

Insights

USDA Approves Indiana State Hemp Plan for Commercial Growth

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On October 22, 2020, the United States Department of Agriculture (“USDA”) approved the Indiana State Hemp Plan (the “Plan”), allowing hemp growers to grow and process hemp commercially in Indiana without obtaining the previously required university research affiliation. Applications for the 2021 growing season will open in November 2020. Indiana is now one of twenty-nine states with an approved hemp plan.

Background on Hemp Production in Indiana

In March 2014, Governor Mike Pence signed the “Industrial Hemp Bill” into law, granting the Office of Indiana State Chemist and the Seed Commissioner authority to obtain permits for the production of industrial hemp in Indiana. Regulations regarding hemp production expanded after Congress passed the Agricultural Improvement Act of 2018 (i.e., the 2018 Farm Bill), which legalized industrial hemp by removing it from Schedule 1 of the Controlled Substances Act. In October of 2019, the USDA issued an Interim Final Rule creating the regulatory framework for industrial hemp production. The Interim Final Rule required states wishing to regulate industrial hemp to submit a state plan to the USDA for approval. In May of 2019, Governor Eric Holcomb signed Senate Bill 516, establishing Indiana’s regulatory framework regarding the commercial production of hemp. Prior to signing Senate Bill 516, Governor Holcomb signed legislation legalizing the purchase and sale of cannabidiol (“CBD”) products containing 0.3% or less of the cannabinoid tetrahydrocannabinol (“THC”).

Next Steps Under Indiana Law

With the Plan’s approval, Indiana hemp growers can obtain a license to grow and produce hemp without a research proposal or affiliation with a university researcher, significantly lessening the burden to obtain a license. Although the Plan makes it easier for Indiana hemp growers to grow and produce hemp, any hemp grown must have a THC level of 0.3% or less and the production of any unlicensed hemp – regardless of THC level—is considered “marijuana” for the purposes of Indiana law and violators will be subject to penalty, including the destruction of the crop and possible criminal prosecution.

If you have questions about this alert, the November application process, or any other legal issues related to the production and sale of hemp and legal CBD products, please contact **Kendall A. Schnurpel**