



U. S. Department of Justice
Drug Enforcement Administration

www.dea.gov

Springfield, Virginia 22152

MAY 13 2014

Luke Morgan
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Agriculture
111 Corporate Drive
Frankfort, KY 40601

Via Fax: 502-573-0046

Dear Mr. Morgan:

This is to follow up on our telephone conversation earlier today. As we discussed, the Drug Enforcement Administration (DEA) is offering a proposed *expedited* process by which the Kentucky Department of Agriculture (KDA) may lawfully (i) import into the United States the viable cannabis seeds that are currently being detained by the U.S. Customs and Border Protection (CBP) and (ii) distribute the seeds to other entities that are authorized to grow and cultivate industrial hemp under Section 7606 of the Agricultural Act of 2014, Pub. L. No. 113-79 (Section 7606).

We appreciate that recently enacted Section 7606 has created some confusion about the process for importing cannabis seeds. DEA's position is that, although Section 7606 states that "an institution of higher education . . . or a State department of agriculture may *grow or cultivate* industrial hemp if [certain conditions are met]" (emphasis added), the *importation* of cannabis seeds continues to be subject to the Controlled Substances Import and Export Act (CSIEA). Our position is based on the well-settled principle that repeals of existing statutes by implication are not favored. Where, as here, there is a reasonable way to harmonize the new law with the existing law so as to give effect to both, this is the preferred approach. To achieve this result, we proposed the following course of action.

In accordance with the CSIEA and the implementing regulations, no person may import viable cannabis seeds unless such person is registered with DEA to do so and has obtained the requisite permit. Accordingly, KDA may submit an application to register as an importer of controlled substances. (KDA is exempted from payment of the application fee because it is a state agency.) Following an expedited review of KDA's application, DEA is prepared to register KDA as an importer of controlled substances. Pursuant to this registration, KDA may obtain an import permit for the seeds currently being detained by CBP as well as any other future permits that KDA may seek to import seeds for the purpose of growth and cultivation of industrial hemp permitted by Section 7606. As a registered importer, KDA may distribute the seeds to any entities authorized under Section 7606 to grow and cultivate industrial hemp. We wish to emphasize that, under this proposal, KDA will be permitted to distribute imported cannabis seeds to, for example, any

institution of higher education in the state of Kentucky that is authorized under Section 7606 to grow and cultivate industrial hemp *without requiring such institution to be registered with DEA.*

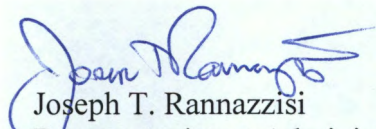
We also wish to underscore that, under subsection (b)(1)(B)(i) of Section 7606, “only institutions of higher education and State departments of agriculture [may be] used to grow or cultivate industrial hemp.” Thus, it is the position of DEA that Section 7606 does not provide any authorization to private growers of industrial hemp. That is, private growers remain subject to the registration requirement and all other applicable provisions of the Controlled Substances Act and CSIEA. We also note that subsection (b)(3) of Section 7606 states: “The term ‘State department of agriculture’ means the agency, commission, or department of a State government responsible for agriculture within the State.” Particularly in view of these subsections, DEA interprets Section 7606 to mean that a State department of agriculture or institution of higher education may not assign to others the authority to grow and cultivate industrial hemp.

Given the foregoing considerations as well as our conversation earlier today, we believe it would be mutually beneficial for KDA to indicate in writing the institutions of higher education to which it plans to distribute seeds. DEA anticipates that it will find all such institutions acceptable for this purpose, but we believe it would be best to have the list of institutions made clear in advance of issuing KDA the import registration. Placement on the list by KDA of any institution of higher education will not obligate KDA to actually distribute seeds to such entity.

If KDA finds the above proposal acceptable, DEA is prepared to work with KDA on an extremely expedited basis to facilitate KDA’s application, to register KDA as an importer, and to issue the permit that will allow for the importation of the seeds currently being detained by CBP. If KDA were to so indicate by tomorrow (May 14), we believe it would be feasible to complete the foregoing actions by the end of this week.

Kindly direct your response to my attention. I look forward to hearing from you soon.

Sincerely,


Joseph T. Rannazzisi
Deputy Assistant Administrator
Office of Diversion Control