
2018 Farm Bill Policy Guide and Model Hemp Production Plan 2020

PART ONE

INTRODUCTION

The *Agriculture Improvement Act of 2018* (the “**2018 Farm Bill**”) was signed into law on December 20, 2018. The 2018 Farm Bill, among other things, removes hemp (including any part of the cannabis plant containing not more than 0.3% delta-9 THC by dry weight), its extracts, derivatives, and cannabinoids from the *Controlled Substances Act of 1970*, and allows for federally-sanctioned hemp production under the purview of the United States Department of Agriculture (the “**USDA**”), in coordination with state departments of agriculture or Tribal governments that elect to have primary regulatory authority. States¹ and Tribal governments can adopt their own regulatory plans, even if more restrictive than federal regulations, so long as the plans meet minimum federal standards and are approved by the USDA. After a State or Tribal government submits its plan, the United States Secretary of Agriculture (“**Secretary**”) has sixty (60) days to approve or disapprove of the plan. USDA issued an interim final rule (“**IFR**”) on October 31, 2019 governing U.S. hemp production, effective until November 1, 2021, at which time it will be replaced by a final rule (unless adopted earlier). Since the IFR was published, USDA has begun approving plans. Hemp production in jurisdictions that do not choose to submit their own plans (and that do not otherwise prohibit hemp production) will be governed by USDA regulation. Section 7606 of the *Agricultural Act of 2014* (the “**2014 Farm Bill**”) and the pilot programs adopted thereunder will remain authoritative for states operating under such authority (and who do not have a USDA approved plan under the 2018 Farm Bill) until October 31, 2020, at which point the 2014 Farm Bill agricultural pilot program authority will be repealed.

This guide is Part One of an update to the 2018 Farm Bill Policy Guide and Model Hemp Production Plan released on February 28, 2019. This Part One is a compendium document that outlines policy considerations applicable to State² regulation of hemp production, and a model hemp production plan intended to promote compliance with the 2018 Farm Bill and IFR minimum plan requirements (see attached checklist of requirements). It is intended to assist policymakers in the development of State regulatory regimes governing hemp production that meet minimum federal requirements. The model hemp production plan will be updated in the event of any changes to the IFR. Part Two will follow with additional considerations to assist States with creating successful, reasonable, and practical commercial hemp programs. These additional considerations will extend beyond the 2018 Farm Bill and IFR minimum requirements and include processing and transportation considerations.

The 2018 Farm Bill Policy Guide and Model Hemp Production Plan 2020 Part One was produced by a coalition of leading hemp stakeholders: the Vicente Sederberg LLP law firm, Vote Hemp, Agricultural Hemp Solutions, the American Herbal Products Association, and the U.S. Hemp Roundtable. For more information, please contact lead author Shawn Hauser (303-860-4501, shawn@vicentesederberg.com)

¹ Consistent with the 2018 Farm Bill, the term “State” is defined herein to include: (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.

² The policy considerations outlined herein generally apply to Tribal programs, however, Indian Tribes may need to alter specific provisions to suit Tribal needs. Any Indian Tribes interested in submitting a plan utilizing this guide, please contact the organizations or individuals listed herein for additional guidance.

KEY POLICY POINTS

The following are primary policy recommendations for State governments to consider when developing or updating a hemp program:

1. Define “hemp” in accordance with the 2018 Farm Bill but leave the definition open to changes that may occur in future federal legislation to ensure compliance with federal law (see definition below).
2. Amend the definitions of “marijuana” (or marihuana/cannabis), “tetrahydrocannabinols”, and “hashish”, as applicable, in the jurisdiction’s drug control statutes and/or criminal code to exclude hemp and products derived therefrom, in conformance with the 2018 Farm Bill amendments to the Controlled Substances Act of 1970.
3. Grant authority to the respective state department of agriculture to establish rules and a regulatory framework for the cultivation of hemp and impose deadlines by which a state must submit a plan to USDA for approval, adopt rules and regulations to implement the program once the plan is approved, and begin issuing licenses. States that currently operate a 2014 Farm Bill compliant program should consider continuing such program until the 2014 Farm Bill expires on October 31, 2020 to provide some continuity for farmers and allow more time to facilitate a smooth transition to a program that complies with the 2018 Farm Bill.
4. Align regulatory requirements for licensing, registration, fees, cultivation, testing, inspection, and enforcement with the minimum standards for a hemp production plan identified in the 2018 Farm Bill and IFR, which are outlined in the sections that follow. State regulatory requirements should address research and commercial production, as well as procedures for licensing, testing, inspection, reporting, enforcement, disposal, and/or retesting for any hemp lots exceeding the acceptable hemp THC level.
5. Provide a framework that authorizes and provides standards for the acquisition, transportation, and use of seeds and transplants from other jurisdictions.
6. Require post-decarboxylation or other similarly reliable analytical methods for testing hemp plants where the total THC concentration level reported accounts for the conversion of delta-9-THC acid (THCA) into THC to ensure compliance with federal mandates, allow designated third-parties that satisfy state-mandated criteria to collect pre-harvest field samples of cannabis for mandatory potency testing, allow private testing laboratories that satisfy state- and federal- mandated criteria, including registration with the DEA pursuant to 21 CFR 1301.13, to conduct mandatory potency testing, and allow transportation and shipping of hemp samples to those private laboratories, thereby reducing the need for the state to perform or fund such sample collection and testing.
7. Allow license holders to have cannabis and/or hemp tested by third-parties pre- or post- harvest for quality assurance purposes.
8. Establish processes to allow institutions of higher education or private institutions to cultivate hemp for research-related purposes on their property or the property of persons with whom they have a lease, contract, or Memorandum of Understanding.
9. Provide legal protections for the transport of hemp seed, raw hemp and hemp-derived materials produced in compliance with federal law.

MODEL HEMP PRODUCTION PLAN³

I. INTRODUCTION

Pursuant to 7 C.F.R. 990.2, states which seek primary authority over the regulation and production of hemp in their jurisdiction must complete a state plan for review and approval by the United States Department of Agriculture. This document serves as the [STATE] Department of Agriculture's submission of its state plan in compliance with 7 C.F.R. 990.2.

[IF APPLICABLE, INSERT THE FOLLOWING LANGUAGE: As of the date of this document, the Department is still going through the rule making process. Therefore, the regulations that are referred to in this document, and attached as Exhibit [EXHIBIT] are in draft form. The Department will notify the United States Department of Agriculture of any changes that are made to these draft regulations.]

II. DEFINITIONS

- A. **“Acceptable Hemp THC Level”** When a laboratory tests a sample, it must report the Delta-9 THC content concentration level on a Dry-Weight Basis and the Measurement of Uncertainty. The Acceptable Hemp THC Level for the purpose of compliance with the requirements of State Hemp plans is when the application of the Measurement of Uncertainty to the reported Delta-9 THC content concentration level on a Dry-weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported Delta-9 THC content concentration level on a Dry-Weight Basis is 0.35% and the Measurement of Uncertainty is +/-0.06%, the measured Delta-9 THC content concentration level on a Dry-Weight Basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the Acceptable Hemp THC Level for the purpose of Plan compliance.
- B. **“Applicant”** means a Person, or a Person who is authorized to sign for a business entity, who submits an application to participate in the [STATE] Hemp Program.
- C. **“Cannabis”** means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. Cannabis refers to any form of the plant in which the delta-9 concentration on a Dry-Weight Basis has not yet been determined.
- D. **“Commissioner”** means the [STATE] Commissioner or Director of the Department of Agriculture.
- E. **“Conviction”** means a plea of guilty or nolo contendere or any finding of guilt. However, if the finding of guilt is subsequently overturned on appeal, pardoned, or expunged then it is not considered a conviction.

³ The numbering, organization, and terminology utilized herein is suggestive and can be amended in accordance with the particular jurisdiction's current or proposed regulatory structure.

- F. **“Corrective Action Plan”** means a plan set forth by [STATE] for a licensed Hemp producer to correct a negligent violation of or non-compliance with a Hemp production plan, its terms, or any other regulation set forth by [STATE].
- G. **“Criminal History Report”** means the Federal Bureau of Investigation’s Identity History Summary.
- H. **“Culpable Mental State Greater Than Negligence”** means to act intentionally, knowingly, willfully, or recklessly.
- I. **“Decarboxylated”** means the completion of the chemical reaction that converts THC-acid (THCA) into Delta-9 THC, the intoxicating component of Cannabis. The decarboxylated value can be calculated using a conversion formula that sums Delta-9 THC and eighty-seven and seven tenths percent (87.7%) of THC-acid.
- J. **“Decarboxylation”** means the removal or elimination of carboxyl group from a molecule or organic compound.
- K. **“Delta-9 THC”** means Delta-9 Tetrahydrocannabinol, the primary psychoactive component of Cannabis.
- L. **“Department”** means the [STATE] Department of Agriculture.
- M. **“DEA”** means the Drug Enforcement Administration.
- N. **“Dry-Weight Basis”** means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance.
- O. **“FSA”** means the Farm Service Agency.
- P. **“Gas Chromatography”** means a type of chromatography in analytical chemistry used to separate, identify, and quantify each component in a mixture. Gas Chromatography relies on heat for separating and analyzing compounds that can be vaporized without decomposition.
- Q. **“Geospatial Location”** means a location designed through a global system of navigational satellites used to determine the precise ground position of a place or object.
- R. **“GPS”** means Global Positioning System.
- S. **“Handle”** means to harvest or store Hemp plants or Hemp plant parts prior to the delivery of such plants or plant parts for further processing, and includes the disposal of Cannabis plants that are not Hemp for purposes of chemical analysis and disposal of such plants.
- T. **“Harvest Lot”** means a quantity of Hemp, of the same variety, harvested in a distinct timeframe that is: (1) Produced in one contiguous production area within a grow site; or (2) Produced in a portion or portions of one contiguous production area within a grow site. Harvest Lot does not include a quantity of Hemp comprised of Hemp grown in noncontiguous production areas.
- U. **“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 THC concentration of not more than three-tenths of one percent (0.3%) on a Dry-Weight Basis, or as otherwise defined in federal law.

- V. **“Information Sharing System”** means the database mandated under the Act which allows USDA to share information collected under the [STATE] Plan with federal, State, Tribal, and local law enforcement.
- W. **“Inspector”** means a Person designated by the Department to inspect and sample Registered Land Areas. This shall include third-party samplers authorized by the Department.
- X. **“Key Participant”** means a sole proprietor, a partner in partnership, or a Person with executive managerial control in a corporation. A Person with executive managerial control includes Persons such as chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.
- Y. **“Law Enforcement Agency”** means any federal, state, or local law enforcement agency.
- Z. **“Lot”** means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of Cannabis throughout the area.
- AA. **“Marijuana”** means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. The term “Marijuana” does not include Hemp, as defined in section 297A of the Agricultural Marketing Act of 1946, and does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of the such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. “Marijuana” means all Cannabis that tests as having a concentration level of THC on a Dry-Weight Basis of higher than 0.3 percent.
- BB. **“Measurement of Uncertainty”** means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity, subject to measurement.
- CC. **“Negligence”** means failure to exercise the level of care that a reasonably prudent person would exercise in complying with the regulations set forth under this part.
- DD. **“Person”** means a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other forms of a legal business entity, as well as a state or local government entity.
- EE. **“Plan”** means a set of criteria or regulations under which [STATE], or USDA, monitors and regulates the production of Hemp.
- FF. **“Postdecarboxylation”** means a value determined after the process of Decarboxylation that determines the total potential Delta-9 THC content derived from

the sum of the THC and THCA content and reported on a Dry-Weight Basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, Gas Chromatography, through which THCA is converted from its acid form to its neutral form, THC. This test calculates the total potential THC in a given sample. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact, and requires a conversion calculation of that THCA to calculate total potential THC in a given sample. See the definition for Decarboxylation.

GG. “Produce” means to grow Hemp plants for market, or for cultivation for market, in the United States.

HH. “Producer” means a producer as defined in 7 CFR 718.2⁴ that is licensed or authorized to produce Hemp under this part.

II. “Process” means to convert any portion of a Hemp crop into a Hemp ingredient, Hemp product, or other marketable forms. Typical farm operations such as, but not limited to, sorting, grading, baling, drying, and harvesting are not considered “processing”.

JJ. “Producer” means a Person licensed by the [DEPARTMENT] to Produce Hemp.

KK. “Registered Land Area” means a contiguous Lot, parcel, or tract of land registered with the [DEPARTMENT] on which a licensee Produces Hemp. A Registered Land Area may include land and buildings that are not used to Produce Hemp.

LL. “Reverse Distributor” means a Person who is registered with the DEA in accordance with 21 CFR 1317.15 to dispose of Marijuana under the Controlled Substances Act.

MM. “Secretary” means the Secretary of Agriculture of the United States.

NN. “THC” means tetrahydrocannabinol and has the same meaning as Delta-9 THC, measured Postdecarboxylation.

OO. “USDA” means the United States Department of Agriculture.

III. COMPLIANCE WITH FEDERAL LAW

A. Nothing in this Plan authorizes any Person to violate any federal law or regulation.

IV. HEMP PRODUCER OBLIGATIONS: APPLICATION FOR LICENSURE

A. Prospective Hemp Producers shall apply for licensure utilizing [METHOD FOR APPLICATION] that is approved by the Department.

B. An application shall include contact information for each Hemp Producer covered under the Plan. This information may be provided by [METHOD OF APPLICATION: MAIL, FAX, OR EMAIL].

⁴ Note, a state may choose to directly include the definition from 7 CFR 718.2: “Producer means an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. A producer includes a grower of hybrid seed.”

- (1) Each Applicant shall provide the following minimum information on an application:
 - (a) The full legal name of the Applicant;
 - (b) The physical address of the Applicant;
 - (c) The mailing address of the Applicant;
 - (d) The email address of the Applicant; and
 - (e) The phone number of the Applicant.
 - (f) [ADDITIONAL INFORMATION]
- (2) If the Applicant is a business entity, the Applicant shall provide the following information on an application:
 - (a) The full name of the business;
 - (b) The federal tax identification number of the business;
 - (c) The mailing address of the business;
 - (d) The principal business location in the state of [STATE];
 - (e) The full name of the individual who is authorized to sign on behalf of the business entity;
 - (f) The full name, title, and email address of the individual who will be primarily responsible for the Hemp operations of the business entity;
 - (g) The identity of every Key Participant in the business entity applying for licensure;
 - (h) The information required for each Applicant must be provided for each Key Participant;
 - (i) A background check to be completed by [AGENCY COMPLETING BACKGROUND CHECK];
 - (j) Phone number for the business entity; and
 - (k) Email address for the business entity.

See [CITATION TO APPLICABLE REGULATIONS]; [ATTACHED APPLICATION FORM]

C. An application shall include a legal description for land where Hemp is Produced in the [STATE].

- (1) Each Applicant shall provide the following information for each growing location upon application and annually with each renewal:
 - (a) The global positioning coordinates;
 - (b) The physical address, maps for each field, [GREENHOUSE], building, or storage facility where Hemp will be Produced or stored; and
 - (c) The number of outdoor acres, [INDOOR SQUARE FOOTAGE].

See [CITATION TO APPLICABLE REGULATIONS]

V. DEPARTMENT OBLIGATIONS: DATA COLLECTION

- A. The Department shall maintain and report to the USDA the status of licensed Producers, (and any changes) and license or authorization numbers of Producers.
- B. The Department shall compile all application information into a database and transmit information regarding licensed Producers to the USDA. Specifically, the Department shall provide to the USDA, by the first of each month, a report providing the contact information and the status of the license or other authorization issued for each Producer licensed in [STATE]. The Department shall utilize form AMS-23 titled “STATE AND TRIBAL HEMP PRODUCER REPORT” to meet this requirement.
 - (1) The Department shall include the following information in the report referenced in the paragraph above:
 - (a) For each new Producer who is an individual and is licensed or authorized by the Department, the report shall include the full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available);
 - (b) For each new Producer that is an entity and is licensed or authorized by the Department, the report shall include the full name of the entity, the principal business location address, license or authorization identifiers, and the full name, title, and email address (if available) of each employee for whom the entity is required to submit a Criminal History Report;
 - (c) For each Producer that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information;
 - (d) The status of each Producer’s license or authorization;
 - (e) The period covered by the report; and
 - (f) Indication that there were no changes during the current reporting cycle, if applicable.

See [CITATION TO APPLICABLE REGULATIONS]

VI. SAMPLING AND TESTING

- A. Sampling procedures shall mirror the “Sampling guidelines for Hemp growing facilities” released by the USDA. The method used for sampling from the flower material of the Hemp plant shall be sufficient at a confidence level of ninety-five percent (95%) that no more than one percent (1%) of the plants in the Harvest Lot would exceed the Acceptable Hemp THC Level. The method used for sampling shall ensure that a representative sample is collected that represents a homogeneous composition of the Lot. For purposes of determining the number of primary plants to sample, the Department calculated [METHOD OF CALCULATION]. The minimum samples to be collected are as follows:

[CHART OR DESCRIPTION OF MINIMUM SAMPLES TO BE COLLECTED PER ACRE RANGE].

B. All samples will be taken and collected by an Inspector.

- (1) Inspectors shall take an eight-inch (8") cutting from the top of the central stem of the selected Cannabis plant.
 - (a) If the plant selected does not have enough floral material to make up an eight-inch (8") sample on the central stem, the Inspector shall take additional floral material from the top one-third (1/3) of the plant that was selected until at least eight inches (8") of floral material is obtained.

See [CITATION TO APPLICABLE REGULATIONS]

C. A Hemp Producer must arrange and ensure sampling of each Harvest Lot for Delta-9 THC concentration level testing no more than fifteen (15) days prior to the harvest date anticipated.

- (1) Each Producer must notify the Department of its intended harvest date at least [NUMBER OF DAYS] in advance of an anticipated harvest. This window provides the Inspector the time needed to visit the growing location and collect the samples within fifteen (15) days prior to the anticipated harvest.
- (2) A Hemp Producer or an authorized representative of the Producer must be present at the Registered Land Area during sample collection.
- (3) The Inspector shall have complete and unrestricted access during business hours to all Hemp and other Cannabis plants and all land, buildings, etc., used for cultivation and/or handling.
- (4) Sampling must be completed before a Producer may harvest any Hemp.
- (5) A Harvest Lot may not be moved from the Producer's Registered Land Area or Processed in any way until the Department confirms that the Cannabis has tested within the Acceptable Hemp THC Level.
- (6) Producers shall keep all Harvest Lots separated until the Department has notified the Producer that each Harvest Lot has tested within the Acceptable Hemp THC Level.
- (7) Producers shall dispose of any Harvest Lot that tests above the Acceptable Hemp THC Level or has been comingled with a Harvest Lot that tests above the Acceptable Hemp THC Level in accordance with the procedures in Section VII.

See [CITATION TO APPLICABLE REGULATIONS]

D. The testing for Delta-9 THC concentration procedures shall require accurate identification of the Acceptable Hemp THC Level.

- (1) Testing methods include but are not limited to:
 - (a) Postdecarboxylation or other similarly reliable method;

- (b) Consideration of potential conversion of THCA into THC and test result that measures total available THC (THC + THCA);
 - (c) Use of gas or liquid chromatography with detection or other similarly reliable method; and
 - (d) Procedures to determine total THC concentration on a Dry-Weight Basis.
- (2) All testing for Delta-9 THC concentration shall be conducted at a laboratory registered with the DEA to Handle controlled substances and meets any other requirement set forth by the USDA⁵.
 - (3) All laboratories authorized by the Department shall adhere to standards of performance set out by the USDA for detecting THC concentration, including the Measurement of Uncertainty.
 - (4) Samples shall be analyzed using [METHOD OF ANALYSIS] that meets the following standards:
 - (a) The testing methodology shall consider the potential conversion of THCA in Hemp into THC;
 - (b) The test result shall measure the total available THC derived from the sum of the THC and THCA content;
 - (c) The THCA result shall be modified by the molecular weight conversion factor 0.877 prior to summation with THC; and
 - (d) The total Delta-9 THC level shall be determined and reported on a Dry-Weight Basis.
 - (5) The Department shall allow a Producer to request [NUMBER] retests if the Producer believes that the THC concentration level test results were in error.
 - (a) The Producer requesting the retest of the second sample is responsible to pay for the cost of the test.
 - (b) The retest results shall be issued to the Producer requesting the retest and a copy shall be provided to the Department.

VII. DISPOSAL PROCEDURES

- A. The Producer shall ensure that any Hemp plants Produced that do not meet the requirements of this Plan are disposed of in accordance with the Controlled Substances Act and DEA regulations found at 21 CFR 1317.15 as enforced by federal, state, and local law enforcement.
- B. The Producer shall notify the Department of their intent to dispose of non-conforming plants and verify disposal by submitting the following Department required documentation [REFERENCE TO DISPOSAL FORM OR DOCUMENTATION].

⁵ Note, USDA is considering additional laboratory requirements such as ISO accreditation.

C. The Department shall notify the USDA of non-compliant plants and disposal of those plants from the Lot where representative samples were taken by filing a Hemp disposal report:

- (1) The Department shall file the Hemp disposal report with the USDA by the first (1st) business day of each month.
- (2) The Department shall utilize form AMS-24 titled, "STATE AND TRIBAL HEMP DISPOSAL REPORT."
- (3) The Department shall provide the following information within the Hemp disposal report:
 - (a) Name and address of the Producer;
 - (b) Producer license or authorization identifier;
 - (c) Location information, such as Lot number, location type, and Geospatial Location or other location descriptor for the Registered Land Area subject to disposal;
 - (d) Information on the agent handling the disposal;
 - (e) Disposal completion date; and
 - (f) Total acreage of Harvest Lot disposal.

See [CITATION TO APPLICABLE REGULATIONS]

VIII. INSPECTION PROCEDURES

A. The Department shall conduct annual inspections of, at a minimum, a random sample of Producers to verify that Hemp is not Produced in violation of the Plan. The Department may randomly inspect all Registered Land Areas at any time. The Department shall randomly inspect and sample Registered Land Areas according to the following methodology:

- (1) [DESCRIPTION OF RANDOM SAMPLING PROTOCOL].

See [CITATION TO APPLICABLE REGULATIONS]

IX. REPORTING REQUIREMENTS

A. Licensed Hemp Producers shall share the following information with the FSA using the following [INFORMATION SHARING METHODOLOGY]:

- (1) Hemp crop acreage;
- (2) Reporting of total acreage of Hemp planted, harvested, and disposed;
- (3) License or authorization number;
- (4) Street address;
- (5) Geospatial Location(s) of each Harvest Lot where Hemp will be Produced; and
- (6) Acreage of greenhouse or indoor square footage dedicated to the production of Hemp.

See [CITATION TO APPLICABLE REGULATIONS]

X. ENFORCEMENT PROCEDURES

A. The Department shall issue a Corrective Action Plan to any Producer that the Department has determined negligently:

- (1) Failed to provide a legal description of land;
- (2) Failed to obtain a license; or
- (3) Produced Cannabis with THC exceeding the Acceptable Hemp THC Level, except that a Producer does not commit a negligent violation if they make reasonable efforts to grow Hemp and the Cannabis Produced does not have a THC concentration of more than 0.5 percent on a Dry-Weight Basis.

See [CITATION TO APPLICABLE REGULATIONS]

B. The Department shall provide the following information for the correction of negligent violations:

- (1) A reasonable date to correct the violation;
- (2) Reporting requirements for two (2) years from date of the negligent violation;

C. Producers that have a negligent violation three (3) times within a five (5) year period shall be ineligible to Produce Hemp for a period of five (5) years from the date of the third (3rd) violation.

D. Negligent violations are not subject to federal, state, tribal, or local government criminal enforcement action.

E. [STATE] shall conduct inspections to determine if a Corrective Action Plan has been implemented and followed.

F. Negligent violations of [CITE TO CODIFIED REGULATIONS UNDER THE PLAN] shall not subject to criminal enforcement action by the state.

G. The Department shall deny, suspend, or revoke a license if the licensed Producer, Applicant, or Key Participant has provided any false or misleading information on an application or renewal application.

H. A Person who is adversely affected by the denial of a license, denial of a license renewal, or suspension or revocation of a license may appeal such a decision according to [STATE's] administrative law procedures.

I. The Department shall report any violations made with a Culpable Mental State Greater Than Negligence to the U.S. Attorney General and the [STATE] Attorney General.

J. No license shall be issued to any Person or entity with a Key Participant that has a state or federal felony Conviction relating to a controlled substance that occurred ten (10) years or less from the date of application.

- (1) The Department shall except from this ban any Key Participant who were lawfully growing Hemp under the 2014 Farm Bill before October 31, 2019 and whose Conviction also occurred before that date.

K. Key Participants that have a state or federal felony Conviction relating to a controlled substance that occurred ten (10) years or less will be deemed ineligible to Handle Hemp.

(1) The Department shall except from this ban any Key Participant who were lawfully growing Hemp under the 2014 Farm Bill before October 31, 2019 and whose Conviction also occurred before that date.

See [CITATION TO APPLICABLE REGULATIONS]

XI. CERTIFICATION OF RESOURCES AND PERSONNEL

SAMPLE CERTIFICATION

[INSERT DEPARTMENT OF AGRICULTURE LETTERHEAD]

Hemp Program Certification

by [Insert Commissioner of Agriculture's Full Name],
Commissioner of Agriculture

Pursuant to Section 297B(a)(2)(A)(vii) of the Agriculture Improvement Act of 2018, I certify that the [STATE] Department of Agriculture has the resources and personnel necessary to carry out each of the practices and procedures identified in Section 297B(a)(2) of the Act.

Date: [DATE]

Respectfully,

[Signature of Commissioner]