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Texas to Start Hemp Production in 2020

One of the nation's largest economies and land areas, the State of Texas, is on the brink of producing hemp. In a move that is sure to continue both the growth of the industry and declining commodity prices for hemp, the U.S. Department of Agriculture (USDA) announced on January 28, 2020 that it approved a hemp program for the State of Texas.

Texas, unlike many states, did not implement a hemp pilot program pursuant to the 2014 Farm Bill, and therefore hemp cultivation in the state has remained illegal. However, 2020 is shaping up to be the first year Texas can legally farm hemp since the Marihuana Tax Act banned production the 1930's. The USDA Interim Hemp Rule, which set standards for hemp production in the United States, allows states to submit their own hemp production plans for USDA approval. Such approval allows the state, not USDA, to be the principal regulatory authority to oversee and implement a hemp production plan.

Texas submitted its state hemp program to USDA for approval at the end of 2019, and on January 27, 2020 USDA approved the plan, paving the path for Texas to adopt regulations and allow the farming of hemp and production of hemp derived products. Texas already published its proposed rules that would adopt the hemp program and held a public hearing on January 22, 2020. Therefore, the state has cleared many of the procedural hurdles to begin hemp production in the state.

Now, all eyes are on the Texas Department of Agriculture who must finalize the proposed rules that implement the hemp production plan. TDA's draft rules state the earliest possible date of final adoption is February 9, 2020. Additionally, TDA is expected to release the anticipated applications for hemp licenses that will be required for "any person who wishes to produce, handle or sample and collect hemp at any location in the State of Texas." 4 T.A.C. §§ 24.8(a). TDA's website notes this is expected in early 2020.

In addition to TDA rules, the Texas Department of State Health Services is also required to draft rules pursuant to

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H.B. 1325, which legalized hemp in Texas and set the stage for regulation of hemp and hemp products. Under H.C. 1325, TDA will regulate the production and processing of hemp, while DSHS will regulate consumable hemp products. Now that USDA has approved of the Texas State Plan, DSHS will be working in tandem with TDA to finalize its rules that it drafted to implement H.B. 1325. DSHS's rules, which it also released in draft and subjected to public comment, establish a manufacturing licensure program for consumable hemp products and a registration process for retailers who sell consumable hemp products containing cannabidiol.

The adoption of rules and issuance of applications and licenses are likely to start moving at a quick pace. With growers eager to get seed in the ground, keeping up to date with these developments can help persons and businesses looking to join the hemp economy be early in line for the required approvals. Michael Best has served clients in the hemp industry for the past five years. We will continue to monitor critical updates from Texas and post them here or on LinkedIn. To receive Michael Best's complimentary Cannabis Newsletter, subscribe [here](#).

Some other resources to review and watch for Texas hemp developments are:

- The proposed rules, testing procedures, and sampling procedures can be found [here](#).
- The TDA rules that have been submitted but not finalized are found [here](#).
- The TDA website which contains updates on the state hemp program is a helpful resources, as is the DSHS website.

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