



## Georgia Hemp Plan

March 2020

The Georgia Department of Agriculture (“Department”) has developed this plan to regulate hemp production in the State of Georgia. As authorized by Section 297B(a)(3)(B) of the Agricultural Improvement Act of 2018, the Georgia Hemp Plan incorporates the Georgia Hemp Farming Act as well as the Rules governing Georgia’s hemp program. Please see O.C.G.A. § 2-23-1 et. seq. and Ga. Comp. R. & Regs. C. 40-32 et. seq.

The Georgia Hemp Program will meet each of the requirements set forth in Section 297B(a)(2)(A) as follows:

1. **“a practice to maintain relevant information regarding land on which hemp is produced in the State or territory of the Indian tribe, including a legal description of the land, for a period of not less than 3 calendar years[.]”**
  - Georgia Rule 40-32-2-.01 entitled “Application for Hemp Grower License” requires any person desiring to cultivate and handle hemp in Georgia to submit a Hemp Grower License Application which includes, but is not limited to, a legal description of land on which hemp will be cultivated or handled, GPS coordinates for each grow site, and aerial maps or photographs of growing and handling locations.
  - Georgia Rule 40-32-2-.01 also requires applicants to provide contact information including, but not limited to, name; street address; mailing address; telephone number; and email address as well as legal business name or trade name; business structure type; address of the principal business location; primary contact information; current Certificate of Existence obtained through the Georgia Secretary of State’s Office; any required local business license(s); Employer Identification Number (EIN); and name, title, and current primary contact information, including telephone number and email address, for each owner, key participant, and person holding a beneficial interest in the Hemp Grower License for which an application is being made.
  - Georgia Rule 40-32-2-.10 entitled “Recordkeeping and Reporting Requirements” provides that:
    - The Department will maintain all relevant records and information regarding Licensees and land on which hemp is produced in Georgia, including a legal description of the land, for a period of not less than three calendar years.
    - The Department will collect, maintain, and report to USDA via fax, certified mail, email, or other method deemed acceptable by USDA the following contact and real-time information for each Licensee in Georgia:

- The contact information of each Licensee collected pursuant to Rule 40-32-2-.01.
  - A legal description of the land on which hemp is grown including its geospatial location; and
  - The status of licensed growers (and any changes) and Hemp Grower License number of each hemp grower.
2. **“a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the State or the territory of the Indian Tribe[.]”**

- Georgia Rule 40-32-2-.03 entitled “Grower Sampling Requirements” provides that:
  - Within 15 days prior to the anticipated harvest of any cannabis plants, the Licensee must have a Department-approved sampling agent collect samples from the flower material of such cannabis material for delta-9 tetrahydrocannabinol concentration level testing.
  - All sampling will be conducted in accordance with the USDA’s most current *Sampling Guidelines for Hemp Growing Facilities*, which will be made available on the Department’s website at [agr.georgia.gov](http://agr.georgia.gov).
  - The method used for sampling from the flower material of the cannabis plant must be sufficient at a confidence level of 95 percent that no more than one percent (1%) of the plants in the lot would exceed the acceptable hemp THC level. The method used for sampling must ensure that a representative sample is collected that represents a homogeneous composition of the lot.
  - During a scheduled sample collection, the Licensee or an authorized representative of the Licensee must be present at the grow site.
  - The Department-approved sampling agent(s) must be provided with complete and unrestricted access during business hours to all hemp and other cannabis plants and material, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations listed in the Hemp Grower License.
  - A Licensee must not harvest any cannabis prior to samples being taken.
- Georgia Rule 40-32-2-.04 entitled “Grower Laboratory Testing Requirements” provides that:

- Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) must be conducted and reported by a laboratory registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.
- Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) must be conducted in accordance with the USDA's most current *Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol (THC) Concentration in Hemp*, which will be made available on the Department's website at [agr.georgia.gov](http://agr.georgia.gov). Such testing must meet the following standards:
  - Laboratory quality assurance must ensure the validity and reliability of test results;
  - Analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;
  - The demonstration of testing validity must ensure consistent, accurate analytical performance; and
  - Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this Rule.
- At a minimum, analytical testing of samples for delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods approved by the Secretary or Commissioner. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test result reflect the total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting the requirements of this Rule include, but are not limited to, gas or liquid chromatography with detection.
- The total delta-9 tetrahydrocannabinol concentration level must be determined and reported on a dry weight basis.
- Measurement of uncertainty (MU) must be estimated and reported with test results. Laboratories must use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

- Georgia Rule 40-32-2-.02 entitled “Grower License Terms and Conditions” provides that:
  - The Licensee must not handle, process, store, sell, transfer, ship, transport, deliver, distribute, or otherwise provide any cannabis that exceeds the acceptable hemp THC level. The Licensee must ensure that cannabis exceeding the acceptable hemp THC level does not enter the stream of commerce.
  - The Licensee must ensure that hemp and hemp plant material from one lot is not commingled with hemp or hemp plant material from other lots.

**3. “a procedure for the effective disposal of plants, whether growing or not, that are produced in violation of this subtitle; and products derived from those plants [.]”**

- Georgia Rule 40-32-2-.06 entitled “Disposal of Non-Compliant Cannabis” provides that:
  - Cannabis exceeding the acceptable hemp THC level constitutes marijuana, a schedule I controlled substance under Georgia law and federal law. Marijuana must be disposed of in accordance with the CSA and DEA regulations found at 21 CFR 1317.15 by a reverse distributor.
  - The Licensee must immediately notify the Department via email any time analytical testing determines that a lot has exceeded the acceptable hemp THC level.
  - Upon notice and confirmation that a lot has exceeded the acceptable hemp THC level, the Department will issue an Order of Disposal requiring the entire crop and all plant material to be disposed within a reasonable time to be determined by the Department.
  - The Licensee will be responsible for arranging disposal through a reverse distributor.
  - Cannabis subject to disposal must not be removed from the Grow Site or from any other area where such cannabis is being handled or stored.
  - Within 30 days of the date of completion of disposal, the Licensee must submit a “Disposal Report” form to the Department, which must contain the following information:
    - Name and address of the Licensee;
    - Hemp Grower License number;
    - Geospatial location, including location type, or other valid land descriptor, for the production area subject to disposal;

- Information on the reverse distributor agent handling the disposal;
  - Total acreage disposed;
  - Date of completion of disposal;
  - Signature of the Licensee; and
  - Reverse distributor agent certification of completion of the disposal.
- Georgia Rule 40-32-2-.10 entitled “Recordkeeping and Reporting Requirements” provides that:
    - By the first of each month, and not more than thirty (30) days after receipt, the Department will provide the following information to the United States Secretary of Agriculture or the Secretary’s designee in a format that is compatible with USDA’s Information Sharing System whenever possible. If the first of the month falls on a weekend or holiday, the report will be submitted by the first business day following the due date:
      - Hemp Disposal Report, which will contain the following:
        - Name and contact information of the producer;
        - Hemp Grower License number;
        - Location information, such as lot number, location type, and geospatial location or other location descriptor for the production area subject to disposal;
        - Information on the agent handling the disposal;
        - Disposal completion date; and
        - Total acreage.
    - The Department will promptly notify USDA by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp and will attach copies of analytical test results as well as records demonstrating appropriate disposal of all of those plants and materials in the lot from which the representative samples were taken.

**4. “a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of this subtitle [.]”**

- Georgia Rule 40-32-2-.11 entitled “Hemp Grower Compliance Inspections” provides that:
  - Licensees may subject to annual compliance inspections.
  - The Licensee’s operational procedures, documentation, recordkeeping, and other practices may be verified during the compliance inspection.

- The Department may assess whether required reports, records, and documentation are properly maintained for accuracy and completeness.
- If during a compliance inspection the Department determines that the Licensee is not in compliance with the Georgia Hemp Farming Act or these Rules, the Department will require a Corrective Action Plan. The Licensee's implementation of a Corrective Action Plan will be reviewed by the Department during future compliance inspections.
- Compliance inspections may be unannounced and conducted at any time during regular business hours. The Department will have complete and unrestricted access to all hemp plants, material, and seeds, whether growing or harvested, as well as to all land, buildings, and other structures used for the cultivation, handling, or storage of hemp. The Department will also have full access to any and all records, documents, and information required to be kept and maintained in accordance with these Rules.

**5. “a procedure for submitting the information described in section 297C(d)(2), as applicable, to the Secretary not more than 30 days after the date on which the information is received[.]”**

- Georgia Rule 40-32-2-.10 entitled “Recordkeeping and Reporting Requirements” provides that:
  - By the first of each month, and not more than thirty (30) days after receipt, the Department provide the following information to the United States Secretary of Agriculture or the Secretary's designee in a format that is compatible with USDA's Information Sharing System whenever possible. If the first of the month falls on a weekend or holiday, the report will be submitted by the first business day following the due date:
    - Hemp Grower Report, which will contain the following:
      - For each new Licensee who is an individual and is licensed under the Georgia Hemp Plan, the report will include the full name of the individual; Georgia Hemp Grower License number; business address; telephone number; email address (if available); the legal description of the land on which the Licensee will produce hemp including, to the extent practicable, its geospatial location; and the scope of activity authorized;
      - For each new Licensee that is an entity and is licensed under the Georgia Hemp Plan, the report will include the full name of the entity; the principal business location address; EIN number; Georgia Hemp Grower License number; the full name, title, and email address (if available) of each person for whom the entity is required to submit a criminal history record report; the legal description of

the land on which the Licensee will produce hemp including, to the extent practicable, its geospatial location; and the scope of activity authorized;

- For each Licensee that was included in a previous report and whose reported information has changed, the report will include the previously reported information and the new information;
  - The status of each hemp grower's license;
  - The period covered by the report; and
  - Indication that there were no changes during the current reporting cycle, if applicable.
- Hemp Disposal Report, which will contain the following:
    - Name and contact information of the Licensee;
    - Hemp Grower License number;
    - Location information, such as lot number, location type, and geospatial location or other location descriptor for the production area subject to disposal;
    - A copy of the respective test results.
    - Information on the agent handling the disposal;
    - Disposal completion date; and
    - Total acreage disposed.
- Annual Report: The Department will submit an annual report to USDA. The report form will be submitted by December 15 of each year and contain the following information:
    - Total planted acreage;
    - Total harvested acreage; and
    - Total acreage disposed.
  - Test Results Report: The Department will promptly notify USDA by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp and will attach the records demonstrating the appropriate disposal of all of those plants and materials in the lot from which the representative samples were taken.
- Georgia Rule 40-32-2-.10 also provides that:
    - Licensees must report hemp crop acreage with FSA and must provide, at minimum, the following information to FSA:
      - Hemp crop acreage;
      - Total acreage of hemp planted, harvested, and disposed;
      - Georgia Hemp Grower License Number;
      - Street address;

- Geospatial location of each lot, greenhouse, building, or site where hemp will be produced. All locations where hemp is produced must be reported to FSA; and
- Acreage of greenhouse or indoor square footage dedicated to the production of hemp.

**6. “a procedure to comply with the enforcement procedures under subsection (e)[.]”**

- O.C.G.A. § 2-23-10(a) provides that a violation of the Georgia Hemp Farming Act or the Rules promulgated pursuant thereto is subject to enforcement solely in accordance with said code section.
- O.C.G.A. § 2-23-10(b)(a) provides that a Licensee will be required to conduct a corrective action plan if the Commissioner determines that the licensee has negligently violated the Act or Rules. Paragraph (b)(2) sets forth the requirements of a corrective action plan while Paragraph (c) provides that a licensee negligently violating the chapter will not be subject to any criminal or civil enforcement action.
- O.C.G.A. § 2-23-10(d) provides that a Licensee that negligently violates a corrective action plan three times in a five-year period will have its license immediately revoked and will be ineligible to reapply for a license for five years after the date of the third violation.
- O.C.G.A. § 2-23-10(e) provides that if the Commissioner determines that a licensee has violated state law with a culpable mental state greater than negligence, the Commissioner will immediately report the licensee to the US Attorney General and the Georgia Attorney General, and subsection (a) will not apply to the violation.
- Georgia Rule 40-32-2-.12 entitled “Violations and Enforcement” relating to hemp growers identifies the acts that constitute violations of the Rules and provides that violations will be subject to enforcement in accordance with O.C.G.A. § 2-23-10.
- Georgia Rule 40-32-2-.12 also provides that:
  - In the event the Department determines that a Licensee has negligently violated the Georgia Hemp Farming Act or these Rules, then the Department will issue a Corrective Action Plan to said Licensee.
  - The Corrective Action Plan will include, but may not be limited to:
    - A reasonable date by which the Licensee must correct the negligent violation, which may include destruction of hemp crops in accordance with these Rules;
    - A requirement that the Licensee must periodically report to the Commissioner on the compliance status of the Licensee with the



Corrective Action plan for a period of not less than two (2) years after the violation; and

- Any and all reasonable steps the Department deems necessary and proper to address the negligent violation(s).
- Licensees do not commit a negligent violation if they make reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a dry weight basis.
- The Department will monitor and conduct any and all inspections necessary to determine if the corrective action plan has been implemented as required.
- Georgia Rule 40-32-2-.02 entitled “Grower License Terms and Conditions” provides that:
  - A person with a state or federal felony conviction related to a controlled substance is subject to a 10-year ineligibility restriction on participating in the Georgia Hemp Program from the date of the Conviction. An exception applies to a person who was lawfully growing Hemp under the 2014 Farm Bill before December 20, 2018, and whose Conviction also occurred before that date. Each owner, key participant, and person holding a beneficial interest of the Licensee will be subject to the felony conviction restriction for purposes herein.
- Georgia Rule 40-32-2-.01 entitled “Application for Hemp Grower License” provides that:
  - Any person who materially falsifies any information contained in an application for a Hemp Grower License will be ineligible to receive a Hemp Grower License or otherwise participate in the Georgia Hemp Program.

**7. “a certification that the State or Indian tribe has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi)[.]”**

- The Department will have the resources and personnel to carry out the practices and procedures described herein.