



State of Maine Hemp Program Plan

Submitted by: Amanda Beal, Commissioner



**STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
OFFICE OF THE COMMISSIONER
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As designated by the Commissioner of the Maine Department of Agriculture, Conservation and Forestry (Maine DACF), the State Horticulturist will be responsible for the oversight, administration, and daily operation of the Maine Hemp Program. The following information and respective timelines will be effective upon the approval of the Maine Hemp Plan by the United States Department of Agriculture, Agricultural Marketing Service (USDA-AMS). The “Department” hereafter shall refer to the Maine DACF.

Note: The following list of State of Maine and USDA-AMS forms and reports will be used by the Department to collect, document, and report information to USDA-AMS under the Maine Hemp Program:

- Indoor or Outdoor Planting Report
- Maine Hemp Program Application
- State Hemp Producer Report
- Laboratory Test Results Report
- Disposal Report
- Disposal Certificate

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A. Land Used for Production

1. The Department will collect and maintain relevant producer information by requiring each applicant to complete a Maine Hemp Grower license application, licensing agreement, and a criminal history report. Licenses will expire 365 days after issuance.
2. The Department will collect and maintain relevant information on land used for hemp production by requiring each licensed producer to furnish a completed indoor or outdoor planting report. The Department will require that forms be submitted to the Department via email, U.S. mail, or a physical collection point identified by the Department, no later than 15 days after planting. A new planting report will be required each time a licensed grower plants a new crop.
3. The Department will provide to the USDA-AMS in the State Hemp Producer Report, contact information for each licensed producer, including business entities, covered under the Maine Hemp Program Plan. The Department will submit this report to the USDA-AMS on the first of each month as required. The Department will rely on information indicated in the Maine Hemp Program Application. Information will include:
 - Name
 - Address
 - Telephone number
 - Email address (if available)

If the applicant is a business entity, the information must include:

- Name of the business
 - Address of the principal business location
 - Full name and title of the key participants
 - An email address
 - EIN number of the business entity
4. The Department will collect and forward to USDA Farm Service Agency (FSA) a legal description for land where hemp is produced in the State. This information will be reported by the applicant or licensed producer on the Indoor or Outdoor Planting Report form and will define the boundaries of the property where hemp will be produced. The Department will correspond monthly with FSA to confirm this information. This description will contain the city and county, as well as the geospatial location. Licensed producers will also be directed to report their site and crop information to FSA directly.
 5. The Department will maintain and report to USDA-AMS the status of licensed producers, license numbers of producers, and any changes. The Department will report to USDA using the State Hemp Producer Report. For the purposes of reporting to USDA-AMS, the Department will assign unique license numbers.

The Department will determine license status using the following:

- Active – a license holder that is in good standing with the Maine Hemp Program.
 - Suspended – a license holder that has engaged in conduct violating the Maine Hemp Program rules. In addition:
 - A license holder whose license has been suspended shall not produce or handle hemp during the period of suspension.
 - The Department may require that a license holder whose license has been suspended to complete a corrective action plan to fully restore the license.
 - Revoked – a license holder that violates the Maine Hemp Program rules 3 times within a period of 5 years shall have the license revoked and be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation. The Department may immediately revoke licenses if:
 - A license holder pleads guilty to or is convicted of any felony related to a controlled substance.
 - A license holder makes a materially false statement with regards to the Maine Hemp Program rules to the Department with a culpable mental state greater than negligence.
 - A license holder is found to be growing hemp exceeding the acceptable THC level with a culpable mental state greater than negligence or has negligently violated the Maine Hemp Program rules 3 times within a period of 5 years.
6. The Department will maintain all producer growing site registration records for three years.

B. Sampling and Testing for delta-9 tetrahydrocannabinol

1. The Department will use the following procedures to conduct sampling and testing within 15 days prior to the anticipated harvest date.
 - A sampling agent shall collect representative samples from lots to submit for testing of THC concentration levels, within 15 days prior to the date of harvest, as indicated by the licensed producer or authorized representative of the licensed producer. The Department will not comingle lot samples.
 - The Department requires licensed producers to notify the Department via phone or email within 30-15 days prior to the anticipated harvest of cannabis plants. A licensed producer or an authorized representative of the licensed producer, as documented on the Maine Hemp Program Application, has the role of notifying the Department of the anticipated date of harvest. Licensed producers and or authorized representatives do not have any role in sample collection except to be present while the Department samples their crop. The Department has extended the notification period to within 30 days of harvest to allow the Department time to schedule sampling with licensed producers; sample collection will only occur within 15 days of the anticipated harvest.
 - If a licensed producer fails to complete harvest within 15 days of sample collection, the Department will collect a second pre-harvest sample of the lot to be submitted for testing. The licensee will be responsible for the costs of any additional pre-harvest samples.
 - The sampling agent will not collect samples on lots where cannabis plants have not matured to the flowering stage, as the USDA requires that samples consist of flower material.
 - A licensed producer or any other individual shall not harvest cannabis plants prior to samples being collected by the Department.

2. The Department will use the following method to collect samples from the flower material of cannabis plants:
 - The sampling agent will make the cut of a cannabis plant just underneath the flower material.
 - Each composite sample will contain cuttings of flower material from the upper one-third of the plant.
 - The sample size must be of adequate volume, as determined by the Department, to accommodate laboratory tests.

3. The Department will use the following procedures to ensure that samples represent a homogenous composition of a lot:
 - Always walk through the lot following a sawtooth pattern, beginning at one point of the lot and walking towards another point located on the opposite side of the lot.
 - Walk access roads, drainage ditches, or other accessible paths that allow penetration into the lot (stand), in cases where the lot (stand) is determined too dense and walking through is deemed impossible.
 - Cut at least “n” flower material at random distances in the lot, while walking a sawtooth

- pattern. The sampling agent will make a determination of n based on the number of acres per lot.
 - collecting cuttings from the borders of the field or indoor growing site, high spots or low spots in the lot, and male plants.
 - Visually estimate the homogeneity of the lot to be sampled to establish that the lot is of like variety.
4. The Department will require that a licensed producer or authorized representative of the licensed producer to be present at the growing site during a scheduled sample collection whenever possible. If a licensed producer or authorized representative of the licensed producer cannot be present, the Department will obtain permission by telephone or email and collect the sample(s) in their absence.
 5. The Department shall have complete and unrestricted access during reasonable business hours to all hemp and other cannabis plants and all land, buildings, etc. used for cultivation and or handling.
 6. Licensed producers shall not harvest any cannabis prior to samples being taken.
 7. The Department will use the following procedures to require testing for delta-9 THC concentration: establish an agreement with an ISO 17025 Accredited lab to perform THC tests and require that the laboratory share test results to the Maine DACF; share reported test results to licensed producers and report test results to the USDA using the Laboratory Test Results Report (AMS-22); require that the laboratory convert THC acid into delta-9 THC using a decarboxylation method; and require that the laboratory use gas or liquid chromatography with detection to determine the post-decarboxylation total THC concentration on a dry weight basis. If required, the Department will establish an agreement with a DEA registered laboratory.
 8. The Department shall prohibit any hemp grown in a lot where the acceptable THC level is non-compliant from handling, processing, or entering the stream of commerce. The Department has defined the acceptable hemp THC level as follows: “Acceptable Hemp THC Level” means decarboxylated delta-9 tetrahydrocannabinol concentration is equal to or less than 0.3% on a dry weight basis, as reported by an ISO 17025 Accredited laboratory or DEA registered laboratory if required. The designated laboratory will also report the Measurement of Uncertainty (MU). The application of the MU to the reported delta-9 THC content concentration level produces a distribution, or range. If 0.3% or less is within the distribution or range, then the sample will be considered hemp.
 9. The Department will require that the laboratory use appropriate validated methods and procedures for all testing activities and evaluate measurement of uncertainty, which must be estimated and reported with test results. The Department has defined measurement of uncertainty as follows: “Measurement of Uncertainty” or “MU”, means the parameter associated with the results of a measurement that characterizes the dispersion of the values that could reasonably be attributed to

the particular quantity subject to measurement. If a sample measure of 0.3% THC falls within the MU range, then the sample meets acceptable hemp THC levels.

C. Disposal of Non-Compliant Plants

1. The Maine DACF will ensure proper destruction of non-compliant plants, per USDA instruction.
2. For on-site disposal, an authorized employee from the Maine DACF will witness the destruction of any cannabis that exceeds the acceptable hemp THC level until it is rendered non-retrievable.
3. When on-site destruction is not feasible, an authorized employee from the Maine DACF will supervise the loading and transport of cannabis that exceeds the acceptable hemp THC level directly to an authorized location and will supervise the unloading until the transfer is complete.
 - The Maine DACF will require licensed hemp producers to ensure that all lots associated with samples that exceed acceptable hemp THC levels are delivered to the authorized location.
 - The Department will utilize incineration or commercial composting to render the cannabis that exceeds the acceptable hemp THC level non-retrievable and unfit from entering the stream of commerce.
4. The Maine DACF will record all disposals and report to the USDA using the Disposal Report. The Department will jointly sign a Disposal Certificate with the licensed producer. The Department will include copies of these documents as well as test results as part of the State Hemp Producer Report to USDA.

D. Compliance with Enforcement Procedures Including Annual Inspection of Hemp Producers

1. The Maine DACF will conduct annual inspections of, at a minimum, a random sample of licensed producers to verify that hemp is not produced in violation of the Hemp Program.
 - The Department will schedule inspections to occur between June and October and notify producers prior to inspections.
 - The Department will generate a random selection from a list of licensed producer numbers.
 - A Department representative will conduct inspections to review records and documentation to include site visits to farms, fields, greenhouses, storage facilities, or other locations affiliated with the producer's hemp operation.
 - During inspections, the Department will also confirm compliance with State Nursery Law, Pesticide Law, Seed Law, and Federal Seed Act.
 - The Department will assess whether required records and documentation are properly maintained for accuracy and completeness. The Department will document findings. If an inspection results in the discovery of a negligent violation of the Maine Hemp Program, the Department will institute a corrective action plan.
 - Negligent violations are not subject to federal, state, tribal or local government criminal enforcement.

2. The Maine DACF will require a corrective action plan for negligent violations that result from a 1) failure to provide legal description of land; 2) failure to obtain a license; 3) production of cannabis with THC exceeding the acceptable hemp THC level. This plan will include:
 - A reasonable date by which the licensed producer will correct the negligent violation.
 - A requirement that licensed producers periodically report to the Department on compliance with this plan for a period of not less than two years following the violation.

3. The Department will use the following definition for "Disqualifying Felony":
"Disqualifying Felony" means person with a state or federal felony related to a controlled substance for the 10 years prior to the date of when a Criminal History Report is completed, are ineligible to participate in the State of Maine Hemp Program for 10 years following the date of conviction."

4. Licensees who were licensed before December 20, 2018 under the State hemp pilot program are not subject to the disqualifying felony ineligibility restrictions.

5. If the Department determines that a producer has violated the Maine Hemp Program Plan with a culpable mental state greater than negligence, the Department, as applicable, shall immediately report the producer to the U.S. Attorney General and the chief law enforcement officer of the State.

6. The Department will use the following definition for “Key Participants”:

“Key Participants” means person or persons who have a direct or indirect financial interest in the entity producing hemp, such as an owner or partner in a partnership. A key participant also includes persons in a corporate entity at executive levels, including CEO, COO, and CFO. This does not include other management positions like farm, field, or shift managers.

“Criminal History Report” means a report detailing an individual’s conviction status related to a controlled substance within the past 10 years at the state or federal level, which must be dated within sixty days prior to the date of application submission, to be renewed every three years. A Criminal History Report is required for all key participants and authorized representatives.

E Information Sharing

1. The Department will use the State Hemp Producer Report to report the following information to the USDA-AMS, not later than 30 days after it is received using the reporting requirements as determined by the USDA-AMS in § 990.70 of the rule. The Department will collect information as submitted by licensed producers on the Maine Hemp Program Application and Indoor or Outdoor Planting Report forms. Contact information for each hemp producer covered under the plan must be provided, including:
 - name, mailing address, street address, telephone number, and email address
 - geospatial location(s) of each lot or greenhouse where hemp is grown
 - license number
 - if the producer is a business entity, the full name of the business, address of the principal business location, full name and title of the key participants, an email address if available, and EIN number of the business entity
 - outdoor hemp crop acreage and indoor hemp crop square footage
 - total acres planted, harvested or disposed
2. The Maine DACF will correspond monthly with FSA to confirm information for each licensed producer and lots.
3. Licensed hemp producers will also report the information shown in E (1) above to the USDA-FSA as determined by USDA-AMS in § 990.70 of the rule.

F. Certification of Resources

The signatures below certify that the State of Maine has the resources and the personnel to carry out the practices and procedures described in the State of Maine’s Hemp Program Plan submitted on August 15, 2020, by Commissioner Amanda Beal of the Maine DACF to the USDA, pursuant to Section 297B(a)2(A)(i-vii) of the Agriculture Improvement Act of 2018, and more formally outlined in the Hemp Interim Final Rule (7 CFR Part 990: Establishment of a Hemp Program), and the rules authorized by MRS Title 7, Part 5, Chapter 406 – A.

Amanda Beal, Commissioner
Maine Department of Agriculture, Conservation and Forestry

Date:
8/14/2020



G. Plan Approval, Technical Assistance and USDA Oversight

The Department will submit for approval to the USDA a Hemp Program plan to allow for the production of hemp in the State of Maine. The Department acknowledges that the production of hemp in the State of Maine may not commence until this plan has been approved by the USDA.

Once the plan has received approval from USDA, it will remain in effect, unless revoked by USDA pursuant to the revocation procedures identified in the Hemp Program Interim Final Rule, or unless the Department makes substantive revisions to the State plan or laws that alter the way the plan meets the requirements of the Hemp Production Interim Final Rule.

USDA has the authority to audit States and Tribes to determine if they are in compliance with the terms and conditions of their approved plans. If a State or Tribe is non-compliant with their plan, USDA will work with that State or Tribe to develop a corrective action plan following the first case of noncompliance.

The USDA will post an approved State and Tribal plan, including their respective rules, regulations, and procedures, on USDA's hemp program website. Additionally, changes to the provisions or procedures under this rule, or to the language in the 2018 Farm Bill, may require plan revision and resubmission to USDA for approval. Should States or Tribes have questions regarding the need to resubmit their plans, they should contact USDA for guidance. Statutory amendments could result in revocation of some or all plans.

If USDA decides to revoke a state plan, such revocation would begin after the end of the current calendar year so producers have the opportunity to adjust and apply for a license under the USDA plan.