



Federal Aviation Administration

Memorandum

Date: September 16, 2022

To: Federal Aviation Administration Regional Directors, Airport District Office
Managers, Compliance Specialists

From: Kevin C. Willis, Director, Office of Airport Compliance and Management
Analysis (ACO-1) X78741

Subject: Compliance Guidance Letter 2022-04, Marijuana, Hemp, and Cannabis Extracts
Cultivation, Manufacturing, and Distribution at Federally Obligated Airports

I. INTRODUCTION

This Compliance Guidance Letter (CGL) outlines the Federal Aviation Administration's (FAA) clarified position on the cultivation and distribution of marijuana, hemp, and cannabis extracts/byproducts on federally obligated airports. In a memo dated October 1, 2019, the FAA provided guidance regarding marijuana cultivation at federally obligated airports. In short, the guidance stated that the cultivation, storage, or distribution of marijuana is prohibited on federally obligated airport property regardless of any state laws. Marijuana is a Schedule I controlled substance under the Federal Controlled Substance Act (CSA) according to the Drug Enforcement Administration schedule¹. A commercial marijuana distribution operation violates the Controlled Substances Act (CSA) and constitutes a felony under Federal law.²

Since the 2019 policy the FAA received several inquiries about whether cannabidiol (CBD) oil and hemp products are considered controlled substances under this policy. This CGL addresses these questions in consideration of established Federal law governing federally obligated airports. The FAA consulted with the Office of the Chief Counsel (AGC), while developing this CGL, to ensure a consistent and nationwide position on the issue.

¹ DEA is authorized under the CSA to identify the schedule of controlled substances. There are five categories of substances based on several factors established by DEA. Marijuana is classified as a Schedule I substance. According to DEA "Schedule I drugs have a high potential for abuse and the potential to create severe psychological and/or physical dependence." <https://www.dea.gov/drug-information/drug-scheduling>

² 21 USC § 841(a)(1) *Prohibited Acts A*

II. STATUTORY AND REGULATORY REQUIREMENTS AND RESOURCES

FAA Order 5100.38D, *Airport Improvement Program Handbook*, Chapter 2, *Who can get a Grant?* http://www.faa.gov/airports/aip/aip_handbook

Airport Improvement Program Grant Assurances
http://www.faa.gov/airports/aip/grant_assurances/

21 U.S.C. §811 [*Authority and criteria for classification of substances*](#)

[*Lists of: Scheduling Actions Controlled Substances Regulated Chemicals*](#), November 2021, U.S. Department of Justice Drug Enforcement Administration Diversion Control Division Drug & Chemical Evaluation Section Lists of: Scheduling Actions Controlled Substances Regulated Chemicals

21 U.S.C. § 841(a) (1), [*Prohibited Acts A.*](#)

III. GUIDANCE

Marijuana

Marijuana is classified as drug code 7360 by the Drug Enforcement Administration (DEA) and is a Schedule I controlled substance. A commercial marijuana distribution operation violates the Controlled Substances Act (CSA) and constitutes a felony under Federal law. Under Title 21, United States Code, section 841(a)(1), it is "unlawful for any person knowingly or intentionally ... to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance."

A federally-obligated sponsor proposing to lease airport property for the advertisement, cultivation, commercial production, and/or distribution of marijuana presents substantial legal concerns under the aforementioned Federal law. Consequently, a lease of airport property for these purposes would be unlawful, contrary to the public interest, and would subject the sponsor to potential criminal liability as a participant or facilitator of illegal activity. Further, if the FAA Airport District Office (ADO) suspects a violation of Federal law or regulation related to an AIP project (e.g. airport development supporting illegal activity), it is required to notify the DOT Office of Inspector General (OIG). (*See AIP Handbook Table 3-31 Circumstances Requiring OIG Notification*).

Accordingly, the FAA will not approve a change in land use or release of airport property (including interim or concurrent uses of airport land) for the advertisement, cultivation, storage, or distribution of marijuana (as defined by the CSA) at obligated airports.

Other cannabis plant products/extracts

With regard to CBD oil and hemp products, the FAA relies on guidance from the Drug Enforcement Administration (DEA) on policies related to controlled substances on airports. The DEA clarifies that the New Drug Code (7350) is within the definition of marijuana (see website below)

https://www.deadiversion.usdoj.gov/schedules/marijuana/m_extract_7350.html

The clarification indicates any CBD oil and other products, made from parts of the cannabis plant outside the “marijuana” definition of the CSA (and Title 21 U.S.C. §§ 811 and 812) and with a less than 0.3% tetrahydrocannabinol (THC) concentration, are not considered controlled substances.

The FAA also recognizes the Agriculture Improvement Act of 2018 (Farm Act) removed “industrial hemp” from the list of controlled substances outlined in the CSA. As with CBD oil, any hemp produced for commercial use must contain less than a 0.3% THC concentration. Notably, hemp production and sales are still heavily regulated, and state, local, and Federal laws must be followed.

Under these circumstances, and where Federal law allows, the FAA takes no position on the advertisement, cultivation, storage, sale, or distribution of legally allowable cannabis plant products and/or extracts on airport property. However, the FAA retains the authority to regulate airport land acquired with Federal funds or federally conveyed, including limiting the use of airport property to aeronautical purposes to ensure that airport facilities are available to meet existing and future aviation demand at the airport. Commercial or non-commercial use of airport property for or in support of legally-allowable cannabis extract products remain subject to all Federal statutes and FAA policies concerning airport rates, charges, revenue use, and land use. All Federal grant obligations still apply.

**KEVIN
WILLIS**

Digitally signed by
KEVIN WILLIS
Date: 2022.09.18
18:11:29 -04'00'

Kevin C. Willis, Director,
Office of Airport Compliance and Management Analysis