



How is the Farm Act Changing Current “Canna-Business” Practices and What Issues Does It Leave Unresolved?

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USDA



Domestic Hemp Production Program

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2014 Farm Bill

- State departments of agriculture and institutions of higher education were permitted to produce hemp as part of a pilot program for research purposes.
- Did not allow for the production of hemp for general commercial activity.
- Did not remove industrial hemp from the controlled substances list.



2018 Farm Bill

- Removed industrial hemp from Schedule I list under the Controlled Substances Act.
- Directed USDA to
 - ✓ Develop a domestic production program to review and approve plans submitted by States and Indian tribes
 - ✓ Establish a Federal plan for producers in States/Tribes that do not have a USDA-approved plan as long as the production of hemp is not prohibited in those States/Tribes.
- Extended the 2014 Farm Bill provisions 12 months after the regulations establishing the USDA plan are effective, i.e. October 31, 2020.
- States and Indian tribes may not prohibit the interstate transportation or shipment of hemp lawfully produced under a State or Tribal plan or under a license issued under the USDA plan, or the 2014 Farm Bill.



Interim Final Rule

- The Interim Final Rule is effective upon publication in the Federal Register on October 31, 2019.
- The IFR also includes a public comment period allowing USDA to seek input on the rule as it is enacted. USDA will use the 2020 growing season as a chance to “test drive” the interim rule to guide any adjustments that are made in the final rule.
- The IFR sunsets after two years, which allows time both to make it through a full crop cycle and to deliver a final rule.



Tribal Jurisdiction

The rule notes explicitly that a Tribal government desiring to have primary regulatory authority over the production of hemp in the territory of the Indian Tribe for which it has jurisdiction can administer a USDA-approved plan for hemp production.

- This is true even in cases in which the territory is within the boundaries of a State which has explicitly banned the production of hemp or a State that has a USDA approved plan.



Key Provisions of the IFR

- Provides guidance on basic provisions needed from States/Tribes to obtain plan approvals:
 - Procedures for tracking the land where hemp is grown.
 - Procedures for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels (THC).
 - Procedures for disposing of non-compliant plants.
 - Compliance provisions (how to handle violations/inspection of farms).
 - Procedures to share information.
 - Certification of State/Tribe available resources to manage the plans.
- Provides for 30-day waiting period for USDA to license producers whose States/Tribes do not submit plans for approval. Producers in states/tribes that will have a plan are expected to enroll in those plans.



Key Provisions of the IFR continued

- Sampling - States/Tribes must ensure that a representative sample of the hemp production is physically collected.
 - Sampling must be conducted within 15 days prior to the anticipated harvest.
 - USDA-approved sampling agent, or a Federal, State or law enforcement agent collects samples from the flower material.
 - A guidance document outside the IFR includes specific steps for sampling including how to collect a statistically representative sample (the document can be found on AMS website).
 - Alternative sampling and testing protocols will be considered if they are comparable and similarly reliable.



Agricultural Marketing Service

U.S. Domestic Hemp Production Program



To produce hemp, you first need to be licensed or authorized under a state, tribal, or USDA Hemp Program. The program plan you are licensed under depends on the location of your hemp growing facility.

Contact your local state department of agriculture or tribal government to see if they have a production plan that has been submitted to or approved by USDA.

If your state or tribal government has an approved plan or is in the process of developing a plan, you must apply to and be licensed or authorized under its hemp program. If your state or tribal government does not have a pending or approved hemp production plan, you may apply for a USDA hemp production license.

Applications to obtain a license to produce hemp under the USDA production plan are available on the USDA Hemp Program webpage.

You cannot receive a hemp production license from a state, tribal government or USDA if you have been convicted of a felony related to a controlled substance in the last 10 years.

STEPS TO BECOMING A HEMP PRODUCER:

Under a State or Tribal Government Plan:

1. Apply to the state or tribal government and receive authorization to grow hemp.
2. After you have planted, visit your local USDA Farm Service Agency (FSA) office:
 - Provide your state or tribal license or authorization identifier
 - Provide the geospatial location(s) where you are growing hemp
 - Receive a lot number or numbers from FSA

3. When it is time to sample the lot for the THC content:
 - Request an authorized agent to sample each lot
 - Follow proper sampling and testing procedures for measuring hemp THC content
4. Submit all required information to your state or tribal government.

Under the USDA Plan:

1. Verify:
 - Your state or tribal government does not prohibit the production of hemp
 - Your state or tribal government does not administer a hemp production program
2. Submit to the USDA Hemp Program:
 - USDA License Application
 - FBI Criminal History Report
3. After you have planted, visit your local FSA office:
 - Provide USDA License Number
 - Report the geospatial location(s) where you are growing hemp
 - Receive a lot number or numbers from FSA
4. Submit all required information to the USDA Hemp Program.

CONTACT INFORMATION

For more information, please visit:

www.ams.usda.gov/rules-regulations/hemp

If you have any questions, please contact us at (202) 720-2491 or email Farmbill.Hemp@usda.gov.



Next Steps

- AMS will work with States and Tribes to approve their State and Tribal Plans.
- Beginning 30 days following the effective date of the rule, USDA will accept and review license applications from producers in States and Tribes that do not have a production plan that has been approved or has been submitted to USDA for approval.
- For more information, please visit the USDA Hemp Production Program website: [usda.gov/topics/hemp](https://www.usda.gov/topics/hemp)
- Questions can be sent to Farmbill.Hemp@usda.gov.



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