

'It's maddening': Lancaster County hemp growers critical of rule that can deem crops illegal

Exiting his pickup truck, Steve Groff stepped out onto an earthen lane earlier this month, gesturing toward a row of tents on his Holtwood farm and the dozens of dark green plants hung to dry inside.

Walking beneath one of the canopies, Groff reached out and grabbed a plant, pulling it to his nose before breathing in.

“You have to smell this,” he said, proud of the crop that looked and smelled a lot like marijuana.

It wasn't, Groff made clear. The plant was actually legally grown hemp, another form of cannabis that can be cultivated in Pennsylvania as long as farmers maintain a strict limit on THC, the psychoactive substance that produces a high.

It's a limit that's easy to accidentally exceed, according to stakeholders like Groff. And failure to comply with regulations can have significant financial consequences, specifically the forced destruction of crops. That's because exceeding the limit, even slightly, means farmers are technically growing an illegal

drug.

“Any crop lost is money lost,” Groff said, and there’s also a psychological toll. “It makes you feel like a criminal, and legitimate farmers are not used to that.”

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Farmer Steve Groff, shows off some of his hemp harvest at his Cedar Meadow Farm in Holtwood Tuesday Dec. 8, 2020.

CHRIS KNIGHT Staff Photographer

Looser rules sought

It’s with those hardships in mind that hemp advocates are calling

for a loosening of the rules, which have been in place since the plant gained federal legitimacy as a cash crop in 2018.

That's according to Erica Stark, executive director of the Pennsylvania Hemp Industrial Council, who outlined the push for leniency by first explaining the difference between hemp and marijuana.

While both are types of the same plant species, hemp is an industrial crop valued for its flowers, fibers and seeds, and marijuana instead is valued for its THC, which can cause intoxication. Marijuana is considered an illegal drug in Pennsylvania when not grown or used in an approved medical capacity.

Any plant with a THC level above 0.3% is considered marijuana — a limit set within the federal Farm Bill, according to U.S. Department of Agriculture officials, who regulate the hemp industry.

That's true despite the fact that 0.3% is well below a level that would cause intoxicating effects, Stark said. Though globally accepted, she called the low percentage “arbitrary,” unsure who came up with the long-standing figure.

“I don't know that we will ever actually know the real reason,” Stark said.



500 hemp permits in PA

The limit also stands locally, said Shannon Powers, a spokeswoman for the state Department of Agriculture, which issues permits to Pennsylvania hemp growers.

“Pennsylvania’s program operates within the parameters of

federal law and the USDA interim hemp rule,” she said.

This year, hemp permits numbered more than 500 in Pennsylvania, with a [state-run hemp map](#) showing upwards of 100 active permits in Lancaster County.

Permit holders are required to have their crops checked for THC, inviting state-approved testers to take samples, which are then sent away to laboratories.

“Each lot of hemp on a farm (a lot is one variety, one field) must be sampled,” Powers said in an email. “It is a small representative sample — not every plant.”

If results exceed the 0.3% threshold, the plants must be destroyed. Stark said farmers in violation stand to lose as much as \$5,000 an acre.

“You can lose everything,” she said. “This is why we highly encourage people getting into it for the first time not to go big. Basically, first-time farmers should not plant any more than they can afford to lose.”



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Exceeding the limits

Of the 758 lots tested this year in Pennsylvania, 66 were above the legal THC limit, Powers said. That means about 9 percent of tested lots had to be destroyed.

Seven of those lots were in Lancaster County, she said.

“Department officials witness all crop destruction ordered,”

Powers said.

It's a process that Groff said he's experienced at his Holtwood operation, [Cedar Meadow Farm](#). There, he grows hemp to extract CBD — a non-psychoactive component of cannabis plants that has grown in popularity as an unofficial remedy to a host of ailments. He markets it to both humans and animals.

Groff, a longtime farmer who runs a successful vegetable farm and offers cover crop coaching to his peers, was honest about past failures. He acknowledged that he's previously exceeded the 0.3% limit, leading to the destruction of crops, costing him both time and money.

“We are not talking about a few thousand bucks,” he said, without sharing his exact losses. “We are spending almost \$10,000 an acre to grow this crop right now.”

From that product, Groff makes about \$4 per pound, drastically less than the \$30 to \$40 estimated in hemp's early days.

Even worse, Groff said, was a test result from earlier this year, when a portion of his hemp crop showed a THC level higher than 0.5%, which regulators have deemed “negligent.” At that level, Stark said, farmers face chances of losing permits or even prosecution.

Even still, 0.5% is not high enough to make a person intoxicated, she said.

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Intoxication very unlikely

The minimum percentage of THC that can cause intoxication can't be set at a certain percentage, according to Morgan Fox, a spokesman for the National Cannabis Industry Association. Often it's based more on personal biology and the physical amount of

THC that is consumed, he said.

Still, Fox backed claims made by opponents of current percentage limits, which he said are low.

“It’s very, very doubtful that people are going to get any psychoactive effect of cannabis at that percentage,” he said.

Groff, who suspects testing was flawed in his 0.5% case, said he makes every effort to meet regulations, using seeds that have been bred to produce crops with low THC. Biology can differ slightly among plants, and Groff said his operation is open to varying weather conditions and other external factors that could play a role in pushing crops over the limit.

“This is the frustration that is out there among farmers right now,” Groff said. “To me, frankly, it’s maddening.”

Maximizing CBD

Things have gone a little more smoothly for Caleb Kauffman, a grower who founded Lancashire Hemp, a 15-farm cooperative on 18 acres throughout the county. Much of that footprint is owned by members of the Plain community, he said.

In their second year, members of the cooperative have so far been able to avoid exceeding THC limits, he said, but that doesn’t mean they still haven’t impacted the bottom line.

Kauffman is farming for CBD, too, by far the most common type of hemp operation in the state.

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To maximize profitability, growers also want to maximize the amount of CBD in their plants' flowers, which could mean allowing crops to mature longer before harvesting or purchasing seeds capable of producing more potent plants.

However, both are risky because rising CBD levels are often accompanied by rising levels of THC, according to multiple growers.

This year, all Pennsylvania samples that tested out of compliance were taken from CBD operations, Powers said. It would be unusual for a fiber-related operation to exceed THC limits Stark said.

Aware of regulations, Kauffman said he has sometimes chosen to grow from less effective seeds or to harvest before his hemp reaches maximum CBD potency.

That's not good in a market saturated with growers trying to offload their products to a limited number of processors and distributors.

"I'm having a very hard time selling the crop that came from those seeds," Kauffman said, well aware that even still he could accidentally exceed set limits. "It is not a guarantee. We are talking about a live plant."

Picking seeds carefully

And Kauffman's situation isn't rare, according to Joe Ullman, co-owner of Atlas Seed, a Bucks County company that develops hemp seeds for distribution to growers, including in Lancaster County.

Occasionally, seeds capable of producing the most CBD-rich flowers are withheld from growers because they also have a higher risk of exceeding the allowable limit of THC.

"There is a whole lot of really good cultivars that can't achieve full ripeness because of the 0.3% limit," he said, fully aware that it hurts their profitability. "I hope that farmers don't get discouraged."

That's especially true, Ullman said, because he believes hemp growers may eventually be able to transition to growing very similar marijuana plants if the drug is ever approved for recreational use in Pennsylvania like it has been in other states.

"Basically, farmers are learning to grow a product that is going to be very valuable," he said.

Powers also said it's likely that hemp farmers will see better success in the future.

"As the hemp industry matures, there will be more source material (seed or starter plants) with known, stable genetics and it will become far less common for hemp to exceed the THC limit," she said.



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Lobbying for rule change

Meanwhile, Stark said she and her colleagues will continue to lobby decision-makers for other meaningful changes, including as federally regulators currently work to review hemp-related rules.

She's hopeful they might up the THC negligence limit, alter the

way plants are tested and implement new harvesting timelines — all practices that she said could protect farmers from losses while allowing them to maximize CBD.

Some similar suggestions were included in a four-page letter from state Agriculture Secretary Russell Redding to the USDA for consideration during the review. In the letter, Redding suggests raising the negligence limit from 0.5% to 2%.



“The 0.5% threshold is too low given that THC levels are subject to swings based on several factors, including location, weather and timing,” the letter reads.

It’s unclear when updated rules will be announced or if those suggestions will be taken into consideration, Stark said. What’s for sure, she said, is the 0.3% THC limit is likely to remain unless

amended by an act of Congress.

On Tuesday, [one such bill was introduced](#) by U.S. Sen. Rand Paul of Kentucky, who aims to move the legal hemp THC limit from 0.3 to 1% in addition to making other related reforms.

Stark said she intends to continue pushing for similar changes.

“None of those have come to fruition yet,” Stark said.