

**Statement by**

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Chairman Roberts, Ranking Member Stabenow, and other members of the committee, thank you for the opportunity to appear before you today to discuss the U.S. Department of Agriculture's (USDA) implementation of the hemp provisions contained in the Agriculture Improvement Act of 2018 (2018 Farm Bill). I am Greg Ibach, Under Secretary for USDA's Marketing and Regulatory Programs mission area, which includes the Agricultural Marketing Service (AMS), the agency charged with implementing the core hemp provisions of the bill. With me today is USDA General Counsel Stephen Vaden. The Office of the General Counsel has been a valuable partner to AMS as we work to provide guidance around allowable activities under the existing authority of the 2014 Farm Bill and as we make progress toward implementing provisions contained in the 2018 Farm Bill.

Today I would like to provide you with a synopsis of all USDA's activities related to hemp since the Farm Bill was signed into law on December 20, 2018. I will also provide the committee with Department's plans for moving forward.

**BACKGROUND**

The 2018 Farm Bill authorized the production of hemp (defined as *Cannabis sativa L.* and derivatives of cannabis with concentrations of the psychoactive compound delta-9-tetrahydrocannabinol (THC) of 0.3 percent THC on a dry weight basis or less) and removed hemp and hemp seeds from the Drug Enforcement Administration's (DEA) schedule of Controlled Substances. USDA is required to issue regulations and guidelines to implement a program for the commercial production of industrial hemp in the United States. The rulemaking will outline provisions for the USDA to approve plans submitted by States and Indian Tribes for the domestic production of hemp as set forth by the Farm Bill. It also establishes a federal plan for producers in States or territories of Indian Tribes that do not have their own USDA-approved plan. The program includes provisions for maintaining information on the land where

hemp is produced, testing the levels of THC (the principal psychoactive constituent of cannabis), disposing of plants that are not in compliance with program requirements, licensing requirements, and ensuring compliance.

States or Tribes who submit plans will need to include procedures and information collections regarding: land to be used for planting; testing procedures; effective disposal of plants and products that are not in compliance with the program; information sharing and compliance with law enforcement; annual inspections; submission of information to USDA; and certification that resources and personnel are available to carry out the practices and procedures described above. Individuals who have been convicted of a felony relating to a control substance will not be able to participate in the domestic hemp production program under a State, Tribal, or USDA plan for 10 years after the conviction with a limited exception for those who currently produce hemp under the 2014 Farm Bill. As required by law, USDA is committed to completing its review of plans within 60 days; however, USDA is not able to review or approve State plans until regulations have been promulgated.

For the 2019 planting season, the 2018 Farm Bill provides that States, Tribes, and institutions of higher education can continue operating under authorities of the 2014 Farm Bill which permitted these entities to produce hemp under pilot programs for research purposes. The 2018 Farm Bill extension of the 2014 Farm Bill authority expires 12 months after the effective date of the AMS rule.

In addition to the activities of AMS, the 2018 Farm Bill hemp provisions impact other USDA agencies as well:

**Farm Service Agency (FSA)**

Producers growing industrial hemp in accordance with the hemp research provisions of the 2014 Farm Bill are eligible for certain FSA farm loans and the agency is working closely with AMS to review provisions in the 2018 Farm Bill.

**Natural Resources Conservation (NRCS)**

Currently, producers growing industrial hemp in accordance with the hemp research provisions of the 2014 Farm Bill are eligible for NRCS programs and the agency is working closely with AMS and other impacted USDA agencies to review provisions in the 2018 Farm Bill.

## **Risk Management Agency (RMA)**

H.R. 2157, the Supplemental Appropriations for Disaster Relief Act, 2019 directed the Federal Crop Insurance Corporation to offer coverage for hemp through a Whole Farm Revenue Protection plan beginning in 2020. Covered hemp must be grown in accordance with state and federal regulations. In addition, the producer must have a contract with a buyer. Earlier this year, RMA issued guidance to permit hemp to be grown without voiding the Whole Farm Revenue Protection Policy for 2019. RMA is researching options to offer crop insurance coverage for hemp production.

## **USDA ACTIVITIES**

Following passage of the 2018 Farm Bill, AMS participated in hundreds of meetings and consultations with interested parties, in both Washington, D.C. and in the states. These entities include states, Congress, tribes, other Federal agencies, private businesses, industry organizations, and producers. In addition to these meetings, USDA has provided a number of informational documents as well as engaging the public through information gathering sessions. Here is a list of activities to date:

- A Notice to Trade was issued on February 27, 2019 which confirmed that AMS is the agency tasked with this rulemaking and that States and Tribal nations do not need to submit plans until the rulemaking is completed. This notice also clarified that for the 2019 planting season, the 2018 Farm Bill provides that States and institutions of higher education can continue operating under authorities of the 2014 Farm Bill.
- A USDA Hemp Farm Bill Listening Session was held March 13, 2019. This was a three-hour webinar where approximately 2,100 connected and 46 individuals shared their perspectives and ideas on hemp production with USDA officials. The webinar was recorded and is available on our website along with the comments that were submitted to AMS.
- A Notice to Trade was issued on April 18, 2019 which provided assistance to U.S. producers and hemp seed exporters on providing an avenue for hemp seed exports to the United States.
- AMS participated in a USDA Tribal Consultation on Implementing Title X on May 1, 2019. Approximately 30 tribal representatives were in attendance. Over 90 percent of the consultation was devoted to the Farm Bill's hemp provisions.

- A Notice to Trade was issued on May 28, 2019 in which USDA's Office of General Counsel issued a legal analysis concerning provisions pertaining to the interstate transportation of hemp and who may obtain a license to produce hemp.
- A Notice to Trade was issued on May 28, 2019 in which USDA clarified avenues for Tribal participation under authorities in the 2014 Farm Bill to grow industrial hemp for research purposes during the 2019 growing season.
- An Interim Final Rule is currently undergoing interagency review and we hope to issue regulations in the Fall of 2019 to accommodate the 2020 crop year.

### **NEXT STEPS**

Once the regulation is published and becomes effective, AMS will move quickly to establish the program. AMS will begin accepting and reviewing state and tribal plans as well as license applications submitted by individuals who are located in States or territories of Indian Tribes that will not operate their own State or Tribal plan, and who wish to be licensed under the USDA plan.

USDA has worked diligently to establish the program and issue regulations in time for the 2020 crop year. Thank you for the opportunity to be here today and I look forward to any questions you may have.