

Requirements for State and Tribal Hemp Plans and Licensing Numbering Scheme

The following is a basic summary of the requirements for State and Tribal hemp production programs. Please see Sections 990.3 and 990.6 in the Interim Final Rule for the exact requirements.

1. Plans to maintain relevant producer and land information

- Collect, maintain and provide to USDA contact and real-time information for each hemp producer licensed or authorized in the state or territory of the tribal government (whichever applicable)
- Provide contact information for each hemp producer covered under the plan including name, address, telephone number, and email address (if available). If the producer is a business entity, the information must include the full name of the business, address of the principal business location, full name and title of the key participants, an email address if available, and EIN number of the business entity. This information can be provided via mail, fax, or email.
- A legal description collected and forwarded for land where hemp is produced in the state or tribal territory.
- Maintain and report to USDA status of licensed producers (and any changes) and license or authorization numbers of producers

2. Plans for accurate and effective sampling testing using post decarboxylation or similar reliable methods

- Procedures for collecting samples from the flower material of plants
- Procedures to conduct sampling and testing 15 days prior to the harvest date anticipated
- Procedures to ensure the method used for sampling represents a homogenous composition of the lot
- Procedure/statement/allowance to require the producer or an authorized representative of the producer to be present at the growing site during sample collection
- Procedures to allow for representatives of the sampling agency to have complete and unrestricted access during business hours to all hemp and other cannabis plants and all land, buildings, etc. used for cultivation and/or handling
- Procedures to ensure that a producer does not harvest any cannabis prior to samples being taken

- Procedures to require testing for delta-9 THC concentration. The procedures must require accurate identification of the acceptable hemp THC level. Testing methods must include but are not limited to: 1) Post decarboxylation or other similarly reliable method (*if “similarly reliable,” verify with AMS S&T); 2) Consideration of potential conversion of delta-9 THCA into THC and test result measure total available THC (THC + THCA); 3) Use of gas or liquid chromatography with detection; 4) Procedures to determine total THC concentration on a dry weight basis
- Procedures that prohibit handling, processing, or entering the stream of commerce of any hemp grown in a lot where the acceptable hemp THC level is noncompliant
- Procedures to ensure the hemp plant material from one lot not be commingled with hemp plant material from other lots
- Procedures to require hemp testing laboratories to adhere to standards of performance for detecting THC concentration, including Measurement of Uncertainty (MU); must use DEA registered labs.

3. Plan for disposal procedures

- Procedures for plants that do not meet the requirements of this part
- Procedures to notify USDA of non-compliant plants and disposal of those plants from the lot where representative samples were taken. Test results must be included.

4. Plan for inspection procedures

- Procedure for conducting annual inspections of random sample of licensed producers to verify that hemp is not produced in violation of this part

5. Plan for collection of information

- Procedure for submitting the information described in 990.70 to the Secretary not more than 30 days after the date on which the information is received.
- Procedure for producers licensed under state and tribal government plans to share information with USDA, Agricultural Marketing Service (AMS), or Farm Service Agency (FSA) including: 1) hemp crop acreage; 2) reporting total acreage of hemp planted, harvested, and disposed; 3) license or authorization number; 4) street address; 5) geospatial location(s) of each lot or greenhouse where hemp will be produced; 6) acreage of greenhouse or indoor square footage dedicated to the production of hemp.

6. Plan to comply with enforcement procedures

- Provides for corrective action plan for negligent violations: 1) failure to provide legal description of land; 2) failure to obtain a license; 3) produces cannabis with THC exceeding the acceptable hemp THC level
- Procedures to provide for the correction of negligent violations: 1) a reasonable date to correct the violation; 2) reporting requirements for 2 years from date of the negligent violation; 3) violations are not subject to federal, state, tribal, or local government criminal enforcement action; 4) provides that a negligent violation 3 times within a 5-year period is ineligible to produce hemp for a period of 5 years from the date of the 3rd violation; 5) state or tribal government shall conduct inspections to determine if corrective action plan has been implemented.
- Procedures for producer violations made with a culpable mental state greater than negligence: Producer shall be reported to the U.S. Attorney General and the chief law enforcement officer of the state or tribal government.
- Procedures for addressing felonies: 1) provides for a 10-year ineligibility restriction for persons with a State or Felony conviction relating to a controlled substance; 2) provides for controlled substance felony conviction exception for participants in state hemp pilot program authorized under the 2014 Agricultural Act after December 2018; 3) procedures for business entities to determine which participants are considered to be “key,” or have executive managerial control.
- Procedures stating that any persons who materially falsify any information in their application shall be deemed ineligible to participate in the program.

7. Certification that the state or tribal government (whichever applicable) has resources and personnel to carry out required Farm Bill practices and procedures

Plan may include other practices or procedures as long as consistent with this part and the Act. Plan may include requirements more stringent than this part or the Act.

License Numbering Schemes for State and Tribal Hemp Production Plans

States must use the following format when assigning license or authorization numbers:

[ANSI/FIPS State Code_State License #]

ANSI/FIPS Codes may be found here:

<https://www.census.gov/library/reference/code-lists/ansi/ansi-codes-for-states.html>

For example, for hemp producers in Alabama, the license or authorization numbers would be:

01_0001, 01_0002, 01_0003, etc.

Tribes must use the following format when assigning license or authorization numbers:

[BIA Tribal Code_Tribal License #]

For example, for hemp producers licensed under the Flandreau Santee Sioux Tribe, the license or authorization numbers would be:

A03341_0001, A03341_0002, A03341_0003, etc.

BIA tribal authorization codes may be viewed here:

<https://flh.fhwa.dot.gov/programs/ttp/documents/bia-6codes.pdf>

USDA will use the following format when assigning license numbers:

[USDA_ ANSI/FIPS Code OR BIA Tribal Code_USDA License Number]

For example, for a producer under the USDA plan and growing site in Florida would be:

USDA_12_0001, USDA_12_0002, USDA_12_0003, ect.