



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
Office of the Commissioner



Bryan P. Hurlburt
Commissioner

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January 28, 2020

The Honorable Sonny Perdue
Secretary of Agriculture
United States Department of Agriculture
1400 Independence Ave. SW
Washington, D.C. 20250

Administrator Bruce Summers
U.S. Department of Agriculture, Agricultural Marketing Service
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0237

Re: State of Connecticut comments on the Interim Final Rules for Hemp Production dated
October 31, 2019

Dear Secretary Perdue and Administrator Summers:

As strong advocates for hemp production in Connecticut, we write today to share our comments and concerns related to the interim final rules for hemp production published by your agency on October 31, 2019. While they help define the path forward for our farmers who wish to grow hemp, they contain a number of restrictive requirements that may prevent these very people from even taking advantage of the new agricultural opportunity.

The parts of the program that deal with sampling, testing and disposal are the most onerous and costly to a would-be grower. Imposing DEA-compliant requirements at each step of the growing and harvesting adds additional financial burdens on a fledgling industry that cannot afford them. In addition to the financial risk, is the real risk of potential civil and criminal sanctions for a grower with a crop that inadvertently exceeds the acceptable THC level at harvest time. Our state's hemp farmers want an opportunity to grow hemp, and have it treated the same as any other agricultural commodity. The rule as currently written assumes hemp is a controlled substance until it is proven otherwise.

Specifically, we would like to see the following changes made to the interim rules as soon as possible so that our state can set up a state program compliant with the federal rules, and as least restrictive as possible.

These are the areas of concern and suggested changes:

- Sampling and testing:
 - State, Federal and Local Agency Inspectors or 3rd party requirement for sampling
 - DEA approved lab requirement

We think USDA should allow any properly trained grower, or other individual who meets the eligibility requirements under the federal law, to participate in the hemp program and collect the samples. A robust inspection and a random sampling and testing program by state inspectors is adequate to ensure that the sampling protocols are being followed by the growers.

Using DEA-approved labs is overly restrictive. At the present time, our state does not have a single DEA-registered laboratory, according to the USDA website for Hemp Analytical Testing Laboratories. Assuming a laboratory within our state does become DEA-registered, it is reasonable to expect that the laboratory will be more expensive for our growers, and potentially unable to provide timely testing services to our growers. If growers have to send their samples out of state for testing, the delays in receipt of test results could result in crops not being harvested before they exceed the allowable THC level for their crops.

- Requirements for destruction of the crop
 - No mitigation methods permitted
 - Required use of law enforcement or DEA approved reverse distributor for disposal of hot crops

We have successfully used several mitigation methods in our state so that growers were able to salvage some or all of their crops. These methods included allowing post-harvest sampling and retesting by the regulatory agency. Growers were also allowed to comingle crops with analysis of the comingled lot conducted by the regulatory agency, to show that the final crop was at or below the .3% THC threshold. Our state has already had to successfully address proper disposal of noncompliant hemp crops without the additional burden of using law enforcement to destroy the crops, or the financial expense to the grower of paying a DEA approved reverse distributor to dispose of the crop. Permitting destruction methods that render the crop or destroyed parts of the crop unusable to be determined by the state's Department of Agriculture should be adequate, and a cost effective way to maintain compliance with the federal law requirements.

- Negligence threshold (0.5%)

Setting the negligence threshold at .5% is an extremely low limit, given the lack of stable plant varieties and genetics available to growers. Given that this lack of stable varieties is acknowledged by USDA in the preamble to the rules, growers should not be held to such a strict standard. Setting the THC threshold for negligent violations at 1.5% or even 1% permits growers to take on the risks of growing hemp without worrying about legal sanctions. As the .3% THC threshold is still applicable, there is no risk of illegal crops making their way into the marketplace.

- FSA reporting requirement

It is unclear what the statutory basis for this mandatory reporting requirement is. The rule requires the states to report the exact same information to USDA. There is nothing preventing USDA from sharing the information internally. However, to add additional registration and reporting requirements for growers, on top of the state reporting obligations they have under the federal law, is unnecessarily redundant and overly burdensome to the growers.

State departments of agriculture are perfectly capable of managing this program as has been demonstrated during the pilot phase. Furthermore, there is no funding available to the states to

stand up such a program. USDA may wish to consider creating a standardized reporting program and providing funding to states for at least for the IT systems needed to collect and report the required information.

We hope that these suggestions will be given consideration as USDA works to implement the 2018 Farm Bill legalizing hemp as a newly revived and viable agricultural commodity in the United States.

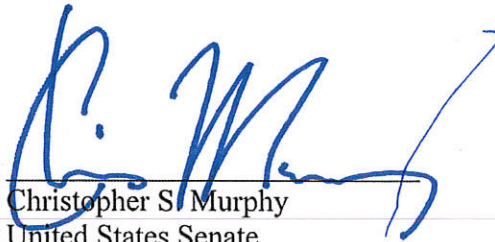
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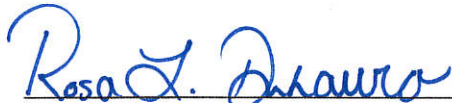
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Richard Blumenthal
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