



Federal Interim Rules on Hemp: Overview

The USDA released the Interim Federal Rule on the Domestic Hemp Production Program on 10/31/2019. The Interim Rule is effective immediately and sunsets on 10/31/2021, when the Final Rule goes into effect. Comments on the Interim Rule may be submitted at [regulations.gov](https://www.regulations.gov) up until 1/29/2020, and will be considered by the USDA prior to issuance of a final rule on 11/1/2021. States & Tribes with existing Hemp Pilot Programs, such as Vermont, may continue operating under the 2014 Farm Bill until the State's plan has been submitted to and approved by USDA. The following information pertains to the Federal Interim Rules on Hemp.

- Sampling
 - A Federal, State, local, or Tribal law enforcement agency or other Federal, State or Tribal designated person shall collect samples from the flower material
 - Sampling requirements mandate the testing of every lot harvested. Randomized testing is not allowed.
 - Sample requirements don't require a homogenized whole-plant sample, instead the top 1/3 of floral material of the plant must be sampled. The definition of hemp is based on THC level by weight of the plant, not the flower, meaning plants tested with this sampling protocol will likely register higher levels of THC.
 - Harvest is completed within 15 days of sampling
 - Sampling and testing is time consuming, weather factors, additional uncertainties such as equipment failure, and harvest itself makes this an inadequate time frame. USDA is seeking comments on this specifically
- Legal Limits & Testing
 - Testing is based on total THC by dry weight, not solely Delta-9
 - If THC is above .3% after accounting for a lab-specific Measure of Uncertainty (effectively a margin of error), the crop is classified as Marijuana, a Schedule I Controlled Substance, and must be destroyed according to DEA regulations. No alternative methods of destruction are allowed and it cannot enter the stream of commerce
 - Testing must be conducted by a DEA registered lab. It may take 9 months to 1 year for a lab to get registered
 - Negligence vs. Intent regarding "hot crops" is determined at .5%. Anyone found growing hemp over .5% could potentially be found to be criminally liable
 - Disposal of "hot" hemp must be conducted by a DEA-approved handler of marijuana
- New Eligibilities
 - Crop insurance for hemp is coming in 2020, including Whole Farm Revenue Protection and Farm Service Agency (FSA) Noninsured Crop Disaster Assistance
 - Hemp is now eligible for NRCS Conservation Programs
- Felony Ban
 - The Felony Ban, which Rural Vermont fundamentally opposed, is limited to those with hemp licenses, including business owners, partners, and those holding executive positions. Farm managers and workers need not undergo background checks
 - The rule states that no one with a State or Federal felony for controlled substances within 10 years prior to the date of report will be issued a hemp license
 - License applicants must submit contact details and a criminal history report with their application
 - Exceptions: a person who was lawfully growing hemp under the 2014 Farm Bill before 12/20/18, and whose conviction occurred before this date
- Misc. Points of Interest
 - In addition to the land information required to be submitted to the appropriate State or Tribe, licensed producers must also report their hemp crop acreage to the FSA
 - Hemp exports are not affected and not addressed in the Interim Federal Rule
 - States & Tribes may not block interstate transportation or commerce of hemp
 - There is currently no Federal Seed Certification Program. USDA is specifically seeking feedback on how to best develop a future program