



TENNESSEE DEPARTMENT OF AGRICULTURE

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DIVISION OF CONSUMER & INDUSTRY SERVICES
PLANT CERTIFICATION SECTION

INDUSTRIAL HEMP PILOT PROGRAM FREQUENTLY ASKED QUESTIONS GUIDANCE DOCUMENT

In 2014, the Tennessee Department of Agriculture (TDA) launched its Industrial Hemp Pilot Program for research of industrial hemp. Since that time, participants in the program have and continue to put forward numerous questions about the crop and its commercial viability. Some of these questions—answered below—represent merely TDA’s current position with respect to the issues presented, and do not substitute or supersede other governmental agencies’ authority to enforce applicable law—e.g. state and federal controlled substances laws or food safety laws. All participants in TDA’s industrial hemp program are strongly encouraged to consult private legal counsel for lawful production and processing of industrial hemp and industrial hemp products.

What is industrial hemp?

Industrial hemp is a hearty, fibrous plant that grows quickly in diverse soil conditions and may be used in a wide variety of product applications. Industrial hemp encompasses a number of varieties of Cannabis sativa L. that are intended for agricultural and industrial purposes and that contain no more than 0.3% delta-9 tetrahydrocannabinol (THC). Industrial hemp is in the same plant species as marijuana, and is a controlled substance under state and federal law.

What does an industrial hemp license allow me to do?

Even though industrial hemp constitutes a controlled substance, TDA is permitted under federal law to work with the plant in order to research its growth, cultivation, and marketability. TDA developed its industrial hemp pilot program for this purpose. Through the program, TDA licenses individual growers as limited agents of TDA for the purpose of conducting this research.

An industrial hemp license issued by TDA allows the licensee either to grow or to process industrial hemp at a particular physical location in Tennessee. Separate licenses are required for each activity and for each location used by growers and processors. Hemp grown or processed at a location without a license is considered marijuana, and is illegal.

How does TDA regulate industrial hemp?

TDA regulates industrial hemp through oversight of seed acquisition, plant material transportation, and random sampling of industrial hemp crops to monitor THC levels. Depending on the application or particular circumstances, industrial hemp may be subject to other departmental regulation, e.g. food safety regulations for industrial hemp food products or plant certification regulations if a pest, pest plant, or disease is detected within an industrial hemp crop.

The Department does not test for cannabinoids.

How do I get seed?

Industrial hemp seed is not currently available domestically within Tennessee and cannot be transported across state lines. Consequently, seed must be obtained from outside the United States.

Individuals may acquire seed only through TDA's industrial hemp pilot program. Participants in the program must agree to parameters of conducting hemp research and they must assume total financial and legal responsibility for the costs of growing industrial hemp—including departmental costs incurred in the acquisition of seed, sampling of hemp crops, and potentially destruction of crops that have THC levels higher than the legal limit (0.3% on a dry mass basis). To offset these costs, TDA does allow licensees to sell industrial hemp and hemp products, provided the sales are conducted in conformance with all applicable laws and regulations.

Can I use my own industrial hemp seed for planting?

No. All seed used within TDA's hemp program must be procured through TDA. This means growers cannot individually import seed from other states like Washington, Kentucky, or Colorado; and growers cannot use seed from plants grown from certified seed. Only universities are eligible to procure their own.

Can I order specific varieties of hemp seed for planting?

Each year TDA will contact foreign seed vendors for availability of various varieties of industrial hemp seed. TDA will select a menu of available varieties for planting in Tennessee during the following season. Hemp licensees will be permitted to order seed only from that menu of available varieties. If a grower requests that a particular variety be made available during the following season, TDA will make reasonable effort to include the requested variety in the menu of options, but cannot guarantee that any particular variety will be made available depending on market circumstances and TDA's goals for hemp research.

Can I clone industrial hemp plants?

Maybe. TDA will allow cloning of plants within the industrial hemp pilot program, provided that 1) the clone is taken from a plant grown from certified seed, 2) clones are taken only from one mother plant, and 3) the breeder of the seed from which the mother plant was grown has given permission for cloning plants grown from that seed.

Can I grow uncertified seed?

Only universities may grow industrial hemp from uncertified seed. Whether a grower may work with the university in aid of their research program is largely up to the university to decide. The university must obtain an industrial hemp license for each location at which uncertified seed is grown, and the university will be responsible for the growth of industrial hemp at that location and any infractions committed by its growing agent.

Hemp grown from uncertified seed cannot be sold or used to produce hemp products for sale—by the university or by any of its agents.

Does an industrial hemp license exempt me from complying with state and federal laws related to marijuana?

No. An industrial hemp license only authorizes its holder to grow or process industrial hemp within the bounds of TDA's hemp program or a university's research program. All state and federal laws pertaining to marijuana still apply, and licensees may be prosecuted for violating those laws. Participants are strongly encouraged to consult private counsel for lawful growth and processing of industrial hemp and industrial hemp products.

Is there a market for harvested hemp material?

The industrial hemp market in Tennessee is growing, slowly. Currently, there are very few processors capable of or willing to process large quantities of hemp in Tennessee. While other processors may be available in Kentucky, only non-viable hemp material may be transported across state lines. Also, while crop production is improving, much work remains to create steady streams of harvested material.

Does industrial hemp use have to be 'industrial?'

No. The only requirements for industrial hemp—by definition—are that it be cannabis; that it not contain more than 0.3% THC on a dry mass basis; and that it be grown either from certified seed or by a university for research. Industrial hemp production uses fall largely into three categories: fiber, seed, and oil.

Can I sell CBD oil from my industrial hemp crop?

Absent medical or research exemption, sale or distribution of CBD oil to a non-license holder is illegal even if the product is not labeled for any nutritional or medical claims.

Can I sell hemp food products?

Manufacture of food products is subject to all separate state and federal regulation under food safety laws. Additional licensure and inspection will be required for production of food products.

Any food product containing THC will likely be considered a controlled substance by DEA and an adulterated food product by FDA. Any hemp food product should be attempted only with those parts of the plant allowed for production of hemp products and rigorous private testing should be employed to monitor acceptable levels of THC in finished goods.

Can I sell hemp plants or plant parts, e.g. leaves and flowers?

Maybe. Licensees may sell any hemp material grown from certified seed to any other TDA licensed hemp grower or processor. However, to sell hemp material or products to non-licensees, the hemp must be grown from certified seed, must be rendered non-viable, and may only contain plant material from mature stalks, seed, cake, or oil, or their derivatives. Under no circumstances may a licensee sell hemp or hemp products containing resin from industrial hemp or detectable amounts of THC. Industrial hemp grown from uncertified seed may not be distributed in commerce.

When do I need a transport permit and what information is required for me to get a transport permit?

A transport permit is required prior to moving any viable hemp plant material, and prior to movement of ANY plant material across state lines.

For issuance of the permit, TDA will need: the date and time of movement, the quantity and description of material to be moved, the name and date of birth of the individual moving the material, and a description of the vehicle used to move the material, including its make, model, color, and license plate number.

For movement across state lines, hemp may only be moved in states that have legalized hemp. TDA will seek prior authorization from the appropriate regulatory agency in both the state of destination and states in route.

Can I mail industrial hemp material through USPS, FedEx, or UPS?

No. TDA's hemp program requires sale of industrial hemp and hemp products only through direct sales to licensed processors or legal hemp products to end consumers.

Is the industrial hemp pilot program the ground floor for medical marijuana in Tennessee?

No. TDA's industrial hemp pilot program concerns only industrial hemp with THC levels below 0.3% on a dry mass basis. All plants with THC levels above that level fall outside the program and will be disposed of by TDA. In other words, the industrial hemp pilot program is not related to, nor does it regulate or seek to involve, growth of marijuana for any medical, research, or recreational purposes.

What happens if my industrial hemp tests high for THC?

As a participant in TDA's industrial hemp pilot program for agricultural research, all hemp plants and plant material in the hands of licensees are considered property of TDA. As a benefit of the program, TDA allows the legal sale of hemp plant material or products as a means of offsetting the cost of research to the program participants.

When a hemp sample tests high for THC, the tests are considered conclusive evidence that at least one plant from the sampling area has THC levels above the legal limits—and that plant or plants constitute marijuana and not industrial hemp. In these cases, TDA will order the destruction of all plants necessary to preserve the pilot program and its integrity for dealing only with industrial hemp. Licensees will be given the option of destroying only a portion of the plants and resampling or destroying all plants within the represented lot or area.