Ohio proposes hemp production rules

Recently, the Ohio Department of Agriculture (ODA) closed its public comment period on proposed regulations for Ohio hemp production.

Some adjustments will be made to the proposed regulations to meet the recent release of federal guidelines for hemp production.

For production purposes, Ohio uses the term cultivation, and hemp cultivation refers to all aspects of growing a crop from planting to fertilizing and harvesting.

Cultivating also includes "possessing or storing a plant or crop on a premises where the plant was cultivated until transported to the first point of sale."

The Ohio State University Extension ag law group has written a blog that contains the proposed Ohio hemp production regulations. The major points of these regulations:

- **Cultivation licenses.** Anyone who wants to grow hemp must receive a hemp cultivation license from the Ohio Department of Agriculture. Licenses are valid for three years. To obtain a license, the would-be hemp cultivator must submit an application during the application window, which will be between Nov. 1 and March 31.

The application requires the applicant to provide personal information, and if the applicant is a business, information about who is authorized to sign on behalf of the business, who will be primarily responsible for hemp operations, and the identity of those having a financial interest greater than 10 percent in the entity.

The cultivation license application will also seek information about each location where hemp will be grown, including the GPS coordinates, physical address, number of outdoor acres or indoor square footage, and maps of each field, greenhouse, building or storage facility where hemp will be grown or be stored.

Cultivators must pay a license application fee of $100, and once licensed, an additional license fee of $500 for each growing location, which the rule defines as "a contiguous land area or single building in which hemp is grown or planned to be grown."

All applicants and anyone with a controlling interest in the hemp cultivation business must also submit to a criminal records check.

- **Land use restrictions.** The proposed rules state that a licensed hemp cultivator shall not:
  - Plant or grow cannabis that is not hemp.
  - Plant or grow hemp on any site not approved by the ODA.
  - Plant, grow, handle or store hemp in or within 100 feet of a residential structure or 500 feet of a school or public park, unless approved by the ODA.
  - Co-mingle hemp with other crops without prior approval from ODA.
  - Plant or grow hemp outside of the ODA-approved area.
  - Plant or grow hemp with less than 1,000 plants without prior approval from ODA.
  - Plant or grow hemp within half a mile of a parcel licensed for medical marijuana cultivation.
  - Plant or grow hemp on property that the license holder does not own or lease.
  - Hemp harvesting. Licensed growers would be required to submit a report to ODA at least 15 days before their intended harvest date and pay a pre-harvest sample fee of $150.

ODA then has to sample the hemp for tetrahydrocannabinol (THC) content, and only if approved can a cultivator harvest the crop, which in most cases must occur within 15 days after the sample is taken.

Failing to harvest within the 15-day window may require a second sampling and sampling fee. A cultivator would be required to have a hemp release form from ODA before moving any harvested materials beyond the storage facility.

- **Random sampling.** The proposed rules also allow for random sampling of hemp by ODA and provide details on how ODA will conduct the sampling and charge sampling fees. Any cultivator is subject to random sampling in each location where hemp has been cultivated. ODA will report testing results that exceed 0.3% THC to the cultivator, who may request a second sample.

A cultivator must follow procedures for destroying any leaf, seed, or floral material from plants that exceed 0.3% THC and any material that was co-mingled with the 0.3 THC materials, but may harvest bare hemp stalks for fiber.

- ** Destruction of hemp.** Under the proposed regulations, a license holder must submit a destruction report before destroying hemp and ODA must be present to witness the destruction. The proposed rules also authorize ODA to destroy a crop that was ordered destroyed, abandoned, or otherwise not harvested and assess the costs against the licensee.

- **Records and reports.** Licensed cultivators must submit a planting report on an ODA form for each growing location by July 1 or within 15 days of planting or replanting, which shall include the crop’s location, number of acres or square footage, variety name, and primary intended use.

The rule would also require licensees to submit a completed production report by Dec. 31 of each year. A licensee who fails to submit the required reports would be subject to penalties and fines.

Cultivators must maintain planting, harvest, destruction and production reports for three years.

- **Control of volunteer plants.** A licensee must scout and monitor unused fields for volunteer hemp plants and destroy the plants for a period of three years past the last date of reported planting. Failing to do so can result in enforcement action or destruction of the plants by ODA with costs assessed to the licensee.

These are only highlights of the proposed regulations. However, ODA should be able to have regulations in place for hemp production in 2020.

More information on Ohio’s proposed hemp regulations may be found at [https://farmoffice.osu.edu/blog/mon-10142019-1020am/ohio-ag-law-blog-ohio%26%65%9b-proposed-hemp-rules-are-out](https://farmoffice.osu.edu/blog/mon-10142019-1020am/ohio-ag-law-blog-ohio%26%65%9b-proposed-hemp-rules-are-out)

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