

(Aug. 14, 1946, ch. 966, title II, §296, as added Pub. L. 114-216, §1, July 29, 2016, 130 Stat. 838.)

## SUBCHAPTER VII—HEMP PRODUCTION

### § 1639o. Definitions

In this subchapter:

#### (1) Hemp

The term “hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

#### (2) Indian tribe

The term “Indian tribe” has the meaning given the term in section 5304 of title 25.

#### (3) Secretary

The term “Secretary” means the Secretary of Agriculture.

#### (4) State

The term “State” means—

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

#### (5) State department of agriculture

The term “State department of agriculture” means the agency, commission, or department of a State government responsible for agriculture in the State.

#### (6) Tribal government

The term “Tribal government” means the governing body of an Indian tribe.

(Aug. 14, 1946, ch. 966, title II, §297A, as added Pub. L. 115-334, title X, §10113, Dec. 20, 2018, 132 Stat. 4908.)

### Statutory Notes and Related Subsidiaries

#### INTERSTATE COMMERCE

Pub. L. 115-334, title X, §10114, Dec. 20, 2018, 132 Stat. 4914, provided that:

“(a) **RULE OF CONSTRUCTION.**—Nothing in this title [enacting this subchapter and sections 1627c and 6521a of this title, amending sections 136a, 1622b, 1632a, 1632b, 2204h, 2207b, 2276, 2401, 2402, 2541, 2568, 3003, 5925c, 6502, 6514, 6515, 6518, 6519, 6521-6523, and 7655a of this title and section 714i of Title 15, Commerce and Trade, repealing sections 3005 and 3006 of this title, enacting provisions set out as notes under sections 1627c, 1639o, 6503, and 6521a of this title, and amending provisions set out as a note under section 1621 of this title] or an amendment made by this title prohibits the interstate commerce of hemp (as defined in section 297A of the Agricultural Marketing Act of 1946 [7 U.S.C. 1639o] (as added by section 10113)) or hemp products.

“(b) **TRANSPORTATION OF HEMP AND HEMP PRODUCTS.**—No State or Indian Tribe shall prohibit the transportation or shipment of hemp or hemp products produced in accordance with subtitle G of the Agricultural Marketing Act of 1946 [7 U.S.C. 1639o et seq.] (as added by section 10113) through the State or the territory of the Indian Tribe, as applicable.”

### § 1639p. State and tribal plans

#### (a) Submission

##### (1) In general

A State or Indian tribe desiring to have primary regulatory authority over the production of hemp in the State or territory of the Indian tribe shall submit to the Secretary, through the State department of agriculture (in consultation with the Governor and chief law enforcement officer of the State) or the Tribal government, as applicable, a plan under which the State or Indian tribe monitors and regulates that production as described in paragraph (2).

##### (2) Contents

A State or Tribal plan referred to in paragraph (1)—

(A) shall only be required to include—

(i) a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years;

(ii) a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or territory of the Indian tribe;

(iii) a procedure for the effective disposal of—

(I) plants, whether growing or not, that are produced in violation of this subchapter; and

(II) products derived from those plants;

(iv) a procedure to comply with the enforcement procedures under subsection (e);

(v) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subchapter;

(vi) a procedure for submitting the information described in section 1639q(d)(2) of this title, as applicable, to the Secretary not more than 30 days after the date on which the information is received; and

(vii) a certification that the State or Indian tribe has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi); and

(B) may include any other practice or procedure established by a State or Indian tribe, as applicable, to the extent that the practice or procedure is consistent with this subchapter.

#### (3) Relation to State and tribal law

##### (A) No preemption

Nothing in this subsection preempts or limits any law of a State or Indian tribe that—

(i) regulates the production of hemp; and

(ii) is more stringent than this subchapter.

##### (B) References in plans

A State or Tribal plan referred to in paragraph (1) may include a reference to a law of