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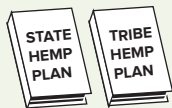
How USDA regulates, approves and enforces legal production of hemp

Hemp production in the U.S. is soaring, thanks to changes in federal law. The 2018 farm bill directed the U.S. Department of Agriculture to allow farmers to legally grow hemp. Prior to the 2018 law, hemp was a controlled substance. The 2014 farm bill allowed only state departments of agriculture and universities to produce hemp via pilot research programs.

On Oct. 31, 2019, USDA issued an interim final rule, effective through Nov. 1, 2021, which established the Domestic Hemp Production Program that regulates hemp production in the U.S. The program allows states, the District of Columbia, U.S. territories and U.S. tribal territories to submit plans for USDA approval that outline practices and procedures for hemp producers. The rule also specifies regulations regarding recordkeeping of hemp crops and harvests; testing of hemp samples for levels of the psychoactive chemical compound tetrahydrocannabinol, or THC; disposal of hemp plants with illegal THC levels; and licensing requirements of hemp growers.

USDA's interim final rule establishes regulations for legal U.S. hemp production

The interim final rule applies to persons or businesses which intend to produce hemp for consumer purposes. The rule does not apply to hemp grown under the 2014 farm bill if states decide against submitting a hemp plan to the USDA. The rule:



Authorizes USDA to review and approve state and tribal hemp production plans

State and tribal jurisdictions with USDA-approved plans must provide monthly and annual reports to the federal agency stating the licensing status of hemp producers covered under plans, acreage planted, harvested and destroyed as well as THC lab-testing results of hemp samples.



Creates a USDA plan for producers in jurisdictions without hemp plans

The program also established a federal plan that enables production authorization to be offered to hemp growers located in states or tribal territories that do not have USDA-approved hemp production plans.



Requires hemp THC level testing to be conducted by DEA-registered labs

The 2018 farm bill defines cannabis plant material as hemp if it contains less than or equal to 0.3 percent of THC by dry weight. Hemp crops' THC levels must be tested by labs registered with the Drug Enforcement Administration and results reported to USDA.

Hemp producers cannot harvest crops prior to sample testing.



Requires the destruction of hemp containing illegal THC levels

If lab test results of hemp samples reveal that THC levels exceed 0.3 percent, factoring in a measurement of uncertainty similar to a margin of error, hemp plants and materials must be destroyed by producers in accordance with the Controlled Substances Act and DEA regulations.



Includes provision outlining licensing requirements of hemp growers

Hemp growers must apply for and be issued a hemp producer license under a state, tribe or USDA production plan to be compliant with federal law. Production records and reports must be provided to USDA and subject to audit.

Persons with felony convictions related to controlled substances in the last 10 years cannot receive licenses.

Sources: USDA, Federal Register publication of interim final rule "Establishment of a Domestic Hemp Production Program," POLITICO staff reports

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