Honey and Maple Syrup Regulations
Summary of Public Comments and Department of Agriculture Response
March 1, 2021

The Department of Agriculture (DOAG) received fourteen written comments during the public comment period. The following is a summary of the subject matter addressed in the comments, and DOAG's response:

Comment 1: Judy Wilson, Bright Acres Farm

The commenter stated as follows:

As maple and honey producers in the state of Connecticut, the following comments are respectfully submitted in response to the Connecticut Department of Agriculture's (DOAG) proposed adoption of regulations concerning the production and sale of Honey and Maple Syrup (CGS Sec. 22-54u-2 through 22-54u-6).

My husband and I operate a small farm in Hampton that primarily produces maple syrup, along with honey and eggs. Since 2011, we have been working very hard to grow what started as a hobby into a viable small farm business. With the benefit of one small DOAG farm development grant that helped build a sugar house and participation in the CT Natural Resources Conservation Service (NRCS) On Farm Energy Efficiency program to cost share state of the art equipment, along with lots of our own capital, hard work and creativity, we are now producing about 200 gallons of syrup a year. We mostly sell to a large cadre of local, very dedicated customers, but also sell through a variety of other small businesses and local farmers markets. WE are deeply invested in this business as our many other maple producers across the state. As a recently retired DEEP employee, my plan was to spend much more time devoted to maple syrup production, marketing and outreach, to further grow our business. My husband continues in his career with the DEEP Forestry Division and we are both committed to the conservation of natural resources and local farming and food production. We are very proud of the high quality syrup we produce and the opportunity to demonstrate the sustainability of maple and honey production.

While we are pleased that the authority of regulating maple and honey is now with the DOAG, but we are very disappointed by the adoption of 21 Code of Federal Regulations (CFR) 117 as the new framework for regulating the maple industry. Specifically, we make the following comments:

- Burdensome, onerous, and complex – trying to read through pages and pages of applicable regulations under CFR 117 and USC 342 as incorporated into CGS Sec. 22-54u-2-22-54u-6 is extremely time consuming and burdensome. It is also complex to understand how it applies to the average producer in CT, who is typically producing

maple syrup as a part time business or they produce syrup along with other agricultural products or services.

- Safety of maple syrup – as a product that is boiled multiple times, it is a safe product and is considered low risk by the Federal Food and Drug Administration. If there are no demonstrable safety issues with syrup, what benefit will additional regulations have?

- Costly - If all CT producers have to meet the new standards (hot water washing stations, tested potable water, etc.) it is going to add additional costs to a business that is significantly costly already due to the equipment necessary to produce high quality syrup. Many producers will not be able to shoulder this additional cost and will go out of business. Many potential maple producers won't go into the business, because of the high cost of starting up.

- Consumer confusion – why create a two tier system with all producers having to follow the same standards, but making those earning over $25,000 register with the DOAG? Consumers might interpret those registered producers as producing a superior product to small producers when that would not be the case.

- Reduce economic growth – if there are additional, onerous and costly requirements for producing more maple syrup, why would anyone be encouraged to reach and exceed the $25,000 large producer threshold?

- Increased liability – If small non registered producers don't have to have meet the significant documentation requirements of the registered producer and there is an issue (perceived or real), the smaller producer operation may be more open to liability due to less documentation, regular inspections, etc.

- Promotion of agriculture in CT and CT Grown – creating a confusing regulatory framework that relies heavily on existing complex Federal regulations and that will be costly for producers to comply with will drive some current producers out of business, stifle the growth of the maple industry in the state and will negatively impact the promotion of CT Grown products, of which maple is an important component.

- Increase burden on existing DOAG staff – given limited currently staffing at the DOAG, will there be enough staff available to answer questions and provide technical assistance to producers on how to meet these new requirements?

As long time members of the CT Maple Syrup Producers Association (MSPAC), we echo and support the comments made in their letter to you dated August 27th, 2020. These new regulations will negatively impact producers by adding additional costs to an already expensive agricultural operation, with little demonstrable food safety for the consumer gained. We hope you will seriously consider our personal comments contained herein and those of the MSPAC, and that you will provide the technical and financial assistance that will be needed to ensure compliance.

DOAG response to comment 1:

The commenter is opposed to referencing 21 CFR 117, and states that the regulations are burdensome.

21 CFR 117 is incorporated into these regulations because honey and maple syrup are products covered by the federal Food, Drug and Cosmetic Act as amended by the Food, Safety Modernization Act (FSMA). and the Food and Drug Administration's (FDA) Current Good Manufacturing Practice, Risk Based Preventive Controls for Human Food rules.

The regulation should not place an undue burden on the regulated community. First, the vast majority of honey and maple syrup producers in Connecticut either qualify as small businesses with sales of less than 1 million dollars in food or sales of less than 500,000 thousand dollars in food with >50% of those sales being made to qualified end users, which exempts these producers from the requirement for a hazard analysis and written food safety plan. Secondly, while the labeling requirements in 21 CFR 101 apply to all producers, the requirements of 21 CFR 117 only apply to those who have to register with the department. Lastly, smaller producers (those with less than or equal to $25,000 in product sales) are exempt from the registration requirements in 22-54u-2.

Comment 2: Douglas Mackeown

The commenter stated as follows:

Please rethink this proposed REG. As a hobby producer for home use since 1974, this is way over the top.

DOAG response to comment 2:

See response to comment 1.

Comment 3: William Farrell, Fat Stone Farm

The commenter stated as follows:
Thank you in advance for taking the time and care to read my comments relating to the Department's proposed Honey and Maple Syrup regulations (CGS 22-54u) published on the eRegulations system on July 14, 2020. These draft regulations do seem to move toward reducing the burden of regulation on maple syrup producers that the Legislature intended with PA 18-19, but I would urge the Department to make corrections and important changes that will allow our Connecticut industry to survive.

I, along with my wife Liz Farrell, are co-founders of Fat Stone Farm, LLC based in Lyme, CT. With 2,500 maple tree taps we are among the larger producers of maple syrup in Connecticut, but microscopic on the national map, except on the evaluation of quality, where we believe our maple syrup is esteemed for its superior taste. The genesis of Fat Stone Farm maple syrup is boiling maple sap in a pan on an open stone fire pit in 2004. Years later when we began to sell maple syrup, Fat Stone Farm was regulated by no fewer than 19 federal, state and local agencies. Despite our small size, our current regulatory burden and training requirements are extraordinarily high and our ability to remain in business since our incorporation in 2014 is attributed to a youthful energy that can't be sustained.
In summary, in reviewing the Department's proposed regulations (CGS-22-54u1 to CGS-22-54u6) and after considering its potential to hurt rather than help the long-term development of our wonderfully wholesome industry that producers and consumers enjoy, we ask the Department of Agriculture to:

1. Correct errors within the proposed regulation CGS 22-54u
2. Use the Department's own definitions for adulterated and misbranded product
3. Increase the sales threshold at which producer registration is required
4. Update the Regulatory Flexibility Analysis to reflect the likely negative impact to industry

In the paragraphs that follow we discuss each of these in some detail.

Correct Errors within proposed CGS 22-54u
There are two apparent errors that should be corrected prior to finalization. The first is that PA 19-18 only directed the Department to adopt regulations concerning ". . . the sale . . . of maple syrup ***produced*** in the State. (Sec. 2(a) emphasis added)" and "to adopt regulations . . . for the oversight of the ***production*** . . . of maple syrup by any person (Sec. 2(b) emphasis added. The Legislature did not authorize the Department to investigate allegations concerning products that are ". . . ***produced or offered for sale*** in Connecticut (emphasis added)" as Sec. 22-54u-4(b) states. In other words, the Legislature did not direct the Department to write regulations concerning maple syrup that is produced in another state and sold in Connecticut (imported into the state), which would be covered under federal law.

The second issue relates to 22-54u-3(c) that states that "each producer shall label product . . . in accordance with 21 CFR 101 . . ." The reference to "each producer" rather than "each producer

required to register" would mean that any person who sells a single bottle of maple syrup, regardless of size, would be subject to meeting the labelling requirements of 21 CFR 101. This federal regulation is 100,000+ words long and the cost of compliant labelling is several hundred dollars per label. Surely, the General Assembly did not mean to foist this level of regulation upon producers selling only a few thousand dollars of maple syrup annually within the State.

Use the Department's own definitions for adulterated and misbranded product

By using federal definitions for adulterated and misbranded product (Sec. 22-54u-1(3) and (7)), it becomes unclear whether small producers that are exempt from registration would still need to comply with federal regulations (in particular 21 CFR 117) in order sell product that meets these definitions. For the sake of clarity, I would ask that the department use its own definition for these terms.

In the case that I am mistaken and the Department does wish to apply federal food code to producers with $25,000 of sales or less, operating intrastate exclusively, then it would clearly be contrary to the intent of PA 19-18 because it would require compliance with 21 Code of Federal Regulations (CFR) 117 and therefore place a severe financial, perhaps impossible, burden on producers – a burden that, arguably, did not exist previously. The Federal Food, Drug and Cosmetic Act and the FDA regulations that it authorizes (as published in the CFR) are a comprehensive set of regulations explicitly directed at firms engaging or preparing to engage in interstate commerce – of which most of our small producers do not. Given the major change to the Federal Food, Drug and Cosmetic Act in 2011 when Congress passed the Food Safety Modernization Act, Congress could very well have changed 21 USC 331 Prohibited Acts (a) to include intrastate activity instead of directing itself at interstate commerce exclusively. In other words, Congress could have done for food precisely what it did when crafting its Drug Abuse Prevention and Control law in which it prohibits the manufacture and distribution of controlled substances *everywhere* in the United States (in 21 USC 841 it did not limit its prohibition to interstate trafficking only). Moreover, within the facts of *Gonzales v. Raich* and within the majority opinion of the U.S. Supreme Court for this important case one can find many reasons why the provisions of the Federal Food, Drug and Cosmetic Act and the body of FDA agency regulation cannot and should not be applied to just any person producing maple syrup within Connecticut.

Increase the sales threshold at which producer registration is required

I don't believe the intent of PA 19-19 (codified as Conn. Gen. Stat. sec. 22-54u) was to undermine the profitability and survival of maple producers in Connecticut and that's what it would do if it requires producers with $1 over $25,000 in sales to comply with the exhaustive construction, operating, sanitation, training and documentation rules of 21 CFR 117 (even if a modified exemption is received or used). Any producer selling across state lines must already comply with 21 CFR 117. But for producers that are solely committed to the Connecticut market (perhaps precisely to avoid onerous and expensive regulations that have not been shown to improve the food safety of maple syrup), we urge the Department to increase the level at which a producer must register and comply with 21 CFR 117 to $50,000 of sales. It's only at this economic scale that the upgrades to facilities, the increase in operating expenses, and the costs of

training and documentation become financially affordable. Please note that because of Connecticut maple producers small size, maple syrup (only) producers would likely qualify under 21 CFR 117 for a modified exemption but would still be required to comply with 21 CFR 117B, a subpart that would still require incurring many of these costs.

Update the Regulatory Flexibility Analysis to reflect the sizable impact to the maple industry

The Regulatory Flexibility Analysis (formerly Small Business Impact Statement) that the Department of Agriculture prepared on February 19, 2020 and published on July 19, 2020 indicated that there would be no adverse impact on small business is Connecticut. Yet this will prove incorrect if the Department moves forward with its application of federal regulations by means of Conn. Gen. Stat. sec. 22-54u and uses federal definitions of adulterated and misbranded (21 USC 342 and 21 US 343, respectively) and demands that maple producers with sales of $25,000 or less comply with 21 CFR 117B. If sec. 22-54u remains largely unchanged as currently proposed then contrary to the Regulatory Flexibility Analysis, dozens of maple producers across the State will incur thousands of dollars in upgrades and significant ongoing compliance effort and cost. I urge the Department to update its Analysis to reflect fully this more certain negative impact. Thank you again for considering our comments as part of this regulation making process.

DOAG response to comment 3:

The department disagrees with the commenter's suggestion to remove the words "or offered for sale" in section 22-54u-4(b). Public Act 19-18, in requiring the department to adopt regulations for the oversight of the production of honey and maple syrup, and in specifying that the regulations include, "but are not limited to,…..the establishment of required best practices….", gives the Commissioner the authority to use the proposed language.

The department disagrees with the comments related to section 22-54u-3(c), all foods introduced into commerce must be properly labeled. The minimum requirements for any food are described in 22-54u-3. Subsection (c), additional nutrition labeling is required unless exempt. The following is from FDA's website:

"The Federal Food, Drug, and Cosmetic Act requires packaged foods and dietary supplements to bear nutrition labeling unless they qualify for an exemption (A complete description of the requirements). One exemption, for low-volume products, applies if the person claiming the exemption employs fewer than an average of 100 full-time equivalent employees and fewer than 100,000 units of that product are sold in the United States in a 12-month period. To qualify for this exemption, the person must file a notice annually with FDA. Note that low volume products that bear nutrition claims do not qualify for an exemption of this type.

Another type of exemption applies to retailers with annual gross sales of not more than $500,000, or with annual gross sales of foods or dietary supplements to consumers of not more

than $50,000. For these exemptions, a notice does not need to be filed with the Food and Drug Administration (FDA)."

More information as well as links to the filing notice to FDA are available at https://www.fda.gov/food/labeling-nutrition-guidance-documents-regulatory-information/small-business-nutrition-labeling-exemption.

To address any confusion, the department is revising the language as follows (deleted area is stricken and additions are underlined below):

(c) Each producer shall label product, if in packaged form, in accordance with 21 CFR Part 101, as amended from time to time, including the following information:

(1) The common or usual name of the product;
(2) A declaration of responsibility, the name of the manufacturer, packer, or distributor as is appropriate, and their business address. The manufacturer, packer, or distributor business address may be omitted if the business address can be found in a telephone directory or by an internet search;
(3) Net Contents – such as Net weight or volume, both English and Metric values are required. Example: 1 oz. (28 grams) or ½ Gallon (1.89 L); and
(4) A statement concerning whether the product needs refrigeration to maintain safety or quality, such as "Keep Refrigerated" ~~if constant refrigeration is necessary,~~ or "Keep Refrigerated after Opening, as is appropriate for the product.

The department also disagrees with the comment concerning definitions for adulterated or misbranded product. The terms "adulterated" and "misbranded" as defined in the federal Food, Drug and Cosmetic act apply to all human and animal foods introduced into commerce, they are commonly used and understood definitions. No changes will be made in this section.

With respect to the comments concerning the sales threshold, the department notes that PA 18-19 did not provide for any exemption and that there are no "exemptions" to the FDA Preventive Controls rules either in the code of federal regulations or the FSMA modifications to the F.D. & C act passed by Congress. There are "qualified facility" exemptions for Very Small Business - a facility averaging less than $1 million (adjusted for inflation) in annual sales per year during the 3-year period preceding the applicable calendar year in sales of human food plus the market value of human food manufactured, processed, packed, or held without sale. Or, those with an average annual monetary value of all food sold during the 3-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation and sales to qualified end-users during such period exceeded the average annual monetary value of the food sold by such facility to all other purchasers (these words are taken directly from FDA). The qualified exemption is meant to exempt a producer from subparts C (hazard analysis and preventive controls) and G (supply chain) of FDA rules.

In general, the department believes that Connecticut Honey and Maple syrup producers with sales greater $25,000 have already made the necessary investments to comply with good manufacturing practices (GMP's). GMP's have been the backbone of food manufacturing regulations for many years as part 110 of the Code of Federal regulations, which are depreciated and replaced with part 117 subpart B of the code of federal regulations. For instance, lead soldered evaporators have been replaced, mercury based thermometers have been replaced. It is unclear to DOAG what significant expense would have to be incurred.

Comment 4: Mark Harran, Maple Sugar Producers Association of CT

The commenter stated as follows:

Please accept this submission into the comments process that opened on July 14, 2020 when the Connecticut Department of Agriculture disclosed publicly its proposed regulations of the producers of maple syrup in Connecticut (CGS 22-54u-2 to CGS 22-54u-6).

The Maple Syrup Producers Association of Connecticut (MSPAC) is a non-profit membership organization whose mission is to encourage the production and handling of high-quality maple sap products in Connecticut. Our education work has spanned almost 40 years and our 170 members are among the several hundred commercial and hobbyist maple producers that can be found filling the sky with steam and sparks on many a winter's night and selling maple products across the state wherever Connecticut Grown food is favored by residents.

These maple producers are family farms engaged in earning a living and represent future employers in our state.

We were encouraged that in June 2019 the Connecticut Legislature transferred regulation of the preparation, packaging, labeling and sale of maple syrup produced in Connecticut to the Department of Agriculture. By statute the department's efforts are directed specifically to agriculture and among the first of its duties (as enumerated in CGS 22-6) is that the "Commissioner shall encourage and promote the development of agriculture within the state…"

The Department's consideration of and attention to how new maple regulations might negatively impact the viability and vibrancy of Connecticut's maple industry is comforting. And thank you for previously soliciting MSPAC's input and perspective on how these regulations might impact our Connecticut industry.

After reviewing the Department's proposed regulations, we have areas of concern as they relate to the treatment of small sugar-makers (not required to register with the Department) and larger sugar-makers (required to register). In the following paragraphs we highlight these areas of concern, and we provide suggestions on how the Department can modify the regulation while meeting the language and intent of the law (PA 18-19), as passed by the Legislature in June 2019. We ask you to address these issues in order to avoid harming the Connecticut maple industry.

1. Coverage of Small sugar-makers and hobbyists - Definition of Adulterated
In the proposed regulation the determination of adulteration (sec. 22-54-u-4) by the Department will rely on the definition of this term in US Federal Code (as indicated in sec. 22-54u-1). Because section 22-54u-1 refers to the title in the US Code but does not recite the actual definition it will lead to lower compliance because the US Code is not easy to find on-line and especially difficult to search. To improve the likelihood of compliance, the Department should provide the definition of this term directly within sec. 22-54-u-1.

More importantly, use of the US Code as a source for the definition would lead to confusion on which regulations the small sugar-maker must follow in order to avoid a violation. If the Department wants them to adhere to US Code in order to avoid a violation, the Department will be subjecting small sugar-makers and hobbyists to the full FSMA Preventive Controls Rule (21 CFR 117) and these small business would be required to establish compliance through documentation and record keeping. The requirements of 21 CFR 117 – even reading all 23,000 words! – would place an exceptional burden on small sugar-makers and hurt the development of the Connecticut maple syrup industry.

Our request, therefore, is to insert directly into 22-54u-1 the definition of adulteration that the Department seeks. The definition might be similar or identical to that of 21 USC 342 but we believe the treatment of the definition within the regulation, similar to the Department's treatment within the milk regulations (22-127(1)) will generate the least confusion and the highest compliance among small sugar-makers and maple hobbyists. We would discourage the Department from applying any of the provisions of 21 CFR 117 to small sugar-makers as small hobby production would no longer be viable.

2. Coverage of Small sugar-makers and hobbyists - Definition of Misbranded

In order to avoid a misbranding violation, section 22-54u-3 requires "producers" to label products in accordance with 21 CFR 101 and section 22-54u-3 also enumerates the types of information the label should contain, at a minimum. It's not clear from this language if only producers required to register with the Department must follow 21 CFR 101 or whether producer of all size must follow it. If the Department's final regulation requires the latter, it will have devastating consequences for our industry. 21 CFR 101 is a 100,000 word Federal regulation requiring a dozen hours of study to attain sufficient familiarity. A single consulting project for label review can cost several hundred dollars and would be uneconomic for most smaller sugar-makers.

Our request is that 21 CFR 101 be required of only the largest sugar-makers in the state. Perhaps require it of those sugar-makers who must register, but frankly, $25,000 of sales (the proposed threshold) is an insufficient size to absorb the initial and on-going costs of complying with 21 CFR 101. For the smallest sugar-makers, we believe that the minimum information requirements enumerated in section 22-54u-3 will be adequate for Connecticut consumers.

3. Larger sugar-makers required to register – Increase threshold

These proposed regulations would require that sugar-makers with over $25,000 in sales be subject to the same detailed Federal manufacturing and labeling requirements as billion-dollar pharmaceutical companies (21 CFR 117). The Department chose this $25,000 threshold because it is the same monetary threshold the FDA used to require farm compliance with 21 CFR 112 (the Produce Rule). There are a few important reasons that the $25,000 threshold is far too low for producers of maple syrup.

According to the CDC, 45% of all food-borne illness is caused by contaminated produce, 22% is caused by meat-poultry and 14% is caused by dairy[1]. While it's not within the scope of this letter to offer reasons why this is the case, we do want to contrast the poor record of these other food groups with the impeccable food safety record of maple syrup. While you can find produce at the top of the list of major food-borne illness outbreaks in any given month you will not find maple syrup even on the list! Maple syrup benefits from pasteurization during production and again before bottling, requires syrup clarity that necessitates fine filtration that in turn reduces the risk of physical contamination, and finally, involves a production process and equipment that requires minimal chemical cleaning thereby reducing the risk of chemical contamination. While maple producers must always be vigilant, the risk of food-borne illness is low.

The FDA has acknowledged that maple syrup production is a low risk activity while at the same time classifying many types of vegetables as high risk. Based on food safety risk, if the food safety compliance threshold for vegetable growers is $25,000 then the threshold for maple syrup producers should be far higher.

Beyond food safety concerns, another important factor when choosing a size threshold at which compliance should be required is whether the producers can bear the cost of the regulation. Maple syrup, as a mixed type facility (part harvesting sap and part manufacturing maple syrup) is far more capital intensive than growing produce/vegetables. In other words, when 21 CFR 117 demands that producers have clean-able sanitary surface material, potable hot water and hand washing stations, stainless steel equipment that is cleanable by design, building design and construction that facilitates function, construction and maintenance that implements pest management – these improvements cost a great deal of money. If the Department requires Connecticut maple producers with a modest sales level to invest in facilities that meet 21 CFR 117 requirements, then our Connecticut industry will die.

Our recommendation is that the Department raise the threshold at which maple producers must register with the Department and comply with 21 CFR 117 and 21 CFR 101 to $45,000. We believe that it is only at this higher level of economic activity that producers might have the financial wherewithal to undertake the equipment upgrades and building modifications that would allow them to comply. Importantly, this monetary level should be fixed at a base year that will be adjusted annually to reflect inflation using a standard economic measure such as the Bureau of Labor Statistics CPI-U/food.

Resources needed from the Department of Agriculture

MSPAC is grateful to work with the Department on developing appropriate regulations for the production of maple syrup in Connecticut and we are comforted to know the most prominent part of the Department's mandate is the encouragement and promotion of agriculture, including maple syrup. Some of our members have expressed disappointment with the proposed regulations now open to comment, but we think that the modest changes that we have recommended in this letter would ease many of these concerns. These changes would 1) clarify to small sugar-makers that documented compliance with 21 CFR 117 is not required to prove that their maple product is not adulterated, 2) provide simple labeling requirements for small-

sugar makers and clarify that compliance with 21 CFR 101 is not required, and 3) acknowledge that maple syrup is a low risk food when compared with produce covered in 21 CFR 112 and that a threshold of $45,000 of sales is more appropriate to the low food safety risk and limited economic wherewithal of Connecticut producers. Still, these regulations will be a hardship for Connecticut's newly regulated producers, and we look forward to working with the Department of Agriculture to secure funding and assistance for compliance.

Thanks again for this opportunity to comment.

1. Attribution of Foodborne Illnesses, Hospitalizations, and Deaths to Food Commodities by using Outbreak Data, United States, 1998–2008, Centers for Disease Control and Prevention, Atlanta, GA, USA

DOAG response to comment 4:

The department believes most of these comments were addressed under Commenter 3 comment responses. The department agrees that homey and maple syrup are inherently safe foods. The commenter is correct in that the department chose the $25,000 threshold based on what the FDA required for farms and produce sales in the Produce Safety rule. $25,000 is also the threshold for the Department of Consumer Protection cottage foods program.

Comment 5: J. Mark Harran, Litchfield (above commenter's personal view)

The commenter stated as follows:

This is my personal view on the proposed regulations regarding the production of maple syrup in Connecticut. Separately, the Maple Syrup Producers Association of Connecticut ((MSPAC) will provide its comments and suggested changes to improve how the regulations impact Connecticut maple syrup producers.

I am a Connecticut maple syrup producer and have been president of the Maple Syrup Producers Association of Connecticut (MSPAC) for the past 10 years. I am also past president and current Executive Committee member of the International Maple Syrup Institute, which encompasses both Canada and the U.S. and represents the entire maple value chain (producer associations, packers, equipment manufacturers and connected agro-science and technology institutions). I grew up on a dairy farm in upstate New York that included a large (for its day) 5,500 tap maple sugar bush. After completing my education and military service, I spent 30 years working for General Foods/Kraft and retired as Senior Vice President, Sales and Marketing. Since retiring I have co-led several start up companies and consulted within the food industry. In short, I have spent most of my life in the food and agriculture segments.

Overall, I find these proposed regulations to be a) much more stringent than necessary, b) very complicated and difficult to understand because they refer to Federal regulations, c) costly for the average small maple producer to adopt and d) a potential depressant on the future of maple syrup production in Connecticut. Below I enlarge on each of the foregoing points.

a) Much more stringent than necessary: Maple syrup has been deemed by the FDA to be a low risk food. In fact, I can find no empirical evidence of maple syrup ever causing the slightest illness. It's a boiled product taken to near or over 200 degrees (f) as many as four times before it is consumed. It is the antithesis of raw milk. Currently, there are numerous prescriptive best practices to help ensure a high quality product. all readily available from a number of sources, including various universities and trade associations. Indeed, the mission of MSPAC is to "encourage the production and handling of high quality maple sap products in Connecticut" and to that end MSPAC has various print and electronic education pieces plus two meetings a year built around educational workshops. In short, one would almost have to be deliberately careless or delinquent to produce really bad tasting or illness causing maple syrup.

b) Very complicated and difficult to understand: As I read it, regardless of size, maple producers must follow and adhere to very detailed FDA regulations contained in hundreds of pages and thousands of words. Two prime examples are the sanitary rules (21 CFR 117B) and the definition of "adulterated product" (from 21 USC 342). Both have significant implications if not understood and precisely followed. When I was at Kraft, I had teams of lawyers and food scientists to understand and deal with FDA and USDA regulations. In Connecticut the average maple producer does not have access to such resources and must either put oneself in jeopardy and accept the potential for lawsuits, litigation, fines, etc. or simply stop producing maple syrup.

c) Costly for the average small maple producer to adopt: Setting aside the complexity and difficulty of understanding the regulations, the costs to come into complete compliance with some provisions is very high and in turn beyond the financial means of most Connecticut maple producers.

d) Potential depressant on the future of maple syrup production in Connecticut: I don't believe anyone can mount a persuasive argument that the proposed regulations will attract or encourage people to become maple producers. Indeed, my takeaway is that they provide a barrier to entry, but I am willing to listen to anyone who believes they will be well received and become an incentive for new people to start producing maple syrup in Connecticut. At best, Connecticut maple producers will begrudgingly accept them under the belief that the CT DOAG will be benevolent in their application and they will be spared any serious consequences if they run afoul of them.

Suggested solution: The CT DOAG takes the time and expends the energy to work with MSPAC and other industry experts to develop clear and concise maple syrup regulations that protect public health, are easy to understand and adopt, are geared to Connecticut's (relatively small) maple producers and provide an incentive for making maple syrup in Connecticut.
Ideally, rather than fit Connecticut maple syrup regulations into general FDA food regulations, DOAG should seek to understand the uniqueness of maple syrup production and customize the regulations to those facts. Other maple producing states have done just that!

Thanks for the opportunity to provide comments and I hope you take them as constructive. The separate MSPAC letter, which I have signed as president and referred to above, provides specific recommendations for improvement.

DOAG response to commenter 5:

See response to comment 1.

Comment 6: Rick Walker, Rick's Sugar Shack

The commenter stated as follows:

I have to say I agree 100% with what Bill Farrell has stated. Just with the requirements shown I guess I go down the tube on 2 of them, no I don't have a hand washing station in my sugar house with hot water. Due to my property being on ledge I can't go down 36 to 40 inches to lay water pipe. I as well don't have a heating system in the sugar house to keep it warm when not boiling. The only heat I get is when I start boiling. Not unless I want to spend thousands of dollars to have a line blown to lay the pipe in and more cost to install a furnace. I was inspected by the state many years ago and was directed to get the food grade water hoses to supply my hot water to the sugar house. The were very costly and I needed 3 of them. Each day its coiled up and put back into my lower section of my home. I do have a hot water source from my SAP pan with the cover over it and when boiling it doesn't take long to fill my stainless steel sink with hot water. The next item would be the SAP being keep at 45F. When gathering I know at times my blue SAP bags have SAP over that temp. With the weather/climate changing to a much warmer climate, its getting harder and harder to keep the full load of SAP in the storage tank at or below 45F. Main reason I start boiling as soon as I return from gathering and go till SAP is gone. I guess if I'm forced to make sure to have the SAP keep at the temps they tell me, than I would have to get some sort of refrigeration unit, which of course would cost a lot of money. I'm only a very small sugar house with only 500 taps. So I don't make tens of thousands of dollars in syrup sales. So I guess I would be forced to shut down.

Since the inspection I had and the recommendation she made, I have upgraded my sugar house to have walls and ceilings done where I can wash them down each season before boiling. I have redone my floors and as well upgraded all my counters with stainless steel counters. This has all cost money and reason I seem to be just cutting even with the sales. But I know many sugar houses are in a garage area, or in a shed, or has a sugar house with no paneling, just the studs and rafter exposed. As a kid growing up in NH that is how most sugar houses were. So I would assume that if someone wants to keep it that way they will be shut down. This is so wrong.

As for toilet facilities, it just states it needs to be available. Does this mean in the sugar house? Again if so it will not happen unless for me I blow a line to the sugar house. Due to being a sugar house open to the public I did put in a toilet facility in the lower section of my home. But its a walk to there from the sugar house. I have it labeled as sugar house rest room.

After the last pre-season meeting, which we learned that CT DOAG would be handling inspection I tried very hard to get someone here to inspect the sugar house during the sugaring season. It was like pulling teeth just getting someone to talk with. The last person after trying to get someone here hung up on me. So with that even being said, I wonder just how smooth all this will go down.

I'm as well a sugar house that has below the dollar amount in the regulation which states I'm exempt, yet as Bill pointed out all will have inspection. Since the inspection I had way back and

the upgrades to my sugar house I'm OK with an inspection, and reason I wanted one this past season. But I know many sugar makers here in CT will fail any inspection, if you follow what CT wants. Which means many will be forced out of there small business.

DOAG response to comment 6:

See response to comments 1 and 3.

Comment 7: Haik Kavookjian

The commenter stated as follows:

My family and I have run a small maple syrup operation in New Canaan Connecticut for over 25 years. It has been a source of family cohesion and pride as well as income for my children.

We fear the proposed regulations concerning honey and maple syrup will cause undue hardship on our family business despite assurances to the contrary. We currently comply with the planned regulations but you must be well aware that compliance without documentation is meaningless in the eyes of the law. The documentation required to establish compliance will be burdensome both in extra costs associated with documentation and even more importantly burdensome in terms of extra time at the peak of our sugaring business when we barely have time to tap trees, collect and boil sap, bottle the syrup and clean as well as store equipment.

I have sugared over 40 years. Over that time, I have spoken to many other syrup producers and insurers and on no occasion have I ever been aware of a problem from spoiled sap or syrup although I cannot speak for honey. We appreciate your interest to provide the public with safe products but your regulations are focusing on a solution to a problem that does not exist.

Thank you for your attention.

DOAG response to comment 7:

The commenter is not requesting any specific changes to the regulation.

Comment 8/8a: Judy Wilson
Comment areas: regulatory burden

The commenter stated as follows:

The proposed regulations CGS 22-54-u-2 through CGS 22-54u-6 will create confusion for both producers and consumers and will create economic hardship for producers that will reduce the number of existing and future maple and honey producers in CT. Maple syrup is deemed a low risk food product by the FDA and there have been no issues with maple syrup food safety in CT, so the need for these regulations is questionable.

If we are mandated by the Federal Food Safety Management Act to meet certain standards, then the DOAG should work closely with the producers and the Maple Syrup Producers Association of CT on how best to implement reasonable, appropriate regulations.

DOAG response to comment 8:

See response to commenter 1. Also, to clarify, the mandate to adopt these regulations comes from section 22-54u of the Connecticut General Statutes which states that the Commissioner "shall adopt regulations…for the oversight of the production of honey and maple syrup by any person." The federal Food and Drug Administration standards in 21 CFR 117 are the "Good Manufacturing Practices" the Department is relying on as the best practices to limit pathogenic microorganism growth or toxin formation, as required by section 22-54u.

Comment 9/9a: Mathew Wilkinson, Wilkinson Farm

The commenter stated as follows:

I am a Connecticut maple syrup producer and beekeeper, I have been producing honey and maple syrup for over 10 years and have been a member of the Maple Syrup Producers Association of Connecticut (MSPAC) for the past 8 years. As a producer of maple syrup and honey I have strived to produce a quality product and adhere to all state requirements and regulations.

I was very encouraged to see the movement of maple and honey to the Department of Agriculture and was expecting to see simple common sense regulation in line with these clearly agricultural pursuits. Following conversations and presentations by the commissioner I was further reassured that this would be the essence of future regulations. I was, however disappointed to see the department just adopt federal regulations geared toward large scale corporate food producers instead of adopting their own regulations in line with these two inherently safe food products.

Honey and maple syrup are two of the safest food products in production and do not have a history of or exposure to the food borne illness and contamination seen in vegetable produce, dairy, meat and many other agricultural products. There is in fact no evidence that I can produce through extensive searching that demonstrates maple syrup being the source of a food borne illness. Additionally, the federal labeling and regulations found in 21 CFR 117B are complex, difficult to read and understand and require significant effort and expertise to interpret. This is not an option for the average maple or honey producer in the state of Connecticut and will discourage any new farmers and future growth in these areas.

Additionally, the misinterpretation of these federal regulations written for massive corporations will potentially put our states farmers in jeopardy of lawsuits, fines or even drive these small farmers out of business and to convert their agricultural land into residential developments to regain financial loss.

If the Department of Agriculture will rework their proposed regulations to incorporate specific labeling requirements, achievable guidelines similar to the State of New Hampshire or spell out exemptions to the federal regulations for those not meeting the registration threshold they will achieve the intent of their mission statement to foster a healthy economic, environmental and social climate for agriculture by developing, promoting and regulating agricultural businesses.

Thank you for your time and attention on this regulation. Developing simplified understandable regulations will lead even the smallest producers to adhere to the standards and promote both critical agricultural pursuits in the state of Connecticut with significant potential for growth.

DOAG response to comment 9/9a:

See response to comment 1.

Comment 10: Megan Uricchio

The commenter stated as follows:

The cottage industry is large and plentiful in Ct and throughout New England. The proposed regulation does not take into consideration the very nature of the product it proposes to regulate. Honey and maple syrup have a standard of identity defined by the Food and Drug Administration in accordance with the Food, Drug and Cosmetic Act. When properly harvested and packaged these products pose no food safety risk to those whom consume it. By nature the low water content and high sugar content make it an undesirable media for bacterial growth. In the event that these products are harvested and packaged inappropriately the immediate risk is spoilage due to mold growth- no bacterial/pathogenic concerns. The proposed regulations will have a tremendous impact on farmers that will force many of them to cease operations. The existing food safety risk to these products is minimal and should not be subject to regulation as part of the CFR.

DOAG response to comment 10:

See response to comment 1.

Comment 11: Joseph Orefice, PhD – Yale School of the Environment

The commenter stated as follows:

I am writing to request that the Connecticut Department of Agriculture more carefully consider how you word and implement proposed regulations regarding maple syrup production in the State of Connecticut. In my role with public outreach through the Yale Forests I have been working with maple producers in the state to enhance their familiarity with maple related science and technology. Prior to joining the faculty of Yale in 2018, I served as Cornell University's Northern New York Maple Specialist and Director of their Uihlein Maple Research Forest, a 5,500 tap production maple research facility. I also own and operate a 134 acre farm here in Union, Connecticut.

Maple syrup and sugar has a long history as an important agricultural crop here in Connecticut. It also has a history that, as far as I can discover, is free from any documented cases of food borne illness. It is disheartening to read that the Connecticut Department of Agriculture is not adopting progressive regulations for intrastate commerce of maple syrup, and instead is defaulting to the adoption of federal food safety guidelines written for industries and corporations which are far removed from maple and without maple syrup's clean record of being a safe product.

Federal regulations are far too restrictive for producers and seem to address safety concerns that have never existed in maple. For example: sap can be stored at temperatures that allow for bacterial growth and still be very safely made into syrup. In fact, some microbial growth is needed to make the darker syrups that most consumers prefer. Connecticut should be progressive in its regulations and those regulations must allow for conditions for storing sap to be different from those for packing finished syrup. Additionally, there is no need for all surfaces in a sugarhouse to be cleanable. Sugarhouses, like other farming technologies, have variable levels of cleanliness depending on how close the product is to final consumption and the risk of filth to contaminate the final product based upon where it is in the facility.

I am also discouraged to read that the impact statement for these proposed regulations ignored the potential impact to small farms. New regulations which are not coupled with direct support to help producers come into compliance will always have a negative impact on farms, either in terms of direct costs for compliance, liability concerns based on new precedents, or producers not coming into compliance due to a lack of knowledge on how to do so. Producers will not know where or how to look for compliance. For example, how will this act affect producers of maple sugar as an end product instead of syrup?

Maple regulations need to be clear and concise so new producers are able to get into the business, especially in Connecticut where we utilize far less than 1% of our tapable maples. The Connecticut Department of Agriculture needs to to develop a plan for how it will foster a healthy economic and social climate for our maple producers before enacting new regulations on these businesses.

Additionally, I encourage the department to determine how it will encourage maple producers to adopt safe practices as Federal regulations are complex and not digestible to many maple producers.
The mission of the Connecticut Department of Agriculture is to "foster a healthy economic, environmental and social climate for agriculture by developing, promoting and regulating agricultural businesses…". It is my opinion that by regulating maple syrup, the mission of your

department behooves you to put as much, or more, effort into developing maple and also promoting the Connecticut maple syrup producers. After all, maple syrup production is the oldest form of continuous agriculture in Connecticut, and ironically, is the sector of Connecticut agriculture with the greatest potential for future growth.

I would be happy to speak with your or your department representatives in more depth about any of the issues I raised in this letter. I also encourage you to work with the Connecticut Maple Syrup Producers Association to develop regulations for our state which make us a creative leader in food safety as it relates to traditional products and viable farm businesses.

Sincerely,

Joseph Orefice, PhD
Lecturer and Director of Forest & Agricultural Operations, Yale School of the Environment
Owner/operator of Hidden Blossom Farm LLC, Union CT

DOAG response to comment 11:

See response to comment 1.

Comment 12: Barbara Marsh – Papa's Maple Syrup

The commenter stated as follows:

I am writing to comment on the proposed regulations concerning the production of maple syrup and/or honey in CT. I was pleased when oversight of these businesses was moved from the Consumer Dept. to the Agricultural Dept. It seemed to make more sense to have people familiar with farming practices to oversee this kind of thing. However, it seems maple syrup producers of CT have fallen right back into the tangle of overreaching Federal bureaucracy.

Despite the proposed dollar amount limiting participation in these regs, it is still not practical for most of Ct's producers. Who are these 8 to 10 businesses noted that "may" be affected?
I don't think you understand how many people make sugar as a hobby, side job or family venture. Whether they sell $25,000 of product or not, I am afraid not adhering to these required standards would expose these producers to the same legal risks as a larger operation. Our own associations do an excellent job of teaching, sharing resources and self regulating the industry.

CT maple producers work hard to make a good, safe product. Good relationships and repeat sales depend on this. Tourists enjoy the old time, sugar shack experience many producers provide for visitors. If we wanted to work in a lab situation, we would all be working at Aunt Jemimah's factory. Please consider dropping this proposal. It is a case of " If it is not broken, don't try to fix it".

DOAG response to comment 12:

See response to comment 1.

Comment 13: Robert Kreitler

The commenter stated as follows:

Good morning:

I am commenting on your proposed changes in regulations for honey producers - Tracking Number PR2020-006 — Posted 7/14/2020

I started beekeeping when I was in grammar school. I am a founding member of the Backyard Beekeepers (one of largest regional bee clubs in the country with a membership around 300) and remain on their Board. I helped start their program for kids called the Wannabees. I have a total of four hives located in Easton and Fairfield. These comments are my comments and are not those of the Backyard Beekeepers, but who I think would agree with them.

Based on your "Intent" that says this rule change is intended to only cover a small number of commercial beekeepers, I am hoping my concern is a drafting error and you can correct it easily.

The regulations cover all producers of honey. The regulations through 22-54u-3, "Standards for Harvesting …" section b cover producers with sales of excess of $25,000. The rest of the document no longer refers to the $25,000 and therefore the second half of the document covers all producers of honey. This would cover a ten-year-old beekeeper, all those starting and planning to sell honey to a neighbor and virtually all members in the Backyard Beekeepers Association. As I said, I hope this is a drafting error and you will limit the entire requirements to those with sales of excess of $25,000, which you say is your intent.

It is my understanding the Governor is trying to make it easier to do business in Connecticut. This is particularly relevant as we try to recover from Covid-19. Our State is one of the worst performing coming out of the recession of 2008. This is because we are one of heaviest regulated and have the highest taxes. It is hard to start a business in Connecticut and businesses are moving out. We need to make it easier for small businesses. $25,000 is a very tiny business; perhaps you should increase the regulatory limit to a much higher number. Perhaps there are things you can do to encourage commercial beekeeping rather than restricting what they do. This would be fantastic for beekeeping and the reputation of the state.

On a totally different matter, beekeepers must register twice with the state- once for owning hives, the other for pesticide notifications. It would be more efficient if you amended this so we only need to register once. This would be consistent with the Governor's intent of simplifying regulation.

DOAG response to comment 13:

See response to comment 1.

Comment 14: Vincent LaFontan, Mountain View Farm

The commenter stated as follows:

We just received the August edition of The Maple Syrup Producers Association of Connecticut, Inc. newsletter. Thank you for always doing a nice job of updating all the members on everything Maple in Connecticut.

I am sending this note in response to your request on page 3--looking for feedback and comment on the proposed new Honey & Maple Syrup Regulations concerning the production and sale of Honey and Maple Syrup but the Connecticut Department of Agriculture.

As a Maple Syrup Producer (my wife and I own Mountain View Farm in Kent, CT) these new regulations would create a significant new barrier to our small family business. We produce on average 20-25 gallons of Maple Syrup each year. Being long time members of the Maple Syrup Producers Association of Connecticut we keep current with Maple industry best practices and follow all appropriate health standards in our practice. Since we are a Certified Organic Farm, we are inspected annually by Bay State Organic Certifiers (Paying a significant expense to maintain certification). We have consistently met all Organic standards and have received annual certification.

Bottom Line: Our current practices are safe. Our customers know their "farmer" because they see us at the farmer's market each week or they visit our small sugar house to see us making the maple syrup. We are certified Organic and have an annual inspection. If we are required to meet industrial level, mass production level standards---for example required to build a new sugar house with a stainless steel floor and stainless shelving and attach a furnace shed to provide us with hot water at the sugar house, we will most likely not continue producing Maple Syrup.

Maple Syrup has been produced on small family farms in Connecticut since pre-revolutionary times. Maple Syrup is not a high risk food product. Maple Syrup is an important Agricultural Product that partially sustains many Connecticut Farms and contributes to the Agricultural Output of our State. The State Department of Agriculture should not create barriers that will reduce the agricultural output of our State, instead they should help small farms grow and thrive.

DOAG response to comment 14:

See response to comment 1.