

# Agricultural Marketing Service

Creating Opportunities for American Farmers and Businesses

## USDA Domestic Hemp Production Program



## 2018 Farm Bill

- Removed industrial hemp from Schedule I of the Controlled Substances Act.
- Directed USDA to develop a domestic production program to review and approve plans submitted by States and Indian tribes, and to establish a Federal plan for producers in States/Tribes that do not have a USDA-approved plan as long as production of hemp is not prohibited in those States/Tribes.
- Extended the 2014 Farm Bill provisions 12 months after the 2018 Farm Bill provisions come into effect.
- 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.

## Interim Final Rule

- The Interim Final Rule (IFR) was effective upon publication in the Federal Register, October 31, 2019.
- The IFR also includes a public comment period allowing USDA to seek input on the rule as it is enacted.
- The IFR sunsets after two years, which allows time both to make it through a full crop cycle and to deliver a final rule.

## 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.

## Key Provisions of the IFR continued

- Sampling - States/Tribes must ensure that a representative sample of the hemp production is physically collected and delivered to a DEA-registered laboratory for testing.
  - 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.
  - Alternative sampling and testing protocols will be considered if they are comparable and similarly reliable.

## Key Provisions of the IFR continued

- Testing –must be completed by a DEA-registered laboratory. Any licensee may request that the laboratory retest samples if it is believed the original THC level test results were in error.
- A measurement of uncertainty (MU) must be estimated and reported with test results to ensure the test uncertainty is taken into account. If the actual THC level is within the range of MU the results will be considered acceptable.
- If a test result is up to 0.5% THC the result is not considered a negligent violation but the crop must be destroyed.

## Next Steps

- AMS will work with States and Tribes to approve their State and Tribal Plans.
- For more information, please visit the USDA Hemp Production Program website: <https://www.ams.usda.gov/rules-regulations/hemp>
- Questions can be sent to [Farmbill.Hemp@usda.gov](mailto:Farmbill.Hemp@usda.gov).

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