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March 11, 2019

**Via Electronic Mail**

US Department of Agriculture  
Agricultural Marketing Service  
[farmbill.hemp@usda.gov](mailto:farmbill.hemp@usda.gov)

**RE: Hemp Production Program  
Docket Nos. AMS-SC-19-0020, SC19-990-1**

Cannabis Law PA submits these comments in response to the US Department of Agriculture (USDA)'s request for input regarding the design and functions of a USDA hemp production program following passage of the 2018 Farm Bill.

**I. Interest**

Cannabis Law PA is a Harrisburg-based law firm that represents hemp growers and processors of hemp products, including hemp oil, and CBD oil, as well as medical marijuana businesses and their ancillary service providers in Pennsylvania, New Jersey, Ohio, West Virginia, New York and Maryland. Since 2016, Cannabis Law PA has assisted state-legal hemp growers and distributors navigate the highly regulated hemp industry. In addition to our involvement in the cannabis and hemp industries, our lawyers have practiced regulatory law at federal, state, and local levels since 1982.

Cannabis Law PA is uniquely positioned to provide the USDA with insight developed through our extensive involvement in the regulatory landscape of the expanding hemp industry. Based on this experience, Cannabis Law PA submits these comments in support of rational, evidence-based hemp policies, including testing and the removal of restrictions that hinder the marketing, distribution and sale of non-medicinal hemp products.

## II. Comments

Cannabis Law PA submits the following comments in order to assist the USDA in developing sampling procedures, testing requirements, licensing, compliance and other procedures related to hemp production:

1. USDA hemp regulations should distinguish hemp extracts by those that include the full array of cannabinoids found in the plant (“full spectrum extracts”) and those that have isolated CBD alone (“CBD isolate”). Given the number of CBD dietary supplement products on the market and expansive consumer base, a distinction should be made, based on the percent of hemp-based CBD oil content in any particular product as to whether that product should be classified as a dietary supplement (food grade – not subject to FDA approval) or medicine grade (requiring FDA approval). Such a distinction was recently recognized by FDA Commissioner Dr. Scott Gottlieb in testimony before the US House Appropriations Committee in which he confirmed that CBD products could be available “in a high concentration, pure formulation as a pharmaceutical product” and “at a different concentration as a food product or dietary supplement.” In order to avoid conflicting agency guidance, USDA should likewise recognize this distinction.

3. USDA should require testing of hemp-derived product intended for human ingestion, including the existence and percentage of CBD oil within a product. Such regulatory provisions for testing of products to confirm CBD content will ensure the integrity and purpose of the Farm Bill by preventing counterfeit or pharmaceutical-grade products from entering the consumer goods market.

4. Sec. 297B(a) of the 2018 Farm Bill gives a State “primary regulatory authority over the production of Hemp” and a State’s plan is “required to include a procedure for testing using post decarboxylation or other reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State.” However, this testing is limited to ensuring the hemp plant and resulting products do not exceed the statutory .3% THC threshold. Based on recent research in the field of phytoremediation, hemp is proving to be a suitable option for remediating brown fields. Locations for such hemp clean up range from Colorado’s absorption of selenium (a naturally occurring but highly dangerous mineral) to Chernobyl’s radiation. With hemp’s ability to absorb dangerous chemicals, testing for these chemicals and heavy metals should be incorporated into a State’s plan for testing hemp products.

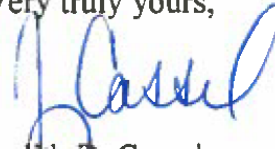
5. The regulations should clarify the removal of restrictions concerning the distance required between CBD grows and industrial hemp grows. Specifically, distance requirements should be based on industry best practices.

6. The regulations should clarify the removal of restrictions as to when and how hemp can be processed especially as it pertains to any restrictions on processing hemp products where other non-hemp products are also processed. Such clarifications will create efficiencies in processing end-products that contain hemp.

### **III. Conclusion**

Cannabis Law PA is pleased to submit these comments to assist the USDA in promulgating regulations to implement the 2018 Farm Bill. If you have any questions, please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J. Cassel".

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