

Brief Update on State Plan, Rulemaking and other Program Activities

Industrial Hemp Advisory Board Meeting

October 14, 2021

State Plan Update

- CDFA submitted a proposed state regulatory plan for hemp production in compliance with the USDA's interim final rule on September 18, 2020.
- CDFA is in communication with USDA to revise the state plan in accordance with the final rule, which took effect on March 22, 2021. CDFA anticipates submitting a revised plan to USDA for review and approval by the end of the year.
- CDFA will notify stakeholders via the electronic listserv once the revised state plan has been submitted, and will post the revised state plan on the program's website.
- Any changes to regulations required to implement the state plan will be proposed by CDFA via regular rulemaking.

Rulemaking Update

| California Code of Regulations Section(s) | Type of Rulemaking | Description | Status | Effective Date |
|-------------------------------------------|--------------------|-----------------------------------------------------------------------------------------|--------------------------------------------------------------------|----------------|
| 4901-4902 | Regular | Registration and Criminal History Report | Adopted | 09/21/21 |
| 4940, 4944, 4946 | Emergency | Timeframes for Pre-harvest notification, sampling, laboratory notification, and harvest | Adopted | 04/09/21 |
| 4940, 4944, 4946 | Regular | Timeframes for Pre-harvest notification, sampling, laboratory notification, and harvest | CDFA proposed on 09/24/2021 and public comments close on 11/8/2021 | |
| 4900 | Regular | Registration Fee | Under Development | |

A copy of the California industrial hemp law and regulations is available on the CDFA Hemp webpage, while proposed regulations are available on CDFA PHPPS Regulations webpage.

Current Registration – 10/13/2021

| Registration Type | Counties | Registrants | Registered Sites | Registered Acreage |
|-------------------|----------|-------------|------------------|--------------------|
| Grower | 29 | 255 | 372 | 4,996 |
| Breeders | 12 | 9 | 13 | 135 |
| Total | 29 | 264 | 385 | 5,131 |

- County with the most registrants
 - San Bernardino (71 registrants)
- County with the most registered acres
 - Riverside (1,058 acres)

A monthly registration summary is available on CDFA's Industrial Hemp Program webpage.

Other Program Activities

- Applying for the board vacancies closed on September 30, 2021
 - Routing documents to the Secretary for selection
- Review and approval of testing laboratories, as of October 13, 2021
 - 16 laboratories have been approved
 - 12 laboratories are still pending approval
- Fill vacant positions
- Update the forms and FAQ

California Code of Regulations
Title 3. Food and Agriculture
Division 4. Plant Industry
Chapter 8. Industrial Hemp Cultivation

Article 2. Regulations for Industrial Hemp Cultivation

4921. Methodology and Procedure to Update the List of Approved Seed Cultivars

- (a) The Secretary adopts the following methodology and procedure to add, amend or remove a ~~seed~~ cultivar from the list of approved ~~seed~~ cultivars.
- (1) Upon request from the chair of the Board, or of any four members of the Board, the Department shall schedule a public hearing to consider a proposal to update the list of approved ~~seed~~ cultivars by adding, amending, or removing ~~seed~~ cultivars. A notice and text of the proposal shall be made available to the public no less than 30 days prior to the hearing.
 - (2) The public hearing to consider a proposal to update the list of approved ~~seed~~ cultivars shall be part of a regularly scheduled meeting of the Industrial Hemp Advisory board.
 - (3) The public hearing shall include:
 - (A) Presentation of the proposal to update the list of approved ~~seed~~ cultivars;
 - (B) Presentation of the purpose for the update; and
 - (C) Opportunity for public comment, pursuant to Section 11125.7 of the Government Code.
 - (4) After receiving comments from the public, the Board shall vote to accept, amend and accept, or deny a proposal for recommendation to the Secretary.
 - (5) Upon recommendation by the Board to adopt a proposal and approval by the Secretary, the Department shall amend the list of approved ~~seed~~ cultivars and shall submit the amended list to the Office of Administrative Law to be filed promptly with the Secretary of State. Pursuant to Section 81002 of the Food and Agricultural Code, the proposal shall not be subject to further review.
 - (6) The Department shall post the list of approved ~~seed~~ cultivars to its website and shall provide electronic and/or mail notification of amendments to list of approved ~~seed~~ cultivars to parties that have requested notification. An interested party may go to the Department's website and elect to receive automatic notifications of any changes to the list of approved ~~seed~~ cultivars via an electronic mail listserv.

(b) Amendment of the methodology and procedure.

- (1) By motion, the Board may recommend amending the methodology and procedure in subsection (a). In consultation with the chair of the Board, the Department shall schedule a public hearing to consider the recommendation, and a notice and text of the proposed amendment shall be made available to the public no less than 30 days prior to the hearing.
- (2) The public hearing to consider a proposal to amend the methodology and procedure shall be part of a regularly scheduled meeting of the Industrial Hemp Advisory Board.
- (3) The public hearing shall include:
 - (A) Presentation of the proposal to amend the methodology and procedure;
 - (B) Presentation of the purpose for the amendment; and
 - (C) Opportunity for public comment, pursuant to Section 11125.7 of the Government Code.
- (4) After receiving comments from the public, the Board shall vote to accept, amend and accept, or deny the proposal for recommendation to the Secretary.
- (5) Upon recommendation by the Board to adopt the amendment and approval by the Secretary, the Department shall amend the methodology and procedure, and shall submit the amended methodology and procedure to the Office of Administrative Law to be filed promptly with the Secretary of State. Pursuant to Section 81002 of the Food and Agricultural Code, the proposal shall not be subject to further review.
- (6) The Department shall provide electronic and/or mail notification of the amendment to the methodology and procedure to parties that have requested notification. An interested party may go to the Department's website and elect to receive automatic notifications of any changes to the methodology and procedure via an electronic mail listserv.

Note: Authority cited: Sections 407 and 81002, Food and Agricultural Code.
Reference: Sections 81001 and 81002, Food and Agricultural Code

4920. List of Approved Seed Cultivars

- (a) The Secretary, as provided in Section 81002 of the Food and Agricultural Code, adopts the following list of approved ~~seed~~ cultivars.
- (1) Industrial hemp seed or propagative materials certified as breeder, foundation, registered, or certified seed or stock by one of the following agencies:
 - (A) Member organizations of the Association of Official Seed Certifying Agencies,
 - (B) Organization of Economic Cooperation and Development, or
 - (C) An officially approved and recognized seed-certifying agency listed in Title 3, California Code of Regulations, Section 3875, as provided in Section 52401 of the Food and Agricultural Code.
 - (2) Industrial hemp seed or propagative materials produced in a quality assurance program approved by one of the following agencies:
 - (A) Member organizations of the Association of Official Seed Certifying Agencies,
 - (B) Organization of Economic Cooperation and Development, or
 - (C) An officially approved and recognized seed-certifying agency listed in Title 3, California Code of Regulations, Section 3875, as provided in Section 52401 of the Food and Agricultural Code.
 - (3) Industrial hemp seed or propagative materials produced by an authorized participant in a state industrial hemp agricultural pilot program, pursuant to Section 7606 of the federal Agricultural Act of 2014 (7 U.S.C. Sec. 5940); or an authorized participant under an approved state, tribal, or federal regulatory plan for hemp production pursuant to Section 297B of the federal Agriculture Improvement Act of 2018 (December 20, 2018) (Public Law 115-334).
 - (A) The crop from which the seed or propagative materials were harvested from shall have been tested in accordance with a testing method approved by the regulatory authority in the state of origin and found to have no more than three-tenths of one percent tetrahydrocannabinol (THC) on a dry weight basis.
 - (B) The commissioner shall be notified of the importation of all propagative materials into the county. The shipment is subject to inspection by the commissioner and shall not be used for cultivation until released by the commissioner (California Food and Agricultural Code Division 4, Part 2, Chapter 2 ~~§~~Sections 6401 and ~~§~~ 6501).

- (4) Industrial hemp seeds or tissue culture plants imported from outside the United States that meets federal importation requirements.
- (A) The crop from which the seeds or tissue culture plants were harvested from shall have been tested in accordance with a testing method approved by the department of agriculture in the country of origin and found to have no more than three-tenths of one percent THC on a dry weight basis.
 - (B) The commissioner shall be notified of the importation of all propagative materials into the county. The shipment is subject to inspection by the commissioner and shall not be used for cultivation until released by the commissioner (California Food and Agricultural Code Division 4, Part 2, Chapter 2 ~~§~~Sections 6401 and § 6501).
 - (C) For the purposes of this section, the term “tissue culture” means in vitro material introduced into culture from nodal cuttings at a particular time and from a single plant and grown in aseptic conditions to be used as a source of propagative material.
- (5) Industrial hemp seed or propagative materials produced in California in accordance with the provisions of Division 24 of the Food and Agricultural Code and this chapter.
- (A) The crop from which the seed or propagative materials were harvested from shall have been tested by a department-approved laboratory and found to have no more than three- tenths of one percent THC on a dry weight basis.
 - (B) The commissioner shall be notified of the importation of all propagative materials into the county. The shipment is subject to inspection by the commissioner and shall not be used for cultivation until released by the commissioner (California Food and Agricultural Code Division 4, Part 2, Chapter 2 Sections 6401 and 6501).

Note: Authority cited: Sections 407 and 81002, Food and Agricultural Code.
Reference: Sections 81001 and 81002, Food and Agricultural Code