the Board in December. It is the former Stem farm in Kingwood Twp. It is a long flag lot surrounded by preserved farms. Sold by Stem and the new owners want to preserve it. Have 2 other applications of interest. They are in Kingwood Twp. and Holland Twp.

- Michelle Byers, the head of New Jersey Conservation Foundation (NJCF) is retiring, Bob stated he wants to write her a letter thanking her for the work she has done for the county.
- **Communications**
  - There has been some back and forth with the Serrani Right To Farm (RTF) participants, no hearing scheduled yet.
  - Three new RTF complaints arrived; mediation is being encouraged. The complaints are in East Amwell, West Amwell, and Readington Townships.
- **Farmland Preservation Plan Update**
  - Last updated in 2008. SADC requires updates every 10 years. Received 2 bids back from contractors. Liz Schmid and Dave Kyle volunteered for the Sub Committee. Bob said he would give them the bids to look at. Need to get back to the bidders by mid-December.
- **Monitoring Update**
  - Kevin stated he visited 85 farms, no issues.

### **State Agriculture Development Committee (SADC) Updates:**

*Dave Clapp spoke on behalf of SADC*

- At the October SADC meeting the proposed Soil Protection Standards for preserved farms were discussed. Previous version a result of 2 years developing a range of categories and Best Management Practices (BMP) that would allow up to 8% or 6 acres, whichever is greater, of disturbance for agricultural development. BMPs would have allowed another 5% disturbance. Informal public comment came back that 6 acres was too much on smaller farms and that the BMPs were complicated and difficult to understand. Current version eliminates the BMPs and changes the disturbance to the larger of 12% or 4 acres with a clearer definition of disturbance. The complete presentation is available on SADC website.

### **Chair Comments:**

- Chairman Bond reminded the public that comments are limited to 5 minutes per person.

### **Old Business:**

- **Monitoring Procedure**
  - Bob included comments from Kevin Milz in the October packet. Monitoring is required and is the responsibility of the County when they assume farmland easements. There have been various previous guidelines, but it makes sense for everyone, including the landowner, Board, and Monitor, to know what is expected. Have worked through this procedure with Kevin and Mike DePalma at Hunterdon County Soil Conservation and various Board members and County Counsel.
  - Carrie Fellows, Director of Planning and Land Use, gave an overview of the process of drafting the Monitoring Procedure and the requirements of contracting for a County service.
  - Kevin Milz also gave his input on the process.
  - Bob asked for a MOTION to adopt the Farmland Monitoring Procedure. Liz Schmid made a MOTION to adopt. Dave Kyle SECONDED. All in favor by voice vote. Motion carried.

## **New Business:**

- **Term Program Renewal: Hotz Farm, Kingwood Twp. Block 23 Lot 14**
  - Property is across from Fairview Rd on County Route 519.
  - It was originally enrolled in the 8-year program in 2004 and renewed in 2013.
  - After the 8 years are up, the renewal is procedural unless the landowner objects.
  - Action is required from the Board to renew the 8-year agreement.
  - Bob and Liz Schmid were at the farm for a site visit today.
  - One difference of the Term program is properties must be actively farmed; under the Preservation Easement they must be mowed annually or available for agriculture. The landowner has 35 sheep for meat and wool, they also do breeding. It's a nice operation and are doing everything they are supposed to. It is 31 acres.
  - They are interested in another 8-year term, they are not currently interested in permanent preservation.
  - Chairman Bond asked for a MOTION. Liz Schmid made a MOTION to approve the 8-year term program. Susan Blew SECONDED. All in favor by voice vote. Motion carried.

## **Right To Farm Matters:**

- **Resolution 2021-09- Beneduce Vineyards (Alexandria Block 21 Lot 41.31)**
  - Mr. Culton stated this Resolution is to memorialize the Beneduce Vineyards Right to Farm application for On-Farm Direct Marketing Agricultural Management Practices. Mr. Culton provided a draft of the Resolution to the Attorney's for Beneduce Vineyards and Alexandria Township. The Township and Applicant provided Mr. Culton with some input. The only thing that has changed from the draft provided to the Board are spelling and grammatical corrections, and a couple clarifying points that Ms. Voigt (attorney for Beneduce) raised that he incorporated into the Resolution.
  - Mr. Culton gave a summary of the Resolution.
  - Chairman Bond asked for comments from the Board.
  - Mr. Culton asked the Board for a MOTION to approve the Resolution with the amendments that he outlined. Christian Bench made a MOTION to approve with amendments. Liz Schmid SECONDED. Chairman Bond asked for a Roll Call Vote.

David Bond, Chair			X			
Robert Hoffman, Jr., Vice Chair			X			
Susan Blew			X			
Marc Phillips			X			
John Perekhyns			X			
Dave Kyle			X			
Liz Schmid		X	X			
Ted Harwick						X
Gerry Lyness			X			
Christian Bench	X		X			
Forest Locandro						X

**9 IN FAVOR, 2 ABSENT**

**Public Comment:**

- **Daniel Herr (Clinton Township):** Update about neighbors encroaching and trespassing on his preserved family farm and of the difficulty trying to resolve the situation.

**Adjournment:**

- MOTION to Adjourn made by Liz Schmid, John Perekhyns SECONDED. All in favor, Meeting Adjourned at 8:45 PM.

Respectfully submitted,

Bob Hornby, CADB Administrator

Prepared with the assistance of Colleen Runge, Planning Department Clerk

# Hunterdon Farmland Monitoring Procedure

Adopted 11/10/21

Easement monitoring is a statutory requirement of the Farmland Preservation Program and is also the closest individual interaction between the County Agriculture Development Board (CADB) and owners of preserved properties. Consistent administration of the Deed of Easement and Restrictive Covenant is crucial to the integrity of the program. The Farmland Preservation Program is a public/private partnership that provides public funding for the conservation of private land. The goal of a viable agriculture industry on preserved land is best achieved via education, consistency, and trust between the public, the landowner, and the CADB. The aim of the Monitoring Procedure is to provide clear guidance to the Monitor, establish a consistent and predictable structure for the landowner, and provide assurance to the public that funds have been expended responsibly.

## **Monitoring Requirements**

Pursuant to N.J.A.C. 2:76-6.13, 2:76-6.18A, 2:76:16.5, and 2:76-17.16, the State Agriculture Development Committee (SADC), the County Agriculture Development Boards (CADBs), and non-profits that receive SADC cost share grant funds for the acquisition of development easements are required to monitor all lands to ensure compliance with the provisions of the Deed of Easement. Monitoring activities shall consist of the following:

1. An onsite inspection shall be performed at least once a year.
2. All inspections and monitoring shall be completed within the period commencing July 1 and ending June 30.
3. A written summary shall be provided to the CADB and SADC by July 15, verifying that the inspections were conducted during the scheduled period with a certification concerning whether the farm was in compliance with the provisions of the Deed of Easement.
4. The Board shall inform the SADC if any of the terms and conditions of the Deed of Easement were violated within 30 days of identifying such violation.
5. Appropriate action shall be taken within the Board's and/or County's authority to ensure that the terms and conditions of the Deed of Easement are enforced.
6. A database shall be maintained of all lands from which a development easement was acquired.
7. The SADC shall be annually informed of any record ownership changes which occur on lands from which development easements have been acquired.
8. The SADC shall be informed of any actions which require the SADC's review and/or approval.

## **Annual Site Visit**

1. Site visits shall be scheduled and performed by the Monitor with as much notice as practical by phone, email, or Postal Service. Initial contact should be made at least 7 days in advance, specific appointments may be made with landowner concurrence. The Easement requires no less than 24-hour notice to the landowner.
2. A Tablet is provided to the Monitor for field usage documentation and record keeping.

3. The Monitor is expected to have a clear understanding of individual easement requirements including the Deed of Easement, Restrictive Covenant (when applicable), Exception Area boundaries, and evolving CADB and SADC policies and procedures.
4. A Restrictive Covenant has been recorded on certain properties that requires annual mowing of all field areas surveyed at the time of closing. The mowing shall take place between July 15 and August 15 except those fields which contain crops which will be harvested or made in that year.
5. Monitor and Landowner awareness of the Exception Area boundaries is critical. The Monitor shall have either electronic or physical access to the preservation survey at the time of the inspection.
  - a. Buildings within the Easement Area are restricted to Agricultural usage except if specifically allowed in the Deed of Easement.
  - b. Buildings and usages within the Exception Area are not restricted by the easement.
6. Most common concerns: Property line incursions, non-agricultural uses in easement area, erosion, lack of annual mowing (when applicable).
7. Compliance negotiation is not the responsibility of the Monitor and shall not be undertaken by the Monitor. Any issue noted upon inspection should be documented, reported, and reinspected according to the Site Visit Follow-Up procedure outlined below.
8. Photos provide context for documenting potential issues. Monitors should be aware of privacy and security issues for the landowners and respect exception areas.
9. SADC "eForm" is to be completed electronically by the Monitor and filed with the SADC within 10 business days of site visit, and an electronic copy saved with Hunterdon County monthly. Restrictive Covenant violations are documented and reported separately to CADB Staff.
10. Monitor will provide a monthly written list/report to the CADB and Staff of farms visited by date and report anything notable.

#### **Site Visit Follow-up: 3 options within 10 business days of Inspection**

1. No Issue
  - a. Standardized confirmation letter/postcard to landowner
  - b. Template is approved by CADB Staff and printed by Hunterdon County upon request
2. Area of Concern
  - a. Notification to CADB Staff within 3 business days
  - b. Discussion between CADB Staff and Monitor, further action is at the discretion of CADB Staff
  - c. Letter to landowner with clear description of issue, prepared by CADB Staff with Monitor input
  - d. 30 to 90-day window (as deemed appropriate by CADB Staff with Monitor input) for landowner to address and Monitor re-inspect
  - e. CADB updated during Staff Update at regular meetings by CADB Staff or Monitor

### 3. Clear Violation

- a. Immediate notification to CADB Staff
- b. Discussion between CADB Staff and Monitor, further action is at the discretion of CADB Staff
- c. Letter to landowner with clear description of issue, prepared by CADB Staff with Monitor input
- d. SADC noticed within 30 days
- e. CADB Agenda item for discussion and course of action
- f. 30 to 90-day window (as deemed appropriate by CADB and CADB Staff with Monitor input) for landowner to address and Monitor re-inspect

#### **Record Keeping**

- Hunterdon County hosts and CADB Staff maintains an electronic folder on the Planning and Land Use drive for each preserved farm including: Survey, Deed of Easement (DOE), and previous inspection forms and photos. Folders are named using SADC ID + Owner at Preservation, with sub folders by year.
- Field use Tablet shall be updated with appropriate folders prior to site visits and not used for permanent storage.
- CADB Staff (with the collaboration of the Monitor) maintains a Monitoring spreadsheet including: SADC ID and Pin, Closing Date, Municipality, Lot and Block, Street Address, Current Property Owner and Contact Information, and Inspection Dates.

STATE OF NEW JERSEY  
AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM

NOTICE OF RENEWAL OF  
MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAM

BLOCK 23 LOT 14, 31.38 ACRES  
TOWNSHIP OF KINGWOOD, HUNTERDON COUNTY

WHEREAS, R. Waldo Hotz (Grantor), whose address is 736 Route 519, Frenchtown, NJ, is the record owner of the Premises known as Block 23, Lot 14, by deed dated June 27, 2002 and recorded in the Hunterdon County Clerk's office on July 15, 2002 in Deed Book 2042 Page 398, in the Township of Kingwood, County of Hunterdon, consisting of 31.38 acres; and

WHEREAS, on November 8, 2004, Grantor entered into a Municipally Approved Farmland Preservation Program Agreement, (hereinafter "Agreement") with the Hunterdon County Agriculture Development Board (hereinafter, "Board") and the Township of Kingwood (hereinafter, "Municipality") to create a Municipally Approved Farmland Preservation Program pursuant to the Agriculture Retention and Development Act N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, (hereinafter, "Act") and N.J.A.C. 2:76-4 et seq.; and

WHEREAS, the Agreement was certified by the State Agriculture Development Committee (hereinafter, "SADC") on December 16, 2004, pursuant to N.J.A.C. 2:76-4.7; and recorded on February 22, 2005 in the Hunterdon County Clerk's office in Deed Book 2115, at page 9 and became effective that day; and

WHEREAS, the Agreement was renewed and recorded on February 20, 2013 in the Hunterdon County Clerk's office in Deed Book 2304, at page 39, and became effective that day; and

WHEREAS, pursuant to N.J.A.C. 2:76-4.9b, the Board and the municipal governing body has conducted a review of the practicability and feasibility to continue the program within one year of the effective date of termination; and

WHEREAS, the Board has notified the Grantor to contact the Board in writing, within 30 days of receipt of the notice, if the Grantor wants to continue the program for another eight years or to terminate the program at the end of the current eight-year period; and



WHEREAS, subsequent to notification by the Board, the Grantor has provided notice to the Board of their intention to continue the Municipally Approved Farmland Preservation Program for another eight years and that the Grantor has confirmed to the Board the following:

1. That the record owner(s) of the Premises as identified in the Agreement has not changed since the creation of the initial Municipally Approved Farmland Preservation Program;
2. That the legal metes and bounds description of the boundaries of the Premises has not changed since the creation of the initial Municipally Approved Farmland Preservation Program;

WHEREAS, the Grantor has notified the Board that they wish to continue the Municipally Approved Farmland Preservation Program for an additional eight (8) years;

NOW THEREFORE, pursuant to N.J.A.C. 2:76-4.9c, the Municipally Approved Farmland Preservation Program shall continue in effect for another 8-year period; and

BE IT FURTHER RESOLVED, that the Board shall record a notice of renewal of the Municipally Approved Farmland Preservation Program with the County Clerk's Office; and

BE IT FURTHER RESOLVED, that the notice of the renewed Municipally Approved Farmland Preservation Program shall be provided to the SADC, Grantor, soil conservation district, municipal tax assessor, municipal governing body, municipal planning board and municipal clerk, county planning board, and county governing body.

THE UNDERSIGNED, being Chairman of the Hunterdon County Agriculture Development Board, hereby accepts and approves the Notice of Renewal of the Municipally Approved Farmland Preservation Program.

ACCEPTED AND APPROVED this 10<sup>th</sup> day of November 2021.

 \_\_\_\_\_

David Bond, Chairman

Hunterdon County Agriculture Development Board

STATE OF NEW JERSEY, COUNTY OF HUNTERDON SS:

I CERTIFY that on NOVEMBER 10<sup>th</sup>, 2021, David Bond personally came before me and acknowledged under oath, to me satisfaction, that this person:

- a) Is named in and personally signed the attached document; and
- b) Signed, sealed, and delivered the document as the Board’s act and deed; and
- c) Is the Chairman of the Hunterdon County Agriculture Development Board.

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**SUSAN L. PENA**  
NOTARY PUBLIC OF NEW JERSEY  
Comm. # 50082529  
My Commission Expires 5/18/2023

Signature, Name, and Title

Prepared By:  \_\_\_\_\_

Bob Hornby

CADB Administrator

SGREKDULE A

Property. The property consists of the land and all the buildings and structures on the land in the Township of Kingwood County of Hunterdon and State of New Jersey. The legal description is:

BEGINNING, at a stake in the public road leading from Stockton to Baptistown corner to other land of the said James W. Kerr, thence by his line along the road (1) North sixteen degrees East nine chains and seventy-one links to a stone in the Junction of the road, corner of formerly Hiram Rittenhouse's land; thence by formerly his line (2) North nineteen and a half degrees East, one chain to a stake on the Westerly side of the road; thence still by formerly Rittenhouse (3) North eighty-eight degrees East, seven chains and sixty-four links to a stone; thence (4) North a half a degree East, ten chains and seventy-three links to a corner in the aforesaid road; thence (5) North fifty and three-quarter degrees East, five chains and seventy-two links by formerly Rittenhouse to a corner in the road; thence still by the same (6) North sixty-six and a half degrees East, six chains and four links to a corner of formerly Lewis Cline's land; thence by the same (7) South five and three-quarters degrees East, eight chains and twenty-two links to a corner in Jacob Wilson's line; thence by his line (8) South eighty-seven and three-quarter degrees West, three chains and fifty-nine links to a stone; thence still by Wilson (9) South a half degree West, eight chains; thence by the same (10) South thirty-four and three-quarter degrees East, twenty-four chains and thirteen links to a corner; thence (11) South fifty-eight degrees West sixteen chains and fifty-five links to a stake corner to land sold to Charles T. Willson, now Edna B. Risler; thence by her line (12) North twenty-eight and a half degrees West, thirteen chains and six links to a stake opposite the end of a hedge; thence (13) North twenty-five degrees West, eight chains and fifty-two links to a stake in the South bank of a ditch; thence (14) South seventy-three and a half degrees West, seven chains and twenty-five links to the Beginning, containing fifty-six acres and fifty hundredths of an acre of land, more or less.

EXCEPTING THEREFROM, two tracts, the FIRST, conveyed by Judson R. Kerr and wife, to Hiram Rittenhouse, bearing date April 1, 1892, recorded

in the Hunterdon County Clerk's Office in Book 233 of Deeds, at page 439, and described as follows: BEGINNING at a stone corner to other land of Hiram Rittenhouse, thence by his line (1) North a half degree East ten chains and seventy-three links to a stone in the road leading from Barbartown to Baptistown; thence along said road (2) North fifty and three-quarter degrees East five chains and seventy-two links; thence still along the road and Rittenhouse (3) North sixty-six and a half degrees East six chains and four links to the corner of Lewis Cline's land; thence by his line (4) South five and three-quarter degrees East eight chains and twenty-two links to a corner in Jacob Wilson's line; thence by the same (5) South eighty-seven and three quarter degrees West three chains and fifty-nine links to a stone; thence still by Wilson's line (6) South a half degree West eight chains to a small hickory tree; thence by a line run 1892 (7) South eighty-seven degrees West seven chains and nineteen links to the Beginning, containing twelve acres of land, more or less.

The SECOND conveyed by Judson R. Kerr and wife, to Edna B. Risler, bearing date January 6, 1916 and recorded in the Hunterdon County Clerk's Office in Book 323 of Deeds at page 167, and described as follows: BEGINNING at a stone in the line of David Cline, a corner to lands of Judson R. Kerr and Edna Risler formerly Charles T. Wilson and running thence by Risler (1) North twenty-six degrees thirty minutes West 713 feet more or less to the center of a large willow tree and running thence by lands of Judson R. Kerr (2) North thirty-nine degrees East 331 feet more or less to a stake and running thence by Kerr (3) North fifty-two degrees East 100 feet more or less to a stake and running thence still by Kerr (4) North fifty-nine degrees East 344 feet more or less to a corner and running thence by the same (5) South nineteen degrees thirty minutes East 428 feet more or less to a stake running thence still by Kerr (6) South twenty-six degrees fifteen minutes East 432 feet more or less to corner in the line of Jacob K. Wilson and running thence by his line (7) South sixty degrees thirty minutes West 685 feet more or less to the place of Beginning, containing 13.12 acres more or less.

BEING the same lands and premises conveyed by Carl Padgett and Douglas Padgett by deed from Carl Padgett dated November 10, 1978, recorded November 13, 1978, in Book 835, Page 971, and by deed dated September 28, 1978, recorded December 19, 1978, in Book 837, Page 586.

The said Carl Padgett married Roselyn Padgett on October 23, 1983.

## **RESOLUTION #2021-09**

**RE: Hunterdon County Agriculture Development Board  
Beneduce Vineyards  
Block 21, Lot 41.31, Township of Alexandria, County of Hunterdon**

### **WHEREAS:**

On June 27, 2019, Beneduce Vineyards, LLC, (“Beneduce”) filed a Request for Site Specific Agricultural Management Practice Application for Hearing with the Hunterdon County Agriculture Development Board (“CADB”), requesting a determination that wine tastings, wine sales, vineyard tours, and indoor and outdoor public and private events with an educational component, wine tasting and vineyard tours, which at times feature live background music and third-party food truck vendors and/or caterers, are on-farm direct marketing events, which are either permitted under the New Jersey Right to Farm Act as an Agricultural Management Practice pursuant to N.J.A.C. 2:76-2A.13 or are permitted under the New Jersey Right to Farm Act as a Site-Specific Agricultural Management Practice pursuant to N.J.A.C. 2:76-2.1.

The Application filed by Beneduce was opposed by the Township of Alexandria (“Township”) citing, among other things, violation of the Township’s ordinances by holding “commercial events”, violation of the Township’s general nuisance code for the loud music emanating from the Property, and complaints from neighboring residents. The Township maintained that relief sought by Beneduce was not a protected activity under the Right to Farm Act and that Beneduce should be applying with the Township for Zoning approval.

The parties engaged in efforts for the better part of almost two years to mediate their dispute. While many of the issues in dispute were resolved by the submission of Beneduce’s site and traffic management plans to the Township Planner and Engineer, there were disputed items which required resolution by the CADB.

Prior to the commencement of the hearing, Beneduce withdrew any request for protection under the Right to Farm Act to operate as a wedding venue to conduct weddings or offer other event planning services on-site. Their application was limited in scope to seeking approval to engage in farm marketing activities and events which they argued were 100% in compliance with the New Jersey State Agriculture Development Committee (“SADC”) Regulations.

On October 29, 2020, following Certification of Beneduce as a Commercial Farm, and determining that the CADB has primary jurisdiction to hear the Site Specific Agricultural Management Practice Application filed by Beneduce, the CADB commenced a public hearing at a Special Meeting scheduled and noticed by the CADB.

Formal notice of the public hearing was also adequately published in the Hunterdon County Democrat and served on all property owners within 200 feet of the property by Nicole L. Voigt, Esq. for Beneduce.

At the hearing which opened at an in-person Special Meeting on October 29, 2020, Nicole Voigt, Esq. of Shanahan and Voigt appeared on behalf of Beneduce and Sharon A. Dragan, Esq. of Mason, Griffin & Pierson appeared on behalf of the Township of Alexandria. The public hearing was adjourned and reconvened for testimony at both a Special Meeting held via Zoom on March 29, 2021 and the regular in-person monthly meeting of the CADB held on September 9, 2021. The Board determined that Beneduce maintained its commercial farm status throughout the course of the hearing.

The Applications for Commercial Farm Certification and Request for Site Specific Agricultural Management Practice Application for Hearing with the Hunterdon County Agriculture Development Board are a part of the record before the CADB. The balance of the Exhibits introduced and referenced over the course of this hearing were marked and entered into the record as follows:

**Beneduce Exhibits:**

- Exhibit B1: Aerial Map, location of vines and greenhouses
- Exhibit B2: Aerial Map, location of Vines, Winery and Property Boundary
- Exhibit B3: Aerial Photo Bandstand and Circular Tables
- Exhibit B4: 2019-2020 Plenary Winery License
- Exhibit B5: Certificate of Occupancy; Office and Bathrooms
- Exhibit B6: Annual Fire Safety Inspection Certificate
- Exhibit B7: Certificate of Occupancy; Winery and Tasting Room
- Exhibit B8: Life Hazard Use Certificate; Wine Tasting Room
- Exhibit B9: Hunterdon County Health Department Risk-Based Inspection Report
- Exhibit B10: Hunterdon County Health Department Sanitary Inspection Report
- Exhibit B11: Alexandria Township Retail Food License
- Exhibit B12: Alexandria Township Fire Safety Permit; Oasis
- Exhibit B13: River-Friendly Farm Certificate
- Exhibit B14: Hunterdon County Health Department Sanitary Inspection Report; Cone Appetit
- Exhibit B15: Alexandria Township Retail Food License; Cone Appetit
- Exhibit B16: Survey and completed surveys sent back to Alexandria Township
- Exhibit B17: Traffic Management Plan Aerial, prepared by Dolan and Dean
- Exhibit B18: Traffic Safety Evaluation & Event Management Plan, prepared by Dolan and Dean
- Exhibit B19: Parking Areas, Permanent Parking Lot (Photo)

Exhibit B20: Traffic Signage, No Left Turn and One-Way Signs at Driveway Exit (Photo)

Exhibit B21: Traffic Signage Speed Limit 10 MPH (Photo)

Exhibit B22: Traffic Signage Keep Right Driveway Sign (Photo)

Exhibit B23: Traffic Signage Pedestrian Crosswalk and Stop Sign (entering) (Photo)

Exhibit B24: Parking Areas Temporary Overflow Rear Lot 1 (Photo)

Exhibit B25: Kenyon Planning Request for a Site Specific Agriculture Management Practice Report

Exhibit B26: Beneduce Vineyards – Zoning map

Exhibit B27: Beneduce Vineyards – Zoning map overlayed with aerial

Exhibit B28: Improvement Plan Prepared by Parker Engineering

Exhibit B29: Financial Affidavit

Exhibit B30: Memo from Jack Zybura, Lewis Goodfriend & Associates Acoustic Engineers

Exhibit B31: [Skipped]

Exhibit B32: Tara Kenyon, AICP/PP, Planning Comment notes in rebuttal to Alexandria Township

Exhibit B33: Summary Standard for Protection Events and Entertainment as per the Agricultural Management Practice for On Farm Direct Marketing Activities, Events and Facilities

Exhibit B34: August 25, 2021 email from Hunterdon County Economic Development to Michael Beneduce regarding the promotional advertisement of the Hunterdon 579 Trail

Exhibit B35: Hunterdon County Economic Development, Hunterdon County 579 Trail, website showing a September 7, 2021 search of events based upon the search term “music”

Exhibit B36: Beneduce Vineyards’ Group Therapy + Sunday Picnics current, updated web page, printed September 3, 2021 in response to Alexandria Township’s planner submission of a partial excerpt from this single web page

Exhibit B37: Beneduce Vineyards response the August 3, 2021 review letter by Alexandria Township Engineer Thomas Decker

Exhibit B38: List of Unreasonably Burdensome Municipal Requirements from which Beneduce Vineyards Requests Relief

Exhibit B39: July 29, 2021 letter from New Jersey State Board of Agriculture to Michael Beneduce of the 2022 New Jersey Outstanding Young Farmer (OYF) Award

**Township Exhibits:**

Exhibit T1: Private Events advertised on the Beneduce website

Exhibit T2: Memo from Van Cleef dated March 10, 2020

Exhibit T3: Memo from David Banisch dated April 5, 2020

Appearances and testimony were made over the course of the hearing by the following witnesses on behalf of the parties and the public:

**For Beneduce:**

Nicole Voigt	Attorney for the Applicant
Michael Beneduce	Applicant
Gary Dean	Dolan and Dean Engineering
Tara Kenyon	Kenyon Planning
Jack Zybura	Lewis S. Goodfriend and Associates, Acoustical Engineer
Audrey Cross/Gambino	Wine Expert, Alba Vineyard Owner, Legal Chair of Garden State Wine Growers Association

**For Alexandria:**

Sharon Dragan	Alexandria Township Attorney
Thomas R. Decker	Van Cleef Engineering Associates, Alexandria Township Engineer
David Banisch, PP, AICP	Alexandria Township Planner

**For the Public:**

Jeff Miller	Neighbor
Danielle Nicota	Neighbor
David DeFrance	Kingwood farmer
Jim Robinson	Hunterdon Chamber of Commerce
Sachin	Neighbor
Ralph Franzese	Neighbor
Dennis Stack	Neighbor
P.T. Springwell	Readington Township Resident
Chris Kroese	Neighbor

The following relevant testimony was provided during the hearing on October 20, 2020:

1. Beneduce is a winery located at 1 Jeremiah Lane in the Township of Alexandria (Block 21, Lot 41.31) in the Airport Business and Agricultural Residential Zone, consisting of approximately 51 acres. They grow grapes and manufacture, bottle and sell their wine on site. They are seeking use approval and site approval under the On-Farm Direct Marketing Agricultural Management Practice for the activities they conduct at their farm. Specifically, they are seeking protection for the following activities:
  - A. Indoor and outdoor public events;
  - B. Private wine tasting events;
  - C. Live and recorded amplified background music designed to draw customers to the farm within designated dates and times set forth in the SADC Regulations, and subject to State noise/decibel level requirements;
  - D. Food pairings offered at public events by food truck or by patrons bringing their own food; and
  - E. Third party catering at private wine tastings, or by patrons bringing their own food.
2. Beneduce is before the CADB based, in part, on correspondence received from the Township citing complaints of noise and operations on-site without municipal approvals for their activities. Wedding events have been discontinued at the property.
3. Michael Beneduce, owner of Beneduce Vineyards, testified that Beneduce has 22 acres of grapes and generates 83% of its gross revenue from the sale of wine. All other activities account for approximately 15% of gross revenue. He produces and bottles the wine on-site, and markets the sale of wine utilizing on-farm marketing activities, such as wine tastings, tours, and food and music nights. Fees for event attendance are nominal, and generally cover the cost of the event operations such as musicians, security, and sound technicians. The majority of revenue is generated from the sale of wine.
4. The marketing events and activities take place in the area of the property located in the Airport Business District, adjacent to a commercial airport.
5. Measures have been taken to direct traffic to and from the property utilizing County roads in an effort to avoid traffic flow through neighboring residential areas. At the end of music nights, a flagger directs exiting traffic away from the residential neighborhood.
6. Beneduce employs a sound technician on music nights to properly balance the volume of noise on site to meet State compliance levels.
7. Staff bartenders have extensive training and must be “TIPS” certified before they can serve alcohol.
8. Beneduce is willing to work with the Township Engineer to comply with reasonable recommendations as to the flow of traffic to, from and on the site.



9. Music nights are hosted year round, and generally occur outside between April 1<sup>st</sup> to October 31<sup>st</sup>, weather permitting. The outside events on Saturday evenings are normally attended by 300-350 people, but may meet or exceed 400 people, on occasion. The indoor music events occur in the “Oasis” building, which has a capacity of 250.
10. The Township circulated a survey to neighboring landowners in advance of the hearing. Copies of the Survey questions were introduced as Exhibit B16. Beneduce believes it was sent to elicit complaints. The Township indicated that it was sent to obtain a general community opinion about the vineyard operations.
11. Beneduce is capable of holding more than one event at a time in the “Oasis” building, and further confirmed that they would be amenable to limiting the number of food trucks at events.
12. Gary Dean of Dolan & Dean Engineering testified as an expert in the area of traffic engineering. He reviewed the Traffic Management Plan and Event Management Plan he prepared on behalf of Beneduce, and summarized the recommendations he made to Beneduce to improve the suitability and safety of the traffic flow and parking for the events conducted by Beneduce. Further, at the request of the Board, Mr. Dean summarized the areas of the plans where Beneduce was specifically willing to comply with requests for revisions to the plans made by the Township, and where their positions were at odds. His position is that the plans proposed on behalf of Beneduce meet the on-farm direct marketing AMP standards.
13. Thomas R. Decker, Alexandria Township Engineer, testified on behalf of the Township and further identified to the Board where the Township is in agreement with the traffic and parking plans prepared by Beneduce, and where they remained in disagreement. Beneduce then further confirmed where they were willing to cooperate with Township review.

The following relevant testimony was provided during the hearing held via Zoom on March 29, 2021:

1. The parties agreed prior to this hearing date to focus the testimony on the planning aspects of the Beneduce application.
2. Tara Kenyon testified as an expert in the area of Professional Planning with an expertise in Right to Farm matters. She is familiar with the facility and events conducted on the site, and testified that the proposed marketing activities, events and facilities comply with the on-farm direct marketing AMP. Specifically, Ms. Kenyon reviewed why each of the elements identified on the plans submitted on behalf of Beneduce complied with the on-farm direct marketing standards and requirements for facilities, hours of operation, lighting, sanitary facilities, safety measures, signage, parking, screening and buffering, outdoor sales areas, and use of structures set forth in N.J.A.C. 2:76-2A.13.
3. Tara Kenyon testified that Beneduce has a sufficient Event Management Plan, and reviewed the plan with the Board, which incorporates the Traffic Management Plan which is designed with the safety of the guests to the site in mind.

4. Tara Kenyon further testified that the entertainment activities such as music nights are designed, as intended by the on-farm direct marketing AMP, to attract customers and enhance the experience of guests who are at the farm to purchase wine. She confirmed once again that Beneduce's income from the fees for these events is de minimis compared to the income generated from the sale of wine at these events.
5. Tara Kenyon testified that all activities conducted by Beneduce comply with hours of operation set forth in the on-farm direct marketing AMP. In fact, most events where background music is conducted end at 9:00PM, which is earlier than the hours prescribed by the AMP of 10:00PM or, on occasion, 11:00PM. Beneduce intends to continue to comply with the AMP, and any longer hours needed will be addressed in the Event Management Plan.
6. Tara Kenyon also testified that Beneduce voluntarily complies with the State standards for noise, and makes great efforts to self monitor the sound, particularly during music nights, to avoid exceeding those limits during their events, even though they are not required to do so.
7. In addition to her testimony concerning the compliance with the site activities with the on-farm direct marketing AMP, Ms. Kenyon reviewed relevant case law involving similar operations in other New Jersey counties in support of Beneduce's application.
8. Michael Beneduce testified that, while he would be able to market and sell his wine products without on farm events and activities, his sales increase significantly through the on-farm direct marketing events he hosts.
9. David Banisch, Alexandria Township Planner, testified on behalf of the Township that he is familiar with the on-farm marketing activities conducted on the Beneduce farm, and is of the opinion that certain activities that are being conducted do not appear to fit within most of the current legal decisions he has analyzed by the SADC. Specifically, special occasion events, whether public or private, and the public music nights conducted on site do not constitute ancillary events that are accessory to the sale of wine on the farm. Such non-agricultural activities are the reason for the attendance, and are therefore disproportionate when compared to the sale of the wine at the events. He argued that many of the events are not protected activities under the Right to Farm Act which the CADB has jurisdiction to approve. Rather, they are commercial activities that must be approved at the Township level.
10. David Banisch reviewed some of the activities advertised on the Beneduce website to demonstrate that they did not represent ancillary entertainment-based activities, that were incidental components to the direct-market sales, and did not fit the vision of the SADC's intent when the on-farm direct marketing AMP was enacted. Once again, he reiterated that the events need to be background events, and not the primary activity drawing the guests to the property. Many of the events conducted by Beneduce, particularly the live music nights, are intense musical experiences which constituted more than just an incidental component of the operation. The special occasion and live music events should be determined by Alexandria Township under the Special Events Ordinance or variance for the use, not by the CADB.

11. David Banisch, on behalf of the Township, suggests that, if the CADB determines that Beneduce's activities are protected by the on-farm direct marketing AMP, they should be limited in frequency, consistent with SADC recommendations under the Pilot Program for preserved farms.
12. When questioned by Nicole Voigt, whether the Pilot Program for wineries on preserved farms was different from farms working under the on-farm direct marketing AMP, David Banisch acknowledged that it was. The Pilot Program was intended to allow weddings, which Beneduce is not seeking in its Application. Further, he acknowledged that the CADB is permitted, in its discretion, to issue site plan approval under the on-farm direct marketing AMP.
13. Several members of the public provided public comment in support of the activities conducted by Beneduce for which Right to Farm protection is being sought.

The following relevant testimony was provided during the hearing on September 9, 2021:

1. Beneduce summarized the events and activities they are seeking protection for from the CADB under the on-farm direct marketing AMP.
2. Tara Kenyon testified again on behalf of Beneduce, and summarized the way in which the events and activities conducted by Beneduce met the definitions and standards under the on-farm direct marketing AMP, N.J.A.C. 2:76-2A.13 (Exhibit B32). In her professional opinion, each of the specific events for which Beneduce is seeking Right to Farm protection, including the live and recorded background music events, met the standards promulgated by the SADC in its regulations, and satisfied the proportionality test as an accessory to the direct sale of the product which is being marketed on the farm.
3. Nicole Voigt introduced the August 3, 2021 Beneduce Vineyard Review Memorandum (B37) prepared by Thomas R. Decker, the Township Engineer which provided his review of the Plan titled "Traffic Management Plan, Beneduce Vineyards" as prepared by Dolan & Dean Consulting Engineers, LLC, dated December 2, 2020, and the letter he received from Nicole Voigt bearing the same date. This Memorandum updated his previous March 2020 Memorandum. Beneduce is willing to comply with the recommendations and requirements set forth in the August 3, 2021 Memorandum, with a few exceptions.
4. Beneduce is seeking specific relief from three municipal requirements which it maintains are still in dispute (B38):
  - (1) Relief from the Township Ordinance requirement to stabilize the access lanes to the overflow sod parking area for cars and a food truck;
  - (2) Relief from Alexandria Township's position that the 13 feet, more or less, width of a gravel laneway used for one-way traffic represents a public health and safety concern; and
  - (3) Approval of 3 ADA parking spaces as opposed to 8 ADA parking spaces amongst the 49 existing parking spaces.

5. Tara Kenyon testified that the relief sought for the three remaining municipal requirements in dispute should be granted by the CADB, indicating the following:
  - (1) The on-farm direct marketing AMP permits and anticipates parking on grass, which is beneficial for farms as it reduces impervious coverage, improves run-off, and allows for the area to be returned to tillable acreage, while increasing the agricultural aesthetics of the farm.
  - (2) As part of the Traffic Management Plan, Beneduce proposes a plan for the flow of traffic during their larger attended events via one-way traffic which is circulated at the end of the event over farm lanes. This does not need to be widened to accommodate 2-way traffic, as only one-way traffic is proposed.
  - (3) Beneduce has agreed to relocate 3 ADA parking spaces. 3 spaces has always been adequate for the facility. In the event it is determined at a later date that additional spaces are needed, this could be updated on the Event Management Plan which will be submitted to the Township annually.
6. Beneduce agrees to submit an Event Management Plan annually to the Township in accordance with N.J.A.C. 2:76-2A.13(n), which details traffic management, safety protocols, noise, garbage disposal, and staff training. In addition it will include the scope of events for the year and explain how traffic circulation is going to work for larger events.
7. Thomas Decker testified on behalf of the Township in support of the Township's position that the three issues in dispute should be complied with by Beneduce. In response to his testimony, Beneduce agreed to increase the ADA parking spaces to five, utilizing temporary signage, when the need arises during larger events. Further, Beneduce will move the food truck to the gravel area. The parties remain at odds over the stabilization of the access drive, the parking area, and the two way traffic.
8. Jack Zyburra, an acoustical engineer and project manager at Lewis S. Goodfriend & Associates, testified on behalf of Beneduce. He has taken decibel measurements of the property, both announced and unannounced, during music nights, and the readings were always below the state standards of 65 decibels. Beneduce has a sound engineer on site during live events to monitor the sound input. In addition, the speakers are generally directed downward at the request of the Township Planner.
9. Audrey Cross-Gambino testified on behalf of Beneduce as an expert in the wine industry in support of Beneduce's activities at the farm. She is the legal chair of the Garden State Wine Growers Association and owns and operates Alba Vineyards in Pohatcong Township, and testified that events such as the ones held on the Beneduce site are essential to attract customers and market their products.
10. Michael Beneduce provided rebuttal testimony in support of his operation, the activities he was seeking Right to Farm protection for, and the basis for the relief from the issues in dispute concerning the Traffic Management Plan. He reiterated that his events meet the proportionality standard for marketing events, and are intended to draw patrons there for the direct sale of the wine.

11. The Township opposes music nights and events which it does not believe are really intended for wine tasting. They have concerns with the traffic, parking and safety of the site during events, along with the frequency of those events and the noise generated therefrom. The Township does not believe that musical entertainment at the Beneduce site is part and parcel to selling wine at all times of the year, or qualify as an ancillary or incidental activity. At the very least, the Township is asking the CADB to make sure protective measures are in place for the activities approved.

NOW THEREFORE, BE IT RESOLVED that the Hunterdon County Agriculture Development Board makes the following findings of fact:

(1) The property in question is known as Block 21, Lot 41.31, in the Township of Alexandria.

(2) The farm and agriculture uses are permitted in the zone in which it is located.

(3) Beneduce runs a commercial farm operation on the property. The farm was certified by the Hunterdon County Agriculture Development Board as a commercial farm.

(4) On Farm Direct Marketing activities are protected under the Right to Farm Act.

(5) The CADB has jurisdiction to hold a public hearing and issue findings and recommendations in this matter.

(6) While there was an effort made to mediate the dispute between Beneduce and the Township of Alexandria, there remains clear disagreements among the parties which necessitated the hearing of this application and the resolution by this Board.

(8) Based on the testimony of Beneduce, there is a sufficient proportionality between the sale of on-farm products and the events conducted at the Beneduce property to justify Right to Farm protection.

(9) The events conducted at Beneduce Vineyards fall under the purview of the AMP for On-Farm Direct Marketing Facilities, Activities and Events, N.J.A.C. 2:76-2A.13.

(10) While the Township has raised legitimate concerns with the indoor and outdoor events and activities conducted by Beneduce, the CADB believes adequate protections are in place to minimize the impact on neighboring landowners, and the operation, subject to any additional conditions imposed by this Resolution, is in compliance with the AMP for on-farm direct marketing activities.

NOW, THEREFORE, BE IT RESOLVED that the Hunterdon County Agriculture Development Board, after reviewing and considering the testimony and evidence submitted by the parties, and balancing the interests of Beneduce Vineyards, the Township of Alexandria, and the public, makes the following findings:

(1) Provided Beneduce complies with the standards required by N.J.A.C. 2:76-2A.13 to receive protections of the Right to Farm Act, the following activities proposed and conducted by Beneduce qualify as protected activities under the Right to Farm Act as an accepted Agriculture Management Practice for on-farm direct marketing facilities, activities, and events, in accordance with N.J.A.C. 2:76-2A.13:

- A. Indoor and outdoor public events;
- B. Private wine tasting events;
- C. Live and recorded amplified background music designed to draw customers to the farm within designated dates and times set forth in the SADC Regulations, and subject to State noise/decibel level requirements;
- D. Food pairings offered at public events by food truck or by patrons bringing their own food; and
- E. Third party catering at private wine tastings, or by patrons bringing their own food.

(2) In connection with its approved on-farm direct marketing activities, Beneduce shall comply with the December 2, 2020 Traffic Management Plan, and shall update the Plan and incorporate the conditions set forth in the Review Memorandum prepared by the Alexandria Township Planner, Thomas R. Decker, PE, PP, CME dated August 3, 2021 (Exhibit B37), to include the following clarifications, exceptions, revisions and additions:

A. Traffic Report Review

- (1) Comment 5 – The missing dimensions will be added to the Plan.
- (2) Comment 9 – A pavement detail shall be added to the Plan.
- (3) Comment 11 – The Plan will be updated to relocate the food truck to the gravel area at the Southeast corner of Parking Lot #1 for stability.
- (4) Comment 14 – The Plan will be updated to reflect 10 parking spaces for employees.

B. Traffic Management Plan Review

- (1) Comment 1(a)(ii) – The ADA parking spaces shall be shifted to align with the walkway to the patio on the Plan.
- (2) Comment 1(a)(iii) – The number of buses that can be accommodated shall be identified on the Plan.

- (3) Comment 1(a)(iv) – The Plan will be updated to identify if the tank is above or below ground and whether bollards exist or are proposed.
  - (4) Comment 1(b)(ii) – The Plan will be updated to relocate the food truck to the gravel area at the Southeast corner of Parking Lot #1 for stability.
  - (5) Comment 1(c)(ii) & (iii) – The parking areas shall be adjusted on the Plan to comply with Township Ordinance which requires a minimum 10 foot buffer between off-street parking and the property line.
  - (6) Comment 1(c)(iv) – Directional arrows will be corrected on the Plan.
  - (7) Comment 1(d)(ii) – The snow fencing barrier near the septic shall be updated on the Plan.
  - (8) Comment 1(e)(ii) – The drives and parking aisles in the employee parking area shall be designed on the Plan so that each motor vehicle may proceed to and from a parking stall without requiring the moving of any other motor vehicle.
  - (9) Comment 1(f)(iv) – The bus parking area and access drives shall be stabilized with a gravel surface on the Plan.
  - (10) Comment 3(d) – The Plan shall be updated to provide for an additional five (5) ADA parking spaces during larger events, which may be temporarily placed with the existing parking using temporary, portable ADA signage.
  - (11) Comment 3(e) – Updated building/venue labels will be added to the Plan.
  - (12) Comment 3(f) – Maximum permitted occupancy will be added to the Plan.
  - (13) Comment 3(g) – Paving details will be added to the Plan for the ADA parking spaces and the minimum 25 foot driveway entrance from Jeremiah Lane.
  - (14) Comment 3(h) – Plan review and comment shall be submitted to the Township Fire Marshall with the annual Event Management Plan submission.
- C. Beneduce is granted relief from the Township Ordinance requirement to stabilize the access lanes to the overflow, sod parking area, which is not utilized in wet, inclement conditions.
- D. Beneduce is granted relief from the Township Ordinance requirement that the one-way lane which is otherwise utilized as a farm lane be widened.
- (3) Beneduce shall annually submit an Event Management Plan to the Township in compliance with N.J.A.C. 2:76-2A.13(n), to include amended Traffic Management Plan as set forth above.
  - (4) This determination shall be forwarded to the State Agriculture Development Board within 30 days pursuant to N.J.S.A. 2:76-2.3(l).

(5) Any person who does not agree with this Resolution may appeal to the State Agriculture Development Committee pursuant to N.J.S.A. 2:76-2.3(m).

HUNTERDON COUNTY AGRICULTURE  
DEVELOPMENT BOARD

  
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DAVE BOND, CHAIRMAN

Dated: November 10, 2021



# N.J.A.C. 2:76-2A.13

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- [NJ - New Jersey Administrative Code](#)
- [TITLE 2. AGRICULTURE](#)
- [CHAPTER 76. STATE AGRICULTURE DEVELOPMENT COMMITTEE](#)
- [SUBCHAPTER 2A. AGRICULTURAL MANAGEMENT PRACTICES: GENERALLY ACCEPTED OPERATIONS AND PRACTICES](#)

## § 2:76-2A.13 Agricultural management practice for on-farm direct marketing facilities, activities, and events

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**(a)** This section, which is an agricultural management practice, sets forth the standards for on-farm direct marketing facilities, activities, and events that commercial farms must comply with to receive the protections of the Right to Farm Act (Act), N.J.S.A. 4:1C-1 et seq. This section is designed to support and protect on-farm direct marketing operations by identifying safe, effective, and economically viable agricultural management practices for commercial farms seeking the protections of the Act.

**(b)** As used in this section, the following words and terms shall have the following meanings:

"Agricultural output of a commercial farm" means the items specified in N.J.S.A. 4:1C-9.a that a commercial farm produces and the value-added or processed products produced from those items, provided that the primary and predominant ingredients used to produce such products are grown or raised by the commercial farm. Examples of unprocessed agricultural output include, but are not limited to: fruits, vegetables, nursery stock, bedding plants, cut flowers, Christmas trees, and forest and livestock products. Examples of value-added or processed agricultural output include, but are not limited to: meat products, dairy products, cider, canned goods, baked goods, prepared foods, cut firewood, and wreaths.

"Agriculture-related educational activities" means on-farm educational offerings that have an agricultural focus and are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of a commercial farm by enhancing the experience of purchasing agricultural products for the purpose of attracting customers to the commercial farm. Examples of agriculture-related educational activities may include, but are not limited to: school trips, hands-on farming activities, educational displays, farm tours, farm task experiences, wine tastings, agriculture-related lectures for clubs, farm open house days, and agriculture-related classes on topics, such as, but not limited to: canning, freezing, cooking with fresh produce, pie making, pruning, beekeeping, animal care, and gardening.

"Ancillary entertainment-based activities" means non-agricultural offerings, 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. Such activities are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products. Examples of ancillary entertainment-based activities include, but are not limited to: background live or recorded music, face painting, story-telling, sandbox area, small swing set or playground equipment, pedal carts for children, and picnic tables. Such activities may have a fee associated with them, but such fees shall be de minimis compared to the income generated from the sale of the agricultural output of the commercial farm.

"Board" means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

"Buffer" means a setback distance and/or screening utilized by a commercial farm in conjunction with its on-farm direct marketing facilities, activities, or events.

"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 (N.J.S.A. 54:4-23.1 et seq.); or
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 (N.J.S.A. 54:4-23.1 et seq.).

"Committee" means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

"Community supported agriculture (CSA) operation" means an on-farm direct marketing method in which the retail sale of the agricultural output of a commercial farm is provided through a paid subscription.

"Complementary products" means items commonly used to facilitate the use or consumption of the agricultural output of the commercial farm and promotional items that help market the commercial farm. Examples of promotional items include, but are not limited to, souvenir items such as commercial farm-branded shirts, hats, and bags.

"CSA market and distribution area" means an on-farm direct marketing facility used by a CSA operation to organize and dispense CSA operation members' farm product shares and to market products that contribute to farm income.

"Farm-based recreational activities" means recreational offerings that are uniquely suited to occurring on a farm and also may include common outdoor recreation activities that are compatible with the agricultural use of the farm, where such offerings and activities are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm by enhancing the experience of purchasing agriculture products for the purpose of attracting customers to the commercial farm. Examples of farm-based recreational activities uniquely suited to occurring on a farm may include, but are not limited to: corn, sunflower, and other crop mazes; hayrides and wagon rides; agricultural animal display or petting areas; farm tours; horseback riding; pony rides; and tractor pulls. Examples of farm-based recreational activities considered common outdoor recreation activities that are compatible with the agricultural use of the farm include, but are not limited to: hiking; bird watching; sleigh rides; hunting and fishing; and bonfires. Activities and related infrastructure not considered farm-based recreational activities include, but are not limited to: athletic fields; paintball; go-karting and other similar racetracks; carnival-type amusement rides; and the flying of hobby, private, or commercial aircraft.

"Farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

"Farm market" means a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51 percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51 percent of the sales area shall be devoted to the sale of agricultural output of the commercial farm, and except that if a retail farm market is located on land less than five acres in area, the land on which the farm market is located shall produce annually agricultural or horticultural products worth at least \$ 2,500.

"Hours of operation" means the time during which an on-farm direct marketing facility, activity, or event is open or offered to the public.

"On-farm direct marketing" means the on-farm facilities, activities, and events that are used to facilitate and provide for direct, farmer-to-consumer sales of the agricultural output of the commercial farm and products that contribute to farm income.

"On-farm direct marketing activity" or "activity" means an agriculture-related happening made available by a commercial farm that is accessory to, and serves to increase, the direct-market sales of the agricultural output of the commercial farm.

Such activities are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products and include, but are not limited to: agriculture-related educational activities; farm-based recreational activities; and ancillary entertainment-based activities.

"On-farm direct marketing event" or "event" means an agriculture-related function offered by a commercial farm that is accessory to, and serves to increase, the direct-market sales of the agricultural output of the commercial farm. Such events are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products; may include on-farm direct marketing activities as components; are either product-based or farm-based; and occur seasonally or periodically. Product-based events, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to: an apple, peach, strawberry, pumpkin, wine, or other agricultural or horticultural product festival held at a commercial farm that produces that particular product. Farm-based events provided they demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to: seasonal harvest festivals held at a commercial farm that produces such seasonal farm products, farm open house events, CSA membership meetings, and farm-to-table events that showcase the agricultural output of the commercial farm.

"On-farm direct marketing facility" or "facility" means a type of farm market including the permanent, temporary, and/or moveable structures, improvements, equipment, vehicles, and apparatuses necessary to facilitate and provide for direct, farmer-to-consumer sales of the agricultural output of the commercial farm and products that contribute to farm income. Such facilities include various types and sizes of direct marketing operations, including, but not limited to: farm stands; farm stores; CSA market and distribution areas; and pick-your-own (PYO) market areas. A facility may include one or more structures or a portion of a structure, and a facility may utilize new or existing structures. A facility's structures may also be used for the commercial farm's other farm purposes, for instance: equipment storage, equipment maintenance, and the production, processing, packaging, storage, or wholesale marketing of the agricultural output of the commercial farm.

"Pick-your-own (PYO) operation" means an on-farm direct marketing method wherein retail or wholesale customers are invited onto a commercial farm in order to harvest and pay for agricultural or horticultural products. Examples of PYO operation crops include, but are not limited to, fruits, vegetables, flowers, and Christmas trees.

"Products that contribute to farm income" means complementary or supplementary products that are sold to help attract customers to the farm market through a broadening of the range of products available and an enhancement of the experience of purchasing the agricultural output of the commercial farm.

"PYO market area" means an on-farm direct marketing facility used by a PYO operation to set up PYO activities and collect money for PYO crops harvested by customers. PYO market areas may be stand-alone facilities or part of other on-farm direct-marketing facilities. In some cases, such as when a commercial farm has a CSA operation or component, PYO operations may not necessarily involve the collection of money following harvesting, as PYO crops may be one of the benefits of a CSA membership.

"Sales area" means the indoor, outdoor, covered, and uncovered areas of an on-farm direct marketing facility whose primary and predominant use is the display, marketing, and selling of the agricultural output of a commercial farm and products that contribute to farm income. Sales areas do not include: PYO and other production fields; pastures and other areas occupied by livestock on a regular basis; non-public areas, such as areas used for the storage of equipment and other items; and areas dedicated to farm-based recreational activities. Covered sales areas include sales areas inside structures and sales areas underneath tents, awnings, and other canopies.

"Sanitary facilities" means restrooms or portable toilets.

"Supplementary products" means the agricultural output of other farms, and additional customary food and drink items.

**(c)** The hours of operation allowed for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. On-farm direct marketing facilities and activities may be open or offered on weekdays, weekends, holidays, seasonally, for part of the year, or year-round.
2. On-farm direct marketing events may be offered on weekdays, weekends, holidays, seasonally, or for part of the year.

3. Hours of operation may be between 6:00 A.M. and 10:00 P.M. These hours may be temporarily extended to 11:00 P.M. in conjunction with seasonal on-farm direct marketing sales, activities, or events.

**(d)** The standards for lighting of on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. When an on-farm direct marketing facility, activity, or event is open or offered after dark, a commercial farm shall provide, unless specified otherwise in this section, lighting for areas used by customers, such as: walkways, parking areas, sales areas, activity areas, and event areas. This lighting shall provide, at a minimum, the amount of light necessary for customer safety.
2. All lighting shall be provided with lights focused either downward or with an orientation designed to minimize light spilling off the site and to minimize impacts on adjacent off-farm residential buildings and streets. Lights shall not be focused directly onto public roads.
3. Any temporary lighting shall be removed within 30 days after the activity or event has ended.
4. Lighting for on-farm direct marketing purposes shall be turned off within half an hour of the close of business.
5. In addition to lighting referenced in (d)1 through 4 above for on-farm direct marketing purposes, a commercial farm may use lighting for other farm management purposes, for example, for security. Security lighting may be used to help protect a farm's products or other physical or natural resources and to discourage trespassing and vandalism and is subject to the provisions in (d)2 above.

**(e)** The requirements for sanitary facilities at on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. A commercial farm shall provide sanitary facilities in the following cases:
  - i. If indoor seating space, outdoor picnic tables, or other areas are made available to enable customers to consume food on-site;
  - ii. If an on-farm direct marketing activity or event promotes customers staying on-site for more than 90 minutes; and
  - iii. When required pursuant to N.J.A.C. 8:24, the Sanitation in Retail Food Establishments and Food and Beverage Vending Machines, or N.J.A.C. 5:23, the New Jersey Uniform Construction Code.
2. The number of sanitary facilities provided shall be sufficient to accommodate, without causing long queues, the volume of visitors expected in conjunction with on-farm direct marketing facilities, activities, or events.
3. A commercial farm shall provide hand-sanitizing facilities for visitors to utilize after the use of the sanitary facilities. Hand-sanitizing facilities include running water with soap, antibacterial hand wipes, waterless hand sanitizers, and/or other hand-washing stations.
4. Sanitary facilities shall be located and managed with an appropriate cleaning schedule, so as to prevent adverse impacts on adjacent properties, such as odors.

**(f)** The requirements for safety for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. A commercial farm shall provide visitors with any rules or safety procedures associated with the on-farm direct marketing facilities, activities, and events that are provided, offered, or held. This information may be conveyed by farm staff, through posted signs or written handouts, or through other appropriate means, and may include notice that visitors share in the responsibility for their own safety, such as being aware of inherent risks, using common sense, and wearing farm-appropriate attire.
2. Hazardous materials shall be safely stored in a secure location and in compliance with relevant State and Federal laws, rules, and regulations.

**(g)** The standards for the use of signs for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. A commercial farm may use permanent and temporary signs to promote its on-farm direct marketing facilities, activities, and events.
  - i. Examples of signs include, but are not limited to, directional signs; advance signs; signs promoting the products available for sale; and facility, activity, and event signs.
2. The following general standards shall apply to all signs used for on-farm direct marketing facilities:
  - i. Signs shall be installed and maintained in a manner that does not pose a direct threat to public health and safety. Signs shall not interfere with sight distances at street intersections, ingress and egress points to or from parking areas, and other locations;
  - ii. Signs may be attached to farm buildings, fences, or other structures or be freestanding;
  - iii. Signs may have information on both sides.

- iv. The use and location of signs shall comply with relevant Federal and State laws, rules, and regulations;
  - v. Along the approach to the farm on the road on which the on-farm direct marketing facility, activity, or event is located, a commercial farm may install advance signs up to one-half mile away from the farm's entrance. Advance signs are designed to alert drivers of an approaching on-farm direct marketing facility, activity, or event and are generally located in close proximity to one another along the road approaching, and leaving, the site upon which the facility, activity, or event is located;
  - vi. Directional and other signs may be installed at key intersections or other important locations;
  - vii. A commercial farm shall obtain the permission of the appropriate landowner or easement holder when locating signs at off-farm locations;
  - viii. Temporary signs promoting a seasonal on-farm direct marketing facility, activity, or event may be installed up to one month prior to the facility, activity, or event's seasonal opening and shall be removed within 15 days of seasonal closing; and
  - ix. Internally-lit and neon-type signs are not eligible for Right to Farm protection.
3. A commercial farm's primary on-site farm business sign shall comply with the following standards (if the commercial farm has frontage on multiple roads, one primary on-site farm business sign may be placed on each frontage):
- i. The sign is set back at least 10 feet from the paved portion of the street right of way;
  - ii. The maximum size (meaning the physical size of the sign and not the combined square footage of both sides) is 32 square feet; and
  - iii. The maximum height to the top of the sign does not exceed 15 feet from the ground.
4. The provisions of this subsection shall not apply to a commercial farm's primary on-site farm business sign(s), commercial billboards, New Jersey Department of Transportation Tourist Oriented Directional Signage (TODS), Farmland Preservation signs, signs whose sole purpose is to facilitate and provide for safe traffic movement directly onto or from the farm site, and signs within the interior of the farm that are not intended to be visible from a public right of way. A commercial farm's on-farm direct marketing facility, activity, and event signs shall meet the following criteria:
- i. The maximum size of any one sign (meaning the physical size of the sign and not the combined square footage of both sides) is 16 square feet;
  - ii. The total combined square footage of the signs does not exceed 160 square feet (this is calculated by summing the physical sizes of the signs and not the square footage of the signs' front and back sides); and
  - iii. If a commercial farm has multiple distinct and separate on-farm direct marketing locations, such as two on-farm direct marketing facilities located on two different properties within the farm management unit, each on-farm direct marketing location may utilize a total combined square footage of signs of 160 square feet, as specified in (g)4ii above.
- (h)** In the absence of municipal standards for the construction of parking areas applicable to on-farm direct marketing facilities, the standards in this subsection shall apply to facilities' parking areas.
1. A commercial farm's parking areas for on-farm direct marketing facilities, activities, and events may include areas permanently devoted to parking, areas temporarily devoted to parking, or a combination of such areas. Areas permanently devoted to parking means areas utilized by the facility on a daily basis when the facility is open. Areas temporarily devoted to parking means areas utilized by the facility when additional parking capacity is needed on a short-term, temporary basis, such as in conjunction with seasonal on-farm direct marketing sales, activities, or events.
2. The following standards shall apply to all parking areas:
- i. Safe, off-road parking shall be provided. Parking shall not be located in a road right of way, and the number of spaces provided shall be sufficient to accommodate the normal or anticipated traffic volume for the commercial farm's on-farm direct marketing facilities, activities, and events;
  - ii. Ingress and egress points, driveway areas, and parking areas shall be arranged, so as to provide for safe traffic circulation. This arrangement shall allow customers to safely pull off of and onto adjacent roadways, and to safely maneuver to and from parking areas and into and out of parking spaces. On-farm direct marketing facilities need adequate driveway access to enable customers to reach the facility from the adjacent roadway; and
  - iii. Where applicable, on farms that allow buses, parking areas shall accommodate bus traffic and allow for the safe unloading and loading of bus passengers.
3. The types of surfaces and any physical improvements associated with areas permanently devoted to parking, such as curbing or landscaping, need not involve greater than the minimum level of improvements necessary to protect public health and safety.

4. The following standards shall apply to areas temporarily devoted to parking:
- i. Areas temporarily devoted to parking shall require few or no improvements, so that they can easily be converted back to productive agricultural use once a farm's need for short-term additional parking ceases;
  - ii. Areas temporarily devoted to parking may include, but are not limited to, hay fields, grass fields, pastures, and other crop fields, provided they have vegetative or organic mulch cover, such that bare ground is not parked on;
  - iii. The slope of the land shall be considered to address issues related to drainage, puddles and pockets of standing water, and safety;
  - iv. During dry conditions, areas temporarily devoted to parking shall be mowed, so as to minimize fire hazards related to vegetation coming in contact with the underside of customer vehicles;
  - v. During wet conditions, areas temporarily devoted to parking shall be managed to provide vehicles and pedestrians with safe and sufficient traction; and
  - vi. A commercial farm shall mark, sign, or indicate through staff direction or other means where vehicles should be parked.
- (f)** The standards for buffers for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:
- 1. The general standards are as follows:
    - i. A commercial farm may utilize buffers as an effective tool to mitigate the impacts that on-farm direct marketing facilities, activities, or events may pose on adjacent properties, such as noise, dust, and light spillage.
    - ii. Buffers need not involve greater than the minimum setbacks and/or screening necessary to protect public health and safety and to mitigate unreasonably adverse impacts on adjacent properties.
    - iii. When making determinations regarding the necessity or extent of buffers, consideration shall be given to the following:
      - (1)** The nature of the existing adjacent property uses;
      - (2)** The nature and scale of the commercial farm's on-farm direct marketing facilities, activities, and events;
      - (3)** The frequency of the commercial farm's activities and events;
      - (4)** The physical features and constraints of the commercial farm property;
      - (5)** The presence or absence of existing on- or off-farm buffers; and
      - (6)** The economic feasibility of using buffers.
  - 2. The setback requirements are as follows:
    - i. The standards in this paragraph shall apply to the location of building and parking areas for on-farm direct marketing facilities.
    - ii. The following standards shall apply to new or expanded facilities' permanent structures:
      - (1)** A 50-foot front-yard setback from the paved portion of the road right of way;
      - (2)** A 50-foot side-yard setback from the property line; and
      - (3)** A 50-foot rear-yard setback from the property line;
    - iii. The following standards shall apply to new or expanded activities and events:
      - (1)** A 25-foot front-yard setback from the paved portion of the road right of way;
      - (2)** A 50-foot side-yard setback from the property line;
      - (3)** A 50-foot rear-yard setback from the property line; and
      - (4)** A 100-foot setback from an existing, occupied residence not located on the farm.
    - iv. The following standards shall apply to new or expanded areas permanently devoted to parking:
      - (1)** A 25-foot front-yard setback from the paved portion of the road right of way;
      - (2)** A 50-foot side-yard setback from the property line; and
      - (3)** A 50-foot rear-yard setback from the property line.
    - v. Setbacks of a lesser distance than those specified in (i)2ii through iv above may be permissible provided the following is met:
      - (1)** Screening is considered and, if appropriate, installed;
      - (2)** The combined setback distance and screening arrangement receives approval as a site-specific agricultural management practice pursuant to N.J.A.C. 2: 76-2.3 and 2.4;
      - (3)** The site-specific agricultural management practice determination takes, at a minimum, the following into consideration:
        - (A)** Adjacent property uses and buffers;
        - (B)** The scale of the facility and intensity of its use;

- (C)** The nature, scale, and frequency of the activities and events;
- (D)** The physical features and constraints of the commercial farm property; and
- (E)** The economic feasibility of using buffers; and
- (4)** For a board or the Committee to make a site-specific agricultural management practice determination departing from the provisions in (i)2ii through iv above, a commercial farm must provide a legitimate farm-based reason for the departure and address the considerations listed in this subparagraph.
  - vi.** Existing on-farm direct marketing facilities, activities, or events, including existing areas permanently devoted to parking, are not subject in their current layout and configuration to the provisions of (i)2ii through iv above. If such facilities, activities, events, or parking areas are situated at lesser distances than the standards specified in (i)2ii through iv above, the use of screening for buffer purposes shall be considered.
  - vii.** Existing on-farm direct marketing activities or events that are offered and located in different fields over time shall not be considered new activities or events under this paragraph.
- 3.** The screening requirements for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:
  - i.** Screening, when used for buffer purposes, shall consist of vegetation or structures, such as, but not limited to, trees, bushes, fences, or walls;
  - ii.** If the screening is comprised of vegetation and if used in conjunction with a facility, the existing or newly planted materials shall be grown in such a manner that there is 75 percent screening of the facility within five years;
  - iii.** If the screening is comprised of vegetation and if used in conjunction with an activity or event offered in two or more consecutive years, the existing or newly planted materials shall be grown in such a manner that there is 75 percent screening of the activity or event within five years;
  - iv.** If the screening is comprised of a fence, wall, or another existing farm structure, then the fence, wall, or other existing farm structure shall be of sufficient height or construction to provide 75 percent screening of the facility, activity, or event; and
  - v.** If the distance between a new or expanded facility and an existing, occupied residence not located on the farm is less than 100 feet, screening shall be installed.
- 4.** For the purposes of this subsection, existing on-farm direct marketing facilities, activities, or events are those facilities, activities, or events that are in operation as of April 7, 2014, the effective date of the AMP.
- (j)** Outdoor sales areas shall be arranged, so as to not interfere with safe pedestrian and vehicular traffic circulation.
- (k)** The use of structures or improvements in conjunction with on-farm direct marketing activities and events shall be as follows:
  - 1.** Existing agricultural structures or improvements may be used in conjunction with the offering of on-farm direct marketing activities and events, provided this use does not adversely affect the continued use of the structures or improvements for agricultural production purposes.
  - 2.** New structures or improvements may be constructed and used in conjunction with the offering of on-farm direct marketing activities and events, provided this construction and use has a negligible impact on the farm's continued use of the land for agricultural production purposes.
    - i.** If such structures or improvements are temporary and used in conjunction with a temporary or seasonal activity, the structures or improvements shall be removed within 30 days of cessation of the activity or event.
  - 3.** The use and construction of structures or improvements shall comply with relevant Federal and State laws, rules, and regulations.
- (l)** On-farm direct marketing activities and events shall have a negligible impact on the farm's continued use of the land for agricultural production purposes.
- (m)** Standards for certain on-farm direct marketing activities shall be as follows:
  - 1.** For pick-your-own activities, the following standards shall apply:
    - i.** Visitors shall be informed of any rules to follow and instructed as to which fields they are permitted to harvest;
    - ii.** Fields open for pick-your-own activities shall be clearly marked;
    - iii.** Parking areas may be adjacent to or near pick-your-own fields, particularly if such fields are far from the farm's pick-your-own market area; and
    - iv.** Pick-your-own market areas shall comply with applicable standards for on-farm direct marketing facilities.

2. For choose-and-cut Christmas tree activities, the following standards shall apply:
  - i. Visitors shall be informed of any activity and equipment rules and where Christmas trees may be selected and cut;
  - ii. Customers may be allowed to cut their own Christmas trees;
  - iii. Customers shall not be supplied with power equipment or be permitted to use motorized tree baling equipment; and
  - iv. Choose-and-cut Christmas tree market areas shall comply with applicable standards for on-farm direct marketing facilities.
3. For corn, sunflower, and other crop mazes, the following standards shall apply:
  - i. Visitors shall be informed of any rules associated with the maze, including how to exit the maze in the event of an emergency;
  - ii. Farm staff shall walk through the maze periodically, or periodically observe the maze from an elevated location, to check for lost visitors. Farm staff shall similarly check for lost visitors before closing the maze;
  - iii. If a maze is open after dark, adequate lighting shall be provided by the commercial farm and/or used by visitors to illuminate the traveled paths. If lighting is provided, the lighting shall be turned off within half an hour of the close of business; and
  - iv. No smoking or any other open flames shall be permitted in or near the maze.
4. For hayrides and wagon rides, the following standards shall apply:
  - i. Wagons shall be in good repair and have sideboards to contain occupants;
  - ii. A ladder, ramp, footstool, steps, or other stable device or component shall be used to assist with safe boarding of and disembarking from wagons;
  - iii. When using a tractor to tow wagons, the left and right brakes of the tractor shall be locked together;
  - iv. No smoking or any other open flames shall be permitted on hayrides and wagon rides; and
  - v. Wagon operators shall:
    - (1) Plan routes in advance;
    - (2) Be familiar with and have experience operating the tractor and wagon equipment;
    - (3) Be familiar with and have experience using draft animals, if applicable, and the wagon equipment;
    - (4) Evenly distribute passengers on the wagons and instruct passengers to remain seated during the ride;
    - (5) Operate tractor and wagon equipment in low gears and at safe speeds; and
    - (6) Have a current motor vehicle operator's license.
5. For livestock and animal activities, the following standards shall apply:
  - i. A farm employee or activity attendant shall regularly monitor activities in which visitors may have incidental contact with agricultural animals. Incidental contact includes, but is not limited to, agricultural animal display, petting, or feeding areas;
  - ii. A farm employee or activity attendant shall be present at all times to monitor activities in which visitors are permitted to have direct contact with agricultural animals. Direct contact includes, but is not limited to, horseback riding, pony rides, and animal shows, competitions, or demonstrations;
  - iii. All agricultural animals having incidental or direct contact with the public shall be observed daily for health problems by a farm employee or activity attendant. Sick animals or animals behaving strangely shall be prevented from having contact with the public;
  - iv. Hand-sanitizing facilities shall be provided and readily available if an activity is offered in which visitors may have incidental or direct contact with agricultural animals. Hand-sanitizing facilities include running water with soap, antibacterial hand wipes, waterless hand sanitizers, and/or other hand-washing stations. Visitors shall be advised to sanitize their hands after contact with agricultural animals;
  - v. Visitors shall be advised not to feed agricultural animals unless the feed has been specifically provided by the farm;
  - vi. Visitors shall be advised that their pets and animals shall not be allowed in areas with agricultural animal activities unless in connection with a specific agricultural purpose, including, but not limited to, agricultural animal shows, competitions, or demonstrations; and
  - vii. The management of animals shall comply with the Animal Welfare Act, 7 U.S.C. § 54, and the Humane Treatment of Domestic Livestock rules, N.J.A.C. 2:8, as applicable, and any other relevant State and Federal laws, rules, or regulations.
6. For bonfires, the following standards shall apply:



- i. A commercial farm conducting a bonfire shall comply with Uniform Fire Code requirements, N.J.A.C. 5:70-2.7, and any other relevant State and Federal laws, rules, or regulations.
- ii. A farm employee shall be present for the duration of the bonfire to monitor and oversee the activity.
- (n)** The event management plan for on-farm direct marketing events shall include the following:
  - 1. If the expected volume of traffic and visitors for an event is significantly greater than the volume regularly accommodated by a commercial farm's on-farm direct marketing facility, such that the increased volume of traffic is likely to interfere with the movement of normal traffic or emergency vehicles on- and off-site, the farm shall create and implement a written event management plan to address public health and safety issues including, but not limited to, emergency vehicle access, traffic management, and public health management.
    - i. A complete copy of the plan shall be provided to the clerk of the municipality in which the commercial farm is located at least 30 days in advance of the event as an advisory notice and to enable coordination between the commercial farm and municipality that may be necessary regarding emergency vehicle access, traffic, and public health management.
    - ii. Emergency vehicle access management includes establishing the location(s) and manner in which emergency vehicles may access the farm if necessary.
    - iii. Traffic management includes:
      - (1) Providing safe ingress and egress, vehicular traffic flow, and pedestrian traffic flow;
      - (2) Utilizing parking attendants, signs, or other parking-related instructions to facilitate vehicular and pedestrian traffic flow onto, off of, and within the farm. Local police officers may be hired to assist with traffic management;
      - (3) Establishing areas temporarily devoted to parking based on the volume of visitors expected; and
      - (4) Establishing overflow parking areas in the event the planned-for parking capacity is exceeded.
    - iv. Public health management includes:
      - (1) Providing sanitary facilities sufficient to accommodate, without causing long queues, the volume of visitors expected;
      - (2) Providing hand-sanitizing facilities for visitors to wash or sanitize their hands after the use of the sanitary facilities;
      - (3) Locating sanitary facilities and managing them with an appropriate cleaning schedule, so as to prevent adverse impacts on adjacent properties, such as odors;
      - (4) Providing trash and recycling receptacles to accommodate the volume of visitors expected in order to prevent the accumulation of trash on the ground; and
      - (5) Properly training and equipping commercial farm staff on how to handle an emergency situation during the event including, but not limited to, whether and how police, fire, or other entities should be contacted based on an actual emergency.
  - 2. A commercial farm may satisfy the provisions of (n)1 above by obtaining a special events permit, or its equivalent, from the municipality in which the commercial farm is located.
  - 3. If an event of the type described in (n)1 above occurs periodically or more than once per year and occurs under the same basic conditions, a commercial farm may satisfy the provisions of (n)1 above for the multiple events by submitting a single event management plan that notes the multiple occurrences and the future dates of the event.
- (o)** This section shall not be construed to extend Right to Farm protection to overnight accommodations of any kind, including, but not limited to, lodging and camping.
- (p)** The approval of site plan elements for new or expanded on-farm direct marketing facilities shall be as follows:
  - 1. A commercial farm seeking approval of site plan elements to establish a new, or expand an existing, on-farm direct marketing facility may apply to the municipality and/or the county agriculture development board for such approval.
    - i. A commercial farm applying to a municipality for approval of site plan elements may request that the municipality consider waiving or reducing review requirements based on a consideration of relevant site-specific elements, such as the following: the farm's setting and surroundings; the scale of the facility and intensity of its use; the type and use of the public road on which the facility is located; and the minimum level of improvements necessary to protect public health and safety. Nothing in this paragraph shall be construed as authorizing a municipality to waive or reduce review requirements required by State or Federal law, rule, or regulation.

- ii.** A commercial farm applying to a county agriculture development board or the Committee for approval of site plan elements shall request a site-specific agricultural management practice determination pursuant to N.J.A.C. 2:76-2.3 and 2.4.
- iii.** If a commercial farm has previously obtained approval for an on-farm direct marketing facility, then such a facility closing seasonally and reopening the following year with the same total square footage of indoor and/or outdoor covered sales area as previously approved shall not be considered a new facility.
- (g)** On-farm direct marketing facilities, activities, and events shall comply with relevant Federal and State laws, rules, and regulations, including, but not limited to:
1. The Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq.;
  2. The Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.;
  3. The New Jersey Uniform Construction Code, N.J.A.C. 5:23;
  4. The New Jersey Uniform Fire Code, N.J.A.C. 5:70;
  5. The Stormwater Management rules, N.J.A.C. 7:8;
  6. The State Highway Access Management Code, N.J.A.C. 16:47;
  7. The Sanitation in Retail Food Establishments and Food and Beverage Vending Machines rules, N.J.A.C. 8:24; and
  8. The Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.
- (r)** Additional miscellaneous provisions for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:
1. This agricultural management practice does not preclude a commercial farm from requesting a site-specific agricultural management practice determination for on-farm direct marketing facilities, activities, and events pursuant to N.J.A.C. 2:76-2.3 and 2.4. A board or the Committee, pursuant to N.J.A.C. 2:76-2.3 and 2.4, may make site-specific agricultural management practice determinations for facilities, activities, and events, provided such site-specific agricultural management practice determinations are consistent with the practices set forth in this section.
  2. If a commercial farm believes a municipality's standards for the construction of building and parking areas applicable to on-farm direct marketing facilities are unduly restrictive, or believes a municipality is unreasonably withholding local zoning approval related to a facility, the commercial farm may request that the appropriate board, or the Committee in counties where no board exists, make a determination in the matter by requesting a site-specific agricultural management practice pursuant to N.J.A.C. 2:76-2.3 and 2.4.