



# TEXAS DEPARTMENT OF AGRICULTURE **COMMISSIONER SID MILLER**

## **Texas Hemp Program FAQ**

*The Texas Department of Agriculture (TDA) submitted administrative rules regarding the Texas Hemp Program to the Texas Secretary of State. Those rules were published on January 10, 2020 and are open for public comment until February 10, 2020. Please [review the submitted rules](#) and offer comments to the [Texas Department of Agriculture Hemp Program](#). The comments below are intended to explain the process of starting a hemp program in Texas, and to help explain the more complex rules creation process. These FAQs are, and will be, subject to state and federal statutes and rules, and the final state rules will control the hemp program in Texas. You are **cautioned** not to finalize hemp production plans, purchasing, production and processing agreements until the United States Department of Agriculture (USDA) has finalized its hemp rules, USDA has approved the Texas state hemp plan, and TDA has adopted the rules applicable to the hemp program.*

### **APPLYING FOR A HEMP LICENSE/PERMIT**

A “license” grants an applicant the authority to produce and handle hemp in Texas. A “permit” authorizes a license holder to plant a hemp crop on one lot in Texas. There are separate fees for a license and permit. One license holder may plant more than one lot of hemp per license but will need a separate permit for each lot of hemp planted. Once a lot is harvested, a new permit will need to be obtained in order to plant a new crop of hemp. For example, if a hemp grower has a license, and only plants on one lot per license year, with no changes to the lot, and plants and harvests three hemp crops per license year on the same lot, the hemp grower will have paid for the license and three permits during the license year.

#### **Where can I get a license to grow hemp?**

- It is not currently legal to grow hemp. There is no available license application at this time. TDA is developing an application and will issue hemp licenses after Texas’s state hemp plan is approved by USDA and it has adopted the proposed state rules.
- TDA is required to wait for guidance from USDA on implementation procedures related to the 2018 Farm Bill hemp provisions.

- USDA released its interim final rule for the U.S. Domestic Hemp Program on October 29, 2019. TDA's rules were published January 10, 2020 in the Texas Register. TDA has submitted its revised state plan to USDA for approval.
- Until the TDA's state plan has been approved by USDA and the Texas administrative rules have been adopted by the TDA, it is not legal to grow hemp and licenses to grow hemp will not be issued.

#### **How can I apply for a license to grow hemp?**

- There is no available license application at this time. TDA is developing an application and will be issuing hemp licenses after Texas's state hemp plan is approved by USDA and adopted state rules.

#### **When can I apply for a license to grow hemp?**

- TDA anticipates beginning the application process in early 2020.
- Until the TDA's state plan has been approved by USDA and the Texas administrative rules have been adopted by the TDA (which govern the program), it is not legal to grow hemp and licenses to grow hemp will not be issued.

#### **Is there a waitlist to get a hemp license?**

- No. There is no waitlist. Applications will be open to the public after TDA's state rule adoption and USDA's approval of the Texas state plan.

#### **Will there be a limited number of licenses available?**

- No.

#### **What will be included in the application?**

- TDA is required to wait for guidance from USDA pending approval of the Texas state plan. More information will be available as the state rulemaking process continues. Comments on TDA's proposed rules from citizens and other agencies could alter the currently planned application content.

#### **Who will approve hemp license applications?**

- As with all TDA regulatory licenses, licenses will be reviewed by TDA Licensing Division staff. Hemp license applicants must undergo criminal background checks prior to approval.

#### **How long will it take to process applications for a license?**

- Licenses will be processed in the order received. Once a license has been approved you will need to apply for your lot permit(s). You may not plant until you're your lot permit(s) have been approved.

- TDA has 60 days to review and issue a license.

**Will my license be good for the entire year?**

- Yes, your license is an annual license and will be good for the entire year. According to state statute, a license will terminate after one year, on the last day of the month it was issued.

**Will hemp licenses auto renew?**

- No. A license must be renewed annually and should be renewed prior to license expiration. Renewal applications are subject to the same terms, information collection requirements, and approval criteria as required for initial applications.

**Are there any training requirements that will need to be completed prior to submitting a license application?**

- Yes, an online orientation course must be completed prior to a license being issued to an applicant.

**Can I submit a paper hemp license application?**

- No. An application must be submitted online to TDA. Applicants who may need assistance are encouraged to contact their [TDA regional office](#).

**What would prevent me from obtaining a license?**

- Any applications not fully completed will not be approved. Applicants with a felony conviction involving a drug offense in the past 10 years will not be approved. Application decisions are made without regard to race, color, disability, religion, gender, national origin, age, sexual orientation, veteran's status, genetic information or protected activity.
- The requirements for a license are;
  - (1) the application is submitted online to TDA, unless disabled access is required;
  - (2) the application is complete and accurate;
  - (3) the applicant has completed a TDA mandatory orientation course;
  - (4) the applicant has paid all required fees, in the amounts established by TDA or statute;
  - (5) the applicant's criminal history confirms the applicant and all key participants covered by the license have not been convicted of a felony, under state or federal law, relating to a controlled substance within the past ten (10) years;
  - (6) the application contains no false statements or misrepresentations and the applicant has not previously submitted an application with any false statements or misrepresentations; and
  - (7) the applicant's hemp license in this state or another jurisdiction has not been terminated or suspended;

**Do I have to be a Texas resident to get a Texas Hemp License?**

- Individuals who reside outside of Texas but have ownership or legal control over land within Texas, may apply for a hemp license.

**Is the hemp license the only document I need from TDA to plant hemp?**

- No, an applicant who receives a license will need a permit for each lot of hemp planted. A “license” gives the applicant the authorization to participate in the Texas hemp industry. A “permit” is necessary for someone having a license to plant an area known as a “lot” in hemp.

**Will I need additional documents/information to apply for a permit?**

- Yes. To receive a permit an individual must have the following;
  - (1) License number, geospatial location of the lot where the hemp variety will be planted, the facility where the lot is located, and anticipated dates of cultivation;
  - (2) An application that is missing required information shall be subject to denial;
    - (a) A change in the geospatial location of a lot where the hemp variety will be planted will be considered by the TDA as a new lot.

**May I cultivate, handle, or store hemp in Texas if I have a criminal record?**

- An Individual, and any key participants, must not have had a felony conviction involving a drug offense in the last ten (10) years.

**May I hire employees who have a criminal history?**

- Yes, so long as they are not a key participant having a drug related felony conviction in the last ten (10) years as stated above.

**Can I get an experimental license to grow hemp in Texas?**

- TDA currently has no plans for experimental grow licenses. However, anyone who holds a valid hemp license may do research as long as they follow all rules established for growing hemp by TDA and USDA.
- Universities or entities will be able to obtain research licenses if they meet the statutory definition of an institution of higher education and submit an application as well as all required fees. A hemp research license holder must comply with, and is solely responsible for compliance with, all state and federal laws, rules, and guidelines pertaining to the production and handling of hemp in addition to the laws, rules, and guidelines of any other jurisdiction where such hemp research license holder may produce or handle hemp.

**Do I have to obtain a hemp license if I just plan on growing plants in my house?**

- Yes. Regardless of location, anyone wishing to grow hemp must have a license and at least one lot permit. Applicable fees must also be paid.

**What will be the cost of a license?**

Per the state statute, the license is \$100 and the lot permits (participation fees) are \$100 per lot, regardless of size. Other fees may be applicable. Fees are nonrefundable.

**Does my license pay for the testing of my crop?**

- No.

**Will different locations of hemp production by the same licensee require a different lot permit?**

- Yes, non-contiguous locations (fields/greenhouses) or locations (fields/greenhouses) that are growing separate varieties will be considered different lots and be subject to lot permit fees (participation fees).

**Is there a minimum acreage required to obtain a license?**

- There is no minimum acreage. All hemp growers must have a license.

**How many total hemp growing licenses will be permitted each year?**

- There is no limit to the number of licenses issued.

**If I own property in different counties where I intend to grow hemp, will I need a separate license?**

- You will not need a separate license. The license will cover your registered entity for multiple counties in Texas. Your license will cover multiple facilities. You will need to register each property you own or in which you have legal control over, as a separate facility. You will need separate permits for each lot you intend to plant in each facility. There is no registration fee charged for a facility, other than the original license fee and at least one lot fee, if there is only one facility registered.

**Do I need to contact local county authorities?**

- You must report your hemp crop to your local county USDA Farm Service Agency (FSA) office.
- TDA, the United States Department of Drug Enforcement Administration (DEA), the Texas Department of Public Safety (DPS), and local law enforcement agencies, along with their representatives and employees, shall be provided with complete and unrestricted access to all hemp plants, whether growing or harvested, and all facilities used for the production and storage of all hemp in all locations where hemp is produced or handled.

**Do I need to register my hemp crop with local counties, towns or cities?**

- No.

**Will a custom harvester need a license?**

- Yes. Any individual or entity who handles hemp must have a handler’s license from TDA.

**Do I have to have contract for seed, or the sale or processing of my hemp secured before I can get a permit?**

- No, it is not required to have a contract secured before getting a permit to grow hemp. TDA highly recommends all growers secure a contract with a hemp crop purchaser before growing a hemp crop.

**Can a license or permit be transferred to another person?**

- No.

**Do I also need a handler’s license?**

- Yes, anyone planning to handle a hemp crop will need to obtain a handler’s license from TDA.

**Do I need a handler’s license if I have a grower’s license?**

- If you are handling your own hemp crop, you will not need a handler’s license. If you handle a hemp crop that is not your own, you will need to get a handler’s license.

**GROWING A HEMP CROP**

**When is the best time to plant my hemp crop?**

- Planting timelines depend on soil composition and climate, which varies in the State of Texas. At this time there are no best practices established for planting. For further information, please visit <https://agriflifeextension.tamu.edu/browse/hemp/>.

**How long does it take to grow a hemp crop?**

- Growing seasons depend on soil composition and climate, which varies in the State of Texas. At this time there are no best practices established for hemp growing seasons. For further information, please visit <https://agriflifeextension.tamu.edu/browse/hemp/>.

**Can I process my crop on my own land?**

- Yes. All processing facilities must be registered with TDA. All processing facilities for consumable hemp products are regulated by the Texas Department of State Health Services (DSHS).

## **COSTS OF HEMP PRODUCTION**

### **What are the costs associated with the hemp program?**

- The license fee is \$100.00. The facility fee is \$100.00 per facility. The lot permit (participation fee) is \$100.00 per lot. If you wish to modify your facility site during a one-year licensing period, it is a \$500.00 fee.
- As with any business operation, farming is a financial risk. You should evaluate your options and research vendors and retailers prior to entering any contracts for products, services, and other matters related to hemp farming, processing and production.

### **Is there a fee for testing?**

- Yes, there will be a fee assessed for testing. The fee is determined by the lab completing the testing and must be paid by the producer.

## **HEMP CROP TESTING**

### **When should I schedule for my hemp crop to be tested with TDA?**

- TDA will not conduct any hemp sampling. You must contract with a third-party vendor.
- A sample of a hemp crop must be collected for testing before harvest. The hemp crop should be harvested within 15 days from sample collection. Failure to harvest within 15 days from sample collection will trigger a second and final sample collection. The hemp crop must be harvested within 15 days from the second and final sample collection.

### **How do I become a certified lab eligible to test hemp?**

- The USDA guidelines require that all laboratories planning to test hemp must be DEA certified. Furthermore, Texas House Bill 1325 requires that any laboratory that performs tests must be accredited by an independent accreditation body in accordance with International Organization for Standardization ISO/IEC 17025.

### **May I ship my hemp sample to a different state for testing?**

- Yes. The laboratory must be a DEA Certified lab and have the ISO/IEC 17025 accreditation. The laboratory chosen must be registered with TDA.
- A TDA-issued transport manifest shall accompany all test samples collected and transported to a laboratory for testing.

### **Should I test my crop for tetrahydrocannabinol (THC) levels during the growing process?**

- It is not required by law or rule. Official testing will be done on samples taken by TDA or a certified third party within 15 days prior to harvest and will determine if the crop has the appropriate THC level.

### **How do I become certified to take hemp samples for THC level testing?**

- TDA is currently developing guidelines and skill sets to certify outside and third-party samplers.
- TDA expects that hemp samples will be taken by third-party samplers which the producer contracts with to take hemp samples.

### **What if my samples test above the 0.3 THC level?**

- A second test will be performed, if requested, on the original sample. If the second test is above the 0.3% level, plus any laboratory measure of uncertainty, you will be responsible for destroying the crop according to DEA guidelines and paying for such destruction. The producer pays the lab for the second test also.

### **What happens if my crop tested above 0.3% THC for a second time?**

- If a crop tests above 0.3% THC twice, it will be destroyed by a DEA approved method and party at the licensee's expense.

### **What is the DEA approved disposal process for a crop testing above the 0.3% THC level?**

- There is more than one disposal process. A license holder required to dispose of a crop can contact the DEA and inquire as to accepted means of disposal.

### **If my hemp crop tests above the 0.3 THC level, is there a waiting period before I can get a new license?**

- A failed hemp crop test does not affect the license or license renewal to grow hemp as long as the crop is properly disposed of and the licensee did not produce hemp beyond levels of negligence stated in federal and state rules.

### **Can I take my own samples for official testing?**

- No. Official testing will be done on samples taken by a TDA certified third-party and a laboratory will determine if the crop has the appropriate THC level. TDA expects that the taking of samples will primarily be performed by third-party sampling contractors which the licensee will pay for.

### **Can I harvest my hemp crop prior to my test results?**

- Yes, but the crop must be harvested within 15 days from sample collection. The hemp crop may not leave the license holder's facility for storage unless the license holder has a TDA-issued transport manifest. The transport manifest will not be issued until THC test results are known to



TDA. The harvested hemp crop must be stored in a registered facility unless a licensee stores the harvested hemp on their own facility.

## **HEMP CROP PROCESSING**

### **Can I ship my hemp crop to a different state for processing?**

- Yes. The out of state processor does not have to be registered with TDA.
- A TDA-issued transport manifest shall be required for the transportation of hemp, or a hemp sample, outside a facility where the hemp was produced.

### **Will there be a transport manifest accompanying the shipment?**

- Yes, a transport manifest will be required to accompany any shipment of a hemp crop or a hemp sample.

### **Where will hemp be processed?**

- At this time, there are no hemp processors registered in the State of Texas. Once the Texas State Plan is approved by USDA, and the Texas administrative rules are adopted, processors will need to register and will be listed on the TDA website.

### **Will there be a list of hemp processors made available for non-consumable and consumable hemp?**

- TDA will provide a list of hemp processors for non-consumable hemp. The DSHS website will need to be referred to for consumable hemp processors.

## **GROWING HEMP IN GREENHOUSES**

### **Will I need a permit if I plan to grow my crop in a greenhouse?**

- Yes. You will need to have a license and at least one permit if you plan to grow in a greenhouse.

### **Will I need a new permit for every crop harvested?**

- Yes. You will need to get a new permit for each lot and every crop you plan to harvest.

### **Will a commercial greenhouse be able to sell transplants to other growers?**

- Yes, as long as all of the requirements to harvest the crop have been met, including sampling and testing for THC levels.

### **Will a commercial greenhouse be required to obtain a Nursery Floral License?**

- Yes. Learn more about the Texas Nursey Floral Licensing Program here:  
<https://www.texasagriculture.gov/RegulatoryPrograms/PlantQuality/NurseryFloral.aspx>

## **CERTIFIED HEMP SEED**

### **What is the definition of a TDA certified seed?**

- [“Certified or Approved hemp seed”](#) means seed that meets the legal standards for seed quality and labeling required by Texas and federal law, the legal standards of the jurisdictions from where the seed is originally sold and produced, and the additional hemp seed quality and labeling requirements required by the Department. TDA does not certify the genetics or THC levels of hemp seeds.

### **How can I get certified hemp seed?**

- TDA is required to wait for guidance from USDA on implementation procedures related to the 2018 Farm Bill. There is currently no certified hemp seed available in Texas. Growing conditions vary by region and can produce different results with the same seeds. TDA will make available a list of approved seeds.

### **What do I need to do to ensure I am using the correct seed?**

- Be cautious, research sources, and only buy seed from reputable seed companies.

### **How should I have my soil tested?**

- Soil may be tested by contacting your local AgriLife Extension Agent.

### **Can I use transplants, clones or cuttings from out-of-state?**

- TDA is exploring the viability of allowing the use of out-of-state clones, tissue cultures, seedlings, and transplants; while also protecting Texas hemp crops from out-of-state diseases and pests.

## **CBD & CONSUMABLES**

### **What is a consumable hemp product?**

- A consumable hemp product is a food, drug, device, or cosmetic that contains industrial hemp or hemp-derived cannabinoids, including cannabidiol (CBD). These products may not contain

more than 0.3 percent concentration of tetrahydrocannabinol (THC). For further information, please visit <https://www.dshs.texas.gov/consumerprotection/hemp-program/default.aspx>

### **How do I register to sell CBD in my store?**

- TDA's Hemp Program will encompass the planting, inspection, testing, harvesting and non-consumable processing of hemp crops. DSHS will create a registration/licensing process for processors of, and retailers selling, consumable hemp products containing CBD. Contact DSHS by emailing [DSHSHempProgram@dshs.texas.gov](mailto:DSHSHempProgram@dshs.texas.gov) or visit <https://www.dshs.texas.gov/consumerprotection/hemp-program/default.aspx>

## **OTHER QUESTIONS**

### **Is there crop insurance for hemp?**

- Not at this time. USDA does not anticipate that insurance will be available until at least after the 2020 growing season once more crop information is available.

### **Can I sell/export my hemp crop overseas?**

- For questions or requests for information regarding importing and exporting hemp plants or seeds, please contact the USDA Animal and Plant Health Inspection Service (APHIS) Plant Protection and Quarantine's (PPQ) Permit Services by phone at 301-851-2046/877-770-5990 (Toll-Free) or by email: [plantproducts.permits@usda.gov](mailto:plantproducts.permits@usda.gov).

### **How do I get a list of hemp growers?**

- It is not currently legal to grow hemp in Texas. There is no list of growers available. However, in the future, you may submit a public information request for this information.
- In the future, TDA will have a list of hemp growers on our website.

### **How do I become a hemp inspector?**

- There are currently no openings for hemp inspectors. Hemp is not currently legal to grow in Texas. You can check TDA's current job openings by visiting our website.

### **How can I be part of a stakeholder group?**

- We do not have a stakeholder group at this time. Please check back for updates. TDA will soon have a Hemp Advisory Council helping develop the hemp industry in Texas.

### **What state agencies will I have to be in contact with to legally produce hemp?**

- The Texas Department of Agriculture will regulate non-consumable hemp until the point of processing, or transport of a harvested crop out of the state of Texas. If producing consumables, the Texas Department of State Health Services will set these rules. In addition, you will need to provide your growing locations to USDA Farm Service Agency (FSA). If growing in a greenhouse, or for transplanting, you may need a [Nurse Floral License](#).

### **Should I consult with an attorney to ensure I am following the rules correctly?**

- The rules will be posted through the Texas Register and once adopted on the TDA website. It is up to the individual grower to determine if they should seek legal counsel.

### **How do I file a complaint to the Hemp Program?**

- Any person with cause to believe that any provision of the Texas Agriculture Code has been violated or not complied with by a license holder, may file a complaint with the TDA. TDA will accept either a written or oral complaint but may require the completion and signing of a complaint form before conducting an investigation into the circumstances or situation giving rise to the complaint.

### **Are there any registered pesticides for a hemp crop?**

- Yes. Please visit <https://www.epa.gov/pesticide-registration/pesticide-products-registered-use-hemp>

### **How long am I responsible for the field after the last hemp crop has been harvested?**

- All license holders are responsible for a field at least 3 years after the last hemp crop has been harvested. Fields are susceptible to “volunteer” plant growth and volunteer hemp plants must be disposed of in a DEA approved method.

### **Where should I register the locations on which hemp will be grown?**

- Aside from registering the locations with TDA, all producers must register the locations on which they grow hemp with the USDA Farm Service Agency (FSA). This requirement was set by USDA in the federal guidelines.

### **If I am growing a hemp crop, who can come on my facility?**

- TDA, the DEA, DPS, and local law enforcement agencies, along with their representatives and employees, shall be provided with complete and unrestricted access to all hemp plants, whether growing or harvested, and all facilities used for the production and storage of all hemp in all locations where hemp is produced or handled.

**What do I have to show law enforcement?**

- Documentation confirming the legal producing and/or handling of hemp, i.e., license, manifest, etc.

**Will I be able to sell live, mature plants?**

- TDA is required to wait for guidance from USDA pending approval of the Texas state plan. More information will be available as the state and federal rulemaking processes continue.

**How do I transport my crop after harvest?**

- A TDA-issued transport manifest shall be required for the transportation of hemp, or a hemp sample, outside a facility where the hemp was produced.
- A TDA-issued transport manifest shall accompany all test samples collected and transported to a laboratory for testing.
- A person may not transport hemp in the State of Texas that contains an agricultural pest or disease as listed in [Title 4 of the Texas Administrative Code Chapter 19](#).

**What equipment is needed to harvest my hemp crop?**

- Please visit <https://agriflifeextension.tamu.edu/browse/hemp/>

**Do I have to have the landowner's approval to grow hemp if I am leasing the field?**

- This will depend on the language in the lease.