



Date **November 3, 2020**

To: **Established Agricultural Research Institutions and Any Interested Parties**

Subject: Update on Hemp Cultivation Requirements for Established Agricultural Research Institutions

The following is to provide clarification on industrial hemp cultivation requirements for established agricultural research institutions as a result of Senate Bill (SB) 153.

SB 153 was signed into law by Governor Newsom on October 12, 2019 to take effect on January 1, 2020. The bill made various amendments to Division 24 of the Food and Agricultural Code (FAC), including changes to the requirements for established agricultural research institutions. While some provisions in the bill took effect on January 1, 2020, others will not become operative until California's state regulatory plan for Industrial Hemp is approved by the U.S. Department of Agriculture (USDA). See section 297B of the federal Agricultural Marketing Act of 1946.

Currently

Established agricultural research institutions (EARIs) are defined in FAC Section 81000(a)(4) as either:

- (A) A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers, or
- (B) An institution of higher education, as defined in Section 101 of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1001), that grows, cultivates, or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.

EARIs are currently exempt from registration to grow industrial hemp. In accordance with FAC Section 81011, an EARI must provide the Global Positioning System coordinates of the planned cultivation site to the commissioner of the county in which the site is located before cultivating industrial hemp.

The California Department of Food and Agriculture (CDFA) may authorize a registered EARI or hemp breeder to cultivate or possess hemp that tests at greater than 0.3% tetrahydrocannabinol (THC), in accordance with its approved research plan or variety development plan, if that cultivation or possession contributes to the development of hemp varieties that will comply with the 0.3% THC limit. The CDFA has not yet proposed regulations to implement this provision. Thus, EARIs are currently prohibited from cultivating or possessing hemp that tests greater than 0.3% THC.



California's Industrial Hemp Plan

Should the USDA approve the State's Industrial Hemp plan, an EARI will be defined in FAC Section 81000(a)(4) as an institution of higher education, as defined in Section 101 of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1001), that grows, cultivates, or manufactures industrial hemp for purposes of agricultural or academic research. EARIs will be required to register with the county agricultural commissioner prior to cultivation in accordance with FAC Section 81004.5.

California's state regulatory plan is currently under review by the USDA. The public will be notified via the email listserv once the state regulatory plan has been approved by the USDA.

CDFA will be promulgating regulations to specify the registration requirements for established agricultural research institutions, as has been done for growers of industrial hemp and hemp breeders.

EARIs that are currently cultivating hemp and that will not meet the revised definition are encouraged to contact their local county agricultural commissioner to discuss the impending transition and how to ensure continued compliance with FAC Division 24 and corresponding regulations. Contact information for county agricultural commissioners can be found at <https://www.cdfa.ca.gov/exec/county/countymap/>. The registration application and other information, including frequently asked questions regarding the registration process, can be found at <http://www.cdfa.ca.gov/plant/industrialhemp/>.

For more information on industrial hemp cultivation, please contact the California Industrial Hemp Program at (916) 654-0435 or industrialhemp@cdfa.ca.gov.