



WineAmerica Newsletter – May 2009

From The President's Desk

Tough economic times continue as the U.S. struggles to climb out of the deepest downturn since the Great Depression. There are some encouraging signs of an uptick in consumer spending but they are very early and unverified. A number of wineries I have spoken with lately sense better sales in tasting rooms compared to last year. This is probably a reflection of gasoline prices becoming more reasonable. Yet even these reports indicate that average sales per customer are lower—customers seem to be buying two or three bottles rather than a case. It appears that gasoline prices will remain comparatively low, at least for the next six months. So it is possible to be optimistic that sales at winery tasting rooms will improve, especially if consumer confidence continues to make gains.

Farm Bill Implementation

The important work WineAmerica and its allied farm groups carried out in shaping components of the 2008 Farm Bill is starting to bear fruit. The USDA has made progress in implementing several important program areas such as research, pest management and grants for specialty crops.

One of the programs most

important for grapes has been the National Clean Plant Network (NCPN) which has made great progress toward getting organized and beginning the process of working with stakeholders. There will be both East and West grape governing bodies to shape the production and care of clean grape planting materials for industry throughout the country. These groups will work under the supervision of the NCPN comprising four representatives selected by East and West governing bodies. A new development which is very positive is that there will be \$3 million in Farm Bill funding for fiscal year 2010 to address certification efforts by the states. These funds are in addition to the \$20 million over four years allocated to the NCPN itself. With this funding states will have resources to ensure that plants remain free of disease in nurseries.

NGWI and SCRI—a mouthful of acronyms. The National Grape and Wine Initiative (NGWI), the industry sponsored research and extension priority setting and management network is making great progress as a force for attracting research funding to grape and wine needs. It recently

hired a full time President, Jean-Mari Peltier, and was active in coordinating and shaping important grant proposals for the Specialty Crop Research Initiative (SCRI) for its latest round of applications which closed on April 15. SCRI is a major new source of research funding developed as part of the Farm Bill. SCRI's managers have indicated that it is extremely important that industry research coordinating bodies, like NGWI, be involved in shaping the direction of grant research funding, a policy bolstered by a Congressionally mandated requirement that non-federal sources provide 100% matching funds. NGWI endorsement and sponsorship is a strong indication of stakeholder involvement—a key component in the rating of grants by USDA.

For this year's SCRI funding cycle, NGWI initiated and worked to develop four key projects in alignment with its priorities. They are: (1) Water Management in Irrigated Vineyards—a research proposal to develop better knowledge about how to produce quality grapes using less and poorer quality water. (2) Vineyard Mechanization—enhancing existing technologies for estimating

(continued next page)

Page 2

crop load, canopy management, yield estimation and input optimization. This project is multi-commodity and includes almonds, citrus, grapes, and other tree crops and nuts. (3) Carbon Cycle—a planning grant meant to identify data gaps in evaluating the carbon cycle in grapes and grape products. (4) Extension—expanding communications tools to improve access to viticulture, winemaking and grape processing research through the creation of a

process which is about to get underway. The budget resolution did not call for any cuts from amounts mandated as part of the Farm Bill.

Health and WHO

The World Health Organization (WHO) continues to move forward developing a “Global Strategy on the Harmful Use of Alcohol.” Regional consultations with Member States (countries) are scheduled to take place this

real. WHO policies could be extraordinarily damaging to American wineries if they provide guidance and support for new restrictions on alcohol in state legislatures and Congress. Our goal is to make the best case possible to the U.S. government so that it can act to ensure a reasonable and balanced strategy emerges from WHO. As we see it, the U.S. government is uniquely positioned to make the case against neo-Prohibitionist policies

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grape community of practice. It is expected that the USDA will announce SCRI awards in July.

The Market Access Program (MAP) which helps defray 50% of costs of marketing U.S. produced agricultural products in other countries, including wine, was funded at \$200 million per year. Its funding has been identified for a 20% cut below the Farm Bill agreement in the new Obama budget. The Coalition to Promote U.S. Agricultural Exports, an industry group which includes WineAmerica is fighting to preserve MAP funding and has made progress by keeping the potential cut out of the recently passed Congressional budget resolution. Nevertheless, the funding remains in jeopardy and will require a significant effort to protect it during the appropriations

spring with a draft WHO Strategy being issued sometime before January 2010. The current plan is for adoption of a Strategy at the May meeting of the World Health Assembly.

WineAmerica remains concerned that this process could be hijacked by so called “alcohol health professionals” determined to inflict severe controls on alcohol, especially “population based” mechanisms including limits on availability, higher taxes and restrictions on advertising. We continue to favor more targeted interventions such as server training, penalties for driving with high blood alcohol and similar policies which specifically address harmful use and abuse.

The risk of a negative outcome led by anti-alcohol advocates is quite

because of our Constitutional experiment with Prohibition.

We seek to stress “science based” policy approaches directed at particular harmful uses of alcohol rather than just broad brush anti-alcohol measures. This is especially important as some population based policies—raising taxes, for instance—are more likely to reduce consumption by low and moderate consumers rather than those who are engaging in harmful use. In certain countries high taxes and limited outlets can lead to an increase in the use of dangerous illicit alcohol sources rather than controlled channels. Encouraging moderate consumption is far safer than risking a black market in moonshine and mouthwash.

Our goal is to work with

Page 3

collaborators in order to build maximum awareness of risks and impacts for U.S. officials as they prepare for WHO decision making processes.

EU Negotiations

Following the Traditional Expressions resolution passed by the WineAmerica Board in March, there are informal negotiations taking place between U.S. and E.U. officials which may soon

resolve potential E.U. export problems for U.S. wineries that use “chateau” or “clos” in their brand names. These discussions are active at this time.

On the Table

We continue to wait for TTB to issue Final Rules on allergens, serving facts, and appellations of origin. Congress is expected to begin deliberations on food safety legislation, and USDA is expected

to announce a new round of Value Added Grant opportunities soon. WineAmerica is working with TTB to develop a one-day seminar in Washington, DC for state wine trade associations that will allow them to help local wineries interested in exporting wine. It is expected that this program will take place in October.



Legal Notes—Recent Legislation a Sign of the Growing Influence of American Wineries

by Cary M. Greene

As legislative sessions begin to wrap up around the country, we’re getting into a position to begin to access the policy successes and failures for American wineries this year. Certainly, not everything has been rosy. Excise tax increases in several states, including New York, will make profitability harder in some instances, but overall the news has been good.

In a major victory out of New York (HB 163), the New York State Wine & Grape Foundation, headed up by our Board member Jim Trezise and invaluable to the success of New York’s wine industry, was given new funding, albeit at reduced levels, after it appeared that appropriations were in doubt. In North Dakota (SB 2416), excise taxes for sparkling wine actually went down. In Arkansas (HB 2252), winery self-distribution rights were simplified.

A new Tennessee Grape & Wine bill (SB 944) meant to respond to the *Jelovsek v. Bredesen* decision

out of the Sixth Circuit has also been passed by the Tennessee Senate and House. Despite the bill’s problems and potential extraterritorial implications, it will allow Tennessee wineries to continue to operate and may be useful in allowing personal importation of wine from out-of-state in some limited instances. In addition, a direct shipping bill (SB 166) has been passed by the Tennessee Senate, is through committee in the Tennessee House, and may be on its way to final passage.

As we reported last week, Kansas passed a new direct shipping law (SB 212) that now increases the number of states that allow direct shipping to 39. Beginning July 1, 2009, Kansas will allow licensed in-state and out-of-state wineries to ship wine to Kansas consumers. With a Kansas “special order shipping license” wineries will be permitted to ship up to 12 cases of wine per address per year.

The law appears to indicate a license fee of \$50, together with a \$50 initial registration fee or a \$10 renewal registration fee. Out-of-state winery applicants must file a \$750 bond as part of the application process. The Kansas ABC has not met to finalize their interpretation of the new law, but has indicated to us that registration fees are typically in addition to license fees and that a bond can typically be paid in cash or by bond. As a reminder, WineAmerica members can obtain a bond at a discount through the WineAmerica Insurance Administrators. Minimum fees are \$100 for a one-year bond, and \$260 for a three-year bond.

Kansas’ new law contains several monitoring and reporting requirements. Licensees are required to confirm the age of consumers by either (1) examining a valid identification, or (2) through a Kansas ABC approved internet age verification service.

Page 4

WineAmerica members can get a discount of up to \$300 annually on internet age verification with IDology. Licensees are also required to collect Kansas wine excise and sales taxes. Excise taxes must be remitted to the state with reports and documentation

required by the Kansas ABC.

We'll be providing a more thorough analysis of the year's ups and downs in the coming months. But with the Kansas and Tennessee legislatures finally cracking on direct-to-consumer

shipping and funding preserved in New York, it appears that the political climate has never been better for American wineries. Given our growing economic impact nationwide, it is small wonder.



USDA Publishes Final Rules on Specialty Crop Block Grants

by Jennifer Montgomery

The US Department of Agriculture (USDA) recently published Final Rules governing the Specialty Crop Block Grant Program that was included in the 2008 Farm Bill. The grant program, first implemented in 2004, provides money that is allocated to state departments of agriculture for grants to the specialty crop industry that will enhance the competitiveness and quality of specialty crops, including wine. With the passage of the 2008 Farm Bill, the program became a mandated program.

Since questions and concerns have arisen over past uses of the program, USDA has now set a clear set of rules that will help ensure that grants are awarded to the specialty crop industry in the manner that Congress intended. To receive funding, each state department of agriculture will be required to submit a plan that explains how the funds will be used solely to enhance the competitiveness of specialty crops.

The departments also will need to demonstrate that proper outreach efforts were made to the industry, including to beginning specialty crop farmers. A "beginning" farmer is an individual or entity who has not operated a farm for more than 10 years and substantially participates in the operation. Given the wine industry's growth in recent years, this means that many grape growers and wineries throughout the U.S. are currently eligible beginning farmers. Additionally, the departments will need to show that a competitive process was undertaken in determining grant awards.

While much of the responsibility for ensuring the block grant program is properly administered falls on state departments of agriculture, the specialty crop industry must take on a great deal of responsibility as well. It is critical that wineries in each state cultivate strong relationships with their respective departments of

agriculture to ensure they are aware of the industry's needs. If the lines of communication are weak or non-existent, grant-worthy projects could get overlooked.

The Agriculture Marketing Service (AMS), the department within USDA that administers the program, will soon publish a notice in the Federal Register soliciting grant proposals. The notice also will include application instructions and list the amount of funds that will be available to each state department of agriculture. WineAmerica will advise membership when this notice is published.

Further information on the Specialty Crop Block Grant Program can be accessed at : <http://www.ams.usda.gov/scbgp>.



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Working to Make Your Membership More Valuable

by Cary M. Greene

We like to think of WineAmerica as a partnership between our winery members and our D.C. staff. Through this partnership, we lobby Congress and federal agencies to protect and advance the interests of American wineries, and develop relationships with winery service providers—our

whatever the issue. Whether it means helping to develop legislation or working with regulatory agencies, we have a wide range of experience dealing with winery business challenges.

For example, we recently worked with a member to resolve a dispute with

WineAmerica membership [should] benefit wineries in as many ways as possible.

“supplier” members—to ensure that wineries have cost effective and quality services for their business needs. Our recent announcement regarding new FedEx discounts for our members (up to 50%) is a perfect example.

We try to make WineAmerica membership a good value proposition, something that clearly benefits wineries in as many ways as possible. Toward this end, we often work with our winery members to resolve state and local problems that are affecting them and their businesses. We are always ready to take your phone calls,

TTB concerning use of their winery premises. We assisted another through a local land use process based on their plans to hold winery events on their premises. In both cases, the members came away feeling good about the help we were able to provide, and told us so. We aim to ensure that all of our members that approach us with business problems come away with the same good feelings about the experience.

We want to help, you just have to call us and ask.

