

NEBRASKA STATE HEMP PLAN

Statutory Authority:

Pursuant to the Nebraska Hemp Farming Act (Act) Neb. Rev. Stat. §§2-501 to 2-519, the Department of Agriculture (NDA) is responsible for the administration and enforcement of the Act. The Act is attached in Appendix 1.

Plan Overview

1. The Act establishes the Nebraska Legislature's intent that NDA be granted primary regulatory authority over the production of hemp in Nebraska. This State Plan is intended to provide for the monitoring and regulation of such hemp production;
2. NDA will comply with all requirements for state plans in 7 CFR Part 990;
3. NDA is in the process of adopting regulations to further clarify the requirements of the Nebraska State Hemp Plan. The Nebraska Administrative Procedure Act, Neb. Rev. Stat. §84-901 *et seq.*, governs the procedure for promulgation of such regulations, including review and public notice and opportunity for comment;
4. NDA will use the following license number scheme when assigning license or authorization numbers so that the number will be 31_0001, 31_0002, 31_0003, and so forth;
5. All information required for states to submit to the United States Department of Agriculture (USDA) will be emailed to USDA no later than thirty (30) days after the date NDA receives the information.

I. NDA will maintain relevant producer and land information

1. The Act provides in §2-505(2) that all applicants for hemp cultivation licenses must provide NDA with the following information:
 - (a) The applicant's full name, birthdate, mailing address, telephone number, and valid email address. If the applicant is an entity and not an individual, the name of the applicant, mailing address, telephone number, and valid email address, the full name of each officer, director, partner, member, or owner owning in excess of ten percent of equity or stock in such entity, and the birthdate, title, mailing address, telephone number, and valid email address of each such person. State law requires that individuals applying for any license must be a United States Citizen or be a qualified alien. NDA will use the e-verify system for all non-citizen individuals requesting licenses. NDA will also require the EIN number of the business entity;
 - (b) The proposed acreage to be cultivated or the square footage of a greenhouse or other indoor space to be cultivated;
 - (c) The street address, legal description, location ID, and GPS coordinates for each field, greenhouse, building, or other site where hemp will be cultivated. The site information may be verified by the NDA; and

- (d) Maps depicting each site where hemp will be cultivated, with appropriate indications for entrances, field boundaries, and specific locations corresponding to the GPS coordinates provided under subdivision;
2. NDA plans to maintain the information listed in Paragraph 1, above, along with information for other key participants as defined in 7 CFR 990.1, by creating an Excel spreadsheet and saving associated documentation in Hyland Software's information platform OnBase, for a period of at least five (5) years and will keep all information updated;
 3. NDA plans to require licensed cultivators to report their hemp crop acreage to the USDA Farm Service Agency (FSA) and to report to FSA their state license number. Licensed cultivators will also be required to report their FSA lot numbers to NDA within ten (10) days of receiving a lot number;
 4. NDA will provide to USDA contact information and all license and authorization numbers for each licensed cultivator by filling out the USDA State and Tribal Producer Report attached in Appendix 2 and emailing it to USDA the first of every month. If the first falls on a holiday or weekend, the reports will be emailed on the next business day;
 5. License holders are required by the Act to inform NDA of any changes in all information required by NDA;
 6. NDA will update USDA regarding contact information and license and authorization numbers once a month by filling out the USDA State and Tribal Producer Report for new producers and changes to existing producer information and emailing it to USDA at the first of every month. If the first falls on a holiday or weekend, the reports will be emailed on the next business day;
 7. The Act requires in §2-510(1) that to obtain a license, the applicant must consent to a background check for any felony controlled substance conviction in the ten years prior to the time of application for all of the individuals listed on the application. NDA will require all applicants to submit a criminal history report for each individual listed on the application which covers Nebraska felony drug convictions for the preceding ten (10) years and an attestation regarding federal convictions during the same time period until the Nebraska State Patrol obtains approval to run federal background checks for this purpose.

II. NDA will provide for accurate and effective sampling and testing

1. The Act requires in §2-514(8) that the test sample shall be obtained from flowering tops when flowering is occurring, shall be approximately eight inches in length, and shall consist of the fan leaf, the stalk, the flower, and, if available, the seed head;
2. NDA will sample or require USDA approved samplers to sample within 15 days of the anticipated harvest date;
3. NDA plans to use a method for sampling that will result in at least a confidence level of 95% that no more than one percent (1%) of the plants in the lot would exceed the acceptable hemp THC level and will represent a homogenous composition of the lot by

following USDA's sampling protocol described in the Sampling Guidelines attached in Appendix 3 except that NDA may require more plants in each sample;

4. NDA plans to require the license holder or authorized representative to be present during the sample collection at the growing site;
5. The Act provides in §2-514(2) that NDA may, at its discretion, conduct sampling and testing of any hemp from any licensee at any time and to obtain a license, the applicant must consent to NDA entry onto all registered sites, with or without cause, and with reasonable advance notice;
6. The Act in §2-503(11) defines hemp as the plant *Cannabis sativa* L. and any part of such plant, including the viable seeds of such plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis;
7. For the purpose of determining compliance with the requirements of the Act and the Nebraska State Hemp Plan, NDA will deem hemp to have an acceptable THC level if, the test results indicate 0.3% THC or less is within the distribution or range of the measurement of uncertainty;
8. The Act requires in §2-514(1) that hemp from each cultivation site registered with NDA shall be tested for total potential delta-9 tetrahydrocannabinol concentration prior to harvest by an approved testing facility at the license holder's expense. To meet the Act's definition of hemp, the testing must be done on a dry weight basis;
9. NDA will inform all licensed cultivators that if they harvest before samples are taken or before results confirm the cannabis is hemp, they will be in violation of the Act and will be subject to enforcement actions;
10. The Act provides in §2-514(4) that testing of hemp prior to harvest shall be conducted using post-decarboxylation or other similarly reliable methods for the testing of delta-9 tetrahydrocannabinol concentration. NDA plans to approve only laboratories meeting AOAC International standard method performance requirements for selecting an appropriate method. At a minimum, the testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test result must reflect the total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting these requirements include, but are not limited to, gas chromatography and high-performance liquid chromatography;
11. The Act provides in §2-514(5) that testing of hemp shall be conducted by a testing facility approved by NDA. NDA plans to require testing facilities to comply with the Testing Guidelines attached in Appendix 4 except that NDA plans to require ISO 17025 accreditation.
12. NDA plans to only approve a United States Drug Enforcement Administration (DEA) registered testing facility with ISO 17025 accreditation, which NDA plans to require to list on each analysis report the measurement of uncertainty;

13. The Act provides in 2-514(10) that the testing facilities shall provide a report giving the results of the potency analysis of each sample. For tests directed by NDA, the report is required to be provided to the licensed cultivator and a copy of the report shall be issued to NDA. The report is required to be provided before the harvest date;
14. NDA plans to require testing facilities to report results to USDA in accordance with 7 CFR 990 and to use the Laboratory Test Results Report attached in Appendix 5. NDA will require that the testing facilities additionally send this report to NDA with proof that it was sent to USDA;
15. The Act requires in §2-514(11) that when a test result is adverse, NDA may require a licensed cultivator to have further tests done and may require destruction of any plants in any portions of the site containing noncompliant plants;
16. The Act requires in §2-510(1) that to obtain a license, the applicant must consent to destruction of hemp:
 - (a) Found to have a measured delta-9 tetrahydrocannabinol concentration greater than 0.3%;
 - (b) Hemp intended for commercial purposes that is present at a location not included in the license application; and
 - (c) Hemp that is cultivated in a manner that violates the Act;
17. NDA plans to require that all noncompliant hemp in the possession of a license holder, or on a registered site, be destroyed and disposed of in accordance with the Controlled Substances Act (CSA) and the DEA regulations. NDA plans to require that the material must be collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA registered reverse distributor or a duly authorized Federal, State, or local law enforcement officer;
18. Section 2-515(1) of the Act requires that licensed cultivators transporting hemp cultivated under the Act shall carry with the hemp being transported a copy of their licensed cultivator license and a copy of the test results pertaining to such hemp;
19. NDA will allow sampling of hemp based on the lots established between the licensed cultivator and FSA so long as the lot only contains one variety of hemp. NDA will use for regulatory purposes the lot number the licensed cultivator has received from FSA. If a final test result for a lot is above 0.3% total THC, NDA plans to require that the whole lot be destroyed;
20. NDA plans to not allow licensed cultivators to commingle lots until all lots to be commingled have been sampled, tested and have test results showing an acceptable delta-9 THC level.

III. Plan for disposal procedures

1. NDA will require license holders to dispose of cannabis that is not compliant with the Act or USDA requirements;

2. NDA plans to require licensed cultivators to:
 - (a) Use the assigned FSA lot number for each lot of a single variety in a field.
 - (b) Keep records of all transfers of harvested hemp crops to a processor or out-of-state recipient. The records shall be kept by the lot number and shall include:
 - (i) Dates of harvest and transfer;
 - (ii) Name and address of any processor or other recipients;
 - (iii) Estimate of the amount of hemp transferred on a dry weight basis;
 - (iv) Records of sampling in conformance with sampling protocols,
 - (v) A certificate of analysis for each lot identified; and
 - (vi) A description of any lot that was disposed of for being non-compliant.
 - (c) NDA plans to require a licensed cultivator who distributes live hemp plants to keep records of all transfers of live hemp plants to another licensed cultivator or out-of-state recipient. The records shall be kept by FSA lot number and shall include:
 - (i) Dates of transfer;
 - (ii) Name and address of the other licensed cultivator or other recipient; and
 - (iii) Number of hemp plants transferred.
 - (d) NDA plans to require licensed cultivators to send the disposal records listing the lot number to NDA within ten (10) days and to keep the required records for a minimum of three (3) years from harvest date by lot number;
3. NDA plans to require that license holders with cannabis which tested above the acceptable delta-9 THC level must dispose of such cannabis in accordance with the CSA and the DEA regulations found at 21 CFR 1317.15. NDA plans to require that the material must be collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA registered reverse distributor or a duly authorized Federal, State, or local law enforcement officer;
4. NDA plans to require that the State and Tribal Hemp Disposal Report attached in Appendix 6 must be used to document the disposal process of cannabis which was found to be above the acceptable delta-9 THC level;
5. NDA will send USDA State and Tribal Hemp Disposal Report including test results by email every first of the month and include in the information received from the licensed cultivator. If the first falls on a holiday or weekend, the reports will be emailed on the next business day. NDA will file the Report even on months that no disposals have occurred in Nebraska.

IV. Plan for inspection procedures

1. The Act provides in §2-504 NDA the authority to adopt regulations on procedures for conducting, at a minimum, annual inspections of a random sample of hemp licensed cultivators and processor-handlers to verify that hemp is not cultivated, processed, or handled in violation of the Act or the state plan as well as, at its discretion, conduct other inspections of a licensed cultivator's or processor-handler's operation, including all sites registered with NDA;
2. The Act provides in §2-510 that to obtain a license, the applicant must consent to NDA inspections to verify that hemp is not cultivated, processed, or handled in violation of the Act;
3. NDA will require sampling of every registered cultivation site by FSA lot number prior to harvest. If there are no other USDA approved samplers in Nebraska which are unbiased and meet NDA standards for chain of custody, reliability and responsibility, NDA will only use NDA staff or temporary staff which meet the requirements for USDA approved samplers. If there are other USDA approved samplers in Nebraska available to conduct the regulatory sampling required pre-harvest, NDA may use such samplers for at least some of the required sampling;
4. NDA will perform random annual inspections of up to twenty-five (25) percent of the license holders selected as a part of an impartial sample to determine adherence to requirements. The inspections will include a review of records and documentation, and may include site visits to farms, fields, greenhouses, storage facilities, or other locations affiliated with the licensed cultivator's hemp operation. The inspections will include the current crop year, as well as any previous crop year(s). If NDA determines under an inspection that the producer is not compliant, NDA will require a corrective action plan or take other enforcement action as required by the Act and the Nebraska State Hemp Plan. The licensed cultivator's implementation of a corrective action plan will be reviewed by NDA during a future inspection;
5. NDA will inspect during the growing season any licensed cultivator NDA has a reason to believe may be in violation of the Act, including but not limited to licensed cultivators under a corrective action plan.

V. Plan for collection of information

1. Pursuant to the Act in §2-505(8) an application and supporting documents submitted to NDA are not public records but such information may be submitted to the United States Department of Agriculture pursuant to the requirements of section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, or any other federal statute, rule, or regulation, and may be submitted to law enforcement;
2. NDA will submit by email to USDA the State and Tribal Hemp Producer Report and the State and Tribal Disposal Report the first of every month, or the first business day thereafter, all information NDA has on such date.
3. NDA plans to inform licensed cultivators they are required to comply with USDA requirements for providing information to FSA including:

- (a) The hemp crop acreage or acreage of greenhouse or indoor square footage dedicated to the production of hemp;
 - (b) A report of total acreage of hemp planted, harvested, and disposed;
 - (c) Their license or authorization numbers;
 - (d) All street addresses and geospatial location(s) of each lot or greenhouse where hemp will be produced. If the licensed cultivator operates in more than one location, such information will be required to be provided for all production sites;
4. NDA will submit, by email the State and Tribal Hemp Annual Report attached in Appendix 7 to USDA by December 15 of 2020, and each year thereafter. NDA will include in the report the total planted acreage, total acreage disposed and the total harvested acreage for Nebraska.

VI. Plan to comply with enforcement procedures

1. The Act provides in §2-511(1) that upon a determination by NDA that any person in the state has unintentionally violated the Act, the state plan, any rules and regulations under the act, a corrective action plan, or an order NDA, NDA may issue a cease and desist order and a corrective action plan;
2. NDA plans to ask the Nebraska Legislature in the 2020 legislative session to amend the Act so that it mirrors the provisions of 7 CFR Part 990 regarding negligent violations. Under the current Act, NDA will deem unintentional violations to include:
 - (a) Failure to provide legal description of land;
 - (b) Failure to obtain a license;
 - (c) Production of cannabis with THC exceeding the acceptable hemp THC level which does not rise to the level of an intentional violation of the Act;
3. The Act provides in §2-511(4) that a corrective action plan may include:
 - (a) A reasonable date by which the license holder shall correct the unintentional violation;
 - (b) A requirement that the license holder shall periodically report to the NDA on the compliance of the license holder with the corrective action plan for a period of not less than the next two calendar years;
 - (c) An administrative fine of up to five hundred dollars per day; and
 - (d) A temporary suspension of a license;
4. NDA will include in all corrective action plans:
 - (a) A reasonable date to correct the violation and reporting requirements for 2 years from date of the negligent violation;

- (b) Provisions that any person that commits a negligent violation 3 times within a 5-year period is ineligible to produce hemp for a period of 5 years from the date of the 3rd violation;
 - (c) NDA shall conduct inspections to determine if corrective action plan has been implemented; and
 - (d) Violations are not subject to other federal, state, tribal, or local government criminal enforcement action;
5. The Act provides in §2-511(3) that any person who unintentionally violates the Act, the state plan, any regulations under the Act, a corrective action plan, or an order of NDA three times in a five-year period shall be ineligible to obtain a license to cultivate, handle, process, or broker hemp for a period of five years beginning on the date of the third violation;
 6. The Act provides in §2-511(2) that any person who commits a violation under that section of the Act shall not be subject to any additional criminal enforcement by state or local government authorities other than authorized under this section of the Act;
 7. The Act provides in §2-512(1) that upon a determination by NDA that any person in the state has intentionally violated the Act, the state plan, any regulations under the Act, or an order of NDA, NDA shall notify the United States Attorney General; the Nebraska Attorney General; and the county attorney for the county in which the violation occurred. When NDA determines a violation was committed with a culpable mental state greater than negligence, NDA will immediately report the violations to the US Attorney General, USDA, and the NE Attorney General;
 8. The Act provides in §2-512(2) that any person who intentionally violates the Act, the state plan, any regulations under the Act, a corrective action plan issued pursuant to this section, or an order of NDA three times in a five-year period shall be ineligible to obtain a license to cultivate, handle, process, or broker hemp for a period of ten years beginning on the date of the third violation;
 9. The Act provides in §2-507(1) that applications shall be denied if any individual listed in the application for a license has been convicted of a felony related to a controlled substance under either state or federal law within the preceding ten years. Section 2-505(2) of the Act provides that a business entity must list on the application anyone holding ten percent or greater interest in the business;
 10. The Act provides in §2-507(3) that any person who intentionally and materially falsifies any information contained in an application under the Act shall be ineligible to obtain a license to operate as a licensed cultivator, processor-handler, or broker.

VII. NDA certifies that the hemp program has resources and personnel to carry out required Farm Bill practices and procedures

1. The Act establishes the Nebraska Hemp Program Fund in §2-509. The fund is administered by NDA for the purpose of covering the costs of administering the Act. The fund may receive appropriations by the Legislature, gifts, grants, federal funds, and any

other funds both public and private. All fees collected by NDA under §2-508 of the Act are required to be remitted to the State Treasurer for credit to the fund;

2. Pursuant to §2-508(1) of the Act the NDA's Director may raise or lower such fees prior to July 1 of each year to meet the criteria in this subsection, but the fee shall not be greater than the amount in column B of §2-508(2);
3. The Act provides in 2-508(2) establishes fees as follows:

Fees	A	B
Licensed cultivator, processor-handler, and broker license application fee	\$100	\$150
Licensed cultivator site registration fee	\$400 per site	\$600 per site
Processor-handler site registration fee	\$800 per site	\$1,200 per site
Site modification fee	\$50	\$75

4. The fees are expected to raise \$236,000 on an estimated;
 - (a) 270 cultivator Licenses; 30 processor-handler licenses and 15 broker licenses;
 - (b) 400 registered cultivation sites and 50 registered processor sites; and
 - (c) 90 site modifications.
5. With the adoption of LB 657 of 2019 (which adopted the Act) the Nebraska Legislature adopted an appropriation bill which set the spending authority for the Nebraska Hemp Program Fund at \$50,000 for fiscal year 2019-2020, and at \$110,000 for fiscal year 2020-2021. The appropriation bill also capped salaries and per diems at a total of \$50,000 for the first fiscal year and \$75,000 for the second;
6. NDA estimates for the 2020 calendar year, implementing the Nebraska State Hemp Plan will cost approximately \$231,152 based on:
 - (a) Salaries of \$169,798
 - (b) Operating expenses of \$25,332;
 - (c) Travel of \$8,340; and
 - (d) Repayments to other NDA funds used to cover hemp program costs in 2019 of \$27,692.
7. NDA has already hired staff to work on the Hemp Program:
 - (a) A program manager was hired on June 1, 2019, beginning as a half time position with the position becoming full time on November 18, 2019;

- (b) A half time staff assistant for the hemp program was filled and then vacated but NDA plans to have it filled again by January 15, 2020;
- (c) A half time inspector for the hemp program has been hired to start January 6, 2020.
8. NDA will use the existing inspection and investigation staff to cover the sampling procedures set out in the Nebraska State Hemp Plan and the Act. NDA currently has four (4) inspectors who will be used for this purpose and one investigator who will be used as needed;
9. NDA will seek to ensure an appropriate level of spending authority for the hemp program, to hire an additional half time inspector for the hemp program, and to allow the hemp fund to pay for staffing costs related to the hemp program that are currently absorbed by existing staff being paid by general funds. During the 2020 legislative session NDA plans to request the Nebraska Legislature for additional spending authority to ensure the Nebraska Hemp Program Fund is used to cover the costs of administering the hemp program.

As required by §2-516 of the Nebraska Hemp Farming Act, I, Steve Wellman, certify that the Nebraska Department of Agriculture submits this Nebraska State Hemp Plan after having consulted with the Governor of Nebraska, Pete Ricketts, and with the Nebraska Attorney General, Douglas J. Peterson:

NEBRASKA DEPARTMENT OF AGRICULTURE



Steve Wellman, Director



Date

APPENDIX 1

Submitted to USDA
Pending Approval

2-501. Act, how cited.

Sections 2-501 to 2-519 shall be known and may be cited as the Nebraska Hemp Farming Act.

Source: Laws 2019, LB657, § 1.

Operative Date: May 31, 2019

2-502. Statement of policy; purpose of act.

It is the policy of this state that hemp is recognized as a viable agricultural crop. The purpose of the Nebraska Hemp Farming Act is to:

- (1) Align state law with federal law regarding the cultivation, handling, marketing, and processing of hemp and hemp products;
- (2) Promote the cultivation and processing of hemp and open up new commercial markets for farmers and businesses through the sale of hemp products;
- (3) Establish testing and compliance procedures;
- (4) Promote the expansion of Nebraska's hemp industry to the maximum extent permitted by law and allow farmers and businesses to cultivate, handle, and process hemp and sell hemp products for commercial purposes;
- (5) Encourage and empower research into hemp cultivation and the processing of hemp products at postsecondary institutions in the state and in the private sector;
- (6) Facilitate interstate commerce by not impeding the shipment of hemp into and out of this state; and
- (7) Return Nebraska to the forefront of the hemp industry.

Source: Laws 2019, LB657, § 2.

Operative Date: May 31, 2019

2-503. Terms, defined.

For purposes of the Nebraska Hemp Farming Act:

- (1) Broker means a person who engages or participates in the marketing of hemp by acting as an intermediary or negotiator between prospective buyers and sellers;
- (2) Commercial sale means the sale of products in the stream of commerce, at retail, wholesale, and online;
- (3) Commission means the Nebraska Hemp Commission;
- (4) Cultivate or cultivating means planting, watering, growing, and harvesting a hemp plant or crop;
- (5) Cultivator means a person who cultivates hemp;

(6) Department means the Department of Agriculture;

(7) Director means the Director of Agriculture or his or her designee;

(8) Federally defined THC level for hemp means a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis as defined in section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019;

(9) GPS coordinates means latitude and longitude coordinates derived from a global positioning system;

(10) Handle or handling means possessing or storing hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp. Handle or handling also includes possessing or storing hemp plants in a vehicle for any period of time other than during its actual transport from the premises of a person licensed to cultivate or process hemp to the premises of another licensed person. Handle or handling does not include possessing, storing, or transporting finished hemp products;

(11) Hemp means the plant *Cannabis sativa* L. and any part of such plant, including the viable seeds of such plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Hemp shall be considered an agricultural commodity. Notwithstanding any other provision of law, hemp shall not be considered a controlled substance under the Uniform Controlled Substances Act;

(12) Licensee means an individual or a business entity possessing a license issued by the department under the Nebraska Hemp Farming Act to cultivate, handle, process, or broker hemp;

(13) Location ID means the unique identifier established by a licensee for each unique set of GPS coordinates where hemp is cultivated, handled, or processed;

(14) Nebraska heirloom cannabis plant or seed means a hemp plant or seed from the plant *Cannabis sativa* L. that possesses characteristics of a unique and specialized cannabis seed variety that is present in Nebraska or has been recognized as produced in Nebraska;

(15) Person means an individual, partnership, corporation, limited liability company, association, postsecondary institution, or other legal entity;

(16) Postsecondary institution means a postsecondary institution as defined in section 85-2403 that also meets the requirements of 20 U.S.C. 1001, as such section existed on January 1, 2019;

(17) Process or processing means converting hemp into a marketable form;

(18) Processor-handler means a person who handles or processes hemp;

(19) Site means an area defined by the same legal description in a field, greenhouse, or other outdoor area or indoor structure;

(20) Testing facility means a testing facility approved by the department; and

(21) THC means tetrahydrocannabinol.

Source: Laws 2019, LB657, § 3.

Operative Date: May 31, 2019

Cross References

- **Uniform Controlled Substances Act**, see section 28-401.01.

2-504. Authorized activities; department; duties; rules and regulations.

(1) Notwithstanding any other provision of law, it shall be lawful:

(a) For a licensee or his or her employee or agent to cultivate, handle, process, or broker hemp in Nebraska and to transport hemp outside of Nebraska; and

(b) To possess, transport, sell, and purchase lawfully produced hemp products.

(2) The department shall establish, operate, and administer a program to license and regulate cultivators, processor-handlers, and brokers that meets the requirements of section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019, and the Nebraska Hemp Farming Act. Nebraska heirloom cannabis plant or seed not being cultivated for commercial purposes is not subject to the Nebraska Hemp Farming Act.

(3) The department may adopt and promulgate rules and regulations to implement the Nebraska Hemp Farming Act and administer programs, including, but not limited to, the following:

(a) Practices to maintain relevant information regarding land where hemp is cultivated, handled, or processed in the state, including a legal description of such land, for a period of not less than three calendar years;

(b) Procedures governing the sampling, chain of custody, and testing of hemp cultivated, handled, or processed in the state;

(c) Procedures for the effective destruction of plants cultivated, handled, or processed in violation of the Nebraska Hemp Farming Act and hemp products made from those plants;

(d) Procedures implementing enforcement provisions outlined in the Nebraska Hemp Farming Act, including factors to be considered when issuing administrative fines;

(e) A procedure for conducting, at a minimum, annual inspections of a random sample of hemp cultivators and processor-handlers to verify that hemp is not cultivated, processed, or handled in violation of the Nebraska Hemp Farming Act or the state plan as described in section 2-516. The department may, at its discretion, conduct other inspections of a cultivator's or processor-handler's operation, including all sites registered with the department;

(f) A procedure for submitting required information to the United States Secretary of Agriculture not more than thirty days after the information is received; and

(g) Any other standard, practice, or procedure required by the Nebraska Hemp Farming Act.

Source: Laws 2019, LB657, § 4.

Operative Date: May 31, 2019

2-505. Cultivation of hemp; application; form; contents; application fee; site registration fee; cultivator license; expiration; renewal; change in ownership or location; effect.

(1) Hemp may only be cultivated by a person meeting the requirements of section 2-5701 or in compliance with this section.

(2) Before a person may be licensed to cultivate hemp, such person shall submit an application on a form prescribed by the department that includes, but is not limited to, the following:

(a) If the applicant is an individual, the applicant's full name, birthdate, mailing address, telephone number, and valid email address;

(b) If the applicant is an entity and not an individual, the name of the applicant, mailing address, telephone number, and valid email address, the full name of each officer, director, partner, member, or owner owning in excess of ten percent of equity or stock in such entity, and the birthdate, title, mailing address, telephone number, and valid email address of each such person;

(c) The proposed acreage to be cultivated or the square footage of a greenhouse or other indoor space to be cultivated;

(d) The street address, legal description, location ID, and GPS coordinates for each field, greenhouse, building, or other site where hemp will be cultivated. The site information may be verified by the department; and

(e) Maps depicting each site where hemp will be cultivated, with appropriate indications for entrances, field boundaries, and specific locations corresponding to the GPS coordinates provided under subdivision (d) of this subsection.

(3) Before a person may be licensed to cultivate hemp, such person shall submit with the application a nonrefundable application fee as set by the department pursuant to section 2-508.

(4) Before a person may be licensed to cultivate hemp, such person shall submit with the application a site registration fee as set by the department pursuant to section 2-508. The site registration fee shall be paid for each separate site where the applicant will cultivate hemp. Subsequent modifications to the sites listed in the application shall be submitted on forms prescribed by the department along with a site modification fee and shall only take effect upon written approval of the department. The applicant must certify that all sites where hemp is to be cultivated are under the control of the applicant and that the department shall have unlimited access to all such sites.

(5) After the department receives approval by the United States Secretary of Agriculture for the state plan described in section 2-516, an initial cultivator license application may be submitted at any time, except that the department may set a cutoff date for applications ahead of the growing season. An initial cultivator license issued by the department expires on December 31 in the calendar year for which it was issued.

(6) A renewal application for a license to cultivate hemp shall be submitted on forms prescribed by the department. A renewal application is due by December 31 and shall be accompanied by the cultivator license fee and the site registration fee for all sites listed in the renewal application. The renewal cultivator license is valid from January 1 or when the license is granted, whichever is later, through December 31 next following.

(7) A cultivator license shall lapse automatically upon a change of ownership or location, and a new license must be obtained. The licensee shall promptly provide notice of change in ownership or location to the department.

(8) An application and supporting documents submitted to the department under this section are not public records subject to disclosure pursuant to sections 84-712 to 84-712.09. Such information may be submitted to the United States Department of Agriculture pursuant to the requirements of section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019, or any other federal statute, rule, or regulation, and may be submitted to law enforcement.

Source: Laws 2019, LB657, § 5.

Operative Date: May 31, 2019

2-506. Processor-handler or broker; license; application; form; contents; application fee; site registration fee; processor-handler or broker license; expiration; renewal; change in ownership or location; effect.

(1) Except for approved testing facilities, a person shall not process, handle, or broker hemp in this state unless the person meets the requirements of section 2-5701 or is in compliance with this section and licensed as a processor-handler or broker under the Nebraska Hemp Farming Act.

(2) Before a person other than an approved testing facility may be licensed to process, handle, or broker hemp in this state, such person shall submit an application on a form prescribed by the department that includes, but is not limited to, the following:

(a) If the applicant is an individual, the applicant's full name, birthdate, mailing address, telephone number, and valid email address;

(b) If the applicant is an entity and not an individual, the name of the applicant, mailing address, telephone number, and valid email address, the full name of each officer and director, partner, member, or owner owning in excess of ten percent of equity or stock in such entity, and the birthdate, title, mailing address, telephone number, and valid email address of each such person;

(c) The street address, legal description, location ID, and GPS coordinates for the site where hemp will be processed or handled, if applicable; and

(d) Maps depicting the site where hemp will be processed or handled, if applicable, with appropriate indications for entrances and specific locations corresponding to the GPS coordinates provided under subdivision (c) of this subsection.

(3) Before a person other than an approved testing facility may be licensed to process, handle, or broker hemp, such person shall submit with the application a nonrefundable application fee as set by the department pursuant to section 2-508.

(4) Before a person other than an approved testing facility may be licensed to process or handle hemp, such person shall submit with the application a nonrefundable site registration fee as set by the department pursuant to section 2-508. The site registration fee shall be paid for each separate site where hemp is processed or handled. Subsequent modifications to the sites listed in the application shall be submitted on forms prescribed by the department along with the site modification fee and shall only take effect upon written approval of the department. The applicant must certify that all sites where hemp is to be processed or handled are under the control of the applicant and that the department shall have unlimited access to all such sites.

(5) After the department receives approval by the United States Secretary of Agriculture for the state plan submitted pursuant to section 2-516, an initial processor-handler or broker license application may be submitted at any time. An initial processor-handler or broker license issued by the department expires on December 31 in the calendar year for which it was issued.

(6) A renewal application for a processor-handler or broker license shall be submitted on forms prescribed by the department. A renewal application is due by December 31 and shall be accompanied by the processor-handler or broker license fee and, if applicable, the site registration fee for all sites listed in the renewal application. The renewal processor-handler or broker license is valid from January 1 or when the license is granted, whichever is later, through December 31 next following.

(7) A processor-handler or broker license shall lapse automatically upon a change of ownership or location, and a new license must be obtained. The licensee shall promptly provide notice of change in ownership or location to the department.

(8) A processor-handler licensee who also brokers hemp shall not be required to also obtain a broker license under this section.

(9) An application and supporting documents submitted to the department under this section are not public records subject to disclosure pursuant to sections 84-712 to 84-712.09. Such information may be submitted to the United States Department of Agriculture pursuant to the requirements of section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019, or any other federal statute, rule, or regulation, and may be submitted to law enforcement.

Source: Laws 2019, LB657, § 6.

Operative Date: May 31, 2019

2-507. Approval and denial of license applications; rules and regulations; minimum qualifications; denial of license; hearing.

(1) The department may adopt and promulgate rules and regulations governing the approval and denial of cultivator, processor-handler, and broker license applications. Such applications shall be denied if they are incomplete or deficient, or if the applicant does not meet minimum qualifications, including, but not limited to:

(a) The applicant, if an individual, is at least eighteen years of age;

(b) The site registered by the applicant is located in this state;

(c) The applicant has no unpaid fees or fines owed to the state under the Nebraska Hemp Farming Act;

(d) The applicant has not had a cultivator, processor-handler, or broker license revoked in the five years preceding the date of application; or

(e) Any individual listed in the application for a cultivator, processor-handler, or broker license has not been convicted of a felony related to a controlled substance under either state or federal law within the preceding ten years.

(2) If an application is incomplete or deficient, the department shall, in a timely manner, notify the applicant in writing describing the reason or reasons and request additional information. If such application is not corrected or supplemented within thirty days after the department's request, the department shall deny the application.

(3) Any person who intentionally and materially falsifies any information contained in an application under the Nebraska Hemp Farming Act shall be ineligible to obtain a license to operate as a cultivator, processor-handler, or broker.

(4) A person aggrieved by the denial of a license may request a hearing pursuant to section 2-513.

Source: Laws 2019, LB657, § 7.

Operative Date: May 31, 2019

2-508. License fees; delinquent fee; administrative fee; waiver by department; grounds.

(1) License fees under the Nebraska Hemp Farming Act are due on or before December 31 and shall be in the amount listed in column A of subsection (2) of this section. The fees due on or before December 31, 2019, and by each December 31 thereafter shall be set by the director on or before July 1 of each year. The director may raise or lower such fees each year to meet the criteria in this subsection, but the fee shall not be greater than the amount in column B of subsection (2) of this section. The same percentage shall be applied to each category for all fee increases or decreases. The director shall use the fees in column A of subsection (2) of this section as a base for future fee increases or decreases. The director shall determine the fees based on estimated annual revenue and fiscal year-end cash fund balances as follows:

(a) The estimated annual revenue shall not be greater than one hundred seven percent of program cash fund appropriations allocated for the Nebraska Hemp Farming Act; and

(b) The estimated fiscal year-end cash fund balance shall not be greater than seventeen percent of program cash fund appropriations allocated for the act.

(2) Fees.

Fees	A	B
Cultivator, processor-handler, and		
broker license application fee	\$100	\$150

Cultivator site registration fee	\$400 per site	\$600 per site
Processor-handler site		
registration fee	\$800 per site	\$1,200 per site
Site modification fee	\$50	\$75

(3) Any fee remaining unpaid for more than one month shall be considered delinquent and the person owing the fee shall pay an additional administrative fee of twenty-five percent of the delinquent amount for each month it remains unpaid, not to exceed one hundred percent of the original amount due. The department may waive the additional administrative fee based upon the existence and extent of any mitigating circumstances that have resulted in the late payment of such fee. The purpose of the additional administrative fee is to cover the administrative costs associated with collecting fees, and all money collected as an additional administrative fee shall be remitted to the State Treasurer for credit to the Nebraska Hemp Program Fund.

Source: Laws 2019, LB657, § 8.

Operative Date: May 31, 2019

2-509. Nebraska Hemp Program Fund; established; use; investment.

The Nebraska Hemp Program Fund is established. The fund shall be administered by the department for the purpose of covering the costs of the department in administering sections 2-504 to 2-516 and 2-5701. The fund may receive appropriations by the Legislature, gifts, grants, federal funds, and any other funds both public and private. All fees collected by the department under sections 2-508 and 2-5701 shall be remitted to the State Treasurer for credit to the fund. Transfers from the Nebraska Hemp Program Fund to the Noxious Weed Cash Fund may be made as provided in section 2-958. Transfers from the Nebraska Hemp Program Fund to the Fertilizers and Soil Conditioners Administrative Fund may be made as provided in section 81-2,162.27. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2019, LB657, § 9.

Operative Date: May 31, 2019

Cross References

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

2-510. Cultivator, processor-handler, or broker; consent to certain actions; acknowledges risk of financial loss under act.

(1) A cultivator, processor-handler, or broker consents to all of the following:

(a) A background check for any felony controlled substance charge in the ten years prior to the time of application completed by the department or a law enforcement agency at the direction of the department, at any time, for all of the individuals listed on the cultivator's, processor-

handler's, or broker's application at the applicant's expense, which shall be in addition to the application and registration fees;

(b) Entry onto, and inspection of, all registered sites by the department or by persons at the direction of the department, with or without cause, and with reasonable advance notice;

(c) Testing of samples of any hemp or hemp material;

(d) Destruction of any of the following:

(i) Hemp found to have a measured delta-9 tetrahydrocannabinol concentration greater than that allowed by the Nebraska Hemp Farming Act;

(ii) Hemp intended for commercial purposes that is present at a location not included in a cultivator's or processor-handler's application; and

(iii) Hemp that is cultivated, processed, handled, or brokered in a manner that violates the Nebraska Hemp Farming Act or the rules and regulations adopted and promulgated thereunder; and

(e) Inspections by the department, at least annually, of cultivators and processor-handlers to verify that hemp is not cultivated, processed, or handled in violation of the Nebraska Hemp Farming Act.

(2) A cultivator, processor-handler, or broker acknowledges that all risk of financial loss under the Nebraska Hemp Farming Act is borne by such person. No compensation shall be paid by the department or the State of Nebraska for destruction of any hemp under this section.

Source: Laws 2019, LB657, § 10.

Operative Date: May 31, 2019

2-511. Unintentional violations; director; powers; criminal enforcement; ineligibility to obtain license; corrective action plan; contents; administrative fine; recovery.

(1) Upon a determination by the director that any person in the state has unintentionally violated the Nebraska Hemp Farming Act, a state plan as described in section 2-516 approved by the United States Department of Agriculture, any rules and regulations adopted and promulgated under the act, a corrective action plan issued pursuant to this section, or an order of the director, the director may:

(a) Issue an order specifying the provisions of the act, state plan, rule or regulation, corrective action plan, or order alleged to be violated and the facts alleged to constitute a violation;

(b) Issue a cease and desist order to the violator; and

(c) Issue an order for a corrective action plan in accordance with this section.

(2) Any person who commits a violation under this section shall not be subject to any additional criminal enforcement by state or local government authorities other than authorized under this section.

(3) Any person who unintentionally violates the Nebraska Hemp Farming Act, a state plan as described in section 2-516 approved by the United States Department of Agriculture, any rules and regulations adopted and promulgated under the act, a corrective action plan issued pursuant to this section, or an order of the director three times in a five-year period shall be ineligible to obtain a license to cultivate, handle, process, or broker hemp for a period of five years beginning on the date of the third violation.

(4) If the director orders issuance of a corrective action plan, such plan may include:

(a) A reasonable date by which the licensee shall correct the unintentional violation;

(b) A requirement that the licensee shall periodically report to the department on the compliance of the licensee with the corrective action plan for a period of not less than the next two calendar years;

(c) An administrative fine of up to five hundred dollars per day; and

(d) Temporary suspension of a license to operate as a cultivator, processor-handler, or broker.

(5) Upon violation of a corrective action plan, the director may issue an amended corrective action plan.

(6) A person aggrieved by an order of the director may request a hearing pursuant to section 2-513.

(7) The director shall advise the Attorney General of the failure of any person to pay an administrative fine imposed under this section. The Attorney General shall bring an action in Lancaster County district court to recover the fine.

(8) Any administrative fine collected under this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2019, LB657, § 11.

Operative Date: May 31, 2019

2-512. Intentional violations of act; director; duties; ineligibility to obtain license; hearing.

(1) Upon a determination by the director that any person in the state has intentionally violated the Nebraska Hemp Farming Act, a state plan approved by the United States Department of Agriculture, any rules and regulations adopted and promulgated under the act, or an order of the director, the director shall:

(a) Notify the United States Attorney General;

(b) Notify the Attorney General; and

(c) Notify the county attorney for the county in which the violation occurred.

(2) Any person who intentionally violates the Nebraska Hemp Farming Act, a state plan as described in section 2-516 approved by the United States Department of Agriculture, any rules and regulations adopted and promulgated under the act, a corrective action plan issued pursuant

to this section, or an order of the director three times in a five-year period shall be ineligible to obtain a license to cultivate, handle, process, or broker hemp for a period of ten years beginning on the date of the third violation.

(3) A person aggrieved by an order of the director may request a hearing pursuant to section 2-513.

Source: Laws 2019, LB657, § 12.

Operative Date: May 31, 2019

2-513. Order of director; hearing; request; decision; appeal.

(1) Any person aggrieved by an order of the director pursuant to the Nebraska Hemp Farming Act for which a hearing was not held may request a hearing by contacting the department in writing within thirty days after the date the order was issued, and a hearing shall thereafter be held. Hearings shall be in accordance with the Administrative Procedure Act. At such hearing the department shall receive any relevant evidence and the burden of the proof shall be upon the person aggrieved by the director's order. After such hearing the department shall render a decision in writing and shall issue such order or orders duly certified as deemed necessary.

(2) Appeals of final orders issued after a hearing held pursuant to subsection (1) of this section shall be in accordance with the Administrative Procedure Act. The district court for Lancaster County shall have exclusive jurisdiction for appeals taken under the Nebraska Hemp Farming Act.

Source: Laws 2019, LB657, § 13.

Operative Date: May 31, 2019

Cross References

- **Administrative Procedure Act**, see section 84-920.

2-514. Testing; department; powers; list of approved testing facilities; report.

(1) Hemp from each cultivation site registered with the department shall be tested for delta-9 tetrahydrocannabinol concentration prior to harvest by an approved testing facility at the licensee's expense. The results of such tests shall be certified directly to the department by the testing facility prior to harvest. The test results shall identify the location ID where the hemp was cultivated.

(2) The department may, at its discretion, conduct sampling and testing of any hemp from any licensee at any time.

(3) The department may adopt and promulgate rules and regulations governing the sampling and testing of hemp, including, but not limited to, the number of samples required, the procedure for gathering samples, and certification of the test results to the department.

(4) Testing of hemp required under this section shall be conducted pursuant to standards adopted by the department using post-decarboxylation or other similarly reliable methods for the testing of delta-9 tetrahydrocannabinol concentration.

(5) Testing of hemp shall be conducted by a testing facility approved by the department.

(6) The department shall create and maintain a list of approved testing facilities.

(7) The entire hemp plant is not required to be submitted for testing.

(8) The test sample shall be obtained from flowering tops when flowering is occurring, shall be approximately eight inches in length, and shall consist of the fan leaf, the stalk, the flower, and, if available, the seed head.

(9) The requirements of this section shall be sufficient for both dioecious and monoecious cultivars.

(10) The approved testing facility shall provide a report giving the results of the potency analysis of each sample. For tests directed by the department, the report shall be provided to the licensee and a copy of the report shall be issued to the department. The report shall be provided before the harvest date, if applicable.

(11) When a test result is adverse, the department may require a licensee to have further tests done and may require harvesting and destruction of any plants in any portions of the site containing noncompliant plants.

Source: Laws 2019, LB657, § 14.

Operative Date: May 31, 2019

2-515. Cultivator, processor-handler, or other person transporting hemp; duties; form bill of lading; department; duties; prohibited acts; peace officer; powers; violation; penalty.

(1) Any cultivator transporting hemp cultivated under the Nebraska Hemp Farming Act shall carry with the hemp being transported a copy of the cultivator license under which it was cultivated and a copy of the test results pertaining to such hemp.

(2) Any processor-handler transporting hemp processed under the Nebraska Hemp Farming Act shall carry with the hemp being transported a copy of the processor-handler license under which the hemp is being transported and a copy of the test results pertaining to such hemp.

(3) Any person other than a cultivator or processor-handler who is transporting hemp shall carry with such hemp being transported (a) a bill of lading indicating the owner of the hemp, the point of origin of the hemp, and the destination of the hemp and (b) either a copy of the test results pertaining to such hemp or other documentation affirming that the hemp was produced in compliance with section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019.

(4)(a) The department may develop a form bill of lading for use by a person transporting hemp pursuant to subsection (3) of this section for hemp originating in this state. Such bill of lading shall, at a minimum, identify the transporting person and indicate the owner, point of origin, and destination of the hemp.

(b) The department, in consultation with the Nebraska State Patrol, may adopt and promulgate rules and regulations regulating the carrying or transporting of hemp in this state to ensure that marijuana or any other controlled substance is not disguised as hemp and carried or transported into, within, or through this state.

(c) No person shall carry or transport hemp in this state unless such hemp is:

(i) Produced in compliance with:

(A) For hemp originating in this state, the requirements of section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019, and the Nebraska Hemp Farming Act and any rules and regulations adopted and promulgated thereunder; or

(B) For hemp originating outside this state, the requirements of section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019; and

(ii) Carried or transported as provided in subsection (1), (2), or (3) of this section.

(d) No person shall transport hemp in this state concurrently with any other plant material that is not hemp.

(5)(a) A peace officer may detain any person carrying or transporting hemp in this state if such person does not provide the documentation required by this section. Unless the peace officer has probable cause to believe the hemp is, or is being carried or transported with, marijuana or any other controlled substance, the peace officer shall immediately release the hemp and the person carrying or transporting such hemp upon production of such documentation.

(b) The failure of a person detained as described in this subsection to produce documentation required by this section shall constitute probable cause to believe the hemp may be marijuana or any other controlled substance. In such case, a peace officer may collect such hemp for testing to determine the delta-9 tetrahydrocannabinol concentration in the hemp, and, if the peace officer has probable cause to believe the person detained is carrying or transporting marijuana or any other controlled substance in violation of state or federal law, the peace officer may seize and impound the hemp or marijuana or other controlled substance and arrest such person.

(c) This subsection does not limit or restrict in any way the power of a peace officer to enforce violations of the Uniform Controlled Substances Act and federal law regulating marijuana and other controlled substances.

(6) In addition to any other penalties provided by law, including those imposed under the Nebraska Hemp Farming Act, any person who intentionally violates this section shall be guilty of a Class IV misdemeanor and fined not more than one thousand dollars.

Source: Laws 2019, LB657, § 15.

Operative Date: May 31, 2019

Cross References

- **Uniform Controlled Substances Act**, see section 28-401.01.

2-516. State plan; director; duties; contents; disapproval; amended plan; alteration or amendment authorized.

(1) No later than December 31, 2019, the director, in consultation with the Governor and the Attorney General, shall submit to the United States Secretary of Agriculture for approval a state plan by which the department shall regulate the cultivation, handling, and processing of hemp. Such state plan shall include, at a minimum:

(a) A practice to maintain relevant information regarding land on which hemp is cultivated, handled, or processed in Nebraska, including a legal description of the land, for a period of not less than three calendar years;

(b) A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration of hemp cultivated in Nebraska;

(c) A procedure for the effective destruction of hemp that is cultivated, processed, or handled in violation of the Nebraska Hemp Farming Act;

(d) A procedure to implement enforcement procedures under the act;

(e) A procedure for conducting, at a minimum, annual inspections of a random sample of hemp cultivators and processor-handlers to verify that hemp is not being cultivated, processed, or handled in violation of state or federal law;

(f) A procedure for submitting required information to the United States Department of Agriculture, as required; and

(g) A certification that the state has the resources and personnel needed to carry out the practices and procedures required by the act and federal law.

(2) If the United States Secretary of Agriculture disapproves the plan, the director, in consultation with the Governor and the Attorney General, shall submit an amended state plan to the secretary within ninety days after such disapproval.

(3) The director shall have the authority to alter or amend the state plan as required, consistent with the Nebraska Hemp Farming Act and federal law.

(4) Nothing in the Nebraska Hemp Farming Act shall be construed to be less restrictive than section 10113 of the federal Agriculture Improvement Act of 2018, Public Law 115-334, as such section existed on January 1, 2019.

Source: Laws 2019, LB657, § 16.

Operative Date: May 31, 2019

2-517. Nebraska Hemp Commission; members; qualifications; terms; quorum; expenses; powers and duties; report; contents.

(1) The Nebraska Hemp Commission is created. The commission shall consist of the following members:

(a) The dean of the University of Nebraska College of Agricultural Sciences and Natural Resources or his or her designee;

(b) One member representing postsecondary institutions other than the University of Nebraska; and

(c) Three members appointed by the Governor representing the following interests:

- (i) Two Nebraska farmers with an interest in cultivating hemp; and
- (ii) A manufacturer of hemp products.

(2) Members appointed pursuant to subdivisions (1)(b) and (c) of this section shall serve a term of four years and may be reappointed. A majority of the members of the commission shall constitute a quorum. The commission shall annually elect one member from among the remaining members to serve as chairperson. The commission shall meet quarterly and may meet more often upon the call of the chairperson or by request of a majority of the members. The commission shall be appointed and conduct its first meeting no later than September 1, 2019. The members of the commission shall serve without pay but shall receive expenses incurred while on official business as provided in sections 81-1174 to 81-1177.

(3) The commission shall have primary responsibility for promoting the Nebraska hemp industry and shall have the following powers and duties:

(a) To appoint and fix the salary of such support staff and employees, who shall serve at the pleasure of the commission, as may be required for the proper discharge of the functions of the commission;

(b) To prepare and approve a budget;

(c) To adopt and promulgate reasonable rules and regulations necessary to carry out this section and section 2-519;

(d) To contract for services and authorize the expenditure of funds which are necessary for the proper operation of this section and section 2-519;

(e) To keep minutes of its meetings and other books and records which will clearly reflect all of the acts and transactions of the commission and to keep such records open to public examination by any person during normal business hours;

(f) To prohibit using any funds collected by the commission to directly or indirectly support or oppose any candidate for public office or to influence state legislation; and

(g) To establish an administrative office at such place in the state as may be suitable for the proper discharge of commission functions.

(4) The commission shall periodically report to the Governor and to the Legislature on hemp policies and practices that will result in the proper and legal growth, management, marketing, and use of the state's hemp industry. Any report submitted to the Legislature shall be submitted electronically. Such policies and practices shall, at a minimum, address the following:

(a) Federal laws and regulatory constraints;

(b) The economic and financial feasibility of a hemp market in Nebraska;

(c) Nebraska businesses that may potentially utilize hemp;

- (d) Examination of research on hemp production and utilization;
- (e) The potential for globally marketing Nebraska hemp;
- (f) The feasibility of private funding for a Nebraska hemp research program;
- (g) Law enforcement concerns;
- (h) Statutory and regulatory schemes for the cultivation of hemp by private producers; and
- (i) Technical support and education about hemp.

(5) The commission is authorized to develop and coordinate programs to research and promote hemp, including, but not limited to, cultivating, handling, processing, transporting, marketing, and selling hemp.

(6) The commission shall establish such programs with the goal of securing at least twenty percent participation by small and emerging businesses in the Nebraska hemp industry, including, but not limited to, cultivating, handling, processing, transporting, marketing, and selling hemp.

Source: Laws 2019, LB657, § 17.

Operative Date: July 1, 2021

2-518. Hemp Promotion Fund; established; use; investment.

The Hemp Promotion Fund is established. The fund shall be administered by the commission for the purposes set forth in section 2-517. The fund may receive appropriations by the Legislature and gifts, grants, federal funds, and any other funds both public and private. All fees collected as set forth in section 2-519 shall be remitted to the State Treasurer for credit to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2019, LB657, § 18.

Operative Date: July 1, 2021

Cross References

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

2-519. Fees; records; violations; penalty.

(1) For purposes of this section:

(a) Commercial channels means the sale or delivery of hemp for any use to any commercial buyer, dealer, processor, or cooperative or to any person, public or private, who resells any hemp or hemp product;

(b) Delivered or delivery means receiving hemp for utilization or as a result of its sale in the State of Nebraska but excludes receiving hemp for storage; and

(c) First purchaser means any person, public or private corporation, association, partnership, limited liability company, or other entity buying, accepting for shipment, or otherwise acquiring hemp from a cultivator.

(2) A fee of one cent per pound is levied upon all hemp seed and a fee of one dollar per ton is levied upon all hemp fiber sold through commercial channels in Nebraska or delivered in Nebraska. Two-thirds of the fee levied under this section shall be paid by the cultivator at the time of sale or delivery and shall be collected by the first purchaser. The first purchaser shall pay the remaining one-third of the fee. Hemp seed and hemp fiber shall not be subject to the fees imposed by this section more than once.

(3) The first purchaser, at the time of settlement with the cultivator, shall deduct the fees imposed by this section. The fees shall be deducted whether the hemp is stored in this state or any other state. The first purchaser shall maintain the necessary records of the fees for each purchase or delivery of hemp on the settlement form or check stub showing payment to the cultivator for each purchase or delivery. Such records maintained by the first purchaser shall be open for inspection during normal business hours and provide the following information:

- (a) The name and address of the cultivator and first purchaser;
- (b) The date of the purchase or delivery;
- (c) The number of pounds of hemp seed or pounds or tons of hemp fiber purchased; and
- (d) The amount of fees collected on each purchase or delivery.

(4) The first purchaser shall render and have on file with the department by the last day of January and July of each year, on forms prescribed by the commission, a statement of the number of pounds of hemp seed or pounds or tons of hemp fiber purchased in Nebraska. At the time the statement is filed, such first purchaser shall pay and remit to the commission the fees imposed by this section.

(5) All fees collected by the commission pursuant to this section shall be remitted to the State Treasurer for credit to the Hemp Promotion Fund. The commission shall remit the fees collected to the State Treasurer within ten days after receipt.

(6) Any person intentionally violating this section shall be guilty of a Class III misdemeanor.

Source: Laws 2019, LB657, § 19.

Operative Date: July 1, 2021

APPENDIX 2

Submitted to USDA
Pending Approval



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
USDA DOMESTIC HEMP PRODUCTION PROGRAM
STATE AND TRIBAL HEMP PRODUCER REPORT

Reporting Period: _____ to _____

State or Tribe Name: _____ Date Submitted: _____

The USDA Domestic Hemp Production Program requires states and tribes with approved plans to submit contact information and the status of the license for each producer under their plan.

Instructions:

This information must be submitted to the U.S. Department of Agriculture (USDA) on the 1st day of each month. If this date falls on a holiday or weekend, the reports are due the next business day. Each monthly report is for new producers and changes to existing producer information only.

Producers: Report all required information for each producer licensed under the Plan.

Changes to Producer Information: Report any changes to reported information for producers that were included in previous reports. These changes include but are not limited to; a change of license status, an address change, a change in the key participant of a business or an updated phone number.

This report should be submitted to USDA using a digital format compatible with USDA's information sharing systems, whenever possible. If this is not possible, please submit report to:

By Mail:

USDA/AMS/Specialty Crops Program
Hemp Branch
470 L'Enfant Plaza S.W.
Post Office Box 23192
Washington, D.C. 20026

Or via Email at:

FarmBill.Hemp@usda.gov

Or via Fax at:

(202) 720-8938

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a) and the Paperwork Reduction Act of 1995. The authority for requesting this information to be supplied on this form is the 7 CFR Part 990 Domestic Hemp Program (Program). The purpose of collecting this information is for USDA to administer the Program and the information provided on this form will be used to monitor Program participants. Failure to provide the information requested on this form may result in ineligibility to participate in the Program.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB 0581-NEW. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

List all producers and business entities in the space below:

[illegible]

(Use additional pages if needed)

Employees Submitting Criminal History Record Report by Entity:

Individual or Entity Name	Name of Employee	Title of Employee	Employee Email Address (if available)

(Use additional pages if needed)

Document any changes to existing producer information in the space below:

	Individual or Entity Name	Name of Licensee(s)	License Identifier or other Authorization Identifier	Business Address of Producer(s)	Telephone #	Email Address (if available)	Status of License (active, revoked, suspended)
Current Information							
New Information							
Current Information							
New Information							
Current Information							
New Information							
Current Information							
New Information							

(Use additional pages if needed)

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

APPENDIX 3

Submitted to USDA
Pending Approval

Sampling guidelines for hemp growing facilities

Purpose:

1. Standard sampling guidelines are specified for field and greenhouse sampling of hemp.
2. Samples are taken to obtain specimens for the measurement of tetrahydrocannabinol (THC) content, which determine whether the specimens are hemp or marijuana. The measurements are intended to be representative of the THC content in a “lot” of hemp crop acreage as identified by the producer. Hemp producers may not harvest hemp prior to the hemp being sampled and tested for THC concentration. Testing procedures are provided in a separate document.

Scope:

1. Samples collected under this procedure are acceptable for submission to a qualified, DEA-registered laboratory for determination of THC in hemp.
2. Since the THC content of hemp generally peaks as the plant ripens, the timing of when sampling occurs is important to accurately measure THC concentration and monitor compliance with the USDA hemp production program.
3. Samples must be collected by a USDA approved sampling agent, or a Federal, State or Tribal law enforcement agent authorized by USDA to collect samples. It is the responsibility of the licensed producer to pay any fees associated with sampling.

Summary of Practice:

1. This practice provides procedures for entering a growing area and collecting the minimum number of plant specimens necessary to represent a homogeneous composition of the “lot” that is to be sampled. An authorized representative enters a growing area, strategically examines the growing area, establishes an approach for navigating the growing area, and collects individual specimens of plants in order to obtain a representative sample of hemp in the designated lot.
2. Cuttings from each “lot” of hemp crop acreage, as identified by the producer, and submitted to and uniquely identified by the Farm Service Agency per the requirements of the USDA hemp production program, shall be organized as composite samples. For the purposes of these procedures, a “lot” is a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout. In addition, “lot” refers to the batch of contiguous, homogeneous whole of a product being sold to a single buyer at a single time. “Lot” is to be defined by the producer in terms of farm location, field acreage, and to be reported as such to the FSA.

Equipment and Supplies:

1. Garden pruners/shears (Cleaned prior to and following each composite sample. Some examples of appropriate cleaning agents and supplies to use on garden pruners/shears are bleach, rubbing alcohol, steel wool, and/or sandpaper.)
2. Sample bags, paper.
 - 2.1. The size of the bags will depend upon the number of clippings collected per lot.
 - 2.2. The bags should be made from material known to be free from THC.
3. Security tape
4. Permanent markers
5. Sample collection forms
6. GPS Unit
7. Disposable gloves – Nitrile

Sampling Guidelines:

1. The licensee or designated employee shall accompany the sampling agent throughout the sampling process.
2. Surveillance of the growing area.
 - 2.1. The inspector shall verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the licensee to USDA.
 - 2.2. The inspector shall estimate the average height, appearance, approximate density, condition of the plants, and degree of maturity of the flowering material, meaning inflorescences (flowers/buds).
 - 2.3. The inspector shall visually establish the homogeneity of the stand to establish that the growing area is of like variety.
3. Time of Sampling:
 - 3.1. Within 15 days prior to the anticipated harvest of cannabis plants, an approved Federal, State, local, or Tribal law enforcement agency or other State or Tribal designated person shall collect representative samples from such cannabis plants for THC concentration level testing.
4. Field Sampling:
 - 4.1. For purposes of determining the number of individual plants to select for sampling, the size of the growing area shall be considered. For sampling purposes, samples from separate “lots” must be kept separate and not be comingled.
 - 4.2. For lots of less than one acre, including greenhouses, select a minimum of 1 plant, then take a cutting from the plant to form a sample. For lots of 2 to 10 acres, including greenhouses, select a minimum of one plant per acre, then take cuttings of each plant, then combine to form a composite sample.
 - 4.3. For growing areas larger than ten (10) acres, including greenhouses, the number of plants that will be selected to form a composite sample is based upon the Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS CAC/GL 33-1999.
 - 4.3.1. The sample size is estimated in a two-step process. The first step is to estimate the number of primary plants to be sampled. The second step is to adjust the estimate of primary plants by the acreage under cultivation.
 - 4.3.2. The initial number of primary plants is estimated using

$$n_o = \frac{\ln(1-p)}{\ln(1-i)}$$

where p is the confidence level to detect hemp plants having THC content greater than the acceptable hemp THC level and i is the proportion of hemp plants having THC content greater than the acceptable hemp THC level. The values for i are based on past experience in the same or similar growing areas.

4.3.3. The initial primary plants estimate is adjusted by the number of acres to calculate the minimum number of primary plants for composting as follows:

$$n = \frac{n_o}{1 + \frac{(n_o - 1)}{N}}$$

where n is the minimum number of primary plants to be selected for forming a composite sample, n_o is the initial number of primary plants, and N is the number of acres under cultivation.

4.3.4. Example 1 : The initial primary plant sample size is 299 with a confidence level of 95% to detect hemp plants having THC content greater than the acceptable hemp THC level and a proportion of hemp plants having THC content of greater than the acceptable hemp THC level equal to 0.01 is considered appropriate. The adjusted primary plant sample sizes for fields from 11 to 173 acres in size are shown in the following table:

Number of acres	Sample Size "n"	Number of acres	Sample Size "n"	Number of acres	Sample Size "n"	Number of acres	Sample Size "n"
11	11	40	36	75-76	61	119-120	86
12	12	41-42	37	77	62	121-122	87
13	13	43	38	78-79	63	123-124	88
14	14	44	39	80-81	64	125-126	89
15	15	45-46	40	82	65	127-128	90
16	16	47	41	83-84	66	129-130	91
17	17	48	42	85-86	67	131-132	92
18-19	18	49-50	43	87	68	133-134	93
20	19	51	44	88-89	69	135-136	94
21	20	52	45	90-91	70	137-138	95
22	21	53-54	46	92	71	139-140	96
23	22	55	47	93-94	72	141-143	97
24	23	56	48	95-96	73	144-145	98
25-26	24	57-58	49	97-98	74	146-147	99
27	25	59	50	99	75	148-149	100
28	26	60-61	51	100-101	76	150-152	101
29	27	62	52	102-103	77	153-154	102
30	28	63-64	53	104-105	78	155-156	103
31-32	29	65	54	106-107	79	157-157	104
33	30	66-67	55	108	80	159-161	105
34	31	68	56	109-110	81	162-163	106
35	32	69-70	57	111-112	82	164-166	107
36	33	71	58	113-114	83	167-168	108
37-38	34	72-73	59	115-116	84	169-170	109
39	35	74	60	117-118	85	171-173	110

Example 2: The adjusted primary plant sample sizes for fields from less than 1 to 10 acres in size are shown in the following table:

Number of Acres "N"	Sample Size "n"
Less than 1	1
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10

6. Collecting Samples from each lot:

6.1. Sampling agents shall always walk at right angles to the rows of plants, beginning at one point of the lot and walking towards another point on the opposite side of the lot.

6.2. While walking through the growing area, the inspector shall cut at least "n" flowering material, meaning inflorescences (the flower or bud of a plant) at random but convenient distances. Avoid collecting too many specimens from the borders of the field/greenhouse.

6.3. The cut shall be made just underneath a flowering material, meaning inflorescence (the flower or bud of a plant), located at the top one-third $\{1/3\}$ of the plant. (See figure below.) The sample size must be of adequate volume to accommodate laboratory tests.



6.4. Utilize a paper sample bag for collecting sample cuttings. Ensure that each bag has the minimum number of cuttings, n , as calculated by 4.3.3, or in the Example Tables 1 and 2.

6.5. Seal each bag and record the sample number.

7. Sample identification:

7.1 The inspector shall seal each bag and record the sample identification number. The sample shall also be identified with the following information:

(1) The sample ID shall include: Sampling agent contact information ; name and contact information of the producer; producer hemp license or authorization number ; date of sample; and "lot" ID as provided by the USDA Farm Service Agency; any other information that may be required by States, Tribes, Law Enforcement Authorities, mail delivery services, customers or groups of customers.

APPENDIX 4

Submitted to USDA
Pending Approval

Testing guidelines for Identifying Delta-9 Tetrahydrocannabinol (THC)

Concentration in Hemp

Purpose:

1. Standard testing procedures are specified for samples taken in accordance with the Sampling Procedures for the USDA Hemp Program to measure the delta-9 tetrahydrocannabinol (THC) concentration levels of those samples on a dry weight basis. Hemp testing laboratories are not required to be ISO accredited, although USDA strongly encourages adherence to the ISO 17025 standard.
2. The results are intended to measure the THC content of composite hemp samples collected from a designated "lot" of hemp crop acreage designated by a hemp producer and as reported to the USDA Farm Service Agency as required under the USDA hemp production program. The purpose of the measurements are to determine whether the THC concentration of the tested material is within the acceptable hemp THC level.
3. As required under USDA hemp production program regulation, laboratories conducting testing of hemp must conduct analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol THC and shall meet the following standards:
 - (a) Laboratory quality assurance must ensure the validity and reliability of test results;
 - (b) Analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;
 - (c) The demonstration of testing validity must ensure consistent, accurate analytical performance; and
 - (d) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this part.
 - (e) At a minimum, analytical testing of samples for delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods approved by the Secretary. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test result reflect the total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting these requirements include, but are not limited to, gas chromatography and high-performance liquid chromatography.
 - (f) The total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on a dry weight basis.
 - (g) Any sample test result showing with at least 95% confidence that the THC content of the sample is higher than the acceptable hemp THC level shall be conclusive evidence that the lot represented by the sample is not in compliance with this part.

4. Laboratories approved for THC testing must also be registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.
5. In order to provide flexibility to States and Tribes in administering their own hemp production programs, alternative testing protocols will be considered if they are comparable and similarly reliable to the baseline mandated by section 297B(a)(2)(ii) of the Agricultural Marketing Act of 1946 and established under the USDA plan and procedures. Alternative testing protocols must be requested of USDA in writing and approved in writing by USDA, provided they meet the requirements of this guidance.

General Sample Preparation and Testing Procedures are as follows:

1. Laboratory receives sample.
2. Dry sample to remove the majority of water.
3. Mill and "manicure" sample through a wire screen no larger than 1.5 x 1.5mm to discard mature seeds and larger twigs and stems.
4. Separate sample into a test and retain specimens.
 - a. Test specimen: go to step 5
 - b. Retain specimen: package and store until needed. When needed go to step 5.
5. Determine moisture content or dry to a consistent weight (meeting criteria).
6. Perform chemical analysis.
7. Calculate total THC on a dry weight basis. Test results should be determined and reported on a dry weight basis.

(A) Samples shall be received and prepared for testing in a DEA registered laboratory as follows:

(1) Once the composite sample is received by the laboratory, the laboratory shall dry all of the leaf and flower (not obvious stem and seeds) of the composite sample until brittle in a manner that maintains the THC level of sample. Samples are to be dried to a consistent loss (typically 5-12% moisture content) so that the test can be performed on a dry weight basis, meaning the percentage of THC, by weight, in a cannabis sample, after excluding moisture from the sample. The moisture content is expressed as the ratio of the amount of moisture in the sample to the amount of dry solid in the sample.

(2) The laboratory shall mill and manicure samples through a wire screen no larger than 1.5 x 1.5mm to discard mature seeds and larger twigs and stems.

(3) The laboratory shall form sieve a "Test Specimen" and a "Retain Specimen." One sample part shall be selected for analysis and labeled "Test Specimen". The other sample part shall be marked "Retain Specimen" and shall be packaged and stored in a secured place.

(4) The laboratory shall then determine moisture content or dry to a consistent weight.

(5) The laboratory will then perform chemical analysis on the sample using post-decarboxylation or other similarly reliable methods where the total THC concentration level considers the potential to convert delta-9-tetrahydrocannabinolic *acid* (THCA) into THC.

Testing methodologies meeting these requirements include those using gas chromatography and high-pressure liquid chromatography. *High-performance liquid chromatography*. High-performance liquid chromatography (HPLC) or (LC) is a scientific method (specifically, a type of chromatography) used in analytical chemistry used to separate, identify, and quantify each

component in a mixture. It relies on pumps to pass a pressurized liquid solvent containing the sample mixture through a column filled with a solid adsorbent material to separate and analyze compounds. Under the terms of this part, HPLC is one of the valid methods by which laboratories may test for THC concentration levels. Ultra-Performance Liquid Chromatography (UPLC) is an additional method that may also be used as well as other liquid or gas chromatography with detection.

(6) The laboratory will then calculate total THC on a dry weight basis.

References:

E. Small and H. D. Beckstead. 1973. Common Cannabinoid Phenotypes in 350 stocks of Cannabis. J. of Natural Products. 36(2): 144-165.

United Nations Office on Drugs and Crime: Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products. ISBN 978-92-1-148242-3.

(B) Testing Methods The total available THC, derived from the sum of the THC and THCA content, shall be determined and reported on a dry weight basis. Alternative testing protocols will be considered if they are comparable to the baseline mandated by the 2018 Farm Bill and established under the USDA plan and procedures. Alternative sampling and testing procedures must be requested in writing and approved in writing by USDA.

Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty. Laboratories shall meet the AOAC International standard method performance requirements (SMRP) for selecting an appropriate method. The range of estimated uncertainty is reported as a \pm value and is the same unit as the hemp THC threshold (0.3% THC), following best practices for significant figures and rounding.

There are resources available for defining, guiding, and calculating measurement uncertainty. They include the GUM, ISO, and Eurachem. It is necessary for the laboratory to determine the uncertainty of accuracy (u_{bias}), repeatability (u_r), and reproducibility (u_R) for each validated method. Once the expanded measurement uncertainty (U) is determined, then the confidence interval can be calculated around a designated threshold such as the hemp THC threshold (0.3% THC).

Based on the aforementioned resources, the following equation is recommended:

Equation:

$$U = k \times u_c$$

Where,

$$u_c = \sqrt{u_r^2 + u_R^2 + u_{bias}^2}$$

And:

u = standard uncertainty (standard deviation)

u_r = uncertainty due to repeatability

u_R = uncertainty due to reproducibility

u_{bias} = uncertainty due to accuracy (bias)

u_c = combined standard uncertainty

U = Expanded uncertainty = $\frac{u}{\text{Mean}} * k_{95\% \text{ confidence level}}$, $k = 2$

k = coverage factor, use 2 for a 95% confidence level

References:

- ISO 17025. General requirements for the complete testing and calibration laboratories.
- Food and Drug Administration, Office of Regulatory Affairs, *ORA Laboratory Manual Volume III Section 4*, Basic Statistics and Data Presentation (current version).
- AOAC Standard Method Performance Requirements (draft) AOAC SMPR 2019.XXX; Title: Quantitation of cannabinoids in plant materials of hemp (low THC varieties 4 *Cannabis* spp.).
- JCGM 100:2008, Evaluation of measurement data – Guide to the expression of uncertainty in measurement (GUM).
- ISO/IEC Guide 98, Expression of Uncertainty in Measurement.
- EURACHEM/CITAC Guide “Quantifying Uncertainty in Analytical Measurement” Second edition (2000). A Williams, S L R Ellison, M Roesslein (eds.) ISBN 0 948926 15 5. Available from the Eurachem Secretariate.

(C) Test results exceeding 0.3% THC. Any sample test result showing with at least 95% confidence that the THC content of the sample is higher than the acceptable hemp THC level shall be conclusive evidence that one or more cannabis plants or plant products from the lot represented by the sample contain a THC concentration in excess of that allowed under the Act. If the results of a test conclude that the THC levels of a sample are conclusively higher than the acceptable hemp THC level, the laboratory will promptly notify the producer and USDA or its authorized agent.

(D) Retest Procedures. Any hemp program licensee may request that the laboratory retest samples if it is believed the original THC concentration level test results were in error. If this occurs, the laboratory shall follow the same procedures as described in paragraphs (A)-(C) above that were followed to conduct the initial test. The licensee requesting the retest of the second sample will pay the cost of the test. The retest results shall be issued to the licensee requesting the retest and a copy shall be provided to USDA or its agent.

(E) Information Sharing with USDA. Laboratories performing THC testing for hemp produced under this program are required to share test results with the licensed producer and USDA. USDA will provide instructions to all approved labs on how to electronically submit test results to USDA. Laboratories may provide test results to licensed producers in whatever manner best aligns with their business practices, but producers must be able to produce a copy of test results. For this reason, providing test results to producers through a web portal or through electronic mail, so the producer will have ready access to print the results when needed, is preferred.

APPENDIX 5

Submitted to USDA
Pending Approval



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
USDA DOMESTIC HEMP PRODUCTION PROGRAM
LABORATORY TEST RESULTS REPORT

Hemp laboratory test data shall be reported to the U.S. Department of Agriculture (USDA) in accordance with 7 CFR Part 990. USDA Domestic Hemp Production Program. Laboratories providing testing services for producer hemp samples for the Domestic Hemp Production Program shall use this reporting instruction and template. The data shall be submitted to USDA using a digital format comparable with USDA's information sharing systems, whenever possible. If this is not possible, this report may be submitted to the following:

By Mail:
USDA/AMS/Specialty Crops Program
Hemp Branch
470 L'Enfant Plaza S.W.
Post Office Box 23192
Washington, D.C. 20026

Or via Email at:
FarmBill.Hemp@usda.gov

Or via Fax at:
(202) 720-8938

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a) and the Paperwork Reduction Act of 1995. The authority for requesting this information to be supplied on this form is the 7 CFR Part 990 Domestic Hemp Program (Program). The purpose of collecting this information is for USDA to administer the Program and the information provided on this form will be used to monitor Program participants. Failure to provide the information requested on this form may result in ineligibility to participate in the Program.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB 0581-NEW. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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REPRODUCE LOCALLY. LABORATORY TEST RESULTS REPORT.

OMB No. 0581-NEW

Laboratory_ Name	Laboratory_ City	Laboratory_State	Laboratory_DEA Registration_#									
Producer_ID	Producer_ Name	Producer_ Street	Producer_City	Producer_ State	Lot_ID	Testing_ Date	Results_ Reported _Date	Test	Result_ % THC	Measurement Uncertainty	Pass Fail	

Add additional rows if necessary.

Column Heading	Field Description	Instructions on Field Format and Values
Producer_ID	This field is the license or authorization identifier of the producer the sample and test result is attributed to.	Use the producer's license or authorization number as assigned by the State, Indian Tribe, or USDA.
Producer_Name	This field is the name of the producer that the sample and test result will be attributed to.	Producer names should match the name associated with the license or authorization number as assigned by the State, Indian Tribe, or USDA.
Producer_Street	This field is the street address of the producer.	Building Number, Street Name, Street Type is given its own column to facilitate electronic management and analysis of data.
Producer_City	This field is the city of the producer.	City is given its own column to facilitate electronic management and trend analysis of data.
Producer_State	This field is the state of the producer.	State is given its own column to facilitate electronic management and trend analysis of data.
Laboratory_Name	This field is the name of the laboratory issuing the test result.	Use the laboratory name associated with the DEA registration number.
Laboratory_City	This field is the city of the laboratory issuing the test result.	City is given its own column to facilitate electronic management and trend analysis of data. This data facilitates differentiation between facilities under a corporation name.
Laboratory_State	This field is the state of the laboratory issuing the test result.	State is given its own column to facilitate electronic management and trend analysis of data. This data facilitates differentiation between facilities under a corporation name.
Laboratory_DEA registration	This field is the DEA registration number of the laboratory issuing the test result.	This should match the format (alpha-numeric) provided by the DEA.
Lot_ID	This field is the identifier of the lot represented by the sample.	Use the identification number (alpha, numeric, or combination) provided on the sample form. Exercise consistency throughout entering and reporting of these values (i.e., general formatting of data entered should be the same throughout all cells of this column--spacing, underscoring, symbols, capitalization, font, font size) and ensure that lot numbers can be sorted in order.

Testing_Date	This field is the date the sample is tested by the laboratory.	Use a consistent format (i.e., YYYYMMDD)
Result_Reported_Date	This field is the date the result is reported to the producer by the laboratory.	Use a consistent format (i.e., YYYYMMDD)
Test	This field is to identify if the result is of the initial test or a re-test.	Report as "Initial" or "Re-test"
Result_% THC	This field is the quantified concentration of THC determined by the laboratory.	Report percent (%) THC on a dry weight basis to the nearest ten thousandth, or 4 decimal places (Ex. .3999) "Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding all moisture from the item."
Measurement Uncertainty	This field is to identify the measurement uncertainty of the hemp test.	Report measurement uncertainty as a percent (%) + or - to the nearest ten thousandth, or 4 decimal places (Ex. .3999) The measurement uncertainty is parameter associated with the accuracy of a result, which is the interval around the value of the measurement that characterizes the dispersion of the values.
Pass_Fail	This field is to identify if the hemp sample passes or fails the definition of the law to be called hemp.	Report as "Pass" or "Fail" Pass equates to "delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis + or - the measurement uncertainty" Fail equates to "concentration level of THC on a dry weight basis of higher than 0.3 percent + or - the measurement uncertainty"

APPENDIX 6

Submitted to USDA
Pending Approval



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
USDA DOMESTIC HEMP PRODUCTION PROGRAM
STATE AND TRIBAL HEMP DISPOSAL REPORT

If a producer has produced cannabis that tested above the acceptable delta-9 tetrahydrocannabinol (THC) level, the material must be disposed of in accordance with the Controlled Substances Act (CSA) and U.S. Drug Enforcement Administration (DEA) regulations because such material constitutes marijuana, a schedule I controlled substance under the CSA. Consequently, the material must be collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Federal, State, or local law enforcement officer. This form is used to document the disposal process.

States and Tribes must submit this form and each corresponding disposition certificate to the U.S. Department of Agriculture (USDA) on the 1st day of each month. If this date falls on a holiday or weekend, the report is due the next business day. If no disposals occurred during the reporting cycle, check the box indicating there were no changes during the current reporting cycle. This report should be submitted to USDA using a digital format compatible with USDA's information sharing systems, whenever possible. If this is not possible, please submit report to:

By Mail:

USDA/AMS/Specialty Crops Program
Hemp Branch
470 L'Enfant Plaza S.W.
Post Office Box 23192
Washington, D.C. 20026

Or via Email at:

FarmBill.Hemp@usda.gov

Or via Fax at:

(202) 720-8938

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a) and the Paperwork Reduction Act of 1995. The authority for requesting this information to be supplied on this form is the 7 CFR Part 990 Domestic Hemp Program (Program). The purpose of collecting this information is for USDA to administer the Program and the information provided on this form will be used to monitor Program participants. Failure to provide the information requested on this form may result in ineligibility to participate in the Program.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB 0581-NEW. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

REPRODUCE LOCALLY. STATE AND TRIBAL HEMP DISPOSAL REPORT.

OMB No. 0581-NEW

Reporting Period: _____ to _____

State or Tribe Plan: _____ Date Submitted: _____

List all licensees and locations where a disposal took place during this reporting cycle.

Producer or Entity Name	Producer/Entity Address	License or Authorization identifier	Lot #	Location Type (Greenhouse, Indoor, Field)	Geospatial Location (or other valid land descriptor)	Total Acreage	Date of Disposal	Disposal Agent Name and Organization

(Add additional pages if needed)

OR

No disposals during this reporting cycle ☐

APPENDIX 7

Submitted to USDA
Pending Approval



UNITED STATES DEPARTMENT OF AGRICULTURE
 AGRICULTURAL MARKETING SERVICE
 USDA DOMESTIC HEMP PRODUCTION PROGRAM
 STATE AND TRIBAL HEMP ANNUAL REPORT

States and Tribes must submit this form to the U.S. Department of Agriculture (USDA) by December 15th of each year.

This report should be submitted to USDA using a digital format compatible with USDA's information sharing systems, whenever possible. If this is not possible, please submit report to:

By Mail:

USDA/AMS/Specialty Crops Program

Hemp Branch

470 L'Enfant Plaza S.W.

Post Office Box 23192

Washington, D.C. 20026

Or via Email at:

FarmBill.Hemp@usda.gov

Or via Fax at:

(202) 720-8938

State or Tribe Plan: _____

Date Submitted: _____

Total Planted Acreage	Total Acreage Disposed	Total Harvested Acreage

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