

New York State

New York State Wine Grape Task Force



*REPORT TO NEW YORK STATE
COMMISSIONER OF AGRICULTURE AND MARKETS
PATRICK HOOKER*

DECEMBER 2008

APPENDIX: TASK FORCE MEMBERSHIP

- Chair - Kareem Massoud, *Paumanok Vineyards*, Aquebogue
 - James Bedient, *Winegrape Growers, Inc.*, Branchport
 - Margo Sue Bittner, *The Winery at Marjim Manor*, Appleton
 - Stephen J. Conaway, *Thousand Islands Winery*, Alexandria Bay
 - Jim Finkle, *Constellation Wines*, Fairport
 - Joe Gergela, *Long Island Farm Bureau*
 - Mike Von Heckler, *Warm Lake Estates*, Lockport
 - Frederick Johnson, *Johnson Estate Winery*, Westfield
 - Robert Kern, *Martha Clara Vineyards*, Riverhead
 - John Martini, *Anthony Road Wine Company*, Penn Yan
 - Scott Osborn, *Fox Run Vineyards*, Penn Yan
 - Stephen Osborn, *Stoutridge Vineyard*, Marlboro
 - Larry Perrine, *Channing Daughters Winery*, Bridgehampton
 - Gene Pierce, *Glenora Wine Cellars*, Dundee
 - Julie Suarez, *New York Farm Bureau*
 - Jim Trezise, *New York Wine & Grape Foundation*
-

CONCLUSIONS

The Wine Grape Task Force has been a successful example of how important it is for an agricultural industry to maintain a dialogue with state agencies. By coming together and examining the achievements and challenges in the industry, the Task Force has enlisted the Commissioner's support to help clear obstacles, identified and focused upon priorities, and outlined a future course of action.

Some concerns were readily addressed by making either government agencies or the industry aware of resources and programs already in place. Other issues were cleared up by facilitating meetings with the appropriate entities or by identifying existing resources.

Much still remains to be done, however. Statutory, regulatory, programmatic or institutional steps can be taken to clear the way for the wine and grape industry to continue its successful development and reach its goal of doubling its net economic impact over the next five years. The Wine Grape Task Force is optimistic that with the leadership of the NYS Department of Agriculture and Markets and continuing cooperation from other New York State government entities the future is bright for the industry.

TABLE OF CONTENTS

Executive Summary	2
New York Wineries	6
The Wine Grape Task Force	7
Priority Issue Areas.....	8
Task Force Findings	9
State Liquor Authority.....	9
Environment/Sustainability	12
Wine Promotion and Marketing	16
Economic Development	20
Conclusions.....	24
Appendix: Task Force Membership	inside back cover

Large cover photo - © John Francis McCarthy, Finger Lakes Photography

EXECUTIVE SUMMARY

In response to the unrealized economic potential of small agribusinesses in New York State and the potential of wineries to lead the way, Commissioner of Agriculture and Markets Patrick Hooker appointed a Task Force in 2007 to capture missed opportunities and to examine any impediments to the sector's growth. The Wine Grape Task Force, with representation from the wine grape regions of the State, set a goal for the sector of doubling its economic impact to New York State in five years. The first order of business was for the Task Force to identify broad areas of opportunity or concern. The following four priority action areas emerged:

- The Alcoholic Beverage Control Law and the State Liquor Authority
- Environmental Programs and Sustainability of the Industry
- Wine Promotion and Marketing
- Economic Development Opportunities

For each of the areas, the Task Force established an objective and made appropriate recommendations. This report to the Commissioner is intended to be a first step in guiding the core activities of State government so as to facilitate the business activities of New York wineries.

STATE LIQUOR AUTHORITY

The antiquated Alcoholic Beverage Control Law should be reformed in a manner that provides a level playing field with other wine producing states and accommodates the needs of New York wineries.

The Task Force favors a comprehensive review of the New York State Alcohol Beverage Control Law and the State Liquor Authority. Such an effort is currently under way by the State Law Review Commission. The Commission is considering a complete recodification of the New York State Alcoholic Beverage Control Law. At a June 08 'round table' meeting of the New York State Law Review Commission, the Commission Chair announced that legislative remedies will likely be considered in the 2010 legislative session, providing an opportunity for the Department to make the industry's case fully over the next year. As such, the Task Force requests that the Commissioner of Agriculture and Markets formally transmit the Task Force recommendations related to the State Liquor Authority to both the Commission as well as other decision makers. With any subsequent reform, caution must be exercised to ensure that positive practices, procedures, and controls currently contained in the ABC Law remain consistent with the Federal Alcohol Tobacco Tax and Trade Bureau (TTB).

Members of the Task Force also stress the need for a change of mindset at the State Liquor Authority. Some wineries report that dealings with the State Liquor Authority

Real Estate Disclosure / Right to Farm

Right to Farm disclosures are not being made to home buyers at all closings in agricultural areas. Better education of real estate professionals is necessary. Some towns putatively also unaware of this provision.

Achievement: Problem identified.

Recommendation: Recommend the Commissioner write to real estate professionals, the association of towns, and wineries informing them of the terms of agricultural districts, and include a copy of the Department's pamphlet on the program. Real estate professionals should also be informed that they are in violation of the law by not providing the right to farm disclosure at all closings. Consideration should be given to legislation enacting penalties for noncompliance.

Many jurisdictions and real estate professionals are unaware of the provisions of the state's agricultural protection law.

Dissemination of Research

Wine industry reports that they do not learn of relevant results from research conducted at Geneva Experiment Station, Cornell.

Achievement: Department of Agriculture and Markets has contacted head of viticulture research at the Geneva Experiment Station to discuss this problem and identified a number of channels through which the Station's research results are distributed.

Recommendation: Department of Agriculture and Markets could provide Geneva Experiment Station with mailing list of members of the industry for its regular newsletters. The Department should also provide the industry with an overview of the various newsletters, websites, and events that distribute the results of Cornell's research.

The Geneva Research Station's wine research program produces five email newsletters, four printed newsletters, numerous websites, and six annual conferences on wines.

Access to Capital

The large amount of capital and infrastructure required for wineries to enter production creates a problem for wineries to secure appropriate debt financing for expansion of the industry. At present, Farm Credit is the leader in providing debt financing to wineries. The NYS Department of Agriculture and Markets, ESDC and New York Wine & Grape Foundation should meet with traditional commercial lending institutions to elevate understanding and gain perspective of the industry and develop possible solutions.

Achievement: Problem identified.

Recommendation: The NYS Department of Agriculture and Markets should facilitate a meeting with Empire State Development, the Wine & Grape Foundation, and public and private financial services to improve knowledge of the industry and to catalogue sources of capital assistance.

Training Skilled Workforce

Given the specialized knowledge and skills necessary for viticulture and the dramatic growth in the sector, wine and grape producers face shortages of adequately trained labor. Cornell has accordingly established an undergraduate program in Enology and Viticulture, but there is no “hands on” training for wine industry workers who might not need a college-level preparation.

In 1992, the Department of Agriculture and Markets established an “Agricultural Workforce Certification Program,” established in cooperation with SUNY and Cornell’s College of Agriculture and Life Sciences. This program can be extended to offer training specific to vineyard needs.

Achievement: Agriculture and Markets presented Task Force with information relating this program at the February Task Force meeting.

Recommendation: Industry could work with Cornell Cooperative Extension, junior colleges and the Department of Agriculture and Markets to carry out viticulture-centered training program.

There’s a strong need for more people with the specialized knowledge and skills valued by the industry.

have displayed an agency that is insensitive to the particular needs and conditions of the industry. Current State Liquor Authority administration reflects an attitude that is more concerned with control than with fostering an environment in which business can grow and thrive. The Task Force recommends that the State Liquor Authority appoint a special ombudsman to manage its relationship with the wineries, craft brewers, and farm distilleries and assist the sector in regulatory compliance.

Whereas other wine producing states have legal and regulatory provisions in place that treat “custom crushing” of small vineyards’ grapes as an extension of an existing permit, New York does not. Resolution of the issues surrounding ‘custom crush’ is critical to the success of new wine related ventures that may be candidates for Governor Paterson’s upstate revitalization funds as well as other private sector efforts to create custom crush facilities across the state.

While the State Liquor Authority has informed the Task Force that satellite stores are indeed considered part of the main farm winery for the purpose of licensing, there was some concern that this determination is not universally applied. Inconsistent administration in the Authority of this interpretation coupled with the fact that on-premise requirements are applied to satellite stores are impediments to a winery’s individual growth.

Special consideration needs to be given to the forms and reporting requirements of the State Liquor Authority, such as the Direct Shippers Report, where additional paperwork and administrative tasks are unnecessarily burdensome.

ENVIRONMENT PROGRAMS AND SUSTAINABILITY OF THE INDUSTRY

New York wine and grape growers are committed to acting responsibly with respect to the environment, the social effects of its products and their marketing and providing environmentally friendly products.

A thorough examination of what are appropriate measures to protect the water resources without unduly burdening the businesses in processing wastewater treatment is needed. Currently, Department of Environmental Conservation (DEC) regulations treat wineries as industrial plants, requiring expensive Department of Environmental Conservation administered SPDES (State Pollutant Discharge Elimination System) permits. The permit requirement in these cases may not necessarily be appropriate to the type of waste produced. Through Task Force deliberations, the Department of Environmental Conservation resolved some issues facing wineries and identifying areas for regulatory reform and clarification. Wineries may also disperse their food waste by landspreading, and this option ought to be considered in conjunction with any winery wastewater program. The wine and grape sector, the Department’s Division of Soil and Water, Cornell Cooperative Extension and the DEC should work to develop a general permit for instances where wineries require a SPDES permit. In other situations, guidelines should be developed for landspreading of winery waste. Subsequent education of DEC regions should occur to

assure that requirements are consistently interpreted across the entire state.

In the areas of pesticide review and wildlife control, the Task Force recognizes that industry education is a valuable component of resolving this issue at the local and state level and commends the efforts being made by the industry towards developing sustainable practices for viticulture.

WINE PROMOTION AND MARKETING

The marketing of New York State as a socially responsible producer of high quality wines will be accomplished by a concerted public relations campaign that brings together state agencies, such as Empire State Development (I Love NY), New York State Department of Agriculture and Markets, and industry (including New York Wine & Grape Foundation, regional wine trails and promotional groups), coordinates existing efforts and institutes new measures.

Given the Department of Agriculture and Markets' role in furthering agriculture in the state, emphasis is placed on the areas of marketing and promotion such as Pride of New York. Improvements to some existing marketing programs lie completely with other agencies, but Agriculture and Markets can still assist the industry in its interactions with the key players. Some steps have already been taken in this direction. For example, Agriculture and Markets brought Empire State Development into several Task Force meetings, and a dialogue was established with DOT and the Thruway Authority regarding promotional signage. Agriculture and Markets also has created or identified departmental initiatives to help promote New York wines. The Task Force expressed a need to bring more private sector money into the marketing and promotion of New York wines and grapes.

ECONOMIC DEVELOPMENT

Wine production and grape growing are economic development drivers, acting as a magnet for tourism and economic development.

A New York Wine & Grape Foundation study recommends steps to ease difficulties of viticulture in getting access to capital. Producers and processors in the wine and grape sector face hurdles in acquiring capital different from other agricultural sectors, given the long lead times associated with establishing and expanding vineyards. From establishment of a vineyard to sale of a first bottle of wine can range up to seven years. There is room for departmental assistance in facilitating the sector's access to capital.

The Task Force identified a need for better public education and enforcement of Right to Farm Laws, while the Agriculture and Markets "Agricultural Workforce

Health Department / Ag and Markets Inspections

There are dual inspections for both "off premise" and "on premise" events. There is often conflict as to which agency, the Department of Health or the Department of Agriculture and Markets, has inspection jurisdiction during events held by and or at wineries. Often wineries are inspected by the Department of Health and reportedly held to Department of Health standards when it is unclear whether the Department of Health has jurisdiction.

Achievement: Problem identified and resolved by standing practice. The Department of Agriculture and Markets and State Department of Health have a Memorandum of Understanding whereby the predominant share of an establishment's business determines which agency has authority for inspections. In the case of wineries, virtually all of them have more than half their business in wines, so Agriculture and Markets has primary authority.

Recommendation: The NYS Department of Agriculture and Markets should work with the NYS Department of Health to publicize this procedure to both County Departments of Health and wineries.

Agricultural Assessment and Real Property Tax Law Conflict

The NYS Real Property Tax Law does not currently recognize processing and merchandizing as a part of farm operations, while Agriculture and Markets Law does for the purposes of certain agricultural district protections and agricultural assessment. As a result, some towns in the state are taxing the processing and merchandizing portion of the farm wineries as a commercial operation according to the Real Property Tax Law. Wineries processing facilities ought to be taxed in the same way that other agricultural processing is taxed.

Achievement: Problem identified.

Recommendation: Legislation should be proposed to resolve this conflict. (AML §301(4) could extend tax exemption to production and retail structures by removing explicit exclusion of "land used for processing or retail merchandising of crops, livestock or livestock products.")

Agricultural processing ought to be considered an agricultural activity for taxation purposes.

ECONOMIC DEVELOPMENT

State Economic Development Focus on Farms and Wineries

Many of New York State's development programs are predicated on a consideration of the raw number of jobs created. This tends to work to the disadvantage of agriculture and other rural businesses. State economic development programs should recognize other public benefits beyond mere job creation numbers. The Department of Agriculture and Markets supports efforts to establish metrics of other empirical public benefits. At the March '08 Task Force meeting, this matter was raised with representatives from Empire State Development Corporation.

In general, it has been difficult for the wine industry to access many existing state economic development programs because the number of existing employees, number of jobs to be created and size of capital investment fall short of existing program funding criteria. Many wineries, in general, are small businesses; and even though their economic impact individually may not be as great as a large manufacturer, their economic impact as an industry is significant, as demonstrated in the New York Wine & Grape Foundation's 2005 study, "Economic Impact of New York Grapes, Grape Juice and Wine." Cornell University would be a resource in the effort to work on extending state business development programs to wineries.

Achievement: Department of Agriculture and Markets has initiated discussions with Empire State Development on the industry's potential as a magnet for economic growth. The FY08-09 State Budget includes \$40 million in upstate agricultural economic development funding.

Recommendation: The NYS Department of Agriculture and Markets should continue to work with Empire State Development to ensure that guidelines developed for the upstate revitalization funds address the needs of agricultural businesses such as the wine and grape industry. Of particular interest is Empire State Development's MAP (Manufacturing Assistance Program). Currently, the MAP program targets larger operations employing between fifty and one thousand workers and which are investing over a million dollars in capital improvements. The Task Force recommends that the MAP be expanded with an appropriately scaled special wineries sub-program.

The wine industry accounts for \$3.4 billion in economic activity in New York State.

Wineries improve the quality of life in rural areas, making them attractive places for people to want to live and work.

Certification Program," was presented to the task force as a possible route to addressing industry concerns relating to shortages of trained workers for the industry.

The Task Force has also identified a need for Empire State Development to develop other metrics beyond mere job creation counts to encourage the sector. The Task Force recommends a component of Empire State Development's Manufacturing Assistance Program (MAP) be targeted to help wineries. Consideration ought to be given to wineries' tourism magnet effect and quality of life benefits.

The Task Force urges local governments to recognize the economic and environmental value of grape farms and wineries to their communities, given the industry's positive tourist and economic development impact. The Task Force recommends that local governments be encouraged to consider the health and well-being of this critical agricultural sector, by facilitating growth rather than erecting barriers such as increased red tape and prohibitions.

NEW YORK WINERIES

According to a 2005 study commissioned by the New York Wine & Grape Foundation and funded by the Empire State Development Corporation, the wine and grape industry accounts for \$6 billion in economic impact in the state. Of this total, \$3.4 billion originates with New York-produced wines and grapes grown on nearly 1,400 vineyards statewide. Since the passage of the Farm Winery Law in 1976, the number of New York's farm wineries has grown from under twenty to over two hundred different establishments. New York is now the third largest wine producing state in the country, behind California, and having recently fallen behind Washington State.

Despite the fact that the majority of New York's wineries are small enterprises and face challenges in a market that is becoming increasingly centralized, there have been some very positive developments for New York wines. National and international food and wine media have recently been increasing their coverage of New York State wines, raising national awareness of New York wines. This development was bolstered by a 2005 change in the Alcoholic Beverage Control Law to allow New York wineries to ship wine directly to consumers in other states.

The growing of grapes and fruits and the making of wine and other beverages from these commodities are important components of agricultural production in New York State. There is good reason to support the wine and grape industry beyond the customary advantages of keeping land in agricultural production. In fact, the wine and grape industry can be seen as an ideal agricultural enterprise for three principal reasons. First, wine has one of the highest value-adding profiles, drawing larger incomes for producers and processors, with the attendant multiplier effects. Secondly, the sector acts as an engine for tourism, promoting local entrepreneurial activity. Lastly, having a vibrant culinary and wine sector can be valuable in the increasingly accepted economic development model that emphasizes attractiveness of locations as a magnet for further enterprise and development. In sum, these developments have produced substantial economic benefits and generated positive growth prospects.

On-Premise Promotion – Improving the Tasting Room Experience

Wine tasting rooms could often be decorated in a way that helps to promote the state wine industry in general. The Department of Agriculture and Markets and the Wine & Grape Foundation have signage available for interested wineries.

Achievement: Identified problem and solution.

Recommendation: NYS Department of Agriculture and Markets and the Wine & Grape Foundation should issue a letter outlining the free point of sale signage that is available through both organizations.

Marketing Order

Creating a marketing order could be significant voice for promotion of New York wine. Whereas the Wine & Grape Foundation is mandated to promote cooperation and awareness of the industry in state, there is still room for further work with industry funding. A marketing order could harness considerable amounts of money for building awareness of New York wines. In Washington State, the growers contribute \$3 million for promotion. NYS Department of Agriculture and Markets could educate the industry on the advantages to be gained by establishing a marketing order (the Department currently administers marketing orders for apples, cabbages, onions, and tart cherries) to help raise promotional funds. However, the decision to move ahead lies with the producers themselves. The federal statutory basis for marketing orders leaves producers in charge, and they alone must decide to create one. The NYS Department of Agriculture and Markets can only assist in administration thereafter.

A marketing order could bring more money into the promotion and marketing of New York wines.

The decision to create a marketing order lies with the industry itself.

Recommendation: Department of Agriculture and Markets should educate the Task Force on marketing orders. The industry could initiate the creation of a marketing order. The NYS Department of Agriculture and Markets would then administer as it does other marketing orders.

“I Love NY”

Empire State Development Corporation briefed March '08 Task Force meeting on Empire State Development's re-branding of the I Love NY program to include more of the state beyond NYC. The role of wineries in such a program can certainly be developed further.

Achievement: Empire State Development addressed Task Force on its plans for “I Love New York.”

Recommendation: Industry and Department of Agriculture and Markets should aggressively work with Empire State Development to include wineries and winery agritourism as part of the “I Love New York” campaign. After securing Empire State Development's buy-in on the project, Agriculture and Markets, the Wine & Grape Foundation, and regional stakeholders should participate in the campaign in travel promotions, special events, media stories and advertisements.

Roadway Signage

Wine trails are intended to create a more widely visible entity that will help boost individual wineries beyond the power that any single winery could achieve on its own. However, the New York State Department of Transportation and the Thruway Authority, which post these signs, have inconsistent rules on posting signs. The two agencies participated in a May Task Force meeting to discuss signage. The question arose whether the two agencies should place ‘wine trail’ or individual business signs on exit “Attractions” signs. Task Force expressed its preference for ‘trail’ type signage over signs for specific wineries as ‘attractions.’

Achievement: Convened meeting of industry and signing agencies to clarify preferences of the industry and lay out limitations of signage.

Recommendation: Department of Agriculture and Markets should work with the Department of Transportation and the Thruway Authority to work out a consistent policy.

“I Love New York” is one of the best known marketing campaigns in the world, and New York wineries could be a bigger part of it.

‘Wine trail’ signs are designed to keep motorists on designated trails.

New York has eleven designated wine trails.

THE WINE GRAPE TASK FORCE

In fall 2007, the Commissioner created a Wine Grape Task Force to identify areas where the Department of Agriculture and Markets can assist the wine grape industry to maintain and expand the sector's growth in New York State. The Task Force is comprised of industry representatives from across the state's various wine growing regions (Finger Lakes, Hudson Valley, Lake Erie, Niagara Escarpment, Thousand Islands, Long Island) and represents both large and small wineries.

One of the first orders of business for the Task Force was to develop its goal statement:

New York's growing wine grape industry will double its net economic impact to the State from \$3.4 billion in 2005 to \$6.8 billion in five years, through increasing profitability and sustainability of winery and wine grape growers made possible by a better economic, environmental, and regulatory climate that focuses on improving the marketing and image of New York wines in the state, national and international marketplace in a socially responsible manner.

The Task Force also formed specific focus groups that allowed for in-depth exploration of specific themes. The Task Force convened five times from November 2007 to July 2008 and held several conference calls.

In addition to hearing information from the industry itself, the Department of Agriculture and Markets bought in NYS agency representatives and academic experts to provide background information for the Task Force and to clarify programs and procedures.

PRIORITY ISSUE AREAS

The Task Force identified four main areas that call for action:

STATE LIQUOR AUTHORITY

The State Liquor Authority's mandate is to regulate the entire alcoholic beverage industry, ranging from production to retail sale. As such, the Authority regulates wineries in New York State. The Alcoholic Beverage Control Law and the State Liquor Authority's regulations are antiquated, piecemeal, contradictory, and do not adequately consider the specific needs of wine growers and producers as agricultural and agribusiness enterprises. The dramatic growth in the farm winery sector in the last two decades has brought this tension into focus. There is a need for a complete reform of the Authority's regulations and statutes to better serve the needs of this agricultural sector while still protecting the wider public interest in a soundly regulated alcoholic beverage industry.

ENVIRONMENT/ SUSTAINABILITY

Like other agricultural enterprises, viticulture is intimately tied to the environment, and wine producers and grape growers are good stewards of the environment. However, in some instances environmental regulations can impede viticulture's growth and prosperity. The goal is to assure that the industry's impact upon the environment is minimized while recognizing the industry's beneficial effects upon the environment. Regulatory reform is just part of the solution; there are also areas where proactive steps by the wine sector can make a big difference.

WINE PROMOTION AND MARKETING

New York wines will benefit dramatically from improvements in marketing. Better awareness and availability of New York wines will raise the sector's profile and serve to improve New York wines' visibility and increase demand. Aggressive, responsible marketing will leverage the collective value of the sector for smaller and larger wineries alike.

ECONOMIC DEVELOPMENT

The wine and grape industry stands poised to enter a period of tremendous growth. Future growth depends upon widespread commitment to take the next step. Capital, access to government programs, trained labor, regulatory reform, and the adoption of best management practices all need to be encouraged. The potential of the sector as an engine for wider economic development also needs due consideration.

Recommendation: Department of Agriculture and Markets should coordinate food and wine writers orientation in wine country as well as other marketing programs. Secure additional monies for NYC wine tasting event and regional marketing.

Farmers' Market Definition

Producers can sell their wines at farmers markets, if they were to register with the State Liquor Authority. However, to constitute a farmers' market, the Department of Agriculture and Markets requires a diversity of agricultural producers including at least two farmer-producers. This definition precludes the definition of a gathering of wineries as a farmers' market.

Achievement: Problem identified by Task Force.

Recommendation: Task Force recommends that the Department of Agriculture and Markets extend the definition of farmers markets to include a gathering of two or more wineries.

Winery Restrictions by Local Ordinance

Some wineries and farm wineries have come under pressure from local ordinances that maintain that marketing activities such as weddings and festivals are not agricultural activities and therefore not eligible to protections normally associated with agricultural districts. However, §301 of the Agriculture and Markets Law explicitly protects "facilities and practices which contribute to the production, preparation and marketing of crops." The Department of Agriculture and Markets' Division of Agricultural Protection and Development Services has determined that weddings and festivals are marketing practices to raise awareness of wineries' predominant business, the growing of grapes and producing of wines, as long as more than half that facility's income is derived from the production and sale of wines.

Achievement: Problem identified and clarified by Agricultural Protection and Development Services Division of Department of Agriculture and Markets.

Recommendation: The Task Force requests that the Department of Agriculture and Markets clarify that the income for production and sale of wine can be generated over the course of a year.

Local government ordinances have tried to restrict some wineries' efforts to develop loyal repeat customers via special events held at wineries.

Sale of Wine at the State Fair

Wines were not being promoted to the maximum extent possible at the State Fair as wines could only be consumed in a designated area on the fairground, whereas beer concessions occurred throughout the fair. It was suggested at a Task Force meeting that contractual arrangements at the State Fair should be examined to increase winery participation by lowering costs and facilitating a quality experience for fairgoers.

Chapter 183 of the Laws of 2008 allows wineries to sell their wine at the State Fair in a manner similar to beer vendors at the Fair and allow patrons to walk around the fairgrounds with their purchases.

New York State wines will now be available for consumption throughout the fairgrounds.

Achievement: Agriculture and Markets supported legislative action in this area, and Chapter 183 of the Laws of 2008 now creates parity between wine and beer consumption at the fairgrounds. Agriculture and Markets modified the contractual conditions for wine sale at the fair so as to showcase New York wines and wine products, remove barriers and create efficiencies for participating wineries. The Department opened a new Wine Village at the 2008 State Fair and an additional satellite site near the grandstand.

Increase and Renew Marketing Campaign

Numerous opportunities exist to promote NY wines in which the Department of Agriculture and Markets could lend support. Conference call in June '08 with the Task Force's Marketing Focus Group identified themes to emphasize in a marketing message, including appealing to the 'localvore' movement and educating the marketplace that New York is a premier source for wines. While various regions could be emphasized, a large breakthrough in marketing will be achieved by focusing on the consumption of New York wines in New York City. Suggested marketing methods included bringing wine industry tastemakers to wine making regions, conducting NYC wine tasting event with wine writers and other journalists, and securing funding for improved Internet presence.

Marketing is a key element of the future growth of the industry.

The Department of Agriculture and Markets has been active in helping the industry with funding for marketing and promotion.

Achievements: Task Force outlined main contours of NY wine marketing strategy.

TASK FORCE FINDINGS

STATE LIQUOR AUTHORITY

The Alcoholic Beverage Control Law and Wineries

Chapter 391 of the Laws of 2007 charged the Law Review Commission with reviewing the State Alcoholic Beverage Control Law and reporting back to the Legislature with recommendations for changes. The legislation requires the Law Review Commission to review State Alcoholic Beverage Control Law. Chapter 73 of the Laws of 2008 extended its deadline to report to June 2009. The Commission is currently holding informational meetings with representatives of all segments of the alcoholic beverage industry.

The State Liquor Authority was established in 1934 to regulate the newly re-legalized alcoholic beverage industry.

Achievement: The Task Force has enjoyed an active dialogue with Law Review Commission members, both through one-on-one meetings with Commission members as well as participating in the Law Review Commission's June '08 'Round table' on revision of the state Alcoholic Beverage Control Law. Both forums gave the industry the opportunity to articulate its concerns.

Established in 1934, the New York State Law Review Commission studies state laws and recommends action or reform to the Legislature and Governor.

Recommendation: Department of Agriculture and Markets should endorse the recommendations of the Task Force in this area and provide a comprehensive, written statement of its reform points and recommendations relevant to the wine grape industry to the Law Review Commission.

Satellite Stores

Producers reported that satellite stores were not being considered as part of the winery and could not sell New York state wines for off-premise consumption. This is an issue because some farm wineries report receiving conflicting information from the State Liquor Authority on the terms of their licenses. The Department of Agriculture and Markets subsequently contacted the State Liquor Authority, which clarified that the off-premise requirements in State Liquor Authority regulations apply to satellite stores.

Satellite stores are owned by the winery but operate at a different location as an extension of their tasting rooms, and can sell only New York State wines.

Achievement: Department of Agriculture and Markets obtained clarification from State Liquor Authority for the Task Force. According to this conversation, satellite stores are considered to be covered by wineries' licenses and, therefore, can sell New York state wines. This was reported at March '08 Task Force meeting.

Recommendation: Amend the Alcoholic Beverage Control Law's Article 8, "General Provisions," to remove off-premises requirements for satellite stores.

Licensing and Administration

Currently, license application process can take over a year. Moreover, the State Liquor Authority's regulations specify several different categories of wineries. A single, unified license that covers all the aspects of a winery or farm winery's operations would be less cumbersome not just for the wineries but would also free up the State Liquor Authority's resources for other duties.

Achievement: Problem identified.

Recommendation: Licenses issued by the State Liquor Authority should be based on the licenses issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB). There should be only two categories of license: farm winery and commercial winery. The Commissioner of Agriculture and Markets should request the State Liquor Authority to streamline procedures, perhaps by lessening information requirements, offering electronic filing, and by attaining adequate staffing levels at the Authority. More immediate to the concerns of the Task Force, the Commissioner should consider requesting that State Liquor Authority create a wine industry, craft brewing, and farm distillery liaison to fast track the processing of winery, farm distillers and small brewers license applications and to provide for consistent interpretation of State Liquor Authority laws and regulations as they relate to these operations. Consideration should be given to amending Article 6 and Article 8 of the Alcoholic Beverage Control Law, and Part 40 of Title 9 of NYCRR, so as to specify State Liquor Authority response time to issue a license once a federal permit is filed with them.

"Off premises" licenses regulate liquor stores and are subject to regulations regarding placement and community need.

Currently, there are five different categories of winery licenses: Wineries (§76), Farm Wineries (§76-a), Special Wineries (§76-c), Special Farm Wineries (§76-d), and Micro-wineries (§76-f), each with different sets of qualifications and authorizations.

Certified Sustainable Agriculture

Agriculture and Markets and wine and grape industry could develop sustainable agriculture practices not just for their own benefit but also as a marketing advantage. There has been considerable consumer interest in sustainable wineries. In the United States, West Coast wineries are very advanced in this area. The Agricultural Environmental Management program and Cornell Cooperative Extension have already developed the VineBalance program which can be seen as a first step in this effort.

Achievement: Problem identified.

Recommendation: Department of Agriculture and Markets should support the industry's development of a certified sustainable agriculture program for the winery sector.

Certified Sustainable designation would carry environmental benefits as well as raise the visibility of the industry.

The NY Farm Viability Institute, Cornell Cooperative Extension, NE Center for Risk Management Education and the NY Wine & Grape Foundation created the VineBalance program as an AEM-based guide to sustainable viticulture practices.

Alternative Energy

Energy costs are a key component of viticulture, just as in other areas of agriculture. There are numerous opportunities for the industry to incorporate alternate energy in their operations. The Laws of 2008 now allow for businesses to generate electricity and sell it back to the 'grid' as well as increase the amount of electricity that farms sell back to the 'grid.'

Achievement: Discussion of issue with Task Force.

Recommendation: Agriculture and Markets could work with NYSEDA and other agencies to provide tax breaks, grants and incentives for renewable energy and biofuel production (e.g., cellulosic ethanol from agricultural waste product).

Alternate energy could allow significant cost savings for vineyards.

Expedite Pesticide Approval

New York State has a state level regulatory review process for pesticide approval beyond the approval extended by the federal government. Delays in NYS Department of Environmental Conservation's approval of new pesticides put New York growers at a disadvantage relative to producers from other states. New York State approval takes a minimum of seven months after USEPA approval, whereas some other states register products in a few days. Department of Environmental Conservation briefed the Task Force on its priorities and criteria for pesticide regulation. While sympathetic to the needs of industry, the Department of Environmental Conservation conscientiously is carrying out its mandate to protect both environment and the population from unsafe or unwise pesticide uses and will retain its current practice, within the parameters of their statutory mandate.

Achievement: Task Force briefed by Department of Environmental Conservation at the March '08 meeting.

Recommendation: The Department of Environmental Conservation should adhere to the statutory timeframes for the approval of new pesticides. All pesticide reviews must be based upon sound science.

The Federal approval process is lengthy and thorough, involving USDA, EPA, and FDA.

NYS Department of Environmental Conservation begins approval of new pesticides after the federal government has approved them. Local conditions vary so widely that national review is impractical.

Long Island's aquifer is the island's sole source for drinking water, making DEC cautious in approving new pesticide uses there.

Integrated Pest Management Research

Research at Cornell's Geneva Experiment Station in the field of integrated pest management is an important item not just for the wine and grape industry but for all agriculture. The Department of Agriculture and Markets already funds a grape entomologist through local assistance who works on IPM at the Geneva research station. However, continuing cutbacks in federal funding for Integrated Pest Management threaten that program.

Achievement: Discussion of issue with Task Force.

Recommendation: New York State should increase funding of IPM research.

The mission of the New York State Integrated Pest Management Program is to develop and deliver sustainable ways to manage pests that are cost-effective and pose minimal risks to human health and the environment.

Price Filing

State Alcoholic Beverage Control Law Section 101-b requires posting of wholesale alcoholic beverage prices. Price filings with the State Liquor Authority should more accurately reflect the movement of prices in the market. Current regulations are too inflexible to be responsive to market changes.

Achievement: State Liquor Authority briefed the Task Force on the intention and purposes of price filing requirements.

Recommendation: Department of Agriculture and Markets should recommend a simplification and streamlining of the price filing requirement in its comments to the Law Review Commission. Once filed, the price should be effective in five days.

Alcoholic Beverage Control Law requires filing of biannual wholesale prices with the State Liquor Authority.

Custom Crush

"Custom Crushing" is a term describing the process whereby independent facilities process the grapes of various vineyards into wine, thus enabling smaller vineyards to enter the industry. Currently, the State Liquor Authority's position on requirements for custom crushing in New York is ambiguous. Because there is no specific provision in NYS law for custom crush facilities, the law has been applied such that ownership of grapes and crushed grapes must be transferred back and forth, which is cumbersome.

Achievement: Department of Agriculture and Markets was informed of the Task Force's interest in this change.

Recommendation: The Commissioner of Agriculture and Markets should request that the State Liquor Authority follow the alternating proprietorship requirements for custom crush operations, which would enable farm wineries to provide a "custom crush" service under their existing licenses. The Department should continue to advocate for this change in law and should approach the State Liquor Authority to clarify current state of the law. Amendment of Article 6 of the Alcoholic Beverage Control Law may be necessary.

Other wine producing regions have thriving 'custom crush' businesses which allow for small vineyards to enter production.

Two separate bills were introduced in the 2008 legislative session to permit custom crush under the Alcoholic Beverage Control Law, but neither passed both houses.

Direct Shippers Report

Statutory changes in '05 allow producers to ship directly to consumers in other states, but State Liquor Authority's paperwork for compliance is cumbersome. Task Force briefed by State Liquor Authority representatives at Task Force meeting.

Achievement: At March Task Force meeting with the State Liquor Authority, the Authority expressed willingness to work with the industry to develop a simpler and more appropriate format.

Recommendation: Recommend elimination of the Direct Shippers Report, as detailed under §79-c and §79-d of Article 6 of the Alcoholic Beverage Control Law, "Special Provisions Relating to Wine."

Wineries that ship wines directly to consumers in other states must report such sales to the State Liquor Authority.

ENVIRONMENT/SUSTAINABILITY

Wastewater Management

Cornell Cooperative Extension (CCE) addressed the March '08 Task Force meeting on the subject of wastewater issues. Together with the NYS Soil and Water Conservation Committee and the Agricultural Environmental Management Program, CCE is currently studying winery wastewater treatment in order to develop recommendations for its regulation by the state. The current state of regulation of winery wastewater is unsatisfactory: wineries are considered industrial facilities and are subject to DEC SPDES (State Pollutant Discharge Elimination System) regulation.

Currently, Department of Environmental Conservation manpower limitations have resulted in investigation and enforcement only in response to a complaint. However, guidance is necessary so that wineries can plan effectively for growth in compliance with environmental regulations.

For producers, AEM and Cornell Cooperative Extension's Viticulture Studies group have developed the "VineBalance" Viticulture Workbook, now available online and from Soil and Water Conservation Districts.

State regulation has not adequately addressed the special factors related to wastewater disposal from wineries.

Achievement: Task Force briefed by Cornell Cooperative Extension and the Department of Environmental Conservation on the state of regulation of wastewater. Problem identified.

Recommendation: Wine processing and its waste disposal need to be comprehensively reviewed and consideration given to replacing the SPDES requirement with a general permit for appropriate winery wastewater treatment. Some wineries may be able to utilize landspreading practices in lieu of a permit, as allowed in other agricultural sectors. The Department of Agriculture and Markets should facilitate cooperation between the industry, the Department's Division of Soil and Water Conservation, the Department of Environmental Conservation, and Cornell Cooperative Extension to ensure that the appropriate program is formulated.

The Department of Agriculture and Markets should also consider notifying producers of the availability of the "VineBalance" workbook.

Wildlife Pest Management

Grapes are under constant pressure from wildlife, including deer and birds, but fencing and netting are exceedingly expensive. Agriculture and Markets brought Department of Environmental Conservation representatives to the March '08 Task Force meeting to discuss methods of addressing this problem. Among other options, the Department of Environmental Conservation reported on its Wildlife Management Units in each DEC Region. In consultation with local interests, the Wildlife Management Units create periodic wildlife management plans and then work to control wildlife populations to these target levels. Wine and grape growers are encouraged to work with local Wildlife Management Units to develop appropriate action plans for their sites. Potential solutions went beyond nuisance hunting permits to suggesting also the extension of falconry permits.

Achievement: Task Force briefed by Department of Environmental Conservation. The FY08-09 budget includes funding for the installation of fencing at wineries, and the expansion of funding in the future could be considered.

Recommendation: Department of Agriculture and Markets could notify all producers of Department of Environmental Conservation programs available, especially the Wildlife Management Units, to help cull wildlife nuisance populations.

Wildlife pest management is expensive for the industry.

Deer populations on Long Island are not adequately controlled by hunting.

State Department of Environmental Conservation's Regional Offices each have established Wild Life Management Units.