



NATIONAL AFFAIRS

January 28, 2020

ACTION REQUEST

ISSUE: Proposed Interim Final Rule- Establishment of a Domestic Hemp Production Program

Background

The 2018 Farm Bill removed hemp from the Controlled Substances Act and made hemp a legal crop. The bill defines hemp as, "the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." The Farm Bill established a United States Department of Agriculture (USDA) administered program and a regulatory framework to monitor compliance and regulate hemp production.

Interim Final Rule

On October 31, 2019, the USDA's Agricultural Marketing Service (AMS) published an interim final rule (IFR) in the Federal Register to establish regulations governing a national hemp program. This IFR became effective when published and will remain in place through November 1, 2021. Under the IFR, states were provided the option to operate under the pilot program provisions through 2020 and Kentucky has opted to use this option. The text of the rule may be found [here](#).

Below are highlights of the IFR:

- A state must submit a plan to USDA in order to have primary regulatory authority over hemp production within its borders.
- Hemp producers must be licensed under a state program or through a USDA plan. A person who has been convicted of a controlled substance related felony is prohibited from producing hemp for 10 years after the conviction.

- Licensed producers are required to provide the state with a legal description of the land and geospatial location for each field, greenhouse, or other site where hemp is produced. They also must report their hemp crop acreage to the Farm Service Agency (FSA).
- Hemp must be tested within 15 days prior to anticipated harvest to ensure it doesn't exceed the acceptable hemp delta-9 tetrahydrocannabinol (THC) level. Testing must be completed by a Drug Enforcement Administration (DEA) registered laboratory using a reliable method for testing the THC level and samples are to be collected from the flower material of the plant.
- The rule includes a measurement of uncertainty as laboratories report THC test results. If the 0.3% THC limit is within the range, then the sample is considered hemp.
 - *The acceptable hemp THC level is the application of the measurement of uncertainty to the reported THC content concentration level on a dry weight basis producing a distribution or range that includes 0.3% or less.
- A crop found to be above the acceptable hemp THC level must be disposed of according to the Controlled Substance Act and DEA regulations.
- If a producer negligently violates a state's plan three times in a five-year period, they will be ineligible to produce hemp for the next five years.
- Hemp producers are not found negligent if they make reasonable efforts to produce hemp even if the crop has a THC level of more than 0.5 percent on a dry weight basis.
- The rule reaffirms that no state may prohibit the transportation or shipment of hemp across state lines.

Kentucky Farm Bureau Policy

"We support the research, production, processing, commercialization, marketing, and utilization of hemp."

"We support efforts to strengthen hemp production for seed in the state of Kentucky."

"We support research and development for labeling fungicides, herbicides, and insecticides to be used for hemp."

"We support a certification system to help farmers ensure the quality of their seed or planting stock."

"We support the protection of farmers regarding validity of companies with purchase contracts."

"We support nationwide THC sampling and harvesting protocols, or Kentucky regulation/statute to more closely align with other surrounding states in production."

"We support the proper government entities regulating the safety, quality and standardization of hemp products, which are sold to consumers."

"We support the development of affordable on-site testing technology for local and state authorities."

“We encourage coordination between local and state authorities to better cooperate with hemp growers.”

“We support the utilization of hemp grain as a feed ingredient for poultry and livestock.”

“We support KDA’s efforts to strengthen industrial hemp production in the state of Kentucky.”

Submit Comments

Kentucky Farm Bureau members are encouraged to submit comments to the federal register to provide feedback on what impact this proposal would have on Kentucky hemp farmers. All comments must be submitted by **Wednesday, January 29, 2020, at 11:59 p.m. ET**. Comments can be submitted electronically [here](#) and members that wish to submit comments through the mail may send them to the following address:

The Honorable Bruce Summers
Administrator
Agricultural Marketing Service
United States Department of Agriculture
1400 Independence Avenue, SW, STOP 0237
Washington, DC 20250-0237

Please be sure to reference “Docket No. AMS-SC-19-0042; Document Number: 2019-23749; Date: October 31, 2019; Page: 58522-58564” in your comments.

Additional Information

Additional resources on the proposed rule can be viewed at kyfb.com. Please contact Emily Buckman, Director of National Affairs for Kentucky Farm Bureau, at Emily.Buckman@kyfb.com or by calling 502-495-5137 if you have any additional questions.