



New York Farm Bureau • 159 Wolf Road P.O. Box 5330 • Albany, New York 12205 • (518) 436-8495 Fax: (518) 431-5656

November 25, 2008

Air and Radiation Docket and Information Center,  
Environmental Protection Agency, Mailcode: 2822T,  
1200 Pennsylvania Ave., NW.,  
Washington, DC 20460.

**RE: Docket ID No. EPA-HQ-OAR-2008-0318**

To Whom It May Concern:

New York Farm Bureau (NYFB) appreciates this opportunity to comment on the Advance Notice of Proposed Rulemaking (ANPR) for regulating greenhouse gases (GHG) under the Clean Air Act.

NYFB is New York's largest general agriculture organization, and represents nearly 30,000 farmer members. New York is a major agriculture state, with a dairy industry ranking third in production nationwide. New York has a dairy herd of 627,000 mature dairy cows (2007 data), thus one can readily understand the importance of any fee per head imposed on New York's animal agriculture industry and how such regulatory fee structure could adversely impact New York's agriculture industry.

The Environmental Protection Agency (EPA) issued an Advance Notice of Proposed Rulemaking seeking public comment on whether it is appropriate to regulate greenhouse gas (GHG) emissions from automobiles under the Clean Air Act. "Greenhouse gases" are those alleged to contribute to global warming. The major GHGs are carbon dioxide, methane and nitrous oxides, while hydroflorocarbons comprise a smaller amount.

In order to regulate automobile emissions in this fashion, EPA would first have to make a finding that greenhouse gases endanger public health and safety and should be classified as a "pollutant."

The problem with this approach is that once an endangerment finding is made, other provisions of the Clean Air Act are automatically triggered, creating much broader regulation of other sectors of the economy, including agriculture. One such program that would automatically come into play as a result of an endangerment finding is the Title V permit program. Title V requires that any entity that emits, or has the potential to emit, one hundred tons of a regulated

pollutant must acquire a permit in order to continue to operate. The requirement for a permit is mandatory and always results in the imposition of a fee by the government. An unintended consequence for agriculture is the imposition of fees that will function like a tax on dairy cattle and other livestock. If such were to happen, New York's agriculture industry would be severely impacted.

For pollutants that already fall under regulation, a 100-ton threshold is high enough to exclude most emitters. As a consequence, only large emitters tend to be covered. For greenhouse gases, however, the situation would be quite different. In New York, animal agriculture would be especially affected by this approach.

In comments to the Office of Management and Budget prior to release of the ANPR, the U.S. Department of Agriculture stated that any operation with more than 25 dairy cows, 50 beef cattle or 200 hogs emits more than 100 tons of carbon equivalent and, as a result, would have to obtain a permit under Title V in order to be able to continue to operate. Thus, as a result of litigation aimed at regulating automobile emissions, the EPA would in effect, impose a tax per head on our dairy cattle and other livestock industries.

Since Title V is administered by the states, and permit fees vary from state to state. EPA sets a "presumptive minimum rate" for these fees, or taxes, and that rate is \$43.75 per ton for 2008-2009. Utilizing the EPA data and the statistics published by USDA, the impact on agriculture comes into stark relief: for states charging the presumptive minimum rate, the tax for dairies would be \$175 per cow per year, for beef \$87.50 per head per year, and the tax on hogs would be a little more than \$20 per hog per year.

The impact to New York's dairy industry would be devastating. The cost per year for New York (627,000 mature dairy cattle X \$175.00 per cow) would be a staggering \$109,725,000 million. There is little doubt that this would result in a significant loss of our dairy industry and working farmland, as well as put up an insurmountable barrier to entry into the dairy industry for our young farmers.

For sectors of agriculture vulnerable to foreign imports, the result may very well be that large parts of these industries would move overseas so that American consumers would be purchasing and consuming less domestically produced product and more foreign-produced product. Such an outcome would be particularly ironic, because if one accepts the premise that animal agriculture contributes to the accumulation of GHG, it must do so everywhere. Thus, while American producers will be pressured economically by a higher cost structure, foreign producers might well benefit.

The ultimate outcome could be that the United States would be importing more dairy, beef and pork products, and the costs associated with these products might well rise, while the impact of GHG emissions could be possibly worse.

The Clean Air Act is designed to regulate air pollutants that are local in nature and are emitted from sources that are easily ascertained. These factors allow for effective regulation and reduction of the pollutant, because they are within the control of the regulating agency. As mentioned earlier, greenhouse gases are much different. They are global in scope and unlike other regulated pollutants, GHGs are global in scope and distribute evenly across the planet. A ton emitted in New York has the same impact as a ton emitted in China. Regulating the ton in New York without addressing emission in China and other nations will do little to address the global issue and only penalizes the New York producer.

Please let me know if you have questions, or would like further information.

John Lincoln, President  
New York Farm Bureau