



U.S. Department of Justice

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November 7, 2013

Congreeman Earl Blumenauer
1501 Longworth Hob
Washington, DC 20515

Re: Industrial Hemp

Dear Congressman Blumenauer:

Thank you for your inquiry regarding the cultivation of marijuana (cannabis) for industrial purposes. I welcome this opportunity to explain the Department of Justice's position on this topic, in light of recent policy statements regarding enforcement of federal marijuana laws.

As you know, under the Controlled Substances Act (CSA), cannabis is a schedule I controlled substance regardless of its potency. All persons who wish to cultivate cannabis for any purpose, including industrial purposes, must obtain a DEA registration. See *Monson v. DEA*, 589 F.3d 952 (8th Cir. 2009); *United States v. White Plume*, 447 F.3d 1067 (8th Cir. 2006); *New Hampshire Hemp Council v. Marshall*, 203 F.3d 1 (1st Cir. 2000). The statutory criteria DEA must consider when evaluating an application for registration relating to a schedule I controlled substance are set forth in 21 U.S.C. 823. In addition, the DEA regulations provide that all applicants and registrants must provide effective controls and procedures to guard against theft and diversion of controlled substances. 21 CFR 1301.71. This provision of the regulations further provides that, in determining whether an applicant will provide effective controls against diversion, the DEA Administrator shall use the requirements set forth in 21 CFR 1301.72-1301.76 as standards for physical security controls.

On August 29th of this year, James Cole, the Deputy Attorney General, issued a guidance memo to all U.S. Attorneys concerning the Department's enforcement of federal marijuana laws. The memo re-affirmed that marijuana continues to pose a significant risk to public health and its cultivation, distribution, and possession remains illegal under federal law. The Department of Justice is committed to enforcing the Controlled Substances Act, and will use its limited investigative and prosecutorial resources to address the most significant threats posed by illegal drug trafficking. The guidance memo went on to describe eight priority areas related to enforcing federal marijuana laws:

1. Preventing the distribution of marijuana to minors;
2. Preventing revenue from the sale of marijuana from going to criminal organizations, gangs, and cartels;
3. Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
4. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
6. Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
7. Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
8. Preventing marijuana possession or use on federal property.

Since “industrial hemp” is marijuana, under the CSA, these eight enforcement priorities apply to hemp just as they do to all forms of cannabis. Here in Oregon, federal prosecutors will remain aggressive when it comes to protecting these eight federal enforcement interests. That means exercising our prosecutorial discretion to investigate and prosecute individuals who infringe against any of these stated federal interests, regardless of state law. Outside of these stated priorities, we will continue what we have been doing since the passage of the Oregon Medical Marijuana Act, relying on state and local authorities to address lower-level or localized marijuana activity through enforcement of their own narcotics laws.

The Department expects that states that legalize the cultivation or use of cannabis, whether for industrial purposes, medical purposes, or otherwise, will establish and enforce strict regulatory schemes that protect the eight federal interests identified in the Department’s guidance. These schemes must be tough in practice, not just on paper. They must include strong, state-based enforcement efforts, backed by adequate funding. We will take a “trust, but verify” approach. In other words, as long as the state follows through in imposing strict controls regulating marijuana-related conduct, it is less likely that any of the Department’s eight enforcement priorities will be threatened and federal action will be less necessary. But if any of the stated harms do materialize—either in spite of a strict regulatory scheme or because of the lack of one— federal prosecutors will act aggressively to bring individual prosecutions and may

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challenge the regulatory scheme themselves.

Thank you for inviting me to your forum. I regret that I am unable to attend and hope this information is helpful. If I may be of further assistance to you in this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Marshall', with a long horizontal flourish extending to the right.

S. AMANDA MARSHALL
United States Attorney