

MEETING OF THE ADVISORY COUNCIL ON AGRICULTURE
Department of Agriculture and Markets Building 10 B Airline Drive
Albany, New York
July 21st, 2015 at 10:00 A.M.

Present: S. Casella, N. Rea, F. Beyrodt Jr., J. Bittner, D. Haight, K. Wagner, B. Reeves, D. Stein, NYSSWCC; B. Ahner, Cornell University; C. Woerner, NYS Assembly District 113; R. Ball, Commissioner; J. Czub, Deputy; J. Rusnica, D. Cordier, M. Latham, B. Somers, T. DellaRocco J. Brennan, D. Behm, Department of Agriculture and Markets.

Attachments:

Call to Order: N. Rea called the meeting to order at 10:09 a.m.

Welcome: N. Rea requested a round of introductions and welcomed members to the Department of Agriculture and Markets. N. Rea provided opening remarks concerning the high level of interest in farmland preservation in his area of the state. He further encouraged the State and leadership around the table to continue efforts toward providing funding for conservation easements on farms as expeditious and consistently as possible. N. Rea then turned the floor over to the Commissioner for additional opening remarks. R. Ball expressed his appreciation for those in attendance, emphasized the importance of Agriculture Industry to the Governor and thanked all for being part of the advisory council. R. Ball discussed the commitments made to farmland preservation, the success in relaunching programs designed to fund conservation easements, including an additional \$20 million in resources budgeted specifically to the Hudson Valley for these efforts. R. Ball also briefly discussed that upstate-downstate summit held in December, current challenges with on farm labor and the Governors \$30 Million capital initiative to support the Agriculture industry in New York's Southern Tier. J. Czub discussed the progress of the Strategic Interagency Task Force on Lessening Obstacles to Agriculture (SILO) and the Beginning Farmers Working Group that have been created to provide recommendation and action items to lessen obstacles to agriculture.

Review and Approval of the Minutes: S. Casella made a motion to approve the minutes; seconded by J. Bittner. Motion approved, carried. (Resolution)

Agricultural Districts Law Guidelines:

B. Somers explained that the Department has developed sixteen guidelines that we used to assist communities that regulate land uses to assist in their understanding of the Agricultural Districts Law. The guidelines provide a summary of the positions the Department has taken in administering the protections afforded to farmers with in and Agricultural District as it pertains to the administration of overly restrictive local laws. As agriculture is not a static industry, and local-state laws are routinely amended, these guidelines are reviewed periodically to ensure their utility. Three proposed draft guidelines for discussion today cover topic areas related to defining farm operations, start-up farm operations and on farm marketing as it pertains to wine, beer, cider and distilled products. Each of the documents were reviewed in detail. A lengthy discussion ensued reviewing the new and amended guidelines. D. Haight asked about Non-Profit and clarification surrounding commercial farm enterprise. J. Rusnica discussed the lengthy reviews that can occur and that the guidelines could put additional emphasis in any area. Several members talked about the value of the Agricultural District Law and the need to stay true to protection of agricultural activities that can be directly tied to production agriculture. K. Wagner emphasized that there are a lot of new businesses in the craft beverage industry that fall outside of the farm operation definition, and it is important that they receive clear information during the development stages of their business. B. Somers discussed the Start-up farm questionnaire in reference to filling some of the information gaps, including farmers that do not have a previous history in growing and producing a crop. S. Casella talked about the challenges to municipal governments and emphasized the need for continued communications and guidance from the Department. Including training for assessors on what is a farm.

Discussion ensued on the education of assessors. B. Somers talked about efforts to attend assessor training as requested, and the limitation of dedicated staff support from office of real property services (ORPS) in tax and finance. B. Reeves talked about the education needs of farmers and suggested that efforts to support neighbor relations might be enhanced by cooperative extension. B. Somers also commented on the diversity of reactions from local municipalities, which at times makes it different to educate and enforce our laws. R. Ball reported on the SILO task force recommendations specific to agricultural assessment. The recommendation presented is to move the agricultural related functions of functions of ORPS to the Department of Agriculture and Markets. Train assessors on agricultural issues and farm appraisals. Require assessors located within Agricultural Districts to receive continuing education in agricultural assessment.

S. Casella made a motion to support the statement as developed by the SILO task force concerning the transfer of agricultural assessment responsibilities and the training of assessor; second by J. Bittner. Motion approved, carried. (Resolution)

S. Casella talked about an additional outcome here being a great amount of backstopping for assessors as well.

B. Somers discussed the guideline for start-up farms and the importance of careful considerations needed by local governments to allow for this use within the Agricultural District to succeed. Essentially the guideline looks at balancing production with preparation and marketing activities consistent with the availability of a farms on farm production. Feedback was requested by August 1st.

J. Rusnica discussed some of the nuances around production of a crop, turning it into a beverage and marketing that beverage. John further expanded on how the Department proposes to consistently evaluate these land uses. This is an evolving area specific to local laws and the growing craft beverage industry. The diversity of farms is evolving, having good guidance is increasingly important. The Department looks at a predominance of on farm production, beverages that are representative of the farms production and incidental income limitations specific to marketing. In investigating ways that marketing activities on farms are regulated across the country, Oregon and the ensuing case law seemed to closely mimic the historical and evolving industry in NY. D. Haight asked whether this guidance would be carried into other guidance documents like other retail farm sales. J. Rusnica responded as adopted other guidance documents will be edited consistent with this guideline. Feedback was requested by August 1st Bob.Somers@agriculture.ny.gov .

D. Behm discussed the recent addition of non-competitive grant funding program available to local governments via the Department, for the amendment of local laws dealing with agriculture. It's a great opportunity for local governments that have identified areas of their laws that need refinement in support of agriculture as a land use.

The meeting recessed for lunch at 12:05 and reconvened at 12:55.

Old Business:

D. Behm discussed a previous request of the ACA about the appraised value of development rights. Historically, final calculated value of development rights is supported by an appraisal performed by a licensed appraiser. Over time applications specific to farmland protection proposals have improved their estimates. D. Behm discussed data points collected from previous rounds 8-11 and the narrowness of the data points we do have, adding emphasis to the general nature of our information. Overall, the trend over time has been a decline in development rights, despite site specific locations with higher values. The trend is largely influenced by a general decline in farmland protection activity on Long Island when averaged into the overall value of development rights across the state. The Department has also been apprised of recent escalation in value of good soils for farm use in western, NY, which may point to a lessening of development pressure. In time, these trends may speak to the need for more diverse

Department programs to protect farmland beyond the use of conservation easements in certain cases. Opportunities aligned with advancing the right tool in the right location in support of agriculture. F. Beyrodt Jr. commented that the depiction on Long Island is accurate, but starting to reverse itself in most areas. D. Haight talked about another looming concern in the conversion of preserved agricultural lands to wealthy estates and the need for policies that continue to reinforce the agricultural use. D. Behm indicated that there are strategies that could be explored to respond to concerns in this area. Existing statute gives the Department latitude to address ACA concerns as needed. Many members commented on a view of open space versus farmland protection and the drivers that create a threat to agriculture. Emphasis was added about the cumulative or stacking of Department activities that need to remain in place as an aid to agriculture overall. D. Behm was thanked for the presentation.

J. Brennan reviewed the broad role of the ACA as it pertains to the consultation of activities surrounding Agricultural Districts Law. A map was reviewed and a discussion ensued about level of review, type of materials distributed and comments received in the past. There was continued discussion about the various types of review, timeframes, notifications etc. **The ACA reached a consensus that all members would like to receive all information rather than individually directed assignments by region.**

Outlook Discussion Topics:

D. Cordier reported that there is increasing concern in western NY about the application of biosolids on agricultural lands. The Department now has three local laws under 305a review in the towns of Bennington, Wheatfield and Marilla. Each town has adopted a local law to restrict the application of biosolids or prohibit its use. The Department has received several Freedom of Information Requests concerning this matter. D. Stein reported that there is an activist moving from town to town in Genesee County trying to persuade towns to ban the application of biosolids as well as state permitted residential septic injection on agricultural lands. J. Rusnica reviewed similar litigation on these matters in the 1990's concerning septage and biosolids. The Department prevailed in each case. The activity is permitted by DEC and when last reviewed by the Department the practice was deemed sound. J. Bittner discussed the uses relayed to him by grain farmers that do not pasture animals. Farmers are pursuing this lawful practice by getting permitted through the Department of Environmental Conservation and unfortunately have become caught up in all of this personally and professionally through their businesses.

B. Somers discussed Department guidance that pertains to the siting of small wind energy. The Department has had about 12 cases total, 4 under current review. The Department looks at demonstrated need and farm operation status. The Department works very closely with New York State Energy Research and Development Authority in establishing standards for optimization of power generation, noise reduction and public safety. Many of the turbines we are involved with is 10 Kilowatts or less. B. Somers stressed that the use and need that is established must be specific to that of the farm operation and agriculture. B. Reeves asked if there are similar concerns over solar arrays being constructed on farms. B. Somers reported that there is some developing discussion, however to date we have not had any cases. However, the Department does address solar in its guidance document.

Miscellaneous Reports:

M. Latham distributed copies of the 2014/15 ACA/ Farmland Protection report and discussed the addition of these materials to the Department's website. The structure going forward will continue to be bi-annual reporting to cut costs, the report will be updated in the spring of 2017. M. Latham distributed a one page process document for those council members seeking state reimbursement for mileage, tolls and lodging expenses related to these meetings. Those members seeking lodging will need to obtain a vendor card from the agency.

The group discussed the conclusion of the legislative season. M. Latham reported that a bill passed that included log grown woodland mushrooms in the definition of "crops, livestock and livestock products". Amendments to the Agricultural Districts law introduced as a Departmental Bill were not approved by the legislature and died in the senate. B. Ahner inquired if there was any specific information on the status

of a bill that addresses Cornell Cooperative Extension funding or changes to the 224 law. K. Ball recalled the bill and believed it was headed to the Governor's office for signature.

R. Ball again express his appreciation for ACA participation and thanked the group.

There were no comments from the public.

N. Rea adjourned the meeting at 2:34 PM.

**Guidelines for Review of Local Laws That Define "Farm Operations",
"Farm", "Agriculture", "Farmland" or Any Similar Term**

Pursuant to Article 25-AA, the term "farm operation" is used to identify and define commercial enterprises, through the use of land, buildings and equipment, to carry-out an agricultural enterprise. Over the years, the State Legislature has amended the Agriculture and Markets Law (AML) to enhance the breadth of what constitutes a farm operation, including the type of crops, livestock and livestock products considered to be part of an agricultural enterprise.

In the administration of the AML regarding a municipalities definition of "farm", "agriculture", "farmland" or any similar term used to describe an agricultural/farm operation in its zoning code, the Department compares the municipal definition to the State's definition of "farm operation" as defined below. If a municipal definition does not encompass the breadth of crops, livestock, livestock products and farm enterprises identified in the AML, the local law may be deemed to be unreasonably restrictive and in violation of AML §305-a(1).

When a municipality examines its local laws for consistency with the AML, it is important to take into consideration certain aspects of the State's definition of "farm operation". Under the AML, a farm operation includes the production, preparation and marketing of crops, livestock and livestock products that are produced on land that is owned or rented, contiguous or non-contiguous to one another. Land can be owned or rented in another town or county and still be considered part of the farm operation. Furthermore, start-up farms, may also be protected under the AML as long as the land is located within an agricultural district. Start-up farms will be described in another section of this document.

Definition of Farm Operation as Defined in the AML

301(11). "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section, "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section and "commercial equine operation" as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

301(2). "Crops, livestock and livestock products" shall include but not be limited to the following:

- a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries and berries.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed

buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.

f. Maple sap.

g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.

h. Aquaculture products, including fish, fish products, water plants and shellfish.

i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.

j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.

301(13). "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

301(14). "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

301(16). "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

301(17). "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing, notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

Start-Up Farm Periods

In the administration of the AML, the Department has considered the needs of "start-up" farm operations when the land used for agricultural purposes is located within a county adopted, State certified agricultural district. The Department examines the activity to be conducted, level of investment and involvement in the farm, edaphic and physiographic characteristics of the property, agricultural knowledge of the landowner and other factors that may specifically apply to a proposed agricultural activity. Concerning protections afforded under AML §305-a to farm operations, including "start-up farms", municipalities should allow a reasonable period of time to establish the farm and its production of crops/livestock/livestock products. The Department considers the following start-up periods to be reasonable:

Crop Farms: 2-3 years

Livestock Farms: 2-3 years

Nurseries and Greenhouses: 2 years

Aquaculture Farms: 2 years

Christmas Tree Farms: 4-6 years

Maple Farms: 2-3 years

Woody Biomass – 3 years

Apiary – 2 years

Orchards and Vineyards: 4-6 years

*Vineyards for the Production of Grapes for On-Farm
Wine Production: 6-7 years*

¹ Local governments may, of course, provide longer start-up periods in their discretion.

*Farms Producing Crops for On-Farm Breweries, Cideries
and Distilleries: 4-6 years*

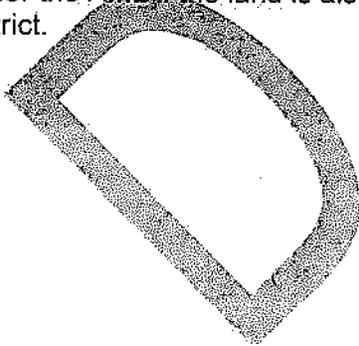
Acres and Gross Sales Requirements

Under the AML, "farm operation" is partially defined as a "commercial enterprise." By definition under the AML, a "farm operation" is not required to be eligible for receipt of an agricultural assessment or meet the acreage and gross sales requirements as required in AML §301(4) – *Land Used in Agricultural Production*.

In the absence of minimum acreage and gross sales requirements, the Department must examine the landowner's intent and whether or not the farm is profit-oriented when evaluating whether or not a farm operation is a "commercial enterprise." When making such determinations, the Department has used standards from the Internal Revenue Service to distinguish between "not-for-profit farming" and "farming activity for profit."

- 1) You operate your farm in a businesslike manner,
- 2) The time and effort you spend on farming indicate you intend to make it profitable,
- 3) You depend on income from farming for your livelihood,
- 4) Your losses are due to circumstances beyond your control or are normal in the start-up phase of farming,
- 5) You change your methods of operation in an attempt to improve profitability,
- 6) You, or your advisors, have the knowledge needed to carry on the farming activity as a successful business,
- 7) You were successful in making a profit in similar activities in the past,
- 8) You make a profit from farming in some years and how much profit you make, and
- 9) You can expect to make a future profit from the appreciation of the assets used in the farming activity".

If an agricultural operation is determined to be a farm operation as defined in AML §301(11), both existing and start-up agricultural enterprises, they may be afforded protections under the AML if the land is also located within a county adopted, State certified agricultural district.



Guideline for Review of Local Laws Affecting Farm Operations Which Produce, Prepare and Market Crops for Wine, Beer, Cider and Distilled Spirits

The following Agriculture and Markets Law (AML) provisions are relevant when evaluating whether farms which produce, prepare and market crops for wine, beer, cider and distilled spirits are protected as a "farm operation" for purposes of AML §305-a¹:

AML §301(11) "farm operation" – "...means the land and on-farm buildings, equipment,... and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise. ... Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other." (emphasis added)

Definition of "crops, livestock and livestock products" as contained in AML §301(2) (a) includes, but is not limited to "...corn, wheat, oats, rye, barley..." and [hops] and §301(2) (b) "[f]ruits," including "...apples, peaches, grapes, cherries and berries."

The on-farm "production, preparation and marketing" [AML §301(11)] of grains, grapes and other fruits are considered part of a farm operation. The Department considers agricultural commodities produced "on-farm" to include any products that may have been produced by a farmer on his or her "farm operation," which could include a number of parcels owned or leased by that farmer throughout a town, county, or the State.

The Department considers the processing, distillation, brewing and fermentation activity and the on-farm buildings and equipment which are needed to produce, store, distill, brew and/or ferment grains, grapes or other fruits as part of the farm operation to the extent that the distilled or brewed product, cider and/or wine that is prepared is composed predominantly of grain, hops, grapes or other fruits produced on the farm.^{2,3} In addition, the on-farm marketing of distilled and brewed products, cider and wine,

¹ Please see the Department's *Guideline for Review of Local Laws Affecting Preparation and Marketing Activities by Start-Up Farm Operations* for information about how the Department evaluates start-up farms that use their crops for the production and sale of beverages and other value-added products.

² Distilled or brewed products, cider and wine must be composed of 51% or more on-farm produced grains, hops, grapes or other fruits (if grapes or fruits are imported as whole fruit, then gross weight of the on-farm produced grapes/fruit must be at least 51% of the finished wine; if juice is imported, then the gross volume of juice from on-farm produced grapes/fruit must be at least 51% of the finished wine).

³ While the Department sets standards for protection of "farm operations," the Alcoholic Beverage Control Law (ABC Law) provides the standards which must be met for farm brewery, cidery, winery and distillery licenses. Licensees must comply with the ABC Law standards to qualify for their licenses. While a license issued by the State Liquor Authority may allow for the sale of alcoholic beverages which are not made from crops grown by the farm, the Department does not consider such beverages to be part of a farm operation. Therefore, the production and sale of such beverages would not be protected under AML §305-a.

when the distilled and brewed products, cider and wine is composed predominantly of on-farm produced grain, hops, grapes or other fruits, is part of the farm operation. On-farm marketing of distilled, brewed, cider and wine-related products (e.g., food products such as cheese, pies and ice cream made with wine or on-farm produced fruit, as well as products used for transport, preparation and consumption of distilled or brewed products, cider or wine, such as shot glasses, cork screws, chillers and wine/beer/cider glasses) is also part of the farm operation when the amount of annual sales of such products is consistent with the size and scope of the farm operation and is incidental to the annual sales of the farm's distilled or brewed products or wine. **Farm operations must keep sufficient records to prove that these requirements are met.** The needs of "start-up" farm operations should also be considered. These farms often start out selling distilled or brewed products, cider and/or wine which is composed entirely, or primarily, of grain, hops, grapes/fruit grown off the farm in order to develop a customer base and maintain income while their crop (such as hops or grains) or vines/fruit trees are growing. These farms should be allowed a reasonable period of time to meet the predominance standard.⁴

MARKETING ACTIVITIES (e.g., WEDDING RECEPTIONS, PARTIES and SPECIAL EVENTS)

The Department has concluded that on-farm wedding receptions, parties and special events (e.g., harvest festivals or distillery, brewery, cidery and wine tastings), including charitable events, held at farms which market their crops as wine, beer, cider and distilled spirits, help market the farm operation's product. These activities are evaluated on a case-by-case basis to determine whether they are protected as part of the farm operation. The Department interprets AML §301(11) to include such receptions, parties and special events held on-farm as part of a farm operation under certain conditions. The events, whether public or private, must be: 1) directly related to the sale and promotion of the beverage produced at the farm (from at least 51% on-farm produced grain, hops, grapes/fruit/juice); 2) incidental and subordinate to the retail sale of the beverage on-site; 3) hosted by the farm or customers of the farm (not outside, unrelated parties); and 4) feature the beverage produced at the farm (from at least 51% on-farm produced grain, hops, grapes/fruit/juice).

The Department considers events to be "incidental" only when the gross annual sales from the non-beverage portion of event sales (including any facility rental/vendor fees, admission fees, catering charges, sales of other alcoholic beverages, etc.) does not exceed 30% of total gross sales from the retail sale on-site of the beverage produced at the farm (from at least 51% on-farm produced grain, hops, grapes/fruit/juice) at such events, plus the retail sale of any other crops, livestock or products or beverage-related food products (produced on the farm) that may be sold at such events.⁵ All products must be sold at a cost no higher than the current retail price

⁴ Please see the Department's *Guideline for Review of Local Laws Affecting Preparation and Marketing Activities by Start-Up Farm Operations* for the Department's view of reasonable time frames for various crops.

⁵ When farm event customers arrange for their own catering, alcoholic beverage service, etc., and the farm does not charge for such items, these costs would not, of course, be counted as gross sales to the

of such products sold at the farm. Farm operations must keep sufficient records to prove that this requirement is met. Further, local governments can require the farm to submit an annual report to the locality showing that these conditions have been met.

In cases where the farm operation holds a special event as part of its overall marketing strategy, the event is open to the general public, and no admission, facility rental or vendor fees are involved, an evaluation of fees versus sales of the farm's distilled or brewed products, cider and/or wine and wine-related food products would be unnecessary.

In all cases where on-farm wedding receptions, parties and special events are offered, the primary purpose of the events must be to market the farm's distilled or brewed products, cider and/or wines and the events must be sufficiently related to the farm operation. The Department examines the specific activities/events to determine whether they are part of the farm operation. In addition, these activities are subject to any State or federal requirements applicable to the processing, storage and sale of alcoholic products.

Information concerning the marketing of product grown and produced on the farm may be obtained from the *Guideline for Review of Local Laws Affecting Direct Farm Marketing Activities*

(<http://www.agriculture.ny.gov/AP/agsservices/guidancedocuments/305-aFarmMarket.pdf>).

CAN THE TYPES OF MARKETING ACTIVITIES CONDUCTED BY A FARM BE LIMITED? CAN THE NUMBER AND SIZE OF RECEPTIONS, PARTIES AND SPECIAL EVENTS BE LIMITED?

The types, size and scope of marketing activities that a farm growing crops for beverage production needs varies depending upon the amount of crops that the farm grows and uses for its beverage products and how the farm wishes to market its crops. Farms may market their beverages through a variety of methods: tastings, food pairings, beverage-themed dinners, wedding receptions, parties, fundraisers, etc. The Department considers these practices as part of the farm operation as long as the farm produces enough of its own crops or livestock to substantiate the need for these types of marketing tools. For example, a start-up farm that only grows a minimal amount of crops (and consequently a limited amount of beverages) would not require the same marketing tools as a larger, established farm.

The Department evaluates whether local restrictions, such as caps on the number and size of special events, are unreasonably restrictive of a farm operation.

farm. Admission fees or minimum donations which are donated to a charity are also not subject to this condition. Further, the fact that admission fees or all, or a portion of, sales from the event are donated to a charity does not mean that the primary purpose is not to market the farm's distilled or brewed products, cider or wine. The Department evaluates all AML §305-a matters on a case-by-case basis. Therefore, if necessary, the Department would examine the specific event(s) to determine whether it is part of the farm operation.

Therefore, a farm that has a limited amount of crop-based beverages to sell, 1,000 gallons of wine for example, would not need multiple, large-scale events to market such beverages. The size and number of events can be limited each year, based upon the previous year's production.

CONDITIONS TO ENSURE THAT THE PRIMARY PURPOSE OF RECEPTIONS, PARTIES AND SPECIAL EVENTS IS TO MARKET FARM'S DISTILLED OR BREWED PRODUCTS, CIDER AND/OR WINES; AND TO ENSURE THAT THE EVENTS ARE SUFFICIENTLY RELATED TO THE FARM OPERATION

In addition to the conditions discussed on page 2:

- The farm's distilled or brewed products, cider and/or wines must be prominently featured at all locations in which the event is conducted on the site. Marketing materials (e.g., brochures, pamphlets, presentations, photos, branded items, etc.) must be prominently displayed; and the farm's distilled or brewed products, cider and/or wines must be available for purchase at all locations and for the duration of the event.
- Any person serving the farm's distilled or brewed products, cider and/or wines must be thoroughly familiar with the farm and the products being served (not just a bartender); and the farm can only charge the customer for this service to the extent allowed by the ABC Law.

LOCAL PERMITS AND APPROVALS FOR MARKETING ACTIVITIES

In regulating these activities, local governments may require farm landowners that hold such events to undergo an expedited site plan review process and/or obtain an event permit from the regulating municipality. The Department discusses an expedited site plan review process in its *Guideline for the Review of Local Zoning and Planning Laws* (<http://www.agriculture.ny.gov/AP/agsservices/guidancedocuments/305-aZoningGuidelines.pdf>). If the municipality requires the farm landowner to obtain an event permit, the permit should be issued on an expedited basis and not be excessively costly to obtain. For example, an event permit application meeting these standards might request information on such things as the date(s) of the event, type of event being held, the anticipated number of people in attendance, parking, whether catered food or food prepared on-site, the fee charged to rent the facility or the cost of admission and a description of the buildings to be used during the event. The permit could also make provisions for any inspections that must be made by the Code Enforcement Officer/Building Inspector, Fire Marshall and/or Health Department, and other reasonable requirements that may be pertinent to the holding of such events.

While special use permits should not generally be required for a farm that markets through a limited number of small scale events; farms which market their crop-based beverages through multiple, large-scale events on a regular basis could be required to obtain a special use permit. The Department supports such an approach, when the permit process is streamlined, since it allows local governments to

comprehensively address specific facts and circumstances presented by the farm's events. If a farm claims that the process to obtain a permit, or the conditions imposed, are unreasonably restrictive, the Department could review the matter under AML §305-a.

The Department reviews all matters under AML §305-a on a case-by-case basis. A Department determination that a farm's marketing activities are part of a farm operation and, therefore, eligible for protection under AML §305-a; does not extend to the sale of products or the use of marketing activities that were not reviewed by the Department. Therefore, a local approval based upon the Department's enforcement of AML §305-a could be revoked if the farm changes the products that it sells or the marketing activities used.

WHAT TYPES OF ACTIVITIES CAN BE OFFERED AT A FARM'S MARKETING EVENTS?

While events held at a farm which markets its crops as beverages may generally be considered part of a farm operation; not all activities which may be offered at such events are part of a farm operation. Specific marketing activities, and the components of those activities, are evaluated on a case-by-case basis. For example, the Department previously found that the following activities/uses at a certain farm's festival were not part of the farm operation: hot air balloon rides, fireworks, pedal karts, cow train and activities such as a jumping pillow and gemstone mining. The town involved in that matter explored a site plan review law to examine public events/venues and gatherings at farms.

The Department carefully evaluates farm marketing activities to ensure that the primary purpose of the events is to sell the farm's products; and that the activities are sufficiently related to the farm. For example, a corn cannon and pumpkin launcher were found to be part of the referenced farm's protected marketing activities since the farm's products were sold and used for the activity.

Guidelines for Review of Local Laws
Affecting Preparation and Marketing Activities by Start-Up Farm Operations¹

Some farmers import produce from other farms to sell at their farm marketing facilities, as raw or prepared products, to increase the diversity of products offered or to bridge periods of low supply of commodities produced on-farm. Product diversity may attract potential customers to a roadside stand or farm market. The Department believes the sale of some agricultural products grown off the farm should be allowed, but has not established a percentage of on-farm versus off-farm products for that purpose. The Department considers the facts of a particular case in making a determination whether a local law is unreasonably restrictive, but generally would view requiring a predominance of on-farm products as reasonable. The Department considers agricultural commodities produced "on-farm" to include any products that may have been produced by a farmer on their "farm operation," which could include a number of parcels owned or leased by that farmer throughout a town, county, or the State. The Department considers all such land, when it is located in a State certified agricultural district, as part of the farm operation.

Start-Up Farm Periods

- The needs of "start-up" farm operations should also be considered. These farms may start out selling a large percentage of agricultural products grown off the farm in order to develop a customer base and maintain income while their farms are growing. If a percentage of on-farm products were required by a locality, allowing such farms a reasonable period of time to meet the percentage would be reasonable. The Department considers the following start-up periods to be reasonable²:

Crops: 2 years

Livestock: 2 years

Nurseries and Greenhouses: 2 years

Aquaculture: 2 years

Apiaries: 2 years

Christmas Trees: 8-10 years

Maple: 2 years

¹ This guideline provides information about how the Department treats preparation and marketing activities by start-up farms for purposes of AML §305-a. Please see *Guidelines for Review of Local Laws Affecting Direct Farm Marketing Activities* for more detailed discussion of farm marketing, generally.

² Local governments may, of course, provide longer start-up periods in their discretion.

Orchards and Berries: 3-5 years

Vineyards: 5 years

Woody Biomass 3 years

What types of crops, livestock and livestock products may be imported from other farms during the start-up period and thereafter?

- Crops, livestock and livestock products that are imported from other farms must be representative of the crops, livestock and livestock products that the farm or start-up farm grows/raises and sells. For example a Christmas tree farm that does not produce any other products could be limited to importing Christmas trees, greens for wreaths and related products if the local government chose to limit the products offered for sale.
- A farm that doesn't produce a certain product can import that product to diversify the crops, livestock and livestock products that it offers for sale where the intent to produce the crop, livestock or livestock product is clear.

How much produce can a start-up farm import from other farms during the start-up period and thereafter?

- A start-up farm can be limited to importing other produce on a "one-for-one basis." If the farm is in its first year of production, the amount would be based upon the expected production of the land that the farm has in production or the expected yield of livestock being raised that will be sold by the farm at its on-farm marketing facilities. Import limits in subsequent years would be based on the farm's previous year's production that was sold or intended for sale on the farm. Therefore, as the farm's own production increases, more produce from other farms can be imported.
- The evaluation of imports can be based upon weight, volume or value.

Examples: 1) A vegetable farmer produces and sells 10,000 pounds of vegetables at his or her on-farm marketing facilities each year. The farm should be allowed to import up to 10,000 pounds of vegetables to prepare and market at the farm.

2) A livestock farm purchases 50 cattle to raise and sell at the farm. The farm should be allowed to import an equivalent amount of beef for sale at the farm during the first year of operation while the farm's own cattle are being raised to sell the following year.

3) A new vineyard that plans to grow grapes for wine production has 5 acres of vines planted. These five acres are expected to yield 10,000 pounds of grapes (or 5,000 gallons of juice) when mature. The vineyard can import 10,000 pounds of grapes or 5,000 gallons of juice to prepare and market as wine at the farm during the first year of operation.

4) A new hop and grain farm that plans to grow hops and grains for beer production has 1 acre of hops and 20 acres of grains planted. Since hops are a high value crop, the expected yield of the 1 acre planted is worth \$20,000 (but only weighs 500 pounds) and the 20 acres of grains are expected to yield 10,000 pounds of grain. The farm can import up to 10,000 pounds of grain and up to another \$20,000 of hops, grains or other produce to prepare and market as beer at the farm during the first year of operation.

On-farm preparation of processed foods

- The purpose of the Agricultural Districts Law is to keep land in agricultural production. Therefore, the Department protects preparation and marketing activities to the extent that a farm is engaged in the production of crops and livestock.
- Farms can import crops or livestock and prepare value-added products from the imported goods to the extent that the farm grows or raises such crops or livestock, on a "one-for-one basis," for sale at retail as part of their direct marketing activities. Since the purpose of the start-up periods and the predominance standard is to assist farm operations in direct marketing their own products on the farm, produce and livestock cannot be imported to prepare/process for sale at wholesale.
- The scope of marketing tools that a farm needs varies depending upon the amount of crops or livestock that the farm grows or raises and how the farm wishes to market its products (e.g. as raw products or prepared/processed and value-added items). Some of the larger farm markets may have facilities for the on-site preparation of processed foods (e.g. a kitchen, bakeshop, etc.), as well as facilities for consumption of foods (e.g. a café). The Department considers these practices as part of the farm operation as long as the farm produces enough of its own crops or livestock to substantiate the need for these types of preparation and marketing tools. Generally, if the products that are prepared are composed primarily of ingredients produced on the farm, the Department will protect a kitchen, bake shop or café. However, a start-up farm that only grows a minimal amount of crops or raises a limited number of livestock would not require the same preparation and marketing tools (kitchen, bake shop or café) as a larger, established farm.
- A start-up farm may, however, need a small kitchen or other preparation facility to prepare crops or livestock for sale at the farm. A large commercial-style kitchen, bake shop or café would likely not be needed or warranted, however.
- In all cases, it would not be unreasonable to have a farmer provide the municipality with proof that their facilities are in compliance with local Health Department and/or Federal, State or reasonable local law requirements.



Agriculture and Markets

ANDREW M. CUOMO
Governor

RICHARD A. BALL
Commissioner

Over time, the Advisory Council role assumed a number of statutory responsibilities related to the administration of the Agriculture and Markets Law has expanded, including the review of matters such as:

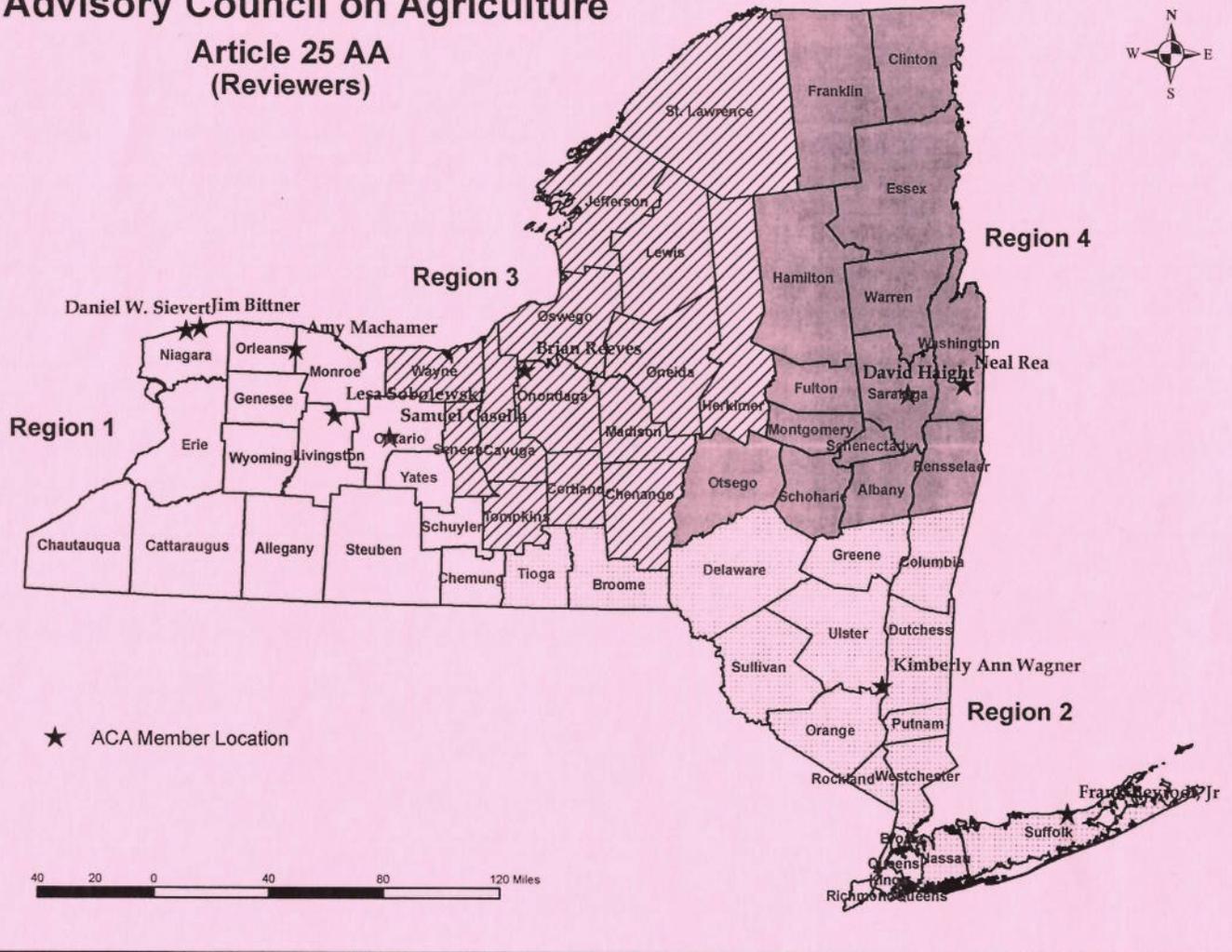
- notice of intent cases
- sound agricultural practice opinions
- farmland protection grant applications
- the creation and review of Agricultural Districts
- agricultural assessment values
- eminent domain and other public acquisitions
- right to farm law
- agricultural protection
- other occasional grant programs for food and fiber production including the farmland viability program subject to appropriations

•

Michael J. Latham

Advisory Council on Agriculture

Article 25 AA (Reviewers)



To: Advisory Council
From Marilyn Sanford
Subject: Travel Reimbursements
Date: July 21, 2015

I have enclosed a few documents you will need to get into the system.

*The first thing you need to do is:

1. Fill out the NYS Office of the State Comptroller Substitute Form W9. (The directions are on the back of the form) Once complete please send to me.
Once the NYS Office of the State Comptroller Substitute Form W9 form has been completed and sent to me the BSC will give you an ID#. At that time we can start submitting any paperwork for reimbursement.

*Next in your packet

1. Claim for travel reimbursement by a NON-Employee. I will need one of these filled out and signed along with all receipts.
2. Application for Employee/Vendor ID Card. Please fill out and give to me and I will see that you receive your Temporary ID which is good for one year or until the end of your state service. The card must be returned to Agriculture and Markets at the end of your service. The card is to be used at your hotel to prove you are entitled to tax exempt state rate.
3. The next is the 2015 Per Diem Rates for NY
This is a list of all the rates, by county, that the state will reimburse. When making a reservation give the contact the hotel and ask for the "State Rate" Example: You are going to Lake Placid in Essex County in February (burr) they will pay you back up to \$129.00 per night.
4. Tax Exempt form: This is given to the hotel each time you visit. Be careful, always check your bill that they didn't charge state tax
5. Tolls: Just keep the receipt or if you have EzPass you can send me a copy of your statement.
6. Mileage: is 57.5 cents a mile

I will be your contact for everything. If you have any questions feel free to call me anytime. Any of the paperwork you send in please send it to me. I will keep copies and make sure they are delivered to the right hands.

My address:

NYS Agriculture and Markets
Attn: Marilyn Sanford Land and Water Resources
10B Airline Drive
Albany, NY 12235

My Phone: 518-457-3738

My E-mail: Marilyn.sanford@agriculture.ny.gov

*You will most likely receive a 1099 form from the state for tax purposes as per §309 AML

2014 ANNUAL REPORT
AGRICULTURE & FARMLAND PROTECTION PROGRAM
&
NEW YORK STATE
ADVISORY COUNCIL ON AGRICULTURE



DEPARTMENT OF AGRICULTURE AND MARKETS
RICHARD A. BALL, COMMISSIONER

APRIL 2015



Agricultural and Farmland Protection

Under the Agricultural and Farmland Protection Unit, the Division administers the provisions of the Agriculture and Markets Law, which includes: Article 25-AA (Agricultural Districts) to maintain viable agricultural lands, farm operations and the production of crops, livestock and livestock products, Article 25-AAA (Agricultural Protection and Development) to maintain working landscapes and the irreplaceable land base associated with it, and as a statutory party under Article VII and Article X of the Public Service Law, for the mitigation of agricultural impacts resulting from the construction of major gas pipeline(s), industrial wind turbines and electric power line facilities.

New York Advisory Council on Agriculture

The Advisory Council on Agriculture was established by Chapter 79 of the Laws of 1980 to advise and make recommendations to State agencies on state government plans, policies and programs affecting farming and the agricultural industry of the State.

Members are appointed by the Governor with the consent of the Senate. Members are selected for their expertise related to areas of Council responsibility.

This Annual Report is prepared and submitted consistent with the requirements of Section 309(7) and Section 304-b of Article 25-AA of the Agriculture and Markets Law.

MEMBERS

Neal Rea, Chair

Frank Beyrodt Jr., Vice Chair

Jim Bittner

Samuel Casella

David Haight

Amy Machamer

Daniel McGarr (2014)

Brian Reeves (2015)

Daniel W. Sievert

Lesia Sobolewski

Kimberly Ann Wagner

Introduction

The Advisory Council on Agriculture worked to maintain the viability of New York's agricultural industry in 2014-2015. The Council continued to perform its statutorily defined roles of assisting in the management of the Agricultural Districts Program and oversight responsibilities related to farmland protection grant applications, sound agricultural practice opinions, agricultural assessment values, right to farm, notice of intent cases, agricultural protection and occasional grant programs for food and fiber production.

Responsibilities

The duties and responsibilities of the Council are articulated in the Sections 297, 303, 303-a, 304, 304-a, 305(4), 308, 309, 325, and 329 of the Agriculture and Markets Law (AML). They are as follows:

- provide advice, comments and recommendations to the Commissioner regarding the establishment and review of agricultural districts;
- provide advice, comments and recommendations to the State Board of Real Property Services regarding the establishment of agricultural assessment values and any revisions to the land classification system;
- provide advice to the Commissioner and other state agency heads on state plans, policies and programs affecting farming and the agricultural industry;
- assist the Commissioner in determining whether actions which are subject to the Notice on Intent requirements of AML will have an unreasonably adverse effect on the viability of a farm enterprise or enterprises located within an agricultural district;
- consult with the Commissioner on the issuance of sound agricultural practices opinions;
- advise the Commissioner regarding whether particular land uses are agricultural in nature;
- provide recommendations and advise the Commissioner on the operation of the Food and Agriculture Industry Development Program; and
- consult with the Commissioner on the identification and coordination of the resources available for the Farmland Protection Program.

Activities

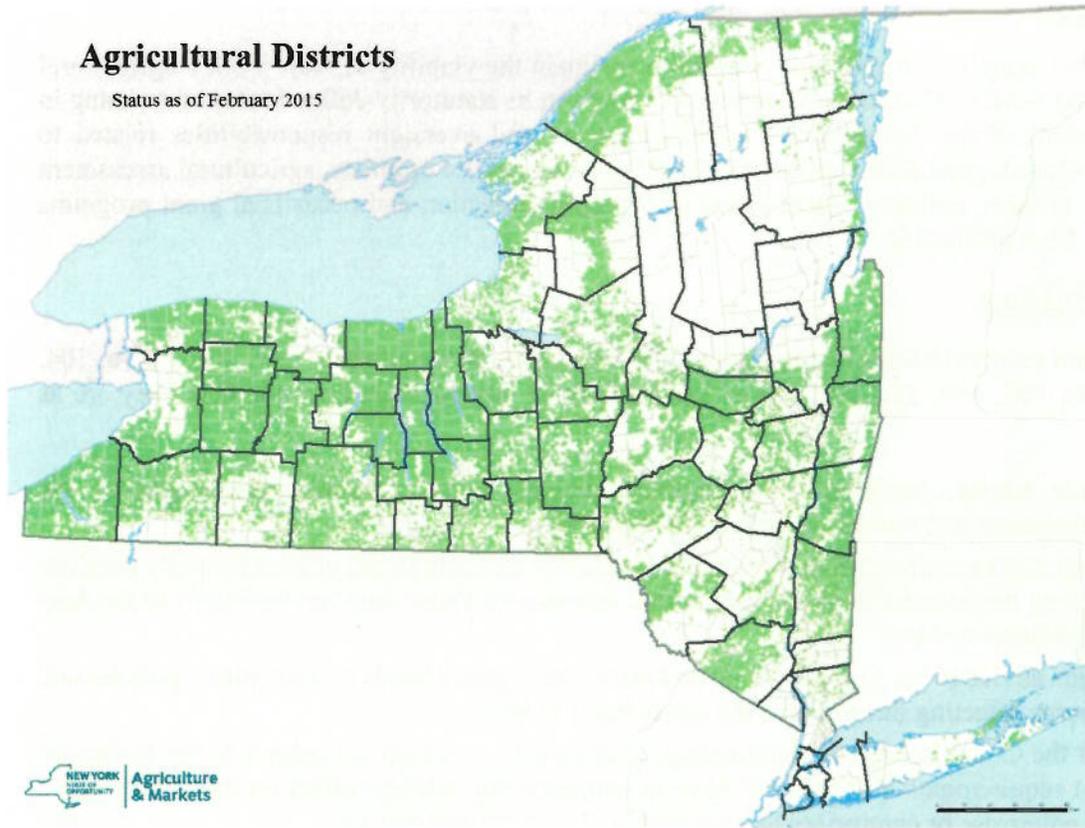
During the program year (January 1, 2014 --December 31, 2014) the Advisory Council met in formal session with Commissioner Richard A. Ball and Department staff. This meeting dealt with Agricultural Districts, Agricultural Assessment Program needs and opportunities, the Agricultural Planning and Implementation Programs, and Farmland Protection activities. Minutes from the meeting can be obtained [online](#).

Agricultural District Reviews

Since 1971, the Agricultural Districts Law, Article 25-AA of the Agriculture and Markets Law, has been the centerpiece of state and county level efforts to preserve, protect and encourage the development and improvement of agricultural land for the production of food and other agricultural products.

Agricultural Districts

Status as of February 2015



The New York State Constitution directs the Legislature to provide for the protection of agricultural lands. The Agricultural Districts Law meets, in part, that constitutional mandate by providing a locally initiated mechanism for the protection and enhancement of farm lands as a viable segment of the local and state economies and as an economic and environmental resource of major importance.

Several benefits accrue to farm operations conducted within certified agricultural districts. Chief among these are:

- the limitation on the exercise of eminent domain and other public acquisitions, and on the advance of public funds for certain construction activities,
- the limitation on the siting of a solid waste management facility on land in agricultural production,
- the limitation on the power to impose benefit assessments, special ad valorem levies or other rates or fees in certain improvement districts or benefit areas,
- the requirement that local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations do so in a manner that realizes the intent of the Agricultural Districts Law and does not unreasonably restrict or regulate farm operations, and
- the requirement that applications for certain planning and zoning actions impacting a farm operation within an agricultural district or on lands within five hundred feet of a farm operation within an agricultural district include an agricultural data statement designed to allow the review agency to evaluate the possible impacts of the proposed action on the functioning of the farm operation.

Additionally, the Agricultural Districts Law establishes a land classification system used to assign agricultural assessment values to qualified properties both in and outside of a district, creates a process for the review of agricultural practices, discourages private nuisance lawsuits due to an agricultural practice which is determined to be sound, provides for advisory opinions as to whether particular land uses are agricultural in nature and requires disclosure to prospective grantees of real property that the property is in an agricultural district. The Agricultural Districts Law also defines the procedure for district creation.

Today, there are 217 state-certified agricultural districts in 53 counties in New York. These districts contain 8.75 million acres, about 25% of the total land mass of the state. There are 24,927 farms that are protected through their inclusion in agricultural districts. For a complete listing of the state's Agricultural Districts Profile and corresponding statistical data, visit the Division of Land and Water Resources on the [Department's website](#).

The Department is an active participant in the Governor's Open NY, a comprehensive data transparency website located at [Data.NY.Gov](#), which hosts hundreds of datasets, maps and charts from state agencies and authorities. Information about [Agricultural Districts](#) was added to the Department's available datasets.

The [Cornell Institute for Resource Information Systems](#) (IRIS) facilitates the [Agricultural District Mapping Program](#) (ADMP) on behalf of the [New York State Department of Agriculture and Markets](#). One of the responsibilities of IRIS is to support ADMP efforts by providing consulting services, and to review, distribute and archive maps to all of the participating units of local government and responsible state agencies.

[Cornell University Geospatial Information Repository](#) (CUGIR) is an active online repository in the [National Spatial Data Clearinghouse](#) program. CUGIR provides geospatial data and metadata for New York State, with special emphasis on those natural features relevant to agriculture, ecology, natural resources and human-environment interactions.

During the program year, the Advisory Council on Agriculture reviewed and made recommendations to the Commissioner on the statutory eight-year review of 18 agricultural districts. In addition, 37 counties provided annual inclusions to the Department to 93 agricultural districts. By law, agricultural districts are reviewed every eight, twelve or twenty years after creation. All 217 districts have an eight-year review cycle. In addition, counties must pick a 30-day period during the calendar year to solicit applications from landowners for the addition of land to an existing agricultural district.

Comprehensive Land Use Plans, Local Laws, Ordinances, Rules & Regulations

The Agricultural Districts Law protects farmers against local laws which unreasonably restrict farm operations located within an agricultural district. Division staff, together with Department legal staff, review both existing and proposed laws to determine if they are compatible with farm operations. In cases where a local law is determined to be unreasonable, staff work with the involved local government to develop mutually accepted modifications. If a local government is unwilling to modify a restrictive law, the Department is authorized to take action to compel compliance with the Agricultural Districts Law. In a landmark decision, the State Court of Appeals ruled that the opinion of the Commissioner of Agriculture and Markets should be given deference in the interpretation and administration of this important right-to-farm protection.

During the past year, the Division made formal and informal responses to requests for review of local laws and ordinances. Over 125 reviews were conducted based upon requests from farmers (approximately 60% of the requests) and municipalities (approximately 40% of the requests). Requests from farmers involved compliance with local zoning laws, receipt of Notices of Violation, building permit fees, compliance with the state's building code, agricultural assessment issues, and neighbor relations. Municipal requests involved reviews of amendments to a municipal zoning codes and local laws, comprehensive plans and complaints against farm operations. Department staff worked with staff from the Department of State, Department of Health, Department of Environmental Conservation and the Department of Taxation and Finance to provide the appropriate technical assistance to both farmers and municipal staff. Department staff generally spent two evenings each month traveling around the state to speak with municipal boards and officials about the Agriculture and Markets Law, farm operations and protections afforded to farms under the agricultural districts law.

Formal requests for review must be provided to the Department in writing using the Section 305-a Review Form. Section 305-a of Article 25-AA is the section of the Agriculture and Markets Law that provides the above-mentioned protections.

Notice of Intent Reviews

Section 305(4) of the Agricultural Districts Law requires any state, public benefit corporation or government which intends to acquire certain land or an interest in certain land within an agricultural district, or which intends to advance public funds to assist the construction of residential, commercial or industrial facilities, or water or sewer facilities to serve non-farm structures in an agricultural district, to use all practical means to minimize their impacts on agriculture. Local and State governmental entities and public benefit corporations must submit a Preliminary and Final Notice of Intent to the Commissioner and to the County Agricultural and Farmland Protection Board describing the project and offering mitigation measures to minimize impacts to farm operations located within an agricultural district.

Table 1-1 summarizes the Notice of Intent referrals that were reviewed during the program year.

Agricultural in Nature Opinions

Section 308(4) of the Agricultural Districts Law states that the Commissioner, in consultation with the State Advisory Council on Agriculture, shall issue an opinion within 30 days upon request from any person as to whether particular land uses are agricultural in nature.

During this reporting period, the Commissioner issued one such opinion. This case involved the storage and land application of a byproduct produced in an anaerobic digester that was composed of food waste and biosolids. This byproduct is used as a soil amendment and fertilizer for the production of agricultural products.

Anaerobic digestion is a process that uses anaerobic bacteria to convert carbon and hydrogen in food waste and sludge to methane and carbon dioxide. The methane is used as fuel for the generation of electricity and as a heat source. The primary benefits of anaerobic digestion include nutrient recycling, waste treatment and odor control.

Based on the information provided and upon consultation with the Advisory Council on Agriculture, the Commissioner provided an opinion that the use of land for the storage and application of this byproduct for the production of crops as described was agricultural in nature.

Right to Farm/Sound Agricultural Practices

Section 308(1) of the Agricultural Districts Law directs the Commissioner, in consultation with the Advisory Council on Agriculture, to issue opinions upon request as to whether particular agricultural practices are sound. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities the commissioner may consider include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm, agricultural tourism, "timber operation," as defined in subdivision fourteen of section three hundred one of this article and construction and use of farm structures.

During this reporting period, there were no requests for right-to-farm opinions.

Agriculture and Farmland Protection Program

New York State's Agricultural and Farmland Protection Program, authorized by Article 25-AAA of the Agriculture and Markets Law, was enacted in 1992. The program encourages counties and local governments to work with the agricultural community to preserve, conserve, manage and improve the state's farm economy and its land base. Fifty applications requesting \$40.8 million were reviewed and \$17.6 million was allocated in 2014 under Round 13 of the Farmland Protection Implementation Program to protect 6,440 acres of farmland. The following is a summary of the funded projects that were reviewed by the Advisory Council on Agriculture during the 2014-2015 program year. With the addition of these 21 projects in 12 counties across the state, the total acreage under the program is now approximately 59,000 acres.

Farmland Protection Implementation Program Grant Awards

Funding: This year 21 recipients were awarded Round 13 funding through the Farmland Protection Implementation Program and are listed by economic development region below:

Capital Region

Agricultural Stewardship Association (Town of White Creek, Washington County; Town of Hoosick, Rensselaer) - \$904,246 - This land trust will permanently protect Landview Farms, a 611-acre dairy operation which helps to buffer Little White Creek.

Agricultural Stewardship Association (Town of Brunswick, Rensselaer County) - \$340,651 - This land trust will permanently protect Homestead Farms, a 166-acre organically grown vegetable Community-Supported Agriculture (CSA) operation that also sells grass-fed beef, pastured poultry and cut flowers. Homestead Farms helps to buffer the Quacken Kill, a stream that supports a spawning native trout population.

Agricultural Stewardship Association (Town of Hoosick, Rensselaer County) - \$42,215 - This land trust will lease the development rights for five years on the Berle Farm, a 604-acre farm operation featuring organic vegetables, beef, grains, popcorn, apples and dairy.

Columbia Land Conservancy (Town of Ancram, Columbia County) - \$1,010,026 - This land trust will permanently protect Ronnybrook Farm, a 212-acre dairy operation with a milk processing facility.

Saratoga PLAN (Town of Stillwater, Saratoga County) - \$844,613 - This land trust will permanently protect property as part of Welcome Stock Farm, a 556-acre dairy operation that borders the Saratoga National Historic Park and a portion of the Old Champlain Canal.

Saratoga PLAN (Town of Ballston, Saratoga County) - \$968,471 - This land trust will permanently protect the Wm. H. Buckley Farm, a 260-acre livestock operation, which includes an onsite farm-store, café, and butcher shop.

Town of Clifton Park (Saratoga County) - \$70,826 - The Town will lease the development rights for five years on Lindsey Orchard Farm, a 253-acre orchard.

Town of Clifton Park (Saratoga County) - \$18,746 - The Town will lease the development rights for five years on the Miller Farm, an 82-acre field crop and orchard operation.

Central NY

Cazenovia Preservation Foundation (Towns of Cazenovia and Fenner, Madison County) - \$1,561,000 This land trust will permanently protect Pushlar Farms, a 569-acre dairy operation. The farm buffers Chittenango Creek, a stream that supports a spawning native trout population.

Cortland County (Town of Homer) - \$2,000,000 - The County will permanently protect Peaceful Valley Farm, an 818-acre dairy, produce and timber operation. The farm helps to buffer the Cortland-Homer-Preble sole-source aquifer, which provides the majority of drinking water to county residents, and also buffers the Tioughnioga River and Cold Brook.

Cortland County (Town of Preble) - \$936,260 - The County will permanently protect Gladtime Farms, a 145-acre property that is used to grow feed for a local dairy operation. This property helps to buffer the Cortland-Homer-Preble sole-source aquifer, which provides the majority of drinking water to county residents, and also buffers Tully Lake.

New York Agricultural Land Trust (Town of Pompey, Onondaga County) - \$1,579,505 - This land trust will permanently protect a total of 616 acres comprised of several properties together operated as Palladino Farms, a cash crop operation. Continuous flowing natural springs on the properties, including one deed-protected spring dating back to the 1800s, help ensure a high quality base flow of water into two nearby creeks that support spawning native trout populations.

Finger Lakes

Finger Lakes Land Trust (Town of Canandaigua, Ontario County) - \$2,000,000 - This land trust will permanently protect Catalpa Farms, a 596-acre crop farm. The farms crop rotation consists of grain corn, soybeans, winter wheat, alfalfa hay and clover hay. Catalpa Farms includes onsite grain facilities capable of storing in excess of 100,000 bushels.

Genesee Valley Conservancy (Town of Leicester, Livingston County) - \$552,545 - This land trust will permanently protect Moore Farms, a 475-acre cash-crop operation. Moore Farms buffers Beards Creek and Little Beards Creek.

Genesee Valley Conservancy (Town of Geneseo, Livingston County) - \$330,881 - This land trust will permanently protect Pleasant Hill Farm, a 221-acre dairy operation. Protection of Pleasant Hill Farm will add to the more than 5,600 acres already permanently protected by Genesee Valley Conservancy within the Town of Geneseo.

Long Island

Town of Southold (Suffolk County) - \$837,827 - The Town will permanently protect a 28-acre vineyard and winery. The farm is along the eastern edge of a 240-acre block of actively farmed and preserved agricultural land.

Town of Southold (Suffolk County) - \$516,448 - The Town will permanently protect a 17-acre vineyard and winery. The farm adjoins a 110-acre block of actively farmed preserved agricultural land.

Mid-Hudson

Dutchess Land Conservancy (Town of Milan, Dutchess County) - \$347,850 - This land trust will permanently protect Great Song Farm, an 88-acre Community-Supported Agriculture (CSA) and farm store. The farm helps to buffer two tributaries and one sub-tributary to the Saw Kill.

Dutchess Land Conservancy (Town of Pine Plains, Dutchess County) - \$1,278,338 - This land trust will permanently protect Schultz Hill Farms, a 183-acre dairy operation. Schultz Hill Farms helps to buffer one sub-tributary to Shekomeko Creek, a stream that supports a spawning native trout population. Scenic Hudson Land Trust will contribute \$405,162 and the Dutchess Land Conservancy will contribute \$5,000 toward this project.

Orange County Land Trust (Town of Hamptonburgh, Orange County) - \$931,800 - This land trust will permanently protect a total of 142 acres of properties jointly operated as Windfall Farms, a vegetable operation. The farm helps to buffer Beaverdam Brook and lies within the Northern Wallkill Priority Area designated for farmland protection by this land trust.

Scenic Hudson Land Trust (Town of Cornwall, Orange County) - \$531,900 - This land trust will permanently protect Jones Farm, an 86-acre fruit-vegetable-hay operation with onsite bakery, gift shop, cold storage and kitchen. Jones Farm helps to buffer the adjoining Hudson Highlands Nature Museum.

Total Round 13 New York State Farmland Protection: \$17,604,148

Farmland Protection Planning Program

The Department provides state assistance payments to counties and municipalities to develop local agricultural and farmland protection plans. Agricultural and farmland protection plans should identify land or areas proposed to be protected and describe activities, programs and strategies intended to be used to promote continued agricultural use.

Counties are eligible for grants up to \$50,000 or 50% of the cost (whichever is less) and municipalities are eligible for grants up to \$25,000 or 75% of the cost (whichever is less) for developing a local farmland protection plan. The local share of funding must be provided in at least 20% cash (no more than 80% can be in-kind services).

Municipal Applications - \$150,000

A total of six municipal applications have been received by the Department. All six applications have been reviewed by Department staff and deemed complete. Each application identifies work tasks that address the basic requirements set by the state in Agriculture and Markets Law's Municipal Agricultural and Farmland Protection Program (Circular 1500 section 324-a).

<u>Requested</u>	<u>Municipality</u>	
\$ 25,000	Town of Cortlandville	(Cortland County)
\$25,000	Town of Dryden	(Tompkins County)
\$ 25,000	Town of Alabama	(Genesee County)
\$ 25,000	Town of Oakfield	(Genesee County)
\$ 25,000	Town of Sparta	(Livingston County)
\$ 25,000	Town of Canandaigua	(Ontario County)

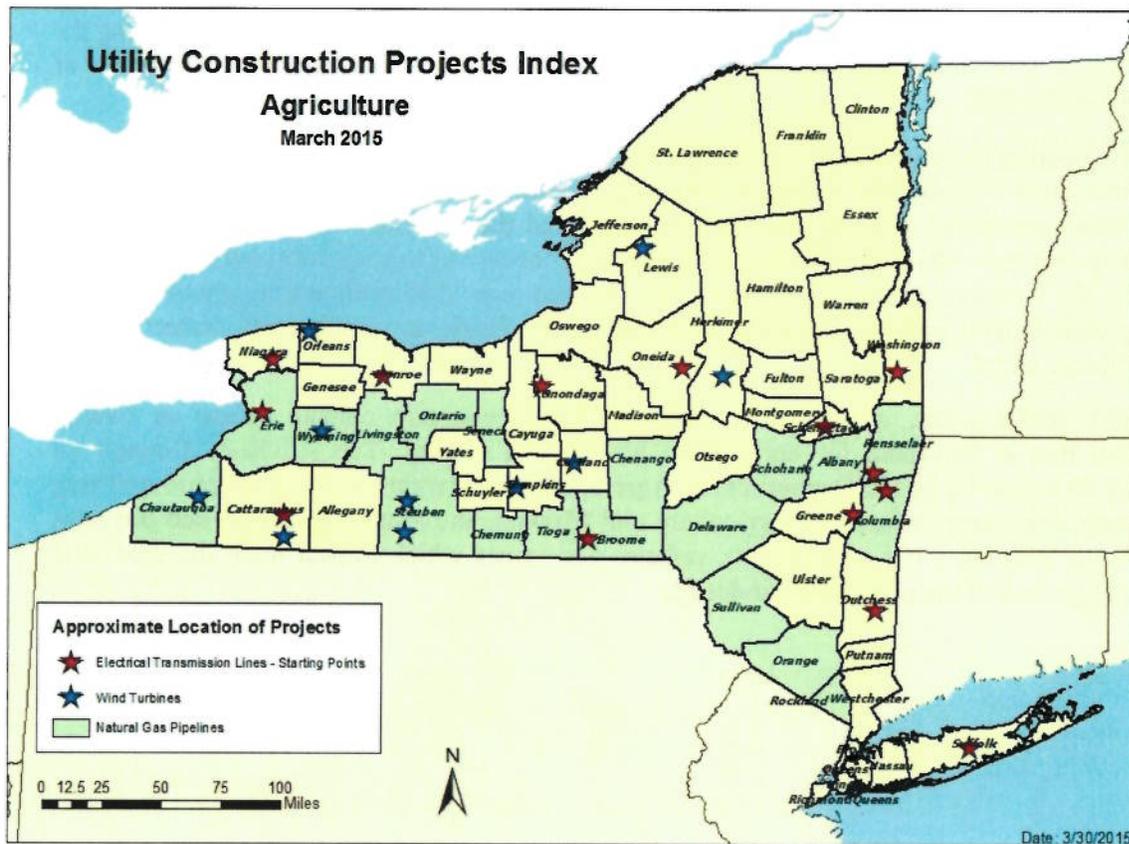
County Applications - \$226,625

A total of seven county applications were received by the Department. All seven applications have been reviewed by the Department staff and deemed complete. Each application identifies work tasks that address the basic requirements set by the state in Agriculture and Markets Law's County Agricultural and Farmland Protection Program (Circular 1500 section 324).

<u>Requested</u>	<u>County</u>	<u>Requested</u>	<u>County</u>
\$ 50,000	Genesee County	\$ 35,000	Montgomery County
\$ 25,000	Schoharie County	\$ 50,000	Broome County
\$ 13,500	St. Lawrence County	\$ 15,000	Oneida County
\$ 38,125	Washington County		

Construction Projects Affecting Farmland

The Department is involved in reviewing various construction projects affecting farmland. Department staff work with project sponsors from the early planning stages of a construction project through final restoration to ensure that impacts to agricultural resources are minimized and/or properly mitigated. The Department has been involved in a wide range of construction projects including natural gas pipelines, electric transmission lines, natural gas well drilling, highway projects, and industrial wind farms.



The Department is a statutory party to all proceedings related to natural gas pipelines, electric transmission lines and wind turbines certified pursuant to Article VII and Article X of the Public Service Law. Division staff responsibilities include reviewing project proposals to determine potential siting and construction impacts to agricultural resources on farms and recommending alternatives which would mitigate or minimize the potential for serious adverse agricultural effects.

The Department also participates as a “Cooperating Agency” in all Federal Energy Regulatory Commission proceedings involving gas pipelines in New York that impact agricultural land.

Similarly, the Department reviews other projects such as natural gas well drilling, highway construction, water and sewer line installations and wind farm construction for potential impacts to agricultural resources. Staff provide pre-application information to project sponsors on specific agricultural resources. Staff also conduct on-site reviews during construction and restoration to assess level of compliance with stipulations and permit conditions for construction involving agricultural land concerns in the project area. Currently, the Division is involved with projects that involve 685 miles of gas pipeline, 1011 miles of electrical transmission lines and 415 wind turbines (see above map).

More information and standards are available on the [Division's website](#).

Summary Comments

The Agricultural Districts Law continues to demonstrate its critical role with regard to maintaining a viable agricultural industry in New York State. This law serves as a foundational underpinning for farmers' ability to conduct their business within an environment that is actively supportive of production agriculture.

The State Constitution acknowledges that agricultural lands are a necessary and irreplaceable resource that must be protected to assure economic stability and growth within the agricultural industry. The Department of Agriculture and Markets and the Advisory Council on Agriculture, through programs they administer, offer opportunities and incentives to keep farmland in production. Since 1996, the Farmland Protection Program has awarded over \$145 million throughout the state, partnering with federal and local governments and private funds, to permanently protect viable, irreplaceable farmland.

New York's fertile lands, ample water and supportive economic climate create an overall environment that is favorable for agricultural growth and vitality. The Advisory Council on Agriculture, in concert with the Department of Agriculture and Markets, looks forward to assisting the Governor, the Commissioner of Agriculture and Markets, the State Legislature and the farm community in bringing focus to programs, policies and issues which impact upon the economic viability and growth of the agricultural industry.

TABLE 1-1: Notice of Intent Referral Summary

COUNTY	TOWN	Dist. #	NOI or WAIVER	ACTION TAKEN - DETERMINATION
Cattaraugus	Machias	5	Sewer District Improvements	The transmission main will be installed within the road right-of-way, and access to agricultural fields will be provided.
Cattaraugus	Village of Cattaraugus	4	Water System Improvements Project	Reviewed, no action required.
Cayuga	Brutus	5, WD #9	Construction of Potable Water System	The Town's adoption of the Department's construction standards and its adoption of a lateral restriction policy on land within the agricultural district.
Chautauqua	Vil. Of Sinclairville T. of Charlotte and Gerry	13	Water System Improvement Project	The minimal amount of farmland affected by the project and the Village's adoption of the Department's construction standards.
Clinton	Champlain	6, WD #6	Shared Water and Sewer System Improvements	Town's adoption of the Department's construction standards, the lack of non-agricultural growth within the area and the fact that a majority of the lines to be constructed will replace existing lines.
Delaware	N/A	2	Waiver NYC PDR—Willing seller	Reviewed, no action required.
Delaware	N/A	3	Waiver NYC PDR—Willing seller	Reviewed, no action required.
Delaware	N/A	3	Waiver NYC PDR—Willing seller	Reviewed, no action required.
Delaware	N/A	1	Waiver NYC PDR—Willing seller	Reviewed, no action required.
Delaware	N/A	4	Waiver NYC PDR—Willing seller	Reviewed, no action required.
Delaware	Walton	N/A	Waiver Watershed Ag Council PDR	Reviewed, no action required.
Delaware	N/A	3	Waiver NYC PDR—Willing seller	Reviewed, no action required.
Delaware	N/A	4	Waiver NYC PDR—Willing seller	Reviewed, no action required.
Delaware	N/A	2	Waiver NYC PDR—Willing seller	Reviewed, no action required.

COUNTY	TOWN	Dist. #	NOI or WAIVER	ACTION TAKEN - DETERMINATION
Delaware	N/A	2	Waiver NYC PDR—Willing seller	Reviewed, no action required.
Delaware	Andes & Middletown	N/A	Waiver NYC WAC PDR-Willing seller	Reviewed, no action required.
Delaware	Hamden	N/A	Waiver NYC WAC PDR-Willing seller	Reviewed, no action required.
Delaware	Delhi	N/A	Waiver NYC WAC PDR - Willing seller	Reviewed, no action required.
Delaware	Walton	2	Waiver, PDR - Willing seller	Reviewed, no action required.
Erie	Alden	16	Expansion of Water System	Town's adoption of the Department's construction standards and its commitment to adopt lateral restrictions for properties located within a county adopted, State certified agricultural district.
Genesee	Oakfield	2, WD #5	Construction of 4,400 ft. of water main (Xref: AP 12/032)	Town participation in Genesee County's Smart Growth Plan, its adoption of the Department's construction standards and its commitment to adopt a lateral restriction policy.
Genesee	Batavia	2	Construction of a Waterline	Town's commitment to adopt the Department's construction standards; the Town's participation in the Genesee County Smart Growth Plan; and the Town's commitment to adopt lateral restrictions.
Genesee	Batavia	2	Construction of a Waterline	The Town's participation in the Genesee County Smart Growth Plan; and the Town's commitment to adopt lateral restrictions.
Genesee	Elba	2, 4 WD #1	Construction of a Waterline	Reviewed, no action required.
Genesee	Oakfield	2, WD #7	Construction of Water Main, approx. 27,700 LF of 8 in water main	Town's participation in Genesee County's Smart Growth Plan; its adoption of the Department's construction standards; its commitment to adopt lateral restrictions for properties located within a county adopted, State certified agricultural district; and the placement of hydrants and valve boxes outside of agricultural fields.
Genesee	Byron	4, WD #6	Construction of a Waterline	Town's participation in Genesee County's Smart Growth Plan; its adoption of the Department's construction standards; and its commitment to adopt lateral restrictions for properties located within a county adopted, State certified agricultural district.

COUNTY	TOWN	Dist. #	NOI or WAIVER	ACTION TAKEN - DETERMINATION
Genesee	Stafford	4, WD #10	Construction of a Waterline	Town's commitment to adopt the Department's construction standards; the Town's participation in the Genesee County Smart Growth Plan; and the Town's commitment to adopt lateral restrictions.
Jefferson	Cape Vincent	2, WD #6	Construction of a water main	Town to adopt the Department's construction standards and the minimal amount of farmland affected by the proposed action.
Livingston	York	1	NYS Route 36 Water Main	The Town's adoption of the Department's construction standards and its commitment to adopt a lateral restriction policy.
Livingston	York	1	Water System Improvements	Reviewed, no action required.
Livingston	York	1	McVean Road Water Main Ext.	The Town's adoption of the Department's construction standards and its commitment to adopt lateral restrictions.
Monroe	Webster	NE	Waiver, water main	Reviewed, no action required.
Monroe	Webster	NE	Waiver, water main	Reviewed, no action required.
Niagara	Pendleton Lockport, Royalton, Alabama, Village of Middleport	6, 9	Construction of 16", 24" & 36" water transmission main	The Town's adoption of the Department's construction standards and the fact that the line to be installed is for transmission purposes only.
Ontario	Victor	1	Blazey Road Water main Replacement	The MCWA's adoption of the Department's construction standards, the fact that the project replaces existing water lines that have a high failure rate, and the statement by the MCWA that the new water main will increase its service area.
Orange	Warwick	2	Waiver	Reviewed, no action required.
Orange	Warwick	2	Waiver	Reviewed, no action required.
Orange	Warwick	2	Waiver	Reviewed, no action required.
Orange	Warwick	2	Waiver	Reviewed, no action required.
Orleans	Clarendon	2, WD #11	Construction of a Water Main	The Town's adoption of the Department's construction standards and its commitment to adopt a lateral restriction policy.

COUNTY	TOWN	Dist. #	NOI or WAIVER	ACTION TAKEN - DETERMINATION
Oswego	Mexico	11	Water Main Installation - Water Service Area #3	Reviewed, no action required.
Oswego	Volney	11	Const. of Water Main Installation	Reviewed, no action required.
Oswego	Schroepfel	11	Phase 1 Water District Project, County Routes 10/12 and Pennellville	Reviewed, no action required. *Also see File No. 13/023
St. Lawrence	Norfolk	2	Cook Street Water District Project	Reviewed, no action required.
Steuben	Erwin	6	Coopers Plains-Long Acres Wastewater Collection System	The Town's adoption of the Department's construction standards and its commitment to adopt a lateral restriction policy.
Suffolk	Southold	1	Waiver, PDR—Willing seller	Reviewed, no action required.
Suffolk	Southold	1	Waiver, PDR—Willing seller	Reviewed, no action required.
Ulster	Grahamsville	3	Waiver NYC WAC PDR-Willig seller	Reviewed, no action required.
Wayne	Wolcott	1	Water main Extension	Town's adoption of the Department's construction standards and the water main serves as a back-up water supply to Wayne County Eggs, the only landowner with agricultural property located within the affected agricultural district.
Wayne	Wolcott & Huron	1, Huron SD #1	Construction of a Sanitary Sewer System	Town's adoption of the Department's construction standards and the Town of Wolcott's commitment to adopt a lateral restriction policy for land located within Wayne County Agricultural District No.1.
Yates	Village of Dundee	1	Water System Improvements Project	Village to construct the water main within the highway ROW and/or strip easements; to repair farm access roads and surface/subsurface drainage; to adopt the Department's construction standards; to locate hydrants or other water main related improvements outside farm fields; and to notify the Department when construction begins so that an inspector can be present.