



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
Office of the Commissioner



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REVISIONS TO THE STATE'S HEMP PILOT PROGRAM IN 2020

On May 9th, 2019, the Department of Agriculture launched a hemp program that was unanimously supported by the General Assembly and the Governor. The State has invested tens of thousands of dollars to establish the state's hemp program. There are currently 138 licensees and over 600 growing acres registered within the state, up from 109 licensees and 415 acres in last year's program. This past October, the Governor signed Public Act 20-2 on October 2, 2020, (effective October 31, 2020) amending our law to conform to Federal regulatory requirements issued by the United States Department of Agriculture (USDA).

Some important changes required by the USDA included in the Hemp Law Amendments:

- FSA registration of grow sites
- Mandatory 15-day pre-harvest sampling period
- USDA approved agent or law enforcement collection of samples
- DEA registered laboratory to conduct the sample testing
- Mandatory destruction of all failed hemp, with no mitigation
- Law enforcement oversight of all disposal of all failed hemp crops.
- Real-time, monthly, quarterly and annual reporting of licensee information by DoAg to USDA

Besides the USDA required changes, the new law combines the grower license and processor license into one combined "producer" license. This simplifies the licensing for growers who may be processing on site and is in line with other states' programs.

The current law adjusts the licensing period from two years to three years, which matches the USDA program for individual licenses. It also increases fees associated with licensing by a prorated amount from two years to three years proportionately as well as updates fees for applications and lot size registration. We have also added language to allow producers to go directly to the FBI for their background checks to cut down on review time by the FBI. The proposed exception would be allowed until 12/31/21. After that, all requests would have to go through The CT Department of Emergency Services and Public Protection (DESPP).

During our listening sessions, many producers expressed concerns that the disclosure of their site locations was leading to unwanted visits from vandals and thieves. The law expands the information exempt from disclosure under FOIA to include test results and producer location

information to provide more protection for producers' crops. The information will remain available for law enforcement purposes.

DOAG HEMP LAW SUMMARY OF CHANGES TO C.G.S. 22-611

The amendments to the existing statute, C.G.S. 22-611, were needed to comply with the United States Department of Agriculture's Interim Final Rule for hemp production, issued October 31, 2019.

Subsection (a) adds definitions that come from the USDA interim final rules ("IFR") that are needed to create and operate a USDA approved state plan for hemp. In subsection (a)(1), the definition of cannabidiol and CBD is modified to refer to its chemical name only.

Subsection (b) which allows DOAG to operate the Pilot Program is unchanged except to change the reference name of the licensee from grower to producer.

Subsection (c) is amended to incorporate by reference all of the USDA program requirements into the state plan, including, such as, recordkeeping and reporting, licensing, sampling, testing, and disposal of illegal crops.

Subsection (d) changes the references from cultivation to production, to match the new licensee term, producer.

Subsection (e) deletes the requirement for certified seeds, as it is not required by the IFR.

Subsection (f) changes the references from processing to producing, to match the new licensee term, producer.

Subsection (g) updates the license registration requirements to conform to the IFR and FBI requirements, and combines the grower license and processor license into one combined "producer" license. Adds 1-year exception for direct background checks by FBI for applicants. In subsection (g)(3), we have revised the language to reflect the fact that the exception for licensing, only applies to individuals who previously held a license in another state prior to December 2018, not to individuals who lie on their application. Subsection (g)(4) has been revised to impose testing and disposal costs for illegal hemp plants on all people who should have been licensed but weren't, not just those who obtained licenses.

Subsection (h) adjusts the licensing period from two years to three years.

Subsection (i) increases the fees associated with licensing by a prorated amount from two years to three years, updates the fees for lot size registration.

Subsection (j) makes conforming changes on the procedure for issuing a license.

Subsection (k) and (l) will permit the commissioner to send notices by certified mail, or email, provided consent has been granted.

Subsection (n) changes the references from processing to producing, to match the new licensee term, producer, and reduces the penalty to an infraction for individuals.

Subsection (o) addresses the IFR requirements to have a procedure to address negligent violations of the state plan.

Subsection (q) expands the information exempt from disclosure under FOIA to include test results and producer location information.

For the 2021 growing season, until September 30, 2020, we will be operating under the Pilot Program, very similar to the past years' requirements. We have updated the license application and the reporting forms that you will need to use during the growing season to reflect the new law. You will find all of the instructions and forms on our website at [DOAG Hemp Webpage](#)

STATE PLAN KEY REQUIREMENTS UNDER USDA INTERIM FINAL RULES

Land used for Production

- State plans need to contain a process by which relevant information regarding the land used for hemp is collected, maintained and reported to USDA. Information needs to be collected for each producer.

Sampling and Testing for delta-9 THC

- The samples must be collected within 15 days prior to the anticipated harvest date.
- A federal, state, local law enforcement agency or other USDA approved sampling agent shall collect samples from the flower material.
- Samples must be delivered to a DEA-registered laboratory for testing.

Disposal of Non-Compliant Plants

- Plans need to include a procedure for ensuring effective disposal of plants produced in violation with the state plan. The procedure must be in compliance with DEA regulations.

Compliance with Enforcement Procedures Including Annual Inspection of Hemp Producers

- Plans must include compliance procedures to ensure hemp is being produced in accordance with the requirements. This includes requirements to conduct annual inspections of, at a minimum, a random sample of hemp producers to verify hemp is not being produced in violation with the state plan.
- Plans must include a procedure to handle negligent and culpable violations.
- Any producer who negligently violates a state plan 3 times in a 5-year period will be ineligible to produce hemp for a period of 5 years from the date of the third violation. Negligent violations are not subject to criminal enforcement.

Information Sharing

- Plans must also contain procedures for reporting specific information to USDA.

State Agriculture Commissioner Certification of Resources

- All plans submitted for USDA approval must have a certification from the Agriculture Commissioner stating the state has the resources and personnel necessary to carry out the practices and procedures described in their plan.

Plan approval, technical assistance and USDA oversight

- After the plan is submitted, USDA has 60 days to review the plan. When plans are rejected, USDA will provide a letter of notification outlining the deficiencies identified. The state may then submit an amended plan for review. The state will also have the option to request a reconsideration of the plan, if the state does not agree with USDA's determination of deficiencies.
- USDA has the authority to audit state plans to make sure they are in compliance with the terms and conditions of their approved plans. A corrective action plan will be developed if state is not in compliance.

USDA FINAL RULES IN 2021

During the coming year, most likely next spring, we expect USDA to issue final rules for state plans. We don't know whether they will match the IFR's or modify the existing requirements. There has been a great deal of discussion about the following topics, and hope that USDA will loosen these requirements:

- 15-day timeframe for testing
- the use of Drug Enforcement Administration registered laboratories
- the conversion of THCa into THC
- lack of mitigation options
- a sampling of only flowering tops, and
- negligence threshold of 0.5 percent.