

VRF - The Broker House Compliance Packet

The following compliance package is to provide clarity on the legal status of hemp products containing tetrahydrocannabinolic acid (THCa) concentrations exceeding 0.3% by dry weight, provided that the delta-9 tetrahydrocannabinol (delta-9 THC) levels remain below the 0.3% threshold established by federal law.

1. Core Issue: Delta-9 THC Determines Controlled Substance Status

Under federal law, the distinction between legal hemp and illegal marijuana hinges solely on the concentration of delta-9 THC. The presence of other tetrahydrocannabinol compounds, such as THCa or delta-8 THC, is irrelevant in determining whether a product qualifies as hemp under federal law. Hemp products are considered lawful as long as their delta-9 THC concentration does not exceed 0.3% by dry weight.

2. Hemp's Exclusion from Controlled Substances Status

Hemp was removed from the Controlled Substances Act (CSA) through the Agricultural Improvement Act of 2018 (commonly referred to as the 2018 Farm Bill), which legalized hemp nationwide. The Farm Bill defines hemp as cannabis containing no more than 0.3% delta-9 THC by dry weight, including all derivatives, extracts, and cannabinoids.

It is important to note that while THCa can convert into delta-9 THC when heated, this potential transformation only applies to unharvested hemp. Once the hemp has been harvested, its legal status is determined by the verified delta-9 THC concentration, making THCa content irrelevant for legal purposes.

3. Interstate Commerce and Hemp Products

In accordance with federal law, no state or tribal authority may prohibit the interstate transportation of hemp or hemp-derived products that comply with the legal definition of hemp. The right to transport hemp across state lines is protected under 7 USC § 1621, regardless of individual state regulations.

4. DEA and Legal Precedents on Hemp and Hemp Products

The Drug Enforcement Administration (DEA) has made it clear through its 2020 Interim Final Rule and other statements that cannabis products with delta-9 THC levels below 0.3% by dry weight are not classified as controlled substances. Additionally, the Ninth Circuit Court of Appeals upheld this position in a 2022 ruling, confirming that delta-9 THC concentration is the sole legal metric used to distinguish lawful hemp from marijuana.

Conclusion

In summary, hemp products that contain THCa concentrations exceeding 0.3% by dry weight but maintain delta-9 THC levels under 0.3% are lawful under federal law. As long as these conditions are met, the products can be legally sold and transported, ensuring compliance with federal regulations.

We trust this information will assist in your continued compliance with federal hemp laws. Please ensure that your products meet the delta-9 THC requirements and are accompanied by proper documentation, such as certificates of analysis, to demonstrate their compliance.

If you have any questions regarding the legal status of your hemp products, please do not hesitate to reach out.

Frequently Asked Questions (FAQs) about THCa Flower

What is THCa Flower?

THCa Flower refers to unprocessed, raw cannabis buds containing high percentages of tetrahydrocannabinolic acid (THCa). THCa is the non-psychoactive compound found in raw cannabis, which converts to THC when exposed to heat.

What's the difference between THCa and THC?

THCa is the acidic precursor to THC. When THCa is heated, a process called decarboxylation occurs, causing the compound to lose a carboxyl group and transform into THC, the psychoactive compound. In its raw form, THCa does not produce the psychoactive effects typically associated with THC.

Is THCa Flower Legal?

THCa flower is legal at the federal level under the 2018 Farm Bill, which legalized hemp containing less than 0.3% delta-9 THC. However, some states explicitly ban the sale and possession of THCa flowers because THCa can convert to THC. As of now, four states—Oregon (OR), Idaho (ID), Minnesota (MN), and Arkansas (AR)—prohibit THCa flower. It's important to check your local state laws before purchasing.

What is High THCa Flower?

High THCa flower refers to cannabis flower that tests above 1% THCa. These flowers contain a significant amount of THCa, which may appeal to those who want to experience cannabis in its raw, non-psychoactive form or prefer to convert it to THC through decarboxylation.

Why Buy THCa Flower?

THCa flower offers several benefits:

- It allows you to experience the natural, unprocessed form of cannabis.
 - It's legal at the federal level and can be purchased easily in most states.
 - It can be used in its raw form for health benefits or heated to convert into THC, offering versatility for different consumption methods.
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Is THCa Flower Safe and Convenient to Purchase?

Yes, THCa hemp flower is federally legal and can be conveniently purchased online or in stores. As long as the delta-9 THC content remains under 0.3%, THCa flowers are typically safe and easy to buy. However, always verify the legal status of THCa flower in your state.

Conclusion

THCa flower is gaining popularity as a legal and natural alternative to many products found in dispensaries. It provides a flexible option for those interested in either consuming raw cannabis or converting it into THC. While federally legal, it is banned in a few states, so be sure to check your local laws before making a purchase.

If you're interested in exploring cannabis in a new way, THCa flower is worth trying, offering a unique, versatile experience depending on your preferences.

VRF

On behalf of Viride Research Fund

Re: Regarding the Legal Status of THCa in Smokable Hemp and Other Hemp Products

This letter has been prepared for Viride Research Fund to address the legal status of hemp and hemp products that contain tetrahydrocannabinolic acid (THCa) concentrations exceeding 0.3% by dry weight, provided that delta-9 tetrahydrocannabinol (delta-9 THC) levels remain below 0.3% by dry weight. The key question posed is: "Are hemp flowers, buds, crystals, and other cannabis parts and products with THCa concentrations over 0.3% by dry weight, but delta-9 THC concentrations under 0.3%, considered controlled substances under federal law?" The answer, based on federal law, is "No." The decisive factor for distinguishing lawful hemp from unlawful marijuana is the concentration of delta-9 THC, not THCa.

This conclusion is drawn from an analysis of several federal laws and regulatory guidelines, including the Agricultural Act of 2014 (2014 Farm Act), the Agricultural Improvement Act of 2018 (Farm Bill), the Controlled Substances Act (CSA), the Drug Enforcement Administration's (DEA) Interim Final Rule (IFR), and related DEA letters and court rulings.

This letter focuses solely on the legal status of hemp as defined by these laws and does not address requirements under the Food, Drug & Cosmetic Act, nor any FDA regulations. The analysis herein is exclusively for the Viride Research Fund and is not intended to serve as legal advice for any other party. This opinion is valid as of the date noted above.

Part 1 – The Core Issue: Delta-9 THC, Not THCa, Determines Controlled Substance Status

There are various forms and isomers of tetrahydrocannabinol (THC), with delta-9 THC being the primary compound used to determine the legality of hemp products. Other forms of THC, such as THCa or delta-8 THC, are not relevant in this determination. Federal law is clear that it is the delta-9 THC concentration that defines whether a cannabis product is legally considered hemp or an illegal controlled substance. Therefore, hemp products with less than 0.3% delta-9 THC by dry weight are lawful under federal law, irrespective of their THCa content.

Part 2 – Hemp's Exclusion from Controlled Substances Status

Hemp was initially removed from the CSA in 2014 and further reinforced by the 2018 Farm Bill, which legalized hemp nationwide. The Farm Bill defines hemp as cannabis with no more than 0.3% delta-9 THC by dry weight, including all derivatives, extracts, and isomers. Hemp products, as long as they remain within this threshold, are legal across the United States.

It's important to note that while THCa concentration is relevant before harvest—since THCa can convert into delta-9 THC when heated—this only applies to unharvested hemp. Once hemp has

been harvested and its delta-9 THC concentration is verified to be below 0.3%, its legal status is determined, and THCa content becomes irrelevant for legal purposes.

Interstate Commerce of Hemp Products

Under federal law, states and Indian tribes cannot prohibit the interstate transport of hemp or hemp-derived products that comply with the legal definition of hemp. This is explicitly stated in 7 USC § 1621, ensuring that hemp can be legally transported across state lines, regardless of individual state laws regarding hemp.

DEA and Legal Precedents on Hemp and Hemp Products

The DEA has made multiple public statements confirming that hemp products with delta-9 THC levels below 0.3% are not controlled substances. In its 2020 Interim Final Rule and several follow-up letters, the DEA clarified that only cannabis products with delta-9 THC exceeding 0.3% by dry weight are considered controlled substances.

Additionally, the Ninth Circuit Court of Appeals has upheld this distinction in a 2022 ruling, reinforcing that delta-9 THC concentration is the sole legal metric for differentiating between hemp and marijuana under federal law.

Conclusion

In summary, hemp products, including those containing THCa concentrations above 0.3%, are lawful under federal law as long as their delta-9 THC content does not exceed 0.3% by dry weight. This determination applies to all harvested hemp materials and products made from Hemp.

Viride Research Fund operates within the legal framework established by the Farm Bill, CSA, and DEA guidelines. They maintain compliance with all federal laws by ensuring that their products contain no more than 0.3% delta-9 THC and have the necessary documentation and certificates of analysis to support this compliance.

Sincerely,

Viride Research Fund

Legal Department

Sales Department

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Packaging SOP for Store Owners

Objective:

To ensure that store owners can receive shipments of Hemp-THCA products, properly distribute the product into compliant packaging, heat-seal it for child safety, and add QR code stickers to meet regulatory standards.

1. Receiving Shipment

1. Verify Shipment Contents:

- Check the invoice and verify all items received match the product list (product type, weight, and quantity).
- Ensure the products are accompanied by Certificates of Analysis (COA) from third-party labs verifying the legality of Hemp-THCA content (less than 0.3% delta-9 THC).

2. Inspect Packaging:

- Confirm that the provided packaging (bags/containers) is tamper-evident, child-resistant, and resealable as per federal guidelines.
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2. Properly Distributing Products into Packaging

1. Prepare Packaging:

- Use only the provided packaging that complies with regulations. Ensure it's clean and undamaged before use.

2. Measure Product:

- Measure the product (Hemp-THCA flower, oils, or edibles) according to the weight specified on the invoice using calibrated weighing equipment.
 - Each unit should meet the exact weight requirement for individual sales.
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3. Heat-Sealing Process for Child-Proofing

1. Seal the Packaging:

- Once the product is weighed and placed inside the compliant packaging, use a heat sealer to close the packaging securely.
- Ensure the seal is tamper-evident and child-resistant (mandatory for compliance).

2. **Test the Seal:**

- Check each sealed package to confirm it cannot be easily opened by a child (should be difficult for those under five years old).
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4. **Adding QR Code Stickers**

1. **Apply the QR Code:**

- Place the provided QR code sticker on each sealed bag in a visible location. This QR code must link to the product's COA, batch information, and lab testing results for transparency and regulatory compliance [3].

2. **Verify Information:**

- Ensure that the QR code links directly to correct, up-to-date information (batch number, Delta-9/THCA concentration, etc.).
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5. **Placing Products on Shelves for Sale**

1. **Storage:**

- Store the sealed, labeled packages in a cool, dry area, away from direct sunlight, to maintain product quality.

2. **Display:**

- Ensure that displayed products are in compliance with federal laws (clearly labeled, child-proofed, tamper-evident, with QR codes visible).
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6. **Compliance Review**

1. **Regular Checks:**

- Conduct regular compliance reviews to ensure all packages on display are correctly sealed, labeled, and within the expiration date.

2. **State-Specific Regulations:**

- Verify state-specific requirements and adjust packaging practices as necessary to comply with local laws.
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By following this SOP, store owners can ensure their Hemp-THCA products are compliant with federal regulations, safe for consumers, and ready for retail sale.