



**Agriculture
and Markets**

SILO Working Group 2023 Report



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Overview

In December 2022, Governor Kathy Hochul convened a special working group of state agencies and agricultural community stakeholders to collaborate in support of New York farmers and help boost New York State's agricultural industry. The announcement of the Strategic Interagency Task Force Lessening Obstacles to Agriculture Working Group, or SILO, came following conversations the Governor and Lieutenant Governor Antonio Delgado had with New York farmers during her summer 2022 roundtable sessions. The Governor traveled the state for the series of discussions, meeting with a diverse group of farmers and industry stakeholders on Long Island, in the North Country, the Hudson Valley, and in the Finger Lakes to hear directly from New York State's agricultural community about their most pressing concerns, including issues regarding transportation, labor, the environment, farmworker housing, taxation, farmland protection, and state procurement.

Seeing a clear opportunity to tackle some of these challenges head on, Governor Hochul charged the SILO Working Group to explore these issues and discuss administrative actions that could be taken to help improve communications, reduce burdensome requirements that were limiting growth for the industry, streamline business for New York farmers, and provide an immediate and timely response to important issues around supporting and expanding food production in New York.

Members of the SILO Working Group met quarterly in 2023 and the group's discussions have been critical to tackling several challenges within New York's agricultural industry and ensuring New York State continues to lead the nation in agricultural production.

Members

New York State agencies that participated in the SILO Working Group included the Department of Agriculture and Markets (AGM) and its fellow agencies that oversee regulations or licensing that impact New York farmers. This includes the Department of Labor (DOL), Department of Transportation (DOT), Department of Environmental Conservation (DEC), Department of Health (DOH), Public Service Commission, Department of Taxation and Finance (DTF), New York State Energy Research and Development Authority (NYSERDA), Empire State Development (ESD), and the State Liquor Authority (SLA). Additionally, other state agency representatives were brought in as issues were brought up outside the jurisdiction of these agencies.

Industry members included farmers and agricultural organization leaders from across New York State who brought a broad and diverse perspective to the conversations of the working group. This includes Jim Bittner, Owner, Bittner Singer Orchards and Interim Director, New York Horticulture Society; Kama Doucoure, Owner, Big Dreams Farm; David Fisher, Owner, Maple View Dairy and President, New York Farm Bureau; Jeffrey M. Fetter, President, Scolaro Fetter Grizanti & McGough, P.C.; Susan Jaffe, Owner, Snowdance Farm; Maureen Torrey Marshall, Torrey Farms; Sarah Dressel Nikles, Owner, Dressel Farms; Brian Reeves, Partner, Reeves Farms, and President, New York

Vegetable Association; Tonya Van Slyke, Executive Director, Northeast Dairy Producers Association; Oscar Vizcarra, Partner, Becker Farms; Kim Wagner, Owner, Stoutridge Vineyard; and Jeff Williams, Director of Public Policy, New York Farm Bureau.

Progress

The SILO Working Group met four times in 2023: January 19, March 8, June 9, and October 10. Each meeting focused on bringing in subject matter experts from agencies on specific issues, both administrative and regulatory in nature. Topics discussed included, but were not limited to, labor, environment, energy and telecommunications, and taxation as well as on-farm safety, workforce development, and animal and livestock-related concerns. Each meeting allowed state agencies to present directly to the group on their respective topic area, helping to provide clarity to the industry around complex rules and regulations. **While some issues were quickly resolved through dialog or administrative action, other solutions will require more time to allow for proposed regulatory or statutory changes. Additionally, the discussions that took place during the SILO meetings helped to shape many of the agricultural initiatives announced in the Governor's 2024 State of the State plan.**

Transportation

The Working Group members examined the challenges involving the movement of agricultural commodities and product, particularly during severe weather events. Road closures that impact tractor trailers continue to pose a difficulty to the dairy industry, which needs to move milk off the farm and to a processing facility within a certain timeframe.

In parallel with these conversations, the FY25 Enacted Budget invests \$34 million in capital funding over two years for on-farm fluid milk storage technologies and processing infrastructure to mitigate transportation issues during periods of intense winter weather and road closures, which will improve dairy supply chain efficiency and prevent milk dumping.

Another issue challenging the movement of agricultural product, is the shortage of drivers that possess a commercial driver's license (CDL). Numerous states exempt farms from requiring a CDL to transport products within 150 miles of their operation. Working Group members raised concerns over the impact of CDL driver shortages on their ability to get products to market and feel such an exemption would provide a level of security to their businesses. **This potential solution and others will continue to be discussed by agencies to help address transportation challenges in the future.**

Labor/Workforce Development

Identifying and building the next generation of farmers and farmworkers to support an ever-increasing diverse industry and operate today's modern farms continues to be a critical issue in agriculture.

Hearing these concerns during the summer roundtables and as raised during the SILO meetings, Governor Hochul included additional support for agricultural education and to build a strong agricultural workforce pipeline in the FY25 Budget. AGM is currently shaping a first-of-its-kind agricultural workforce development program for New York State, which aims to identify and support clear pathways for jobseekers and connect them to high-quality employment in agriculture. This is part of \$1 million that the Governor dedicated in the FY24 Budget.

Another program that received funding in New York's FY24 Enacted Budget is the Cornell Agricultural Workforce Specialist program, which had widespread support from the members of SILO. This program addresses workforce challenges facing the agricultural industry through education programs and applied research; increases farm employer understanding and compliance with regulations; develops leadership and supervisory skills of farm managers; and helps identify the future farm workforce. **To build on this progress and further grow the agricultural pipeline, the FY25 Enacted Budget includes \$500,000 to create the Agriculture Workforce One-Stop Shop. The SILO Working Group was key to elevating the importance of investing in agricultural workforce development projects such as this one.** The Governor's proposal includes additional resources, including webinars for information exchange, a web page for accepting questions and presenting information, frequently asked questions (FAQs), and hotline information to be created and managed by Cornell University's Agricultural Workforce Development Program. **This effort will be supported by New York State DOL, the New York State Public Employee Relations Board, and AGM.**

Another issue related to labor and requiring continued work is the need for clarity between New York State DOL, the New York State Workers' Compensation Board, and the United States Department of Labor regarding workers' compensation insurance requirements on H-2A employees who are provided to a farm through a Farm Labor Contractor (FLC). New York State Workers' Compensation Law requires that when an FLC is used, the farm where the work is completed holds the workers' compensation insurance policy; however, to comply with federal H-2A standards, an FLC must provide proof of insurance when completing an H-2A job order. This creates a duplication of payment by the farm. **State staff are actively coordinating with one another and with USDOL to find a solution to this issue.**

In addition, a working group member that operates a farm suggested that having required DOL posters available online would allow for better dissemination of information via electronic sharing with employees, in addition to the required physical posting. **Thanks to the improved communication facilitated by SILO, DOL was able to make these [files available on its website](#), allowing agricultural employers to readily have access to this information, and therefore encourage compliance and better inform employees.**

Worker Housing

Farmers that participate in federal visa programs are required to provide housing to their workers, however they are often faced with unclear and competing standards governing

farmworker housing across local, State, and federal agencies, as well as difficulty accessing housing and transportation in rural areas. Ensuring compliant housing for employees is increasingly challenging as a result.

In an effort to streamline understanding of housing requirements and to seek feedback from farmers who have farmworker housing, DOH presented information to the SILO Working Group on possible amendments to [Part 15 of the State Sanitary Code](#) in relation to migrant housing regulations, which need to be updated due to new inspection requirements for all migrant housing. During SILO conversations, the group acknowledged that there were three agencies which have oversight of farmworker housing: DOH, DOL, and the Department of State (DOS). Understanding that review by three separate state agencies is burdensome for farmers, **DOH is now exploring options for minimizing inconsistencies between the standards each agency enforces while ensuring efficient and effective oversight by their department.**

Although work in this area is ongoing, **continued collaboration among the DOH, AGM, and DOL will ensure necessary insight to streamline the inspection process for migrant housing, minimize the onerous process for farmers and stakeholders, and facilitate continuity with other regulatory authorities.**

Environment

AGM continues to work closely with DEC and its fellow agencies on the Climate Action Council and shared with SILO members the strategic plan for the State's climate goals. With the growing reality of climate change, New York's farmers are looking to address and remove obstacles to capital investments in manure management, on-farm energy production, and the transition to alternative fuel sources that limit the ability of farms to meet these climate goals and become carbon neutral.

To address some of these concerns, **the FY25 Enacted Budget launches the Alternative Waste Management and Enhanced Precision Feed Program that will provide \$21 million in capital funding for farms to further the mitigation of agricultural greenhouse gas emissions and sequestration of carbon.** The application for this program will be available in mid-2024 and will be informed by knowledge gained from SILO Working Group conversations.

Members also expressed growing concerns around the potential impact that the adoption of an extended producer responsibility law would have on the industry. Extended producer responsibility (EPR) is a materials management policy that holds producers responsible for the end of life of products. The legislative proposal is of particular concern for wine and spirit producers as well as dairy producers who are concerned not only with added costs but also with the impact on United States Food and Drug Administration-approved containers for food products.

In addition, members expressed interest regarding amendments that had been made to waste tire management and recycling fee funds. In November 2023, Governor Hochul signed Senate Bill S1688 to take effect in February 2024 that would fund agricultural demonstration projects using waste tires. Farmer members were curious about execution of the amendments. Because of this conversation, inter-agency communication was initiated to expedite program execution. A third-party administrator has now been selected, and further program details expected to be made public soon.

Lastly, DEC presented information and solicited feedback from members on several program areas, including food waste, pesticide applicator training, air and climate, deer and wildlife management, and agricultural water withdrawals. In particular, DEC experts discussed what air pollution control regulations may apply to farming operations and when air permits or registrations would be required for certain farming operations, such as anaerobic digesters. DEC explained the deer management tools, including recreational hunting, the [Deer Management Assistance Program \(DMAP\)](#), and [Deer Damage Permits \(DDPs\)](#) that are available to address deer pressure on farms, and how farmers can work with DEC regional biologists on strategies to advance their management needs. DEC also provided additional information on the requirements of the water withdrawal program and assistance available for farmers to work with DEC regional permit administrators on compliance.

Energy and Telecommunications

SILO Working Group members raised concerns regarding electric and telecommunication line heights. Traveling under utility lines has become a safety concern as farm equipment has grown larger and taller, coupled with maintenance and construction issues. Some farmers expressed frustration with utility companies that were perceived to be dismissive and difficult to reach. Utility pole configuration and line heights are governed by the National Electric Safety Code (NESC), which prescribes minimum requirements considered to be the industry standard for such clearances across the country. Representatives of the New York State Public Service Commission (PSC) came to SILO meetings and provided members with an existing information bulletin describing the configuration and height requirements of utility lines. They additionally presented information on the Department of Public Service's information helpline that working group members were previously unaware of and believed most of the agricultural community was also unaware of. **This sharing of information ensures farmers have the latest information on the requirements of NESC and a contact at the PSC should they not receive an adequate response from their utility company. To further disseminate this information to the agricultural community, the bulletin will be shared by AGM broadly through its social media channels and newsletter.**

Taxation

The Working Group raised the need for the State to provide clearer guidance on property tax administration and improve access to existing tax relief programs. As part of the SILO meeting, DTF and AGM jointly presented on the [Farm Overtime Tax Credit \(OTC\)](#) as they

share a role in the implementation of this program that kicked off in January 2024. SILO Working Group members raised concerns over the impact of the OTC eligibility requirements on farms with ownership structures that include several businesses and on farms that utilize third party payroll entities. As of now, eligibility requirements will prevent these businesses from receiving the OTC benefit. **The agencies continue to collaborate on this issue with the aim for all farms to have access to the benefit.**

The departments also updated SILO Working Group members on the progress in creating the information technology systems that will allow farmers to upload relevant payroll documents to satisfy the reporting requirements under the tax credit and how AGM will certify those documents to DTF. Farmer members were very interested in the timeline for the certification process and when they should expect their advance payment. Some members also expressed the desire to be able to receive payments quarterly; however at this time the technology systems for this program will not be able to meet this demand. **Additional outreach and education underway by the agencies to educate the broader agricultural community on the roll-out of the OTC and the agencies will examine opportunities for quarterly payments if technology allows.**

SILO members also raised additional questions on the qualifications of aquaculture farmers to participate in the State's Investment Tax Credit (ITC). It is not always clear to regulatory agencies and others that aquaculture falls within the definition of agriculture as it is often not seen as a traditional sector of the industry.

Through discussions with DTF, it was clarified that aquaculture is considered farming so long as the other qualifications are met under the credit. To address the concerns raised about whether aquaculture would be eligible for the ITC, the SILO Working Group was able to clarify with DTF that aquaculture operations would qualify if they met the following criteria (consistent with other agricultural operations):

- the qualifying property must have been placed in service on or after January 1, 2023;
- the qualifying property must be principally (greater than 50%) used in the production of goods by farming; and
- the qualifying property must have been placed in service by an eligible farmer.

For example, farming includes (but is not limited to) the raising or production of aquaculture products, provided the aquaculture products are grown and raised as opposed to merely being harvested or caught. This includes fish, fish products, water plants, and shellfish.

Additionally, on the federal level, members expressed concerns with the Jones Act, which regulates the United States maritime shipping industry, not providing the appropriate risk determination for nearshore shellfish farmers who are not out in open waters.

Reaffirming that aquaculture is an important sector of the agricultural industry and clarifying that aquaculture farmers are eligible to take advantage of available grants and tax credits provides much-needed opportunities for the industry, which is still struggling

post-pandemic. **To further bolster the aquaculture industry, the FY25 Enacted Budget provides \$5 million in crucial capital for farmers to invest in marine dock space, processing equipment, and other infrastructure that is vital for the growth of their businesses and directed another \$75,000 for the creation of New York's first ever seafood cuisine trail on Long Island to promote marketing and consumption of local seafood.**

Other Topics

On-Farm Health and Safety

Farmer members of the SILO Working Group expressed widespread support for additional funding for the New York Center for Agricultural Medicine and Health (NYCAMH) to better provide on-farm occupational health and safety training. NYCAMH provides critical research, outreach, education, and clinical consultation services on farms across the state for farmers and farmworkers alike. Respirator fit test clinics, farm safety trainings, the power take-off (PTO) shield program, and other personal protective equipment (PPE) assistance programs are examples of NYCAMH's critical work. Over the years, funding for NYCAMH has not kept up with the demand for their services or the increasing costs of providing these services; however, in New York State's FY24 Enacted Budget, NYCAMH was provided an additional \$500,000 to help cover their increasing needs. **SILO's advocacy for this program throughout 2023 helped to bring the need for additional resources to the forefront. As a result, the FY25 Enacted Budget includes an additional \$1 million in funding to directly support NYCAMH.**

Livestock and Animal Concerns

Participants raised concerns regarding the latest outbreak of Highly Pathogenic Avian Influenza (HPAI), the disease's impact on the poultry industry, and available State resources to combat its spread. Information was shared with members regarding New York State's and the federal government's response to HPAI and **AGM's website and social media platforms will continue to share information to ensure the public is well informed on the ongoing outbreak.**

In addition, processing capacity for poultry and livestock continue to be a concern, particularly for smaller farms. Most recently, AGM and the Hudson Valley Agri-Business Development Corporation (HVADC) awarded \$4.25 million to 26 projects across the state through the Meat Processing Expansion Grant Program to help processors to expand existing or establish new meat processing facilities and strengthen the local supply chain. Critical funding is also available to the industry through the United States Department of Agriculture (USDA) to support the expansion of existing facilities or establish new ones. **Still, additional investments in this area are required to scale New York's meat processing industry in such a way that it can expand the local supply chain and better support efforts such as Farm-to-School, Executive Order 32, Nourish NY, and more that provide an opportunity for the local procurement of meat and other**

agricultural food products.

The emergency food system has been an important partner to local procurement initiatives including Nourish NY. AGM presented the work of the State's Council on Hunger and Food Policy to better identify and address shared challenges experienced by New York's emergency food providers and New York's farmers such as infrastructure and transportation barriers including limited processing facilities and aggregation sites.

Conclusion

The SILO Working Group brought regulators together with representatives of the agricultural community and resulted in improved relations, resource sharing and information exchange on important issues. These critical conversations produced immediate and tangible solutions, provided relief to New York's farmers and sparked valuable conversations on areas to continue to work on. AGM will continue to communicate with representatives of the agricultural community and government partners and will reconvene the SILO Working Group as it identifies additional topics to address.