



October 14, 2020

Bill Richmond, Chief, U.S. Domestic Hemp Production Program
United States Department of Agriculture
1400 Independence Avenue SW, Stop 0237
Washington, D.C. 20250-0237

Mr. Richmond,

The Minnesota Department of Agriculture (MDA) is committed to the regulation of Minnesota's industrial hemp industry in partnership with the USDA. The Minnesota state hemp plan was approved by USDA on July 14, 2020 and found to be in compliance with the requirements set forth in Subtitle G of the Agricultural Marketing Act of 1946, 7 U.S.C. §§ 1639o – 1639s and the implementing regulations at 7 CFR part 990.

On page 2 of the approved Minnesota state hemp plan, it states "This plan is effective when the State's Industrial Hemp pilot program authorized under the 2014 Farm Bill and extended by the 2018 Farm Bill is ended by the State of Minnesota." In light of the recent continuing resolution which passed the U.S. Senate in September 2020, and allows for the extension of the pilot program, Minnesota will extend the pilot program for 2 additional months past our original sunset date of October 31, 2020. This will allow the transition between the pilot program and the commercial state plan program to conform with the calendar year and the standard annual licensing period prescribed in Minnesota state law.

In summary, the Minnesota hemp pilot program will expire on December 31, 2020 and the MDA will begin operating under the USDA-approved state plan beginning on January 1, 2021.

We look forward to working closely with USDA in the future.

Sincerely,

A handwritten signature in cursive script that reads "Thom Petersen".

Thom Petersen
Commissioner
Minnesota Department of Agriculture
625 Robert Street North
Saint Paul, MN 55155



Minnesota Industrial Hemp Plan

July 10, 2020

Minnesota Department of Agriculture
625 Robert Street North
St. Paul, MN 55401

www.mda.state.mn.us

Minnesota Industrial Hemp Plan

In accordance with the Agriculture Improvement Act of 2018, the Minnesota Department of Agriculture has prepared this plan for regulation of hemp production in Minnesota. The elements of this plan describe how Minnesota will address each of the requirements laid out by USDA for hemp plans. This plan is effective when the State's Industrial Hemp pilot program authorized under the 2014 Farm Bill and extended by the 2018 Farm Bill is ended by the State of Minnesota.

[Commitment from the Department](#)

Page 2

This letter from the Commissioner of Agriculture demonstrates the Department's commitment to regulate hemp production in Minnesota.

[Draft Rules for Hemp Production and Processing](#)

Page 4

This draft rule will form much of the legal basis at the State level for regulation of hemp production and processing by the MDA. Once an agreement has been reached between the USDA and MDA on a State Hemp Plan, the MDA will work through the process to have this rule promulgated.

Appendix 1. [Application Process](#)

Page 14

Applicants to the Minnesota Industrial Hemp Program primarily use an online system to provide information regarding hemp production and processing to the Department. The example application for the pilot program provided here is used for applicants who are unable to utilize that system and demonstrates the information that is collected by the Department through the application process. Any changes to information reported in the application must be promptly reported to the Department and in turn will be passed on to the USDA through the Data Sharing Protocol.

Appendix 2. [Sampling Protocol](#)

Page 20

This section describes the procedures that the Department will use to collect samples, including the timing of sample collection and number of plants to sample.

Appendix 3. [Data Sharing Protocol](#)

Page 25

This section describes the process that the Department will use to share current data with USDA on a regular basis.

Appendix 4. [Enforcement Authority](#)

Page 27

[Minnesota Statute 18K](#) provides a State authorization for the Department to regulate the production of hemp in Minnesota. Authority for inspection and enforcement of provisions of 18K as well as any rules adopted under 18K is provided through [Minnesota Statute 18J](#).



March 31, 2020

Bill Richmond, Chief, U.S. Domestic Hemp Production Program
United States Department of Agriculture
1400 Independence Avenue SW, Stop 0237
Washington, D.C. 20250-0237

Mr. Richmond,

The Minnesota Department of Agriculture is committed to the regulation of Minnesota's industrial hemp industry in partnership with the USDA. The Department is authorized to regulate hemp production under the Minnesota Industrial Hemp Development Act (Minnesota Statutes, Chapter 18K) that was established in 2015 as a result of Section 7606 of the 2014 Federal Farm Bill. This act authorizes the Department to collect fees to operate its hemp program through required licensure of both growers and processors. Minnesota had 343 licensed growers during 2019 and we anticipate that number to grow in 2020 as that many applications have already been received. We have staff dedicated to running our Industrial Hemp Program as well as the ability to utilize staff from other programs when the hemp workload increases. Our staff have years of experience with hemp regulation through our state pilot program that has seen significant growth and change in the industry over those years. They have also provided national leadership to other states developing hemp pilot programs and have developed many relationships with federal, state and international regulators and law enforcement agencies involved with cannabis management.

Our hemp program is entering its sixth year of operation and fifth growing season. The first hemp crops were planted on 38 acres in Minnesota during 2016 by 6 licensed growers. Most of this acreage was planted for grain with a small fraction grown for fiber. In 2017, interest in hemp production expanded greatly with 33 growers producing hemp on over 1,000 acres. While grain continued to be the primary purpose for production, a small portion was planted for fiber and the first acres designated for cannabidiol (CBD) extraction were planted in Minnesota. In 2018, there was a modest increase in growers to 43, though a decline in overall acreage planted to approximately 700. Grain production continued to occupy the majority of acres, although CBD extraction grew to 10% of the acreage planted. Interest in hemp grew exponentially after the 2018 Farm Bill granted it legal status as a crop and the number of licensed growers increased to 343 in 2019. The change in legal status coincided with a burgeoning interest in CBD products by consumers and during 2019, nearly 80% of the 8,000 acres planted to hemp in Minnesota were intended for CBD extraction.

During the past four years of hemp production in the state, we have dealt with many challenges associated with regulating this crop. In 2019, about 12% of the hemp lots grown in Minnesota surpassed legal concentrations of THC and were required to be destroyed by the Department. When the number of acres needing sampling grew from 700 in 2018 to 8,000 in 2019, we pulled staff away from other work in order to sample 100% of the hemp lots produced in Minnesota. We have developed protocols for obtaining and submitting samples so that growers are treated equitably, and sample identity and integrity is maintained. Through those experiences we have learned that some varieties merit greater scrutiny than others. We have also learned that spiking THC levels during flowering make sample timing very difficult and have dealt with situations where a grower received an acceptable THC result from a department sample but then had a crop test hot at harvest, thus losing access to processing opportunities.

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In accordance with the Americans with Disabilities Act, this information is available in alternative forms of communication upon request by calling 651-201-6000. TTY users can call the Minnesota Relay Service at 711. The MDA is an equal opportunity employer and provider.

We have worked closely with Minnesota law enforcement agencies to provide information on hemp production areas, and licensed growers regarding citizen complaints, burglaries and traffic stops. We have also worked with the same agencies to create legal frameworks for the production and transportation of CBD so that the growing processing market in Minnesota can be fairly regulated. We have had situations where licenses have been denied or revoked due to alleged criminal activity or convictions and have defended our policies and procedures in federal and district courts.

These experiences have helped to shape the approach to regulating the Minnesota hemp industry that is outlined in this plan. We feel that the procedures that are detailed in this plan are the most practical and equitable means to regulate the hemp industry in Minnesota in alignment with the vision set forward by USDA, while allowing the hemp industry an opportunity to grow and flourish. Communication and cooperation with law enforcement and local government officials has been a top priority for our hemp program in order to provide accurate and timely information so that illegal activities associated with cannabis production are prevented. We are committed to working with the USDA to develop a hemp regulatory program that is agreeable to both agencies and are open to feedback on this plan.

Sincerely,

A handwritten signature in black ink that reads "Thom Petersen". The signature is written in a cursive, flowing style.

Thom Petersen
Commissioner

Draft Rule for Hemp Production and Processing

XL.01 Purpose

The purpose of these rules is to establish the requirements for persons to commercially produce hemp as provided under Chapter 18K. Licensing is required for persons to grow and process hemp in Minnesota.

XL.02 Definitions

“Acceptable hemp THC level” means when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes .30% or less as defined in 7 Code of Federal Regulations part 990.1.

“Applicant” means a person who submits an application for a license as required under this chapter. If the applicant is an entity, the applicant should be the owner or most responsible individual in charge.

“Authorized representative” means any individual authorized by the licensee to make changes to the license and share data on behalf of the licensee. The licensee remains responsible for compliance with the license requirements irrespective of the acts or omissions of an authorized representative.

“Cannabis” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis ruderalis* and *C. indica* are subspecies thereof. Cannabis also refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

“Certified seed” means a hemp seed variety that has been bred to comprise satisfactory genetic purity and varietal identity and has been accepted by the Association of Seed Certifying Agencies (AOSCA), Organization of Economic Cooperation and Development (OECD) or other certifying entity as determined by the department.

“Certificate of Analysis” means a document issued by an ISO 17025 accredited laboratory which documents the Total THC content of the lot that it accompanies.

“Commissioner” means the commissioner of agriculture.

“Controlled Substances Act” is the statute codified in 21 U.S.C. 801-971.

“Conviction” is a plea of guilty or nolo contendere or any finding of guilt. If the finding of guilt is subsequently overturned on appeal, pardoned, or expunged, then it is not considered a conviction under this rule. It is expunged when the conviction is removed from the individual’s criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than it may be used for sentencing purposes for subsequent convictions.

“Corrective Action Plan” is a plan set up by the Department for a licensed hemp producer to correct a negligent violation of or noncompliance with a hemp production plan, in terms, or any other regulation set forth under this rule.

“Criminal History Report” means the Federal Bureau of Investigation’s Identity History Summary.

“Culpable mental state greater than negligence” means to act intentionally, knowingly, willfully, recklessly or with criminal negligence.

“Decarboxylated” means the completion of the chemical reaction that converts THC-acid (THC-A) into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta 9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

“Delta-9 tetrahydrocannabinol or THC” mean the primary psychoactive component of cannabis. For the purposes of this rule, delta-9 THC and THC are interchangeable.

“Department” means the Minnesota Department of Agriculture.

“Destroyed” means incinerated, tilled under the soil, made into compost, removal and disposal of THC or other manner approved by the department.

“Drug Enforcement Administration or DEA” means the United States Drug Enforcement Administration.

“Dry weight basis” refers to a method of determining the percentage of a chemical in a substance after removing the moisture from the substance. 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 moisture from the item.

“Dwelling” means any residential building or portion thereof intended or built for occupancy by one of more persons with facilities for living, sleeping, cooking and eating, including apartments, townhomes, and any other multi-family structures.

“Entity” means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

“Farm Service Agency or FSA” means an agency of the United States Department of Agriculture.

“Fit for Commerce” is a document issued by the department attesting that the raw hemp plant material has been tested for total THC concentration and is in compliance with this chapter.

“Geospatial location” means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

“Grow location” means a contiguous land area, or greenhouses, hoop houses, or buildings for indoor cultivation, registered with the department, on which a licensee or applicant will conduct licensed hemp cultivation activities. Each non-contiguous grow location must be registered separately.

“Grower” means any individual who grows hemp in order to harvest plants, plant parts, grain or seed.

“Genuine grower’s declaration” is a statement signed by the grower which gives for a lot of hemp propagules, the lot number, kind, variety, origin, quantity, year of production, date of shipment, and to whom it was sold, shipped, or delivered.

“Key Participants” means a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation or persons who have a direct or indirect financial interest in the entity producing hemp. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer and chief financial officer. This does not include such management as farm, field or shift managers.

“Licensee” means any person who holds a license from the department to grow, produce, or, process, hemp.

“Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout, and all hemp plants, plant parts, extracts and derivatives from a common source.

“Marketable hemp product” means a hemp product that does not contain any living hemp plant parts or viable seeds, or does not contain THC above the acceptable hemp THC level.

“Measurement of Uncertainty” means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement. Measurement uncertainty includes uncertainty due to sampling.

“Negligence” means failure to exercise the level of care that a reasonably prudent person would exercise in complying with the regulations set forth under this part.

“Person” includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, corporations, or businesses.

“Processing” means rendering hemp plants or plant parts from their natural or original state after harvest by refinement, such as, but not limited to, decortication, devitalization, chopping, crushing, extraction or packaging. Typical farm operations such as, but not limited to, sorting, grading, baling, and harvesting, are not considered processing for purposes of this definition.

“Processing location” means any area, building, plant or facility registered with and approved by the department in which a licensee will convert raw hemp into a marketable product.

“Processor” means a person or business that converts raw hemp into a product.

“Propagule” means seeds, clones, transplants and any other propagative hemp material.

“Raw hemp” means whole plants, whether growing or not, or the stalks, viable seeds, unaltered flowers or leaves, or any unprocessed plant pieces or parts.

“Sell; sale” means keeping, offering, or exposing for sale, use, transporting, transferring, negotiating, soliciting, or exchanging hemp; having in possession with intent to sell, use transport, negotiate, solicit, or exchange hemp; storing, manufacturing, producing, processing, packing, and holding of hemp for sale; dispensing or giving hemp; or supplying or applying hemp in the conduct of any hemp operation or carrying hemp in aid of traffic in hemp whether done or permitted in person or through others.

“Volunteer plant” means a hemp plant that results from a previous crop.

“Variety” means a subdivision of a kind that is distinct, uniform, and stable; “distinct” in the sense that the variety can be differentiated by one or more identifiable morphological, genetic, physiological, or other characteristics from all other varieties of public knowledge; “uniform” in the sense that variations in essential and distinctive characteristics are describable; and “stable” in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.

XL.03 Application Process

Subpart 1. Each applicant for a hemp grower or processor license must pay a nonrefundable registration and inspection fee as well as submit an application which contains the following information:

- a. The applicant’s full name, business address, telephone number, and email address if available. For an entity, the full business name, the principal business location address, telephone number, and the full name, title, and email address, if available, of each key participant of the entity;
- b. A list of authorized representatives, to be registered under the license;
- c. The proposed acreage and indoor square footage to be planted;
- d. The legal description and geospatial location of any proposed registered grow and/or processing area;
- e. A map of the grow location, showing the boundaries and dimensions of the grow location in acres or square feet;
- f. The landowner’s name, phone number, and email address, if different than the grower; and
- g. As part of a complete application, each first time applicant shall provide an official fingerprint card of the applicant’s fingerprints, a non-refundable background check fee, and a completed informed consent form authorizing the department to obtain a federal/state criminal history report on the applicant from the Bureau of Criminal Apprehension. The criminal history report must be dated within 60 days of application.
- h. Each annual renewal shall require the payment of nonrefundable license renewal fees.

Subpart 2. A license shall not be issued unless the application submitted for review is complete and accurate, and the criminal history summary confirms that the applicant has not been convicted of a felony, under State or Federal law, relating to a controlled substance within the past ten years unless the exception in Section 7 CFR Section 990.20(b) applies. In addition, a license shall not be issued if the applicant has not submitted all reports required under this rule or owes a penalty to the Department for violating any rules under this chapter.

Subpart 3. A license shall not be issued if the Department obtains knowledge that the applicant is applying for a license as a stand-in for someone whose license has been suspended, revoked, or is otherwise ineligible to participate.

Subpart 4. An applicant has an ongoing obligation during the course of their license period to ensure that that the individual grower, authorized representative, licensed applicant, or key participant has not been convicted of a felony related to the possession, production, sale, use or distribution of a controlled substance in any form within ten years of the date of the application. If an individual has been convicted of a felony stated above, the individual shall be ineligible, during the 10-year period following the date of the conviction, to grow hemp or participate in the hemp program under this chapter.

Subpart 5. An applicant must be in compliance with all local, state and federal laws and ordinances before a grower or processor license may be issued.

XL.04 Grower License

Subpart 1. A person must possess a hemp grower license prior to planting or growing raw hemp in Minnesota for commercial or research purposes.

Subpart 2. The licensee must submit a Planting/Harvest Report Form no more than 7 days after planting to notify the Department of an anticipated harvest date.

Subpart 3. All licenses are valid until the last day of the calendar year in which it was issued and may be renewed in successive years.

Subpart 4. Any growing plant that is not harvested during the license period in which it was planted must be destroyed unless the license has been renewed.

Subpart 5. Licensees shall not change the location of a registered grow location without first notifying the department and their local Farm Service Agency. The licensee must submit the proposed change to the department along with an updated legal description, geospatial location, and map specifying the proposed changes to the registered grow location(s) and pay fees, prior to planting.

Subpart 6. Licensees growing hemp for seed certification must register with and follow the requirements for certification of the Minnesota Crop Improvement Association.

XL.05 Processor License

Subpart 1. A person shall obtain a hemp processor license prior to obtaining raw hemp materials for commercial processing purposes.

Subpart 2. Licensees shall be able to provide to the department or law enforcement upon request, information documenting the source material for any hemp plants, plant parts, extracts, grain, seeds and products that they are in possession of or had processed. Documentation must include, but is not limited to, any test results from an accredited laboratory validating that plant materials, extracts and products did not exceed the acceptable hemp THC level.

Subpart 3. Licensees shall not change the location of a registered processing location without first notifying the department. The licensee must submit the proposed change to the department along with an

updated legal description, Geospatial location, and/or map specifying the proposed changes to the registered processing location, and if applicable, pay additional fees, prior to commencing processing at the new location.

Subpart 4. A processor must obtain hemp from a licensed Minnesota grower or from sources approved through another state or federally approved plan. The processor must obtain a copy of the Fit for Commerce certificate (or equivalent document from another state, the United States Department of Agriculture, or country of origin) from the grower, specific to the lot being purchased, prior to processing the hemp.

XL.06 Supervision, Sampling and Inspection

Subpart 1. Each licensee shall agree to the following:

- A. That the licensee agrees to maintain on record any additional testing results of final harvested materials and any processed materials, to ensure compliance with the 0.3% Total THC requirement;
- B. That the licensee has not made any materially false statement or misrepresentations regarding the person's cultivation or processing of cannabis plants;
- C. That the licensee shall not cultivate, process, move or distribute cannabis plants other than hemp unless licensed to do so;
- D. That the licensee shall not cultivate or process hemp in an area not licensed by the department;
- E. That they are responsible to pay any fees applicable to the licensed activities;
- F. That the licensee must have the legal right which includes, but is not limited to, a valid deed or lease, to the registered grow location, including the legal authority to grant the department access for inspection and sampling;

Subpart 2. Sampling, Testing and Destruction

- A. As a condition of obtaining a license, the licensee must agree to allowing the Department or its designee to conduct field surveillance and crop sampling of licensee's growing locations as requested by the Department.
- B. The license holder or an authorized representative is encouraged to be present at the growing site during inspection and be available by phone prior to or during the inspection. The landowner on record can be an authorized representative if granted by the license holder. Authorization for entrance to and inspection of property and collection of hemp samples for testing is granted by signature of the licensee as a part of the licensing process. If neither the license holder or an authorized agent can be present during the inspection/sampling event, prior communications with the license holder will occur to assure both the licensee and the inspector are aware of the Lots to be sampled, the location of said Lots, and any other information pertinent to the inspection process.
- C. The Department or any law enforcement agency shall be provided with complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings and other structures used for the cultivation, handling, producing, and storage of all hemp and other cannabis plants, and all locations listed in the producer's application and license.
- D. A producer must not harvest a "lot" of hemp unless a sample has been collected by the Department no more than 15 days previous.
- E. A sample collected according to established protocols approved by the commissioner shall be

deemed representative of the location or lot from which the sample was obtained.

- F. The compliance of the lot will be based on whether the % Total THC result determined on a dry weight basis includes a value of 0.3% within a range of values specified by plus or minus the measurement uncertainty.
- G. Any sample test result exceeding the acceptable hemp THC level shall be conclusive evidence that the lot represented by the sample is not in compliance with this part.
- H. Any test result from a sample collected by the Department will be considered the official test result representing the lot.
- I. Harvested lots of hemp plants shall not be commingled with other harvested lots or other material without a proper fit for commerce certificate.

XXXX.067 NONCOMPLIANT CANNABIS PLANTS

Subpart 1. Cannabis plants exceeding the acceptable hemp THC level constitutes marijuana, a Schedule I controlled substance under the CSA, 21 USC 801 et seq, and must be destroyed.

XL.08 FIT FOR COMMERCE CERTIFICATION

Subpart 1. Ownership of raw hemp may not be transferred to a processor or to the public without a Fit for Commerce certificate.

Subpart 2. No processor may acquire or process raw hemp grown within Minnesota without acquiring a copy of a Fit for Commerce certificate issued by the department to the grower, specific to the lot being purchased.

Subpart 3. For the purposes of this section, “processing” does not include drying or field-cleaning of hemp. The licensee must notify the Department if they are drying or field-cleaning hemp from the lot in a location other than what is listed on the licensee’s application or license.

Subpart 4. A licensed processor using hemp which was obtained from outside of the state of Minnesota must maintain a bill of lading, certificate of analysis, and other proper documentation demonstrating that the hemp was from a source approved through another state or federally approved plan. The licensee must retain such records for 3 years and produce them upon request of the department, law enforcement, or other regulatory entity. Imported products must meet all applicable state and federal laws.

XL.09 TRANSPORTING HEMP

Subpart 1. During transport of any raw hemp, the transporter must have in their possession:

- a. A copy of the owner of the raw hemp’s license, and, if different, the license of the individual receiving the raw hemp, a Fit for Commerce Certificate, Certificate of Analysis or equivalent; and
- b. A bill of lading or other proper documentation demonstrating that the hemp was legally imported into Minnesota under applicable state and federal laws and from sources approved through another state or federally approved plan

XL.10 HEMP PROPAGULES

Subpart 1. To sell or purchase hemp propagules, the licensee must maintain the following documents on record for 3 years:

- a. lot number or other lot identification;
- b. a copy of the genuine grower's declaration or similar documents containing the same information;
- c. copies of invoices showing the sale of each propagule lot, including the name of the person the lot was sold to, the amount sold, the date of sale, the name of the variety, and the lot number;
- d. a copy of the label that was attached to or accompanied the propagule lot;
- e. a copy of the field and final certification documents, if applicable;
- f. a copy of each report concerning the testing of hemp seed for labeling purposes, including Total THC; and
- g. A copy of required USDA documents if importing from another country.

Subpart 2. The licensee agrees to the following conditions:

- a. That upon suspension, revocation, expiration, or nonrenewal of a licensee's license, any hemp live cannabis plants must be destroyed without reimbursement;

Subpart 3. Any volunteer hemp plants growing in subsequent years must be destroyed or a licensee may register that grow location and cultivate and harvest the volunteer plants if they obtain permission from the department and pay fees associated with registering the grow location.

Subpart 4. A hemp seed labeler selling seed in Minnesota must possess a current Minnesota seed permit and follow all federal and state seed laws.

Subpart 5. A person shall not sell hemp propagules to any person in the state that is not licensed by the department. Upon request from the department, a person selling hemp propagules shall provide records showing to whom hemp propagules were distributed.

Subpart 6. A licensee shall not acquire or grow hemp propagules of wild, landrace, or unknown origin without first obtaining written approval from the department. Each lot of hemp clones must have THC tested for each parental source before sale of any plants from that lot

XL.11 HEMP PRODUCTION

Subpart 1. Unless restricted by local ordinance or other state law, hemp can be grown in any area zoned for agriculture.

Subpart 2. Hemp cannot be grown in residential dwellings.

Subpart 3. Hemp production and processing practices must meet all federal and state pesticide, food and feed laws.

XL.12 HEMP DATA AND REPORTING REQUIREMENTS

Subpart 1. The licensee must maintain records regarding the acquiring, production, handling, selling and disposal of all plants subject to this chapter. All records must be maintained for at least three years. Each

grow location or processing area inspection may include an audit of the licensee's records and data, and all records shall be available for inspection by the Department or their designees during reasonable business hours or submitted to the Department upon request.

Subpart 2. A licensee shall notify the department and local law enforcement within 24 hours of discovery that any of their hemp and cannabis is missing, has been stolen, or is suspected to have been modified or tampered without the licensee's approval.

Subpart 3. A copy of the license shall be provided upon request to the MDA or law enforcement at any time. A copy must be given to the landowner or facility owner where hemp is grown or processed if they are different from the licensee.

Subpart 4. Any information obtained by the department regarding a licensee's growing or production of hemp may be provided to Federal, State or Local law enforcement agencies by the department without further notice to the licensee.

Subpart 5. Producers shall report their hemp crop acreage to FSA pursuant to 7 Code of Federal Regulations 990.7.

Subpart 6. Laboratories approved by MDA to conduct regulatory samples of hemp for licensees shall report the results for all samples tested to the USDA pursuant to 7 Code of Federal Regulations 990.7.

XL.13 DENIALS AND VIOLATIONS

Subpart 1. Applications for a license shall be denied if the applicant or key participant has been convicted of any felony related to the possession, production, sale, or distribution of a controlled substance in any form within ten years of the date of the application. If an individual outlined in XXXX. 03 Subpart 3 has any of the above on their background check, they will be ineligible, during the 10-year period following the date of the conviction, to produce hemp or participate in the hemp program under this chapter.

Subpart 2. In the event of license or registration revocation, any industrial hemp in possession of the revoked party must be destroyed by the party or it will be subject to seizure and destruction by the department or law enforcement. Any cost of the seizure and destruction shall be at the revoked party's expense.

Subpart 3. Negligent violations. A producer shall be subject to enforcement for negligently:

- A. Failing to provide an accurate legal description of land where hemp is produced;
- B. Producing hemp without a license.
- C. Producing cannabis (marijuana) exceeding the acceptable hemp THC level. Hemp producers do not commit a negligent violation under this paragraph if they make reasonable efforts to grow hemp and the cannabis does not have a delta-9 tetrahydrocannabinol concentration exceeding the level defined in 7 Code of Federal Regulations part 990.6(b)(3) after consideration of the measurement of uncertainty.

Subpart 4. Corrective Actions for negligent violations. For each negligent violation, the Department will issue a Notice of Violation and require a corrective action plan for the producer. The producer shall comply with the

corrective action plan to cure the negligent violation. Corrective action plans will be in place for a minimum of two years from the date of their approval. Corrective action plans will, at a minimum, include;

- A. The date by which the producer shall correct each negligent violation;
- B. Steps to correct each negligent violation; and
- C. A description of the procedures to demonstrate compliance must be submitted to the Department.
- D. A producer that negligently violates this part shall not, as a result of that violation be subject to any criminal enforcement by any Federal, State, or local government.
- E. If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan must be submitted with a heightened level of quality control, staff training, and quantifiable action measures.
- F. A producer that has three negligent violations in a 5 year period shall have their license revoked and be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.

Subpart 5. If the Department determines that a licensee has violated the terms of the license or of this part with a culpable mental state greater than negligence:

- A. The Department shall immediately report the violation to the United States Department of Agriculture, the U.S. Attorney General, and the Chief law enforcement officer of the state.
- B. Subparts 3 and 4 do not apply to culpable violations.

XL.14 License Revocation.

Subpart 1. The Department shall immediately revoke a license from a producer if such producer;

- A. Pleads guilty to, or is convicted of, any felony related to a controlled substance; or
- B. Made any materially false statement with regard to this chapter to the Department with a culpable mental state greater than negligence; or
- C. Is found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence or negligently violating this chapter three times in five years.

Subpart 2. It is unlawful to hinder or obstruct an inspector from inspecting, sampling or carrying out the duties under this section or Minnesota Statutes Chapter 18K.

XL.15 Laboratory Requirements

Subpart 1. 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 Department and USDA. The total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on a dry weight basis.

Additionally, measurement of uncertainty must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

Appendix 1. Application Process

Industrial Hemp Pilot Program Application Privacy Notice

Any information you provide as part of this application will be used by MDA staff to assess your eligibility to receive a license through MDA's Hemp Pilot Program. Your decision to provide this information is voluntary; you are under no legal obligation to provide MDA with any of the requested information. However, only completed applications will be considered for licensure. As a participant in the Industrial Hemp pilot program, your name, address, phone number, email address, and the location of your hemp field(s), processing facility, and/or testing laboratory are currently (as of October 2019) classified under Minnesota law as private or nonpublic data. Please note that due to the evolving nature of the laws and regulations surrounding Industrial Hemp, the classification of this data may change at some point in the future. Your completed criminal background check information is also classified as private data. Data that is classified as private or nonpublic will be viewed and used at MDA only by authorized employees and contractors that require access to perform their government functions.

Unless you consent to its release, private and nonpublic data will be shared only with other entities authorized by law to receive the information and parties named in a valid court order. MDA may share private and nonpublic information with local, state or federal law enforcement, including the Minnesota Department of Public Safety, if MDA determines that such sharing would aid in the law enforcement process. MDA may be required to share the information with the Office of the Legislative Auditor or the Office of the State Auditor upon their request. In addition, private or nonpublic data may be shared with other government entities or made public if the MDA determines that there is a substantive threat to human health and safety or to the environment. In the event of a legal action, your information may be shared with the Minnesota Office of the Attorney General.

Notice to all applicants: the MDA Industrial Hemp Pilot Program, as authorized under § 18K.09, is set to expire in the foreseeable future upon federal approval of MDA's hemp licensing and regulation plan. Upon the Pilot Program's expiration, all Pilot Program registrations will be immediately null and void, and industrial hemp growers/producers will be required to hold a current Commercial Hemp license, issued under Minn. Stat. § 18K.04. In order to be considered for such a license, Minn. Stat. § 270C.72 requires MDA to collect a Social Security number or individual taxpayer identification number and business identification number, as applicable, from commercial hemp applicants. **All applicants that have not provided the required information to be considered for a Commercial Hemp license at the time of the program transition (including Social Security number or federal tax ID) will have their applications denied and will be growing/producing hemp without a valid Minnesota license.**

PART 1 – APPLICANT INFORMATION

Last Name _____ First Name _____

Legal Business Name (optional) _____

Doing Business As/DBA Name (optional) _____

MN Tax ID or if none, Social Security Number _____ City _____ State _____ Zip _____

Physical Street Address (no PO Box) _____

Mailing Address (if different) _____ City _____ State _____ Zip _____

Primary Phone _____ Primary Email _____

Have you ever previously held an MDA Hemp Pilot Program License? Yes No
(If No, a background check is required – please submit fingerprints, the background check request form, and a \$37 payment for each person along with this application)

Are you applying for a Grower Pilot License, Processor Pilot License, or both? Grower Processor
Check all that apply

Authorized Representatives - Please list any individuals that are authorized to share data with the MDA or make changes to the license on behalf of the licensee.

Last Name _____ First Name _____ Phone _____

Email _____

Last Name _____ First Name _____ Phone _____

Email _____

PART 2 HEMP FIELD/ GROW LOCATION INFORMATION

Number of Individual Locations to Plant _____ Total Acres/Indoor Square Feet _____

Grow Locations

Provide as much information for each grow location listed below as possible. (A detailed map MUST be submitted with application showing each grow location relevant to the nearest municipality and navigable roads). You may give either the legal land description OR the GPS point **AND** the address. You may NOT grow in a residential dwelling.

Grow Location 1

Acres/Indoor Square Feet _____ Check One Indoor Outdoor

TWP _____ Range _____ Section _____ 1/4 Sec _____

GPS Point of Center of Grow Location Latitude _____ Longitude _____
Grow Location Address _____ City _____ Zip _____
State _____

Grow Location Owner/Inhabitant, *if different from the applicant*

Name _____ Phone _____ Email _____

Grow Location 2

Acreage/Indoor Square Feet _____ Check One: Indoor Outdoor

TWP _____ Range _____ Section _____ 1/4 Sec _____

GPS Point of Center of Grow Location Latitude _____ Longitude _____
Grow Location Address _____ City _____ Zip _____
State _____

Grow Location Owner/Inhabitant, *if different from the applicant*

Name _____ Phone _____ Email _____

PART 3 INDUSTRIAL HEMP PROCESSING LOCATION INFORMATION

Please review the following definitions to determine if you need a processor license:

A **hemp processor** is a person or business that converts raw hemp into a product.

Raw hemp means whole plants, whether growing or not, and the stalks, viable seeds, unaltered flowers or leaves, or any unprocessed plant pieces or parts.

Processing means rendering hemp plants or plant parts from the natural or original state after harvest by marginal refinement such as, but not limited to, decortication, devitalization, extraction, crushing, or packaging. Typical farm operations such as, but not limited to, sorting, grading, baling, drying, and harvesting are not considered processing for purposes of this definition.

A processing location means any area, building, plant, or facility registered with and approved by the department in which a licensee will convert raw hemp plants or plant material into a marketable product.

You may NOT process, store, or dry raw hemp in a residential dwelling.

Processing Location 1

TWP _____ Range _____ Section _____ 1/4 Section _____

GPS Point of Processing Location Latitude _____ Longitude _____ Processing Location _____

Address _____ City _____
_____ State _____
_____ Zip _____

Processing Location Owner/Inhabitant, *if different from the applicant*

Name _____ Phone _____ Email _____

Processing Location 2

TWP _____ Range _____ Section _____ 1/4 Section _____

GPS Point of Processing Location Latitude _____ Longitude _____

Processing Location Address _____ City _____
_____ State _____

Processing Location Owner/Inhabitant, *if different from the applicant*

Name _____ Phone _____ Email _____

PART 4 PILOT PROJECT GOALS

What do you plan to grow/process for? Check all that apply.

- CBD or other cannabinoids**
- Fiber**
- Grain**
- To Be Determined**

Would you be willing to report your agronomic, yield, and marketing results at the end of the year, in order to advance the research of hemp cultivation and markets in Minnesota?

- No**
- Yes**

Please read the following statements and check the boxes to indicate that you read, understand, and agree to abide by the guidelines of the MDA Hemp Program, and Minnesota Statutes, section 18K.09 and Section 297B(e)(3)B(i) of the Ag Marketing Act of 1946 (7 U.S.C. 1621).

- I understand the definition of hemp is: the plant *Cannabis sativa*, whether growing or not, containing not more than 0.3% delta-9 tetrahydrocannabinol post-decarboxylation. Any cannabis that I grow and any hemp-derived products that I offer for sale must meet the legal definition of hemp or it must be destroyed. *Cannabis sativa* plants or products containing more than 0.3% THC is marijuana under state and federal law.
- I understand that MDA inspectors and law enforcement must have unrestricted access to the registered hemp grow and processing locations, that MDA may inspect and sample my hemp plants or products and may inspect my facilities and/or records. I understand that I must keep all records of hemp planted, including Certificates of Analysis/THC tests results of the parent plants, seed/propagule label and sales information, and Fit For Commerce certificates of hemp lots produced and/or purchased/processed and I must retain such records for 3 years.
- I understand that growing hemp in an unregistered location is a prohibited act and may lead to consequences such as fines, destruction of crops revocation of license, or criminal charges. I understand that I must provide the MDA with accurate location and cultivation information in a timely manner.
- I understand that as the license holder, I am the responsible party under the license and I am responsible for any violations that occur, including by my employees who are working with hemp, co-owners or authorized reps. I understand that I have an ongoing obligation during my license period to ensure that myself, the individual growers, any members of my business occupying a leadership position, and authorized representatives have not been convicted of a controlled substance-related felony within 10 years of the date of application or during the license period.
- I understand that my license is good until the December 31 of the year issued, and I must renew in order to obtain a license and continue growing or processing hemp in subsequent years.
- I understand that any raw or viable hemp lot that leaves my control, such as through sale, must have been tested, shown to be compliant with the legal definition of hemp, and have a Fit For Commerce certificate issued by the MDA for that specific lot. Any raw or viable hemp being transported through Minnesota must have the associated Fit For Commerce certificate or equivalent, and a bill of lading or other proper documentation demonstrating that the hemp was grown in Minnesota or legally imported under applicable state and federal laws.
- I understand that the MDA is currently in the legislative rule making process for the Hemp Program as established in Minnesota Statutes 18K and as a result, guidelines laid out by program staff at the time of licensure may change within the licensing period. Program staff will update licensees on any new rules or changes in a timely manner.

- I understand that the United States Department of Agriculture oversees all hemp production in the U.S. and the Secretary of Agriculture is in the process of promulgating rules for the Ag marketing Act of 1946 (7 U.S.C. 1621) and that the State of Minnesota may have to adopt those rules as part of the State Plan approval process. Therefore, any hemp grower in the State of Minnesota will also have to adhere to those changes.
- I understand that the MDA Hemp Pilot Program, as authorized under § 18K.09, is set to expire in the foreseeable future upon federal approval of MDA's hemp licensing and regulation plan. Upon the Pilot Program's expiration, all Pilot Program registrations will be immediately null and void, and industrial hemp growers/producers will be required to hold a current Commercial Hemp license, issued under Minn. Stat. § 18K.04. In order to be considered for such a license, Minn. Stat. § 270C.72 requires MDA to collect a Social Security number or individual taxpayer identification number and business identification number, as applicable, from commercial hemp applicants. All applicants that have not provided the required information to be considered for a Commercial Hemp license at the time of the program transition (including Social Security number or federal tax ID) will have their applications denied, and will be growing/producing hemp without a valid Minnesota license.
- I understand that it is prohibited to grow, dry, or process hemp within a residential dwelling.

SUBMIT THIS FORM, FINGERPRINT CARD & BACKGROUND CHECK REQUEST FORM TO:

MDA Plant Protection
Attention: Hemp Pilot Program
625 Robert Street North Saint Paul, MN 55155-2538

Appendix 2. Sampling Protocol

Purpose

Samples are taken to obtain specimens for the measurement of tetrahydrocannabinol (THC) content, which determines whether the plants 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 a “lot” until it has been sampled by the Department.

Scope

Samples collected according to these procedures are acceptable for submission to a qualified, Department-approved laboratory for regulatory determination of THC in hemp.

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.

Official 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 licensee to pay any fees associated with sampling. An official sample will be considered to represent the THC level of a lot.

Inspection Selection and Notification

All licensed growers are subject to routine inspection and sampling to verify that the THC concentration of the hemp planted within a registered site does not exceed the acceptable hemp THC level.

In addition to any routine inspection and sampling, MDA may inspect and take samples from any registered site during normal business hours without advance notice if they have reason to believe a violation of the program rules is occurring.

The licensee will submit a Planting/Harvest Report Form no more than 7 days after planting to notify the department of an anticipated harvest date. MDA will send notification by phone or email to a licensed grower regarding an upcoming inspection. MDA inspectors will attempt to work with the grower to schedule the inspection for a date and time that works for both parties, however, it may not always be possible for the inspector to accommodate the grower’s schedule.

All hemp lots grown in Minnesota will be subject to pre-harvest inspection and testing. The licensee must obtain confirmation from the Department that official sampling has been completed for a lot before it is harvested.

For all hemp lots, a sample must be collected by the Department as described in this Sampling Protocol and submitted to a Department-approved lab for analysis. The certificate of analysis from the sample must fall within acceptable Total THC concentration in order to receive Fit for Commerce certification.

During an inspection, the licensee or an authorized representative must be present at the registered growth site, or otherwise provide all necessary information to the Department so that all hemp lots can be accurately identified and sampled. Inspectors must be provided complete and unrestricted access to all hemp plants, parts, and seeds within a registered site whether growing or harvested; all land, buildings and other structures used for the cultivation and storage of industrial hemp; and all documents and records.

A Notice of Inspection (NOI) should be issued prior to conducting each field inspection and sampling. The NOI will be emailed and/or mailed to the licensee prior to visiting the field, delivered by hand at the time of inspection or emailed and/or mailed after the inspection if no one is on-site to receive it.

This document 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. 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 grower in terms of farm location, field acreage, and to be reported as such to the FSA.

An inspector 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.

Equipment Used

-Clippers/scissors

cleaned prior to and following each composite sample, using appropriate cleaning agents and supplies such as bleach, rubbing alcohol, steel wool and/or sandpaper

-Sampling Bags (brown paper bags)

The size of the bags will depend upon the number of clippings collected per lot. The bags should be made from material known to be free from THC

-Custody Seals

-Permanent Markers

- MDA Inspection & Sampling Form and/or online Inspection app

To be completed by inspector on state-issued iPhone or Tablet

-Camera/GPS Unit

-Disposable gloves- Nitrile

Data Collection

The inspector shall verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the licensee. The inspector shall record the average height, appearance, approximate density, condition of the plants, and degree of maturity of the flowering material, meaning inflorescences (flowers/buds). The inspector shall visually establish the homogeneity of the stand to establish that the growing area is of like variety. The inspector shall also attempt to gather the following information from the grower or authorized representative present at the time of inspection: variety name(s), source of seed/plants (seller/labeler), seed label, and Certificate of Analysis for the varieties planted. If the information is not obtainable at the time of inspection, the inspector shall indicate as such.

Inspectors will take 2- 4 pictures of the hemp field– at least one close-up and one wide-angle picture. Inspectors should also take a picture of the contents of the sample bag and the outside of the bag, with the label showing and legible. (See photo examples at the end of this document.)

Inspectors will fill out an MDA Inspection and Sampling Form or complete an inspection report on an online Inspection app on a state-issued iPhone or Tablet for each lot sampled.

Sampling Timing

An MDA inspector will visit each hemp lot to collect representative sample from cannabis plants for THC concentration level testing. At least 75% of the female plants in the lot must be in flower, with at least 2” of

flower present, for the inspector to be able to take a sample.

Sample Volume and Composition

For sampling purposes, samples from separate lots must be kept separate and not be comingled. Each hemp lot and sample must consist of one variety.

Inspectors will use Table 1 to determine the correct number of plants to sample for the lot. The minimum sample size required for testing is 5 grams.

Inspectors will always walk at right angle to the rows of plants, beginning at one point of the lot and walking towards another point on the opposite side of the lot. While walking the transect, the inspector will take cuttings of the appropriate number of plants at random intervals. The inspector will cut the top 2" of the flowering material, meaning inflorescence (the flower or bud of a female plant), with all flowers selected from the top half of the plant. All samples cut in each lot shall be placed in a single paper bag. Inspectors should avoid collecting too many samples from the borders of the field/greenhouse.



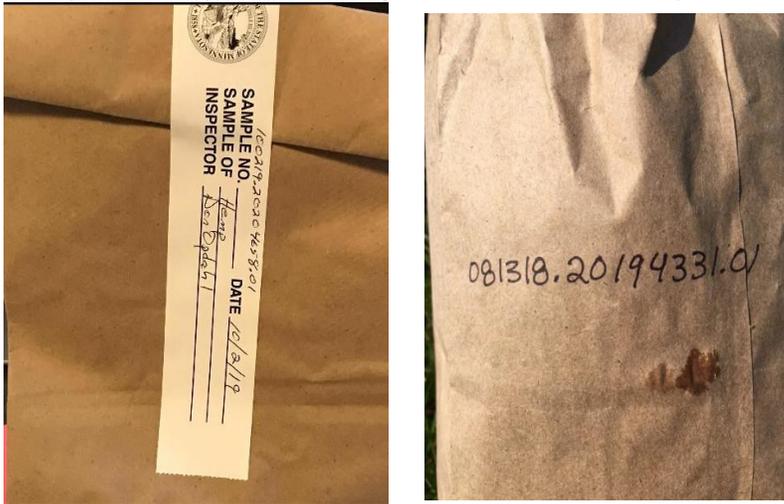
Table 1: Number of Plants to Sample based on Lot Size

Total number of Plants and/or Acreage in Lot	Randomly select this number of plants to sample:
1-10 plants	Sample all plants
10-50 plants	Sample half of the plants
500 square feet	25
1,000 sq. ft.	26
5,000 sq. ft.	27
10,000 sq. ft.	28
20,000 sq. ft.	29
1- 30 acres	30
30- 75 acres	45
75- 125 acres	75
125 +	100

Sample Identification

The inspector will seal the bag with a chain of custody seal. Samples will be labelled and recorded with the sample identification number.

Examples of Sample ID recording—either method is acceptable.



Specimen Handling and Testing

Samples should be stored in a dry location until drop-off at the testing laboratory, to maintain sample integrity. Samples should be submitted to a Department-approved lab as soon as possible. If immediate lab submission is not possible, then the inspector should shake up the plant material in the bags once a day to ensure they are not molding within the bag and attempt to store them in an area with some airflow. Each sample is recorded on a sample Chain of Custody form, which must follow the sample during transport, and is submitted to the lab along with the samples.

Samples may also be mailed to the lab by the inspector. Mailed samples should be overnighted and should not be sent on Fridays to ensure that they do not get stuck in the box for the weekend. Mailed samples should have a completed sample Chain of Custody form included in the box.

Sample drying begins immediately upon arrival at the lab in order to avoid mold or rotting. If the plants are particularly high in moisture content, they may be dried on a drying rack or in a heat dryer. The dried sample is then ground up in a grinding machine to completely homogenize the sample.

The delta-9 tetrahydrocannabinol is analyzed via High Performance Liquid Chromatography with an Ultraviolet (UV) light detector (HPLC/UV) by the lab. All samples are retained by the lab for 30 days.

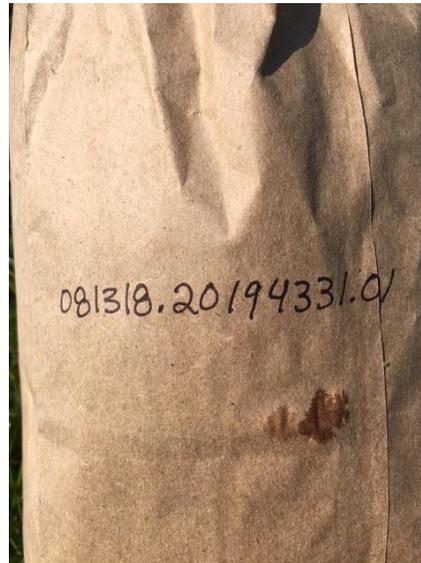
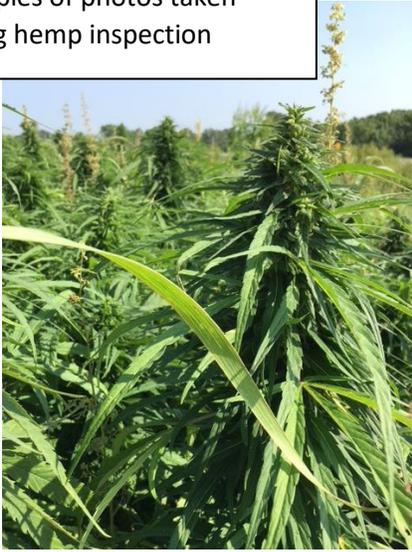
THC concentration is reported to approximately 0.00200% reporting limit by weight (dependent on the exact mass of the testing sub-sample). The final number used for regulatory purposes is **delta-9 THC post-decarboxylation**, which is equal to delta-9 THC + (THCA*0.877) when analyzed via HPLC methodology. The THC concentration, after considering the lab's testing measure of uncertainty, may not exceed 0.3%.

Hemp Lot Certification and Failures

Upon receipt of the test results, MDA will email or mail a letter to the licensee. A Fit For Commerce Certificate will be emailed to those licensees whose samples tested at or below the acceptable hemp THC level. A Failure Notice is mailed and emailed to those licensees whose samples test above the acceptable hemp THC level.

Any destruction or disposal of failed hemp lots must be entered into an MDA Disposal Report Form. The licensee, inspector, or law enforcement agent will submit the completed form to the Department.

Examples of photos taken during hemp inspection



Appendix 3. Data Sharing Protocol

Purpose

To specify the data that the Minnesota Department of Agriculture (MDA) collects during the licensing, inspection, and sampling process for the Hemp Program, and indicate the procedure by which the MDA will report such data to the U.S. Department of Agriculture (USDA).

Data Collection

The MDA collects data from Hemp Program applicants during the application process. The data is entered by the applicant into an online application form and the collected data is stored in a State License Information System (LIS) and a secure, online ArcGIS map which is monitored by the MDA Hemp Program staff and State Information Technology personnel. The following data is collected from each applicant during the license application process and maintained by the MDA:

1. Full name of the individual applicant
2. Business name of the applicant, if applicable
3. Physical Address
4. Mailing Address, if different from Physical
5. Telephone Number
6. Email address, if available
7. Background Check status and results
8. Data of application and Date of licensing
9. Legal description of the registered land area where hemp will be grown or processed, which includes;
 - a. Street address
 - b. City and State
 - c. Zip Code
 - d. County
 - e. Latitude
 - f. Longitude
 - g. Township
 - h. Range
 - i. Section
 - j. Quarter Section

The MDA creates or assigns the following data for each licensee at the time of application:

1. License Number
2. Entity ID Number
3. License Status (i.e. In Good Standing, On Hold, Revoked, etc.)

The MDA inspects and samples a random subset of registered grow locations and submits samples to a Department-approved lab for THC analysis. Samples of hemp plants are collected for every lot by the licensee and the samples are submitted to a Department-approved lab for THC concentration analysis. Samples collected by all entities will follow procedures as outlined in the Department's Sampling Plan. The lab reports the test results to the MDA. The MDA hemp program staff makes the determination of whether a specific hemp lot conforms to the legal definition of hemp based on the test results. The data collected during this process are listed below. This data will be maintained by the MDA and shared with the USDA.

1. Sample number

2. Hemp variety sampled
3. Name of the grower/license holder
4. License number of the grower
5. Legal description of the land area where the sample was collected
6. Date and time of sampling
7. Date of lab submission
8. THC test results for the sample
9. Legal determination of sample (Pass/Fail)

Data Retention

The Hemp Program will maintain application, licensing, and testing information for four years.

MDA Data Reporting

As required by 7 C.F.R. § 990.3(a)(1) and § 990.70(a), the MDA will share a Producer Report in real time with the USDA. The MDA will email an Excel spreadsheet to the appropriate USDA mailbox with the above-listed information once per month. The MDA will only send data on *new* licenses issued, *changes* to licenses or registered grow location, and hemp samples collected in the 30 days since the last report was sent. After the USDA has developed an automated, online method of delivering the information, the MDA will use that new system.

In addition, in accordance with 7 C.F.R. § 990.3(a)(4) the MDA will promptly notify the USDA of any occurrence of cannabis plants or plant material that do not meet the definition of hemp, and attach records demonstrating the appropriate disposal of all of those plants and materials from the lot from which the representative samples were taken. MDA will also, as required by § 990.70(b), provide USDA a Hemp Disposal Report every month with the information required by that subpart, including:

1. Name and address of the producer.
2. Producer license or authorization identifier.
3. Location information, such as lot number, location type, and geospatial location or other location descriptor for the production area subject to disposal.
4. Information on the agent handling the disposal.
5. Disposal completion date.
6. Total acreage.

Finally, MDA will provide USDA with an Annual Report, as required by 7 C.F.R. § 990.70(c), with the following information on producers:

1. Total planted acreage.
2. Total harvested acreage.
3. Total acreage disposed.

Appendix 4. Enforcement Authority

Minnesota Statute 18K

<https://www.revisor.mn.gov/statutes/cite/18K/full>

18K.01 SHORT TITLE.

This chapter may be referred to as the "Industrial Hemp Development Act."

History:

[1Sp2015 c 4 art 2 s 38](#)

18K.02 DEFINITIONS.

Subdivision 1.Scope.

The definitions in this section apply to this chapter.

Subd. 2.Commissioner.

"Commissioner" means the commissioner of agriculture.

Subd. 3.Industrial hemp.

"Industrial hemp" means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, including the plant's seeds, and all the plant's 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. Industrial hemp is not marijuana as defined in section [152.01, subdivision 9](#).

Subd. 4.Marijuana.

"Marijuana" has the meaning given in section [152.01](#), subdivision 9.

History:

[1Sp2015 c 4 art 2 s 39; 1Sp2019 c 1 art 2 s 10](#)

18K.03 AGRICULTURAL CROP; POSSESSION AUTHORIZED.

Subdivision 1.Industrial hemp.

Industrial hemp is an agricultural crop in this state. A person may possess, transport, process, sell, or buy industrial hemp that is grown pursuant to this chapter or lawfully grown in another state.

Subd. 2.Sale to medical cannabis manufacturers.

A licensee under this chapter may sell hemp products derived from industrial hemp grown in this state to medical cannabis manufacturers as authorized under sections [152.22](#) to [152.37](#).

History:

[1Sp2015 c 4 art 2 s 40; 1Sp2019 c 1 art 2 s 11; 1Sp2019 c 9 art 11 s 1](#)

18K.04 LICENSING.

Subdivision 1. Requirement; issuance; presumption.

(a) A person must obtain a license from the commissioner before growing industrial hemp for commercial purposes. A person must apply to the commissioner in the form prescribed by the commissioner and must pay the annual registration and inspection fee established by the commissioner in accordance with section [16A.1285, subdivision 2](#). The license application must include the name and address of the applicant and the legal description of the land area or areas where industrial hemp will be grown by the applicant.

(b) When an applicant has paid the fee and completed the application process to the satisfaction of the commissioner, the commissioner must issue a license which is valid until December 31 of the year of application.

(c) A person licensed under this section is presumed to be growing industrial hemp for commercial purposes.

Subd. 2. Background check; data classification.

The commissioner must require each first-time applicant for a license to submit to a background investigation conducted by the Bureau of Criminal Apprehension as a condition of licensure. As part of the background investigation, the Bureau of Criminal Apprehension must conduct criminal history checks of Minnesota records and is authorized to exchange fingerprints with the United States Department of Justice, Federal Bureau of Investigation for the purpose of a criminal background check of the national files. The cost of the investigation must be paid by the applicant. Criminal history records provided to the commissioner under this section must be treated as private data on individuals, as defined in section [13.02, subdivision 12](#).

Subd. 3. Federal requirements.

The applicant must demonstrate to the satisfaction of the commissioner that the applicant has complied with all applicable federal requirements pertaining to the production, distribution, and sale of industrial hemp.

History:

[1Sp2015 c 4 art 2 s 41](#)

18K.05 ANNUAL REPORT; SALES NOTIFICATION.

(a) Annually, a licensee must file with the commissioner:

(1) documentation demonstrating to the commissioner's satisfaction that the seeds planted by the licensee are of a type and variety that contain no more than three-tenths of one percent delta-9 tetrahydrocannabinol; and

(2) a copy of any contract to grow industrial hemp.

(b) Within 30 days, a licensee must notify the commissioner of each sale or distribution of industrial hemp grown by the licensee including, but not limited to, the name and address of the person receiving the industrial hemp and the amount of industrial hemp sold or distributed.

History:

[1Sp2015 c 4 art 2 s 42](#)

18K.06 RULEMAKING.

(a) The commissioner shall adopt rules governing the production, testing, and licensing of industrial hemp.

(b) Rules adopted under paragraph (a) must include, but not be limited to, provisions governing:

(1) the supervision and inspection of industrial hemp during its growth and harvest;

(2) the testing of industrial hemp to determine delta-9 tetrahydrocannabinol levels;

(3) the use of background check results required under section [18K.04](#) to approve or deny a license application; and

(4) any other provision or procedure necessary to carry out the purposes of this chapter.

(c) Rules issued under this section must be consistent with federal law regarding the production, distribution, and sale of industrial hemp.

History:

[1Sp2015 c 4 art 2 s 43](#)

18K.07 FEES.

Fees collected under this chapter must be credited to the industrial hemp account, which is hereby established in the agricultural fund in the state treasury. Interest earned in the account accrues to the account. Funds in the industrial hemp account are annually appropriated to the commissioner to implement and enforce this chapter.

History:

[1Sp2015 c 4 art 2 s 44](#)

18K.08 DEFENSE FOR POSSESSION OF MARIJUANA.

It is an affirmative defense to a prosecution for the possession of marijuana under chapter 152 if:

(1) the defendant possesses industrial hemp grown pursuant to this chapter; or

(2) the defendant has a valid controlled substance registration from the United States Department of Justice, Drug Enforcement Administration, if required under federal law.

History:

[1Sp2015 c 4 art 2 s 45](#)

18K.09 PILOT PROGRAM; OTHER RESEARCH AUTHORIZED.

Subdivision 1. Authorized activity.

The commissioner may grow or cultivate industrial hemp pursuant to a pilot program administered by the commissioner to study the growth, cultivation, or marketing of industrial hemp. The commissioner may: (1) authorize institutions of higher education to grow or cultivate industrial hemp as part of the commissioner's pilot program or as is necessary to perform other agricultural, renewable energy, or academic research; and (2) contract with public or private entities for testing or other activities authorized under this subdivision. Authorized activity under this section may include collecting seed from wild hemp sources.

Subd. 2. Site registration.

Before growing or cultivating industrial hemp pursuant to this section, each site must be registered with and certified by the commissioner. A person must register each site annually in the form prescribed by the commissioner and must pay the annual registration and certification fee established by the commissioner in accordance with section [16A.1285, subdivision 2](#).

§

Subd. 3.Rulemaking.

The commissioner may adopt rules that govern the pilot program pursuant to this section and Public Law 113-79.

18J.01 DEFINITIONS.

(a) The definitions in sections [18G.02](#), [18H.02](#), [18K.02](#), [27.01](#), [223.16](#), [231.01](#), and [232.21](#) apply to this chapter.

(b) For purposes of this chapter, "associated rules" means rules adopted under this chapter, chapter 18G, 18H, 18K, 27, 223, 231, or 232, or sections [21.80](#) to [21.92](#).

History:

[2003 c 128 art 6 s 1](#); [2012 c 244 art 1 s 15](#); [1Sp2015 c 4 art 2 s 21](#)

18J.02 DUTIES OF COMMISSIONER.

The commissioner shall administer and enforce this chapter, chapters 18G, 18H, 18K, 27, 223, 231, and 232; sections [21.80](#) to [21.92](#); and associated rules.

History:

[2003 c 128 art 6 s 2](#); [2012 c 244 art 1 s 16](#); [1Sp2015 c 4 art 2 s 22](#)

18J.03 CIVIL LIABILITY.

A person regulated by this chapter, chapter 18G, 18H, 18K, 27, 223, 231, or 232, or sections [21.80](#) to [21.92](#), is civilly liable for any violation of one of those statutes or associated rules by the person's employee or agent.

History:

[2003 c 128 art 6 s 3](#); [2012 c 244 art 1 s 17](#); [1Sp2015 c 4 art 2 s 23](#)

18J.04 INSPECTION, SAMPLING, ANALYSIS.

Subdivision 1. Access and entry.

The commissioner, upon presentation of official department credentials, must be granted immediate access at reasonable times to sites where a person manufactures, distributes, uses, handles, disposes of, stores, or transports seeds, plants, grain, household goods, general merchandise, produce, or other living or nonliving products or other objects regulated under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules.

Subd. 2. Purpose of entry.

(a) The commissioner may enter sites for:

(1) inspection of inventory and equipment for the manufacture, storage, handling, distribution, disposal, or any other process regulated under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules;

(2) sampling of sites, seeds, plants, products, grain, household goods, general merchandise, produce, or other living or nonliving objects that are manufactured, stored, distributed, handled, or disposed of at those sites and regulated under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules;

(3) inspection of records related to the manufacture, distribution, storage, handling, or disposal of seeds, plants, products, grain, household goods, general merchandise, produce, or other living or nonliving objects regulated under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules;

(4) investigating compliance with chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules; or

(5) other purposes necessary to implement chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules.

(b) The commissioner may enter any public or private premises during or after regular business hours without notice of inspection when a suspected violation of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules may threaten public health or the environment.

Subd. 3. Notice of inspection samples and analyses.

(a) The commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If requested, the commissioner shall split any samples obtained and provide them to the owner, operator, or agent in charge. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge within 30 days after an analysis has been performed. If an analysis is not performed, the commissioner must notify the owner, operator, or agent in charge within 30 days of the decision not to perform the analysis.

(b) The sampling and analysis must be done according to methods provided for under applicable provisions of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules. In cases not covered by those sections and methods or in cases where methods are available in which improved applicability has been demonstrated the commissioner may adopt appropriate methods from other sources.

Subd. 4. Inspection requests by others.

(a) A person who believes that a violation of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, state with reasonable particularity the grounds for the notice, and be signed by the person making the request.

(b) If after receiving a notice of violation the commissioner reasonably believes that a violation has occurred, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if a violation has occurred.

(c) An inspection conducted pursuant to a notice under this subdivision may cover an entire site and is not limited to the portion of the site specified in the notice. If the commissioner determines that reasonable grounds to believe that a violation occurred do not exist, the commissioner must notify the person making the request in writing of the determination.

Subd. 5. Order to enter after refusal.

After a refusal, or an anticipated refusal based on a prior refusal, to allow entrance on a prior occasion by an owner, operator, or agent in charge to allow entry as specified in this section, the commissioner may apply for an order in the district court in the county where a site is located, that compels a person with authority to allow the commissioner to enter and inspect the site.

Subd. 6. Violator liable for inspection costs.

(a) The cost of reinspection and reinvestigation may be assessed by the commissioner if the person subject to an order of the commissioner does not comply with the order in a reasonable time as provided in the order.

(b) The commissioner may enter an order for recovery of the inspection and investigation costs.

Subd. 7. Investigation authority.

(a) In making inspections under this chapter, the commissioner may administer oaths, certify official acts, issue subpoenas to take and cause to be taken depositions of witnesses, and compel the attendance of witnesses and production of papers, books, documents, records, and testimony.

(b) If a person fails to comply with a subpoena, or a witness refuses to produce evidence or to testify to a matter about which the person may be lawfully questioned, the district court shall, on application of the commissioner, compel obedience proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued by the court or a refusal to testify in court.

History:

[2003 c 128 art 6 s 4](#); [2012 c 244 art 1 s 18-21](#); [1Sp2015 c 4 art 2 s 24-27](#)

18J.05 ENFORCEMENT.

Subdivision 1. Enforcement required.

(a) A violation of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or an associated rule is a violation of this chapter.

(b) Upon the request of the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws must take action to the extent of their authority necessary or proper for the enforcement of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules or valid orders, standards, stipulations, and agreements of the commissioner.

Subd. 2. Commissioner's discretion.

If minor violations of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules occur or the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this section does not require the commissioner to:

- (1) report the violation for prosecution;
- (2) institute seizure proceedings; or
- (3) issue a withdrawal from distribution, stop-sale, or other order.

Subd. 3. Civil actions.

Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the commissioner. A county attorney may bring a civil judicial enforcement action upon the request of the commissioner and agreement by the attorney general.

Subd. 4.Injunction.

The commissioner may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of this chapter.

Subd. 5.Criminal actions.

For a criminal action, the county attorney from the county where a criminal violation occurred is responsible for prosecuting a violation of this chapter. If the county attorney refuses to prosecute, the attorney general on request of the commissioner may prosecute.

Subd. 6.Agent for service of process.

All persons licensed, permitted, registered, or certified under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules must appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner is deemed to be service on the licensee, permittee, registrant, or certified person.

History:

[2003 c 128 art 6 s 5](#); [2012 c 244 art 1 s 22-24](#); [1Sp2015 c 4 art 2 s 28-30](#)

18J.06 FALSE STATEMENT OR RECORD.

A person must not knowingly make or offer a false statement, record, or other information as part of:

- (1) an application for registration, license, certification, or permit under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules;
- (2) records or reports required under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules; or
- (3) an investigation of a violation of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules.

History:

[2003 c 128 art 6 s 6](#); [2012 c 244 art 1 s 25](#); [1Sp2015 c 4 art 2 s 31](#)

18J.07 ADMINISTRATIVE ACTION.

Subdivision 1.Administrative remedies.

The commissioner may seek to remedy violations by a written warning, administrative meeting, cease and desist, stop-use, stop-sale, removal, correction order, or an order, seizure, stipulation, or agreement, if the commissioner determines that the remedy is in the public interest.

Subd. 2.Revocation and suspension.

The commissioner may, after written notice and hearing, revoke, suspend, or refuse to grant or renew a registration, permit, license, or certification if a person violates this chapter or has a history within the last three years of violation of this chapter.

Subd. 3. Cancellation of registration, permit, license, certification.

The commissioner may cancel or revoke a registration, permit, license, or certification provided for under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules or refuse to register, permit, license, or certify under provisions of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules if the registrant, permittee, licensee, or certified person has used fraudulent or deceptive practices in the evasion or attempted evasion of a provision of chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules.

Subd. 4. Service of order or notice.

(a) If a person is not available for service of an order, the commissioner may attach the order to the facility, site, seed or seed container, plant or other living or nonliving object regulated under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules and notify the owner, custodian, other responsible party, or registrant.

(b) The seed, seed container, plant, or other living or nonliving object regulated under chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules may not be sold, used, tampered with, or removed until released under conditions specified by the commissioner, by an administrative law judge, or by a court.

Subd. 5. Unsatisfied judgments.

(a) An applicant for a license, permit, registration, or certification under provisions of this chapter, chapter 18G, 18H, 18K, 27, 223, 231, or 232; sections [21.80](#) to [21.92](#); or associated rules may not allow a final judgment against the applicant for damages arising from a violation of those statutes or rules to remain unsatisfied for a period of more than 30 days.

(b) Failure to satisfy, within 30 days, a final judgment resulting from a violation of this chapter results in automatic suspension of the license, permit, registration, or certification.

History:

[2003 c 128 art 6 s 7](#); [2012 c 244 art 1 s 26-28](#); [1Sp2015 c 4 art 2 s 32-34](#)

18J.08 APPEALS OF COMMISSIONER'S ORDERS.

Subdivision 1. Notice of appeal.

(a) After service of an order, a person has 45 days from receipt of the order to notify the commissioner in writing that the person intends to contest the order.

(b) If the person fails to notify the commissioner that the person intends to contest the order, the order is a final order of the commissioner and not subject to further judicial or administrative review.

Subd. 2. Administrative review.

If a person notifies the commissioner that the person intends to contest an order issued under this section, the state Office of Administrative Hearings must conduct a hearing in accordance with the applicable provisions of chapter 14 for hearings in contested cases.

Subd. 3.Judicial review.

Judicial review of a final decision in a contested case is available as provided in chapter 14.

History:

[2003 c 128 art 6 s 8](#)

18J.09 CREDITING OF PENALTIES, FEES, AND COSTS.

Penalties, cost reimbursements, fees, and other money collected under this chapter must be deposited into the state treasury and credited to the appropriate nursery and phytosanitary, industrial hemp, or seed account.

History:

[2003 c 128 art 6 s 9; 1Sp2015 c 4 art 2 s 35](#)

18J.10 CIVIL PENALTIES.

Subdivision 1.General penalty.

Except as provided in subdivision 2, a person who violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner is subject to a civil penalty of up to \$7,500 per day of violation as determined by the court.

Subd. 2.Defense to civil remedies and damages.

As a defense to a civil penalty or claim for damages under subdivision 1, the defendant may prove that the violation was caused solely by an act of God, an act of war, or an act or failure to act that constitutes sabotage or vandalism, or any combination of these defenses.

Subd. 3.Actions to compel performance.

In an action to compel performance of an order of the commissioner to enforce a provision of this chapter, the court may require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

Subd. 4.Recovery of penalties by civil action.

The civil penalties and payments provided for in this chapter may be recovered by a civil action brought by the county attorney or the attorney general in the name of the state.

History:

[2003 c 128 art 6 s 10](#)

18J.11 CRIMINAL PENALTIES.

Subdivision 1.General violation.

Except as provided in subdivisions 2, 3, and 4, a person is guilty of a misdemeanor if the person violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner.

Subd. 2. Violation endangering humans.

A person is guilty of a gross misdemeanor if the person violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner, and the violation endangers humans.

Subd. 3. Violation with knowledge.

A person is guilty of a gross misdemeanor if the person knowingly violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner.

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Subd. 4. Controlled substance offenses.

Prosecution under this section does not preclude prosecution under chapter 152.