

USDA Hemp Listening Session Testimony
Courtney N. Moran, LL.M.
March 11, 2019

I am Courtney Moran, Founding Principal of [EARTH Law, LLC](#), and Chief Legislative Strategist for [Agricultural Hemp Solutions, LLC](#). I had the privilege of working pro-bono, with the offices of Senate Majority Leader Mitch McConnell and Senator Ron Wyden on the drafting of the Hemp Farming Act of 2018, the language included in the 2018 Farm Bill legalizing hemp. I have first-hand knowledge of the Congressional intent.

The 2018 Farm Bill provides key language supporting hemp's growth as a legal agricultural commodity. Section 10113 instructs the USDA to administer a program allowing individuals to cultivate, grow, and sell hemp and hemp derivatives. Thank you for giving the industry an opportunity to provide input as USDA begins developing regulations for implementation.

The industry respectfully urges USDA to pay close attention to the following during regulation promulgation:

Section 10114 provides that nothing in the Horticulture Title of the 2018 Farm Bill prohibits the interstate commerce of hemp or hemp products, and further prevents states and tribal governments from prohibiting the transportation of hemp or hemp products through the State or the territory. However, we continue to learn of hemp crop and product seizures by law enforcement throughout the country for simple transportation of the commodity. As a result, many trucking/shipping companies are not offering hemp farmers or business owners transportation and shipping services. The industry needs USDA to develop clear guidance for the transportation of hemp to discourage states and local law enforcement from interfering with shipments of hemp and hemp products that were legally produced in another state.

Another issue that needs immediate attention is access to banking with financial institutions. Farmers and hemp agribusiness owners have struggled during the past four and a half years and continue to have limited options for securing bank accounts. The industry needs the USDA to work in collaboration with the Department of Treasury in issuing guidance to alleviate issues regarding access to banking for legal hemp businesses.

USDA's National Organic Program guidance currently does not provide for full hemp plant organic certification, namely for flower production for hemp-derived cannabinoids and the processing of hemp-derived cannabinoids. The industry respectfully requests NOP to issue guidance as soon as possible clarifying authority for full plant organic certification.

The eligibility for crop insurance overseen by the USDA's Risk Management Agency is something hemp farmers across the U.S. are eager to realize, as they have had limited, if any, access to insurance for their crops produced under the 2014 Farm Bill Agricultural Pilot Programs.

With regard to the 2018 Farm Bill's "felon ban," it was Congress' intent to restrict only the individual applicant for a hemp permit from growing hemp and not for the restriction to extend to employees. For entity applicants, it was the intent that a company be eligible for a hemp permit if that company is owned by at least 51 percent individuals without a controlled substance felony in the previous 10 years. Please ensure USDA develops regulatory guidelines that do not extend this felony restriction beyond the applicant.

One last critical topic that many have submitted comments on, testing of delta-9 tetrahydrocannabinol (THC) levels of hemp plants in-field with a reliable testing method. The federal definition for hemp specifically refers to delta-9 THC. The use of High-performance liquid chromatography mass spectrometry (HPLC-MS) is recommended for the testing of delta-9 THC levels. To date, under the 2014 Farm Bill Agricultural Pilot Programs pre-harvest testing of the crop has been conducted using methods that specifically call for *not* decarboxylating the sample. A change now to testing post-decarboxylation for total THC will have significant negative financial impacts on domestic breeders, favoring foreign varieties and imports, rather than the varieties farmers across the U.S. have bred, are currently growing, and have grown for the past four production seasons. Similarly, the industry encourages USDA to explore options for destruction of non-compliant crops, including for the use of non-consumable fiber products and consumable grain products produced from seed rendered incapable of germination.

Thank you for your consideration of these important issues. The USDA is now in position to take the lead to put an end to the disruption of basic commerce related to the hemp industry and to establish regulations that provide for positive economic impacts for farmers and agribusiness owners across the United States.

I am eager to continue collaboration with USDA in the development and implementation of guidance and regulations that address these issues and provide for a flourishing domestic hemp farming economy.