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June 11, 2015

Richard Ball, Commissioner  
New York State Department of Agriculture and Markets  
10B Airline Drive  
Albany, NY 12235

RE: Proposed Rule Making: Chapter III of 1 NYCRR, Subchapter F, Industrial Hemp, Part 159, Industrial Hemp Pilot Programs, AAM-17-15-00011-P

Dear Commissioner Ball,

New York Farm Bureau (NYFB), the largest agricultural advocacy organization in New York State, appreciates the opportunity to comment on the Department's proposed rules on the Industrial Hemp Agricultural Pilot Program that would grant institutions of higher education the ability to research the growth and cultivation of industrial hemp in New York State. New York Farm Bureau would like to express its overall support for the proposed regulations on industrial hemp and offers the following suggestions and recommendations on the proposed regulations.

Granting institutions of higher education the opportunity to research industrial hemp would allow them to further develop uses and make sure New York is able to successfully implement industrial hemp production. We have world-class colleges and universities in New York, which are primed to conduct scientific research on plants such as industrial hemp. Plant variety development, as well as greater emphasis on market development, will be the key to establishing a successful and vibrant industrial hemp industry in New York State. The potential is there for many different educational departments to be involved with and benefit from the research including plant science, nutritional science, fiber science and apparel design, and animal science.

Industrial hemp research and production could offer significant new economic opportunities for New York State's agricultural industry. During a time when numerous farms struggle to remain successful in a global marketplace, many have turned to alternatives for diversification of crops and products produced on their farms. Industrial hemp could provide another viable commodity for agriculture to expand and produce, which in turn, helps boost the economy of New York State as a whole. Industrial hemp has many different uses, and the major market for industrial hemp is as a food or supplement, it is rich in protein and Omega fatty acids, and has a high fiber content. The clothing industry also produces apparel and accessories from industrial hemp and hemp blended fabrics. Industrial hemp can also be used for building materials, plant based plastics, and paper products.

NYFB is supportive of the proposed regulations' standard definitions of industrial hemp as containing less than 0.3% THC. Furthermore, NYFB also agrees with the need for oversight for the authorization holder by the Commissioner of Agriculture and Markets.

NYFB acknowledges that industrial hemp is still classified as a controlled substance under New York State Public Health Law, however, it is important that intuitions of higher education are not overly burdened by these regulations, which would make it impossible to grow industrial hemp. In section 159.6, applicants are required to install items such as chain linked fences at eight feet in height with barbed wire on the top. Applicants must also install a security surveillance system, provide a forgery-resistance security badge to each person who will be involved with industrial hemp research, and employ security staff to help monitor the research site.

While NYFB understands the Department's and the State's need to ensure security for research conducted on industrial hemp, NYFB feels that institutions of higher education simply cannot afford to make the investments needed absent a significant state appropriation designated specifically for industrial hemp. The initial capital costs, combined with the on-going security requirement, is simply too large of a cost for an institution of higher education to invest in industrial hemp and is counter-intuitive to the overall goal of the Industrial Hemp Pilot Program. In the Proposed Rules' *Regulatory Flexibility Analysis for Small Businesses and Local Governments*, it is estimated that a suitable fence will cost approximately \$29,400/acre to comply with the regulations. Combined with the estimated \$4,200 to \$6,000 to install security cameras and the estimated \$19,600 to \$37,350 to employ a security staff member, NYFB believes that many, if not all, institutions of higher education will shy away from growing industrial hemp because of prohibitive costs. In the Department's *Summary of Regulatory Impact Statement*, it is estimated that an authorized holder will cost approximately \$55,000 to comply with the capital costs and \$25,000 annually to comply.

Many colleges and universities already have fenced areas for other research projects, one alternative would be to evaluate the fence this is currently present and then determine if additional fence is necessary instead of automatically requiring institutions of higher education to purchase new fence and barbwire. The cost to implement fencing, as well as 24/7 electronic monitoring systems, will cause undue burden on the research facilities that might not be equipped with such systems. Many of these college and university research facilities have research farms, which have multiple uses and not strictly designed for the growth of industrial hemp. Because many of these sites are run as farms, they do not have the strict fencing and security requirements that are required in the proposed regulation.

A second alternative to the strict security standards, would instead require buffer zones, like trees, to help screen hemp from a public road and employ appropriate signage about the nature of the crop in regularly spaced intervals, reading "not marijuana," would be adequate assurance for security purposes. Public education about the differences between industrial hemp and illegal marijuana would be help alleviate the need for fences and other security features.

In section 159.2 (d) (4), it requires that for each person involved with growing of industrial hemp must submit their social security number, criminal record, and other personal information as part of the application process. Requesting the persons involved social security or tax identification

number and other personal information seems to be an excessive collection of information. NYFB hopes that this information, as well as such as the description of the premise, diagrams, and other important details concerning the areas that are conducting research on industrial hemp, that is submitted to the Department, would not be available under the state's Freedom of Information Law due to the sensitivity of the information.

In section 159.2 (g), the authorization period to grow and cultivate industrial hemp is one year from the application approval, with the ability of the Commissioner to grant renewals of applications. NYFB requests that authorizations should be granted for three years. Basic research such as studying growing season, harvesting methods, and identifying species can take longer than just a year to study the full effects and having to reapply after a year would be unnecessarily burdensome for researchers. Institutions like Cornell University, College of Agriculture and Life Sciences, typically will only release recommendations to growers after three to five years of field trial and error, depending upon the crop. Due to New York's climate variability, it would be imperative that researchers be granted the ability to research industrial hemp for more than one year, without worrying about reapplying for approval. NYFB does support that approval could be revoked at any time during the three year period, if the Department determines that the institution of higher education is not fulfilling their obligations under their approved application.

NYFB thanks the Department for adding part (f) of Section 159.3, which enables an authorization holder to enter into a contract with a person for the growing of industrial hemp. These "subcontractors" will enable institutions of higher education to partner with individuals or groups to grow and conduct research on industrial hemp. NYFB hopes that these subcontractors will be interpreted to include farmers. These subcontracts may be able to provide additional financing as well as man-power that is necessary for research. Again, NYFB asks that these subcontractors not be subject to the strict security requirements proposed in the regulation, as they would be overly burdensome and a severe deterrent to those who wish to research hemp.

NYFB supports the research requirement set forth in the proposed regulation to make it necessary to identify a market and a potential outlet for sale of the crop, rather than simply conduct research for research's sake. Such a market analysis would be outside the scope of many of plant breeders, and would therefore necessitate and encourage collaboration between appropriate institution or private sector partners. NYFB is pleased with this aspect of the proposed regulation which would do much to encourage collaborative and innovative thinking about this new crop.

NYFB acknowledges the necessity of the Department conducting regular inspections of any authorized research farms, the difficulty arises in the cost of ongoing sampling of THC content, which will add an additional cost to the research of industrial hemp. Institutions of higher education are most likely not set up to test for THC content, which would either require them to invest in such testing equipment or send the samples to an outside lab for testing. Either option would have fiscal implications for the overall cost of researching industrial hemp.

NYFB would like further clarification on the ability Cornell County Cooperative Extension locations to grow industrial hemp. Some County Cooperative Extensions have farm research plots that would be viable options for growing industrial hemp, but it is unclear in the regulation

if County Cooperative Extension locations would be eligible to grow industrial hemp. These locations offer a unique opportunity because they are spread throughout the state and could offer different growing environments, and they also are within reach of many farmers who may want to come to the facilities to learn about the production of industrial hemp.

NYFB also seeks clarification on the ability for farmers to visit a research facility to see hemp production. Based on the proposed regulations, as written, any individuals who can come into contact with industrial hemp must have security clearance to do so, and farmers simply visiting would not be allowed to enter the facility. NYFB asks that provisions be put in place that would allow individuals, like farmers, who may not be associated with the institution be allowed to tour the facilities. This would allow farmers visit the facility and look at cultivation trials so that they can view the mechanics of growing industrial hemp and judge its viability for their own farm operation.

NYFB would like to request that the information and research results be made available to farmers, so that they can review the research results and if necessary, further advocate for the ability to grow industrial hemp on their own operations as well.

In summary, NYFB believes the proposed rule is needed and appreciated, so that institutions of higher education that want to research the growth and cultivation of industrial hemp, in order to determine whether it can realistically be grown in New York and whether it is a commercially-viable product. The State's agricultural industry will benefit if the proposed rule is adopted with needed changes to ease the burdens of engaging in the research because it will help determine whether industrial hemp can be grown and cultivated in New York and provide another economic commodity to New York farmers.

NYFB thanks the Department of Agriculture and Markets for the opportunity to submit these comments on the proposed regulations on industrial hemp research program.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Williams".

Lauren Williams  
Assistant Director of Public Policy

cc: Susan Rosenthal, General Counsel, NYS Department of Agriculture and Markets  
Chris Logue, Director, Division of Plant Industry, NYS Department of Agriculture & Markets  
Patrick Hooker, Deputy Secretary for Food and Agriculture  
Donna Lupardo, Member of Assembly  
Thomas O'Mara, Member of Senate