



January 29, 2019

Docket Clerk  
Marketing Order and Agreement Division  
Specialty Crops Program  
AMS, USDA  
1400 Independence Avenue SW, STOP 0237  
Washington, DC 20250-0237

RE: Doc. No. AMS-SC-19-0042; SC19-990-2 IR

Dear Administrator Summers:

The Iowa Department of Agriculture and Land Stewardship (IDALS) appreciates the opportunity to comment on the United States Department of Agriculture (USDA) interim final rule (IFR) establishing a federal domestic hemp program.

It is important that the federal hemp program provide flexibility to state authorities while also balancing the need for a uniform and predictable set of standards for hemp producers across the country. My department welcomes this opportunity to administer a state domestic hemp production program and we look forward to a collaborative partnership for hemp production in Iowa.

To maximize the opportunity a hemp program can offer Iowa farmers, I urge USDA to clarify the regulatory framework and submit the following comments:

**Fifteen-day sampling and harvest timeline**

IDALS understands that the longer the hemp crop stays in the field, the content of various cannabinoids, including tetrahydrocannabinol (THC), in the plant continue to rise. Thus, there needs to be a cut off on harvesting activities so the crop does not exceed the acceptable hemp THC concentration. However, a 15-day harvest window is very narrow. This places a substantial burden on licensees because of weather, equipment breakdowns and the need for significant manual labor employed for certain hemp crops. IDALS recommends increasing the harvest timeline to three weeks, or 21 days.

**Lab approval process and the need for ISO accreditation**

The International Organization for Standardization (ISO) is an independent, non-governmental, international organization that develops standards to ensure the quality, safety, and efficiency of products, services, and systems. ISO standards ensure consistency. It is imperative that the official hemp samples be uniformly and accurately tested to ensure that the hemp crop meets the acceptable hemp THC concentration established by the USDA. This helps prevent a scenario in which a crop that is officially tested and released in one state may not be found to meet the acceptable hemp THC concentration in another state. If USDA wants all labs to be held to the same standards, then all labs should be ISO-17025 accredited. It's unnecessary to create a new laboratory approval program.

### **Negligent violation level capped at 0.5% THC**

The USDA examined hemp testing results from several states that have a hemp research program under the 2014 Farm Bill and determined that the negligent violation cap should be 0.5% THC. However, the official test under the 2014 Farm Bill pilot projects only tested for the concentration of delta-9 THC. The 2018 Farm Bill requires decarboxylation as a part of the testing protocol, resulting in a “total” THC content comprised of delta-9 *and* converted THC acid (THCA). Iowa is concerned that USDA failed to take the difference into account of only delta-9 THC versus total THC. Iowa believes that 0.5% THC is far too low and the negligent violation range should be 0.3% - 2.0% total THC. The Iowa Hemp Act, Iowa Code chapter 204, establishes a negligent violation range from 0.3% - 2.0% THC. The low negligent violation range in the USDA IFR would require a change to code.

### **Periodic corrective action plan reports**

The IFR mandates that negligent violation correction action plan participants must submit periodic reports to the state for a minimum of two years. Two years seems excessive for many of the possible negligent violations. For example, a hemp crop that failed to meet the acceptable hemp THC concentration and was properly destroyed as ordered, or for failing to submit a pre-harvest report. The duration of periodic reports should be left to the discretion of the state running the hemp program, based on the severity of the infraction.

### **Guidance for disposal of non-compliant cannabis crop and the use of DEA-reverse distributors**

The IFR says that specific DEA procedures for the disposal of non-compliant cannabis crop will be listed on the USDA Domestic Hemp Production Program website, however, that document has yet to be posted. States attempting to submit their hemp plans for timely consideration and approval for the 2020 growing season are facing delays because they do not have access to DEA guidance. It is crucial for states to know and understand what is being required of them before they establish their hemp program. Finally, DEA reverse distributors are unaccustomed to working with large volumes of product, as found in a hemp field. The deployment of a reverse distributor will result in undue financial burdens on states and hemp producers while slowing the destruction process. IDALS recommends that USDA gives states the flexibility to work directly with local law enforcement to efficiently order and carry out the destruction of noncompliant cannabis crops.

Thank you for the opportunity to submit written comments on this important matter.

Respectfully submitted,



Mike Naig  
Iowa Secretary of Agriculture