



# Department of Agriculture Dipåtamenton Agrikottura

163 Dairy Road, Mangilao, Guam 96913

Chelsa Muña  
Director  
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## Guam Department of Agriculture

### **GUAM HEMP PLAN (Final Nov. 2023)**

**Target Population:** Producers, Growers and Processors of Hemp

**Statutory Authority:** Final Rule (7 CFR Part 990)

USDA published a final rule on January 19, 2021, that provides regulations for the production of hemp in the United States and is effective on March 22, 2021. The final rule builds on the interim final rule published October 31, 2019, that established the U.S. Domestic Hemp Production Program. In January 2021, USDA issued the FR to further clarify the requirements necessary for USDA to approve such plans. In compliance with Guam Law and Federal Law, the Department submits the “Guam Hemp Plan”.

The Guam Hemp Plan includes provisions for maintaining information on the land where hemp is produced, testing the level of total delta-9 tetrahydrocannabinol, disposing of plants that do not meet the necessary requirements, licensing requirements, and ensuring compliance with the USDA and all federal guidelines.

#### **Purpose**

This document sets forth the Department’s policy for issuing hemp certifications and establishes the Guam Hemp Plan, which outlines the procedures and requirements for cultivating and producing hemp products in Guam. The Plan establishes the Department’s expectations related to hemp research and development and provides information on how to become a Bona Fide Hemp “Grower” and “Processor” for the production of commercial and industrial hemp in Guam. All proposed activities related to the growing and processing of commercial and industrial hemp will need to obtain a Bona Fide Hemp Certificate under this Plan to be considered in compliance with Federal and Guam law. If there is a question as to whether a proposed activity requires a certificate, please contact the Department to determine whether the activity falls under this Plan.

The Guam Hemp Plan consists of rules and regulations required by federal regulations under, the U.S. Domestic Hemp Production Program, but is only effective upon approval by the USDA. This Plan becomes effective upon USDA’s approval of the Guam Hemp Plan, and these policies will remain in place and govern the hemp industry in Guam once approved.

#### **Hemp Industry Background and Hemp Explained**

Through the promulgation of the 2018 Farm Bill several changes in the law were made to promote the industrialization of hemp throughout the States and its Territories that were considered by the Department in adopting the Guam Hemp Plan. These changes include:

- legalizing the production of hemp as an agricultural commodity and using hemp to manufacture multiple types of goods legally;
- removing “HEMP” from the list of controlled substances;
- listing hemp as a covered commodity under crop insurance and directing the Federal Crop Insurance Corporation board to streamline the process for developing hemp policies;
  - <https://www.rma.usda.gov/Federal-Crop-Insurance-Corporation>



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- requiring the Secretary of Agriculture to conduct a study of hemp-related agricultural pilot programs implemented under the 2014 Farm Bill;
- allows for certain grant funding 7 USC § 3319d(c)(D);
- setting up a shared state and federal regulatory authority over the issue and outlining the steps a state must take to develop a plan to regulate hemp to submit to the Secretary of Agriculture for approval;
- preventing the disqualification of farmers from receiving certain federal benefits (crop insurance 7 USC § 1502; 7 U.S.C. 1508(a)(2); 7 U.S.C. 1518; 7 U.S.C. 1522(b)); and
- establishes that a producer who derived part of his revenue from hemp (as defined in the 2018 Farm Bill), would not be found ineligible to participate in the Whole Farm Revenue Protection Plan (“WFRP”);

### What is Hemp?

“*Hemp*” is a term used to classify varieties of Cannabis that contain 0.3% or less THC content (by dry weight) and is considered a non-intoxicating part of Cannabis that is harvested for the industrial use of its derived products. Hemp is one of the strongest natural fibers in the world and is known to have over 50,000 different uses. By focusing on the different uses of hemp, the Guam hemp program intends to build its manufacturing sector and begin the production of multiple crucial products that will be made in Guam but available for export and use around the world. Examples of the types of crucial products that can be manufactured and exported for use through hemp production are included in the chart below:



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The below policies and operating Guam Hemp Plan include measures to facilitate the creation of crucial resources, and establishes practices and procedures to implement industrial and commercial hemp production in Guam.

### Key Considerations

The Department encourages all potential hemp program participants to consider the following:

- The Department is not responsible for federal funding, if you currently participate in or receive assistance from any activities or programs that are provided by the federal government or that utilize federal funds (i.e., loans, insurance, grants, management plans, etc.), only the Federal Government can guarantee that you may be entitled to continue to receive funding or assistance under these programs while engaging in activities permitted under the Guam Hemp Plan.
- The Department is not responsible for federal oversight, if it is determined by the Federal Government that the applicant has violated federal rules this Plan does not subject the



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Department or the Government of Guam to liability based on any decisions made by the federal government.

- The Department and the Guam Hemp Plan is subject to federal rules, regulations and policies, if the Federal Government issues interim rules or establishes new policies this Plan is subject to operational changes based on the issuance of new Federal rules, policies, or guidelines; thus, the Guam Hemp Plan may be subject to changes if mandated by the Federal Government.
- The Department must comply and is not responsible for federal restrictions issued, if the property on which you intend to grow hemp is subject to an Agricultural Preservation Restriction (“APR”) issued by the Federal Government, and it contains language prohibiting certain activities your ability to engage in activities permitted under this Plan may be limited or prohibited, and your eligibility for technical assistance or grants may be similarly restricted by the Federal Government.
- Zoning Code provisions, applicable under 21 GCA Real Property Chapter 61, *The Zoning Law of the Territory of Guam*, that apply to agricultural zones may limit areas in which permitted agricultural production, and these limitations may apply and limit hemp production to certain areas.
- To ensure a Department approved end use for your Crop, you will need to determine such end-use before applying for a Bona Fide Hemp Farmer Certificate and may wish to consider entering into an agreement with a Processor prior to cultivation. A Processor may also want to consider entering into an agreement with a Grower.
- Guam’s hemp program is new and evolving, thus some factors may be unique to Guam when growing this type of crop, and climate, as well as soil conditions, may result in different or more abundant seeding, growing, and flowering stages as well as cycle times than is typical when growing hemp in other areas.
- You should consider existing restrictions on the use of pesticides that may impact the ability to grow the hemp crop.
- You may wish to consider whether indoor or outdoor growing or a combination of both, would be best suited to the type and volume of Crop required for your business needs.

### Severability

- If any provision of these rules or the application of this Plan by any person or under any circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these rules and this Plan which can be given effect without the invalid provisions or application. To this end all provisions of this Plan and its sections are severable.



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## **I. GENERAL INFORMATION – *Hemp Use, Applications, Certifications and Permits, and Plan to Maintain Relevant Producer and Land Information***

### **A. Definitions**

As used in this Policy, the following words shall have the following meanings:

- Act: Final Rule (7 CFR Part 990)
- Authority and Purpose of Rules: means pursuant to the authority vested in the Guam Department of Agriculture for the purpose of this Plan is to establish the standards, practices, procedures, and requirements for growing and processing hemp in Guam.
- Acceptable Hemp THC Level: when a laboratory tests a sample, it must report the total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level for compliance with the requirements of State, Tribal, or USDA hemp plans is when the application of the measurement of uncertainty to the reported delta-tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level for the purpose of compliance.
- Bona Fide Hemp Grower Certificate: a certification issued by the Department under the authority of the USDA which authorizes a person to cultivate hemp in Guam. The Certificate must contain a number in a USDA approved format. See PDF: <https://www.ams.usda.gov/sites/default/files/media/StateandTribalPlanRequirements.pdf>
- Bona Fide Hemp Processor Certificate: a certification issued by the Department authorizing a person to handle or process hemp in Guam.
- Cannabidiol or CBD: One of the several compounds produced by cannabis plants that have medical effects.
- Cannabinoids: Any of several compounds produced by cannabis plants that have medical and psychotropic effects. This includes but is not limited to CBD and THC.
- Cannabinoid Profile: The amounts expressed as the dry weight percentages of delta-nine-tetrahydrocannabinol, Cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a hemp product.
- Certificate: Bonafide Hemp Grower/Processor Certificate.
- Certified/Certificate Holder: An authorized Hemp Grower/Processor having been approved by Guam Department of Agriculture and in possession of a valid Certificate that is current.



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- Commercial: The growth of hemp for profit, and for any purpose including engaging in commerce, market development, and market research, by any person or legal entity other than an institution of higher education under the Research and Development program approved by the Department for purposes of agricultural or academic research in the development of growing Industrial Hemp.
- Crop: *Cannabis sativa L.* grown for commercial or industrial purposes.
- Cultivate: means to plant, water, grow, and harvest a plant or crop.
- Director: The Director of the Guam Department of Agriculture.
- Extractor or Extraction: A way of processing hemp plants. The Extractor will take the hemp crop and extract from it to produce various items such as those indicated in the chart on pg. 2 (e.g. fiber, seed, oil, or CBD)
- Flowering Plant: Any hemp plant that has entered its blooming phase.
- Grower: A person that cultivates hemp. Also identified as Hemp Producer
- Growing Area or Site: An area, lot, parcel, or tract of land identified in an approved Bona Fide Hemp Grower Certification application on which a Bona Fide Hemp Grower cultivates or intends to cultivate hemp. A Grow Site may include greenhouses as well as land and buildings that are not used to cultivate hemp.
- Growing Plant: Any hemp plant that has not yet entered the blooming phase to become a Flowering Plant.
- Harvest: The termination of the cultivation process, or after the cultivation process the movement of hemp from a Growing Area or Site to another location.
- Harvest Form: A form required before harvest which includes location, variety and amount of hemp produced, and an expected harvest or destruction date, whichever is applicable, and which allows the Department to coordinate with the Grower to schedule the required inspections and sampling.
- Hemp: The plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with the federally defined THC level for hemp.
- Hemp Crop: one (1) or more unprocessed hemp plant(s) or plant parts.
- Industrial Hemp: Hemp that is used to build, develop, or otherwise manufacture goods and products.
- Law Enforcement: Any Federal, State, local law enforcement, or designated agency and the activities of these agencies which enforce the Plan as well as law, policies, rules, and regulations applicable to this Plan and regulation of the hemp industry.



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- **LOT:** A LOT is the same variety/strain of hemp with the same planting date. Strains/Varieties may not be intermingled.
- **Manufacturer:** A type of Processor that creates an end product from the cultivation of hemp that is packaged, labeled, and made ready for sale (*e.g.* production of cloth, infused products, building products, and edibles).
- **Monthly Reporting:** means the information provided by each calendar month that includes Planting and Harvest Forms, variety verification and information, seed source description, destruction information, sale and buyer information, and intended use. Reporting as required.
- **Person:** A natural person, corporation, association, partnership, or other legal entity.
- **Planting Form:** A form, required after planting, that indicates the location, variety, source, intended use, and expected harvest date of the Crop along with an inventory of any remaining hemp seeds that were not planted after the acquisition, and associated plans for storage or transfer to another certified program participant.
- **Responsible Official:** a sole proprietor, a partner in the partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers. These Officials are also required to provide a Criminal History Background Check.
- **Process or Processing:** converting an agricultural commodity into a marketable form.
- **Processor:** A person that converts hemp into a marketable form, including through extraction or manufacturing, and handles hemp during and after this process.
- **Product lot:** a specific quantity of finished hemp products having uniform character and quality within specified limits.
- **Qualified Agricultural Producer:** a producer of agricultural products who meets one of the following criteria:
  1. The person or entity is the owner or lessee of agricultural land or other real property from which \$5,000.00 or more of agricultural products in aggregate were produced and sold during the year, including payments from government sources;
  2. The person or entity is in the business of performing agricultural operations and has provided \$5,000.00 of such services during the year;
  3. The person or entity is in the business of producing long-term agricultural products from which there might not be annual income, including, but not limited to, timber, pulpwood, orchard crops, pecans, livestock, and horticultural or other multiyear agricultural or farm products. Applicants must demonstrate that sufficient volumes of such long-term agricultural products will be produced which can generate in aggregate at least \$5,000.00 in annualized sales in the future; or
  4. The person or entity must establish, to the satisfaction of the Commissioner of Agriculture, that the person or entity is actively engaged in the production of agricultural products and has or will have created sufficient volumes to generate in aggregate at least \$5,000.00 in annualized sales.



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- Quarterly Reporting: means the information provided by each calendar quarter that includes Planting and Harvest Forms, variety verification and information, seed source description, destruction information, sale and buyer information, and intended use.
- Registrant: Any individual or legal entity who holds a valid Certificate to grow or process hemp under this Plan.
- Registration: An authorization by the Director or Agricultural Development Services Chief for any individual or legal entity to grow Hemp on an approved grow site or area.
- Research and Development Program: Cultivation of Hemp by an institution of higher education under the pilot program administered by the Department for purposes of agricultural or academic research in the development of growing or manufacturing hemp goods.
- THC: Delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.
- USDA: United States Department of Agriculture.
- DOAG Approved Certified Seed: Cannabis seed that is approved and labeled by the Department for cultivation.
- Guam Industrial Hemp Commission: A board made up of local government agencies and Guam businesses or individual participating in the hemp industry, which is responsible for facilitating the hemp program, policymaking, registration, licensing, and regulations of Hemp within Guam. (to be established)
- Variety: a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition. See <https://www.aosca.org/hemp/>
- Verification: Documentation stating that the Department has sampled and sampled the Crop and determined that the Crop demonstrates that it is below the Acceptable Hemp THC level.

### **B. Approved Uses for Hemp and Industrial Hemp**

Hemp shall be used in Guam for the following: (i) research purposes; (ii) cultivation and farming or seed production/importation; (iii) commercial purposes; and (iv) extracting, processing, and manufacturing or creating various goods and products as well as any other purpose considered reasonable if acceptable under federal guidelines. A list of some of the reasonable uses for Hemp are included below:

- Fiber
- Seed
- Hemp seed oil
- Cannabidiol (CBD) that is derived from a Crop that is certified by the Department as Industrial Hemp
- Seed for cultivation
- Seed, seed meal, and seed oil for consumption
- Food and Nutrition
- Body Care
- Paper and Plastic Alternatives
- Fuel





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- Clothing
- Building Materials
- Department of Agricultural Pilot Program
- Hemp Research and Development Program
- Study and report to determine the economic viability of domestic production and sale of Hemp

Compliance with Federal Law - Nothing in these Rules will be construed as authorizing any person to violate any Federal law or regulation.

### **C. Application and Registration Requirements**

Upon approval of the Guam Hemp Plan by the USDA, any Person proposing to engage in the planting, growing, harvesting, possession, processing, or cultivation of Hemp in Guam must register and obtain a Bona Fide Hemp Certification issued by the Department. Bona Fide Hemp Certifications are required for both Growers and Processors (including manufacturers and extractors) before engaging in any hemp growing or processing activity. Applicants interested in participating in the Guam Hemp Program and being a part of the Hemp industry must register and provide at a minimum the following information to be considered for a certificate:

#### **Bona Fide Hemp Certification Requirements**

Each applicant shall submit a complete, accurate, and legible application, in a form and manner determined by the Department. The following minimum information is required for a Certificate and is required as a part of the registration process to be submitted for each owner, responsible official and person(s) holding a beneficial interest in the Hemp Grower or Processor Certificate for which an application is being made:

- i. Full name, address, and contact information of the applicant(s) and responsible officials;
- ii. Type of business (corporation, sole proprietor, etc.), Business name, and all responsible officials;
- iii. Employer Identification Number (EIN)
- iv. If applicable, copies of the business entity's Bona Fide Hemp Grower/Processor Certification with the Department and a license from the Department of Revenue and Taxation (DRT);
- v. Name, address, and full legal description of the Hemp operation, grow site, or area, or any land, building, and place on which Hemp is grown, produced, or handled;
- vi. GPS coordinates provided in decimal degrees taken at the approximate center of the growing field or building entrance; A map of the growing or processing area illustrating clear boundaries and dimensions of the growing area(s) in acres or square feet;
- vi. If Hemp is cultivated in a field, the area in acres of each field;
- vii. If Hemp is cultivated in a greenhouse or other building, the approximate dimension or square feet of the growing area;
- viii. Written consent by the applicant or responsible official for the Department to conduct inspections, sampling, and testing under the terms of this Plan;
- ix. A set of the applicant's and any Responsible Official's fingerprints; the Director shall require each first-time applicant for a Bona Fide Hemp Grower/Processor to file a set of the applicant's fingerprints, taken by the Guam Police Department, and any other information necessary to complete a NEW territory or state-wide and nationwide criminal history check with the criminal investigation bureau of the Department of Justice for



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territory or state processing or with the Federal Bureau of Investigation for federal processing;

- a. All of the costs associated with the criminal history check are the responsibility of the applicant. Criminal history records provided to the Department under this section are confidential. The Director may use the records only to determine if an applicant is eligible to receive a Bona Fide Hemp Grower/Processor to produce or process hemp.
- xi. A non-refundable application fee in an amount which shall be established by the Department for application, certificate, and registration and;
- xii. For growers, the FSA Form 578.**
- xiii. Any other information reasonably requested by the Department to fulfill its oversight obligations pursuant to 7 U.S.C. §§1639o-1639s.

### Hemp Producers and Land Information

The Department must collect, maintain, and provide to USDA contact and real-time information for all hemp producers certified or certificate holders authorized in the territory. The Department requires that each prospective hemp cultivator and/ or processor applies for certification at the office of the Guam Department of Agriculture.

- This program will allow the Department to transmit information regarding licensed hemp producers to USDA upon request. Specifically, the Department shall provide USDA, by the first of each month, through USDA's information sharing system, HeMP, a report providing the contact information and the status of the Bona Fide Hemp Grower in Guam.
- The Department's database shall collect at minimum the following information:
  1. For each new Hemp producer who is an individual and is certified or authorized by the Department, the report shall include the full name of the individual, license or authorization identifier, business address, telephone number, and email address.
  2. For each new Hemp producer that is an entity and is licensed or authorized by the Department, the report shall include the full name of the entity, the principal business location address, license or authorization identifier, employer identification number (EIN), and the full name, title, and email address of each employee for whom the entity is required to submit a criminal history record report.
  3. For each Hemp producer that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information.
  4. The period covered by the report, and the status of each Hemp producer's certificate and registration.
  5. Indication that there were no changes during the current reporting cycle, if applicable.
- The Department must collect and report to USDA monthly on all Hemp Producers and therefore requires a minimum the information above and all information required for USDA's information sharing system HeMP:
  - The form was incorporated into the HeMP online platform. Please be sure you have access to Guam's account before Hemp Plan approval.



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### A Legal Description Collected for Land Where Hemp is Produced in Guam

The Department requires each prospective Hemp cultivator to provide the following information to the Farm Service Agency (“FSA”) for each growing location upon application within 30 days of planting and if any changes are made to hemp growing locations throughout the year those must be updated with FSA as well. Information is required to be updated annually:

- global positioning coordinates;
- physical address;
- maps for each field,
- greenhouse, building,
- or storage facility where hemp will be cultivated or stored;
- and the number of outdoor acres, indoor square footage, and the number of plants intended to be planted.

It is important that growers keep hemp lot information up to date with their local FSA office.

- a) Guam Police Department may have access to the database with growing locations by contacting the USDA hemp program.
- b) Growers must submit their 578 FSA form to DOAG.

The USDA requires the Department to report annually on total planted acreage, total disposed acreage, and total harvested acreage. To comply with USDA reporting the Department must collect, and all Hemp producers must submit by November 30th each year to the Department, a report including the following: (1) total planted acreage, (2) total harvested acreage, and (3) total acreage disposed and remediated during the year.

In addition to the submission of the application, each applicant shall submit a nonrefundable application fee. If the application fee does not accompany the application, the certification application will be deemed incomplete and will not be processed until the fee is received. If an application is approved, a certification fee must be paid before the certificate is issued, payment of all fees including registration and renewal fees must be received by the Department before the issuance of a Grower or Processor certificate. All certifications expire on December 31<sup>st</sup> of the year issued, but are subject to a renewal by a form and manner determined by the Department.

**NOTE:** *\*All fees are subject to change or increase by the Department based on demand, available funding, resources, and costs imposed on the Department to process applications and renewals, maintain certifications, enforce policies, and meet federal requirements for reporting, recordkeeping, inspection, sampling, testing, and disposal.*

Upon the approval of an application for a Grower or Processor certification, the Department will notify the Guam Police Department (GPD) where the crop will be grown and where the Hemp will be processed. This notification will include the address and GPS coordinates of the Crop or processing location and will be provided to answer any questions or concerns that they may have relative to the enforcement of the program. The Bona Fide Hemp Grower/Processor’s address and security schematic or global positioning system coordinates that are provided to the Department shall not be subject to public disclosure and any transmittal of this information from the Department to GPD shall include the fact that it is exempt from public disclosure by statute.

### **D. Bona Fide Hemp Grower/Processor Certification Approval, Denial, Renewal and Reporting Requirements**



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1. Types of licenses or permit, the following licenses and permits will be issued by the Department:
  - *Grower Certification*
    - For individuals, businesses, and Qualified Agricultural Producers
  - *Processor Certification*
    - For individuals and businesses
  - *Growing/Processor Certification*
    - For individuals, businesses, and Qualified Agricultural Producers
  - *Processor Permit*
    - For any individual handling Hemp or transporting Hemp (pending advisement from DRT)
2. Grower/Processor Dual Certification: An applicant may be permitted to obtain a dual certification for growing and processing Hemp by applying in a form and manner determined by the Department that requires all the minimum information listed above. Individuals, businesses, and Qualified Agricultural Producers proposing to participate in growing and processing activities must register, submit the appropriate application, pay all fees, and obtain the appropriate certification before beginning any growing and or processing of Hemp in Guam. Growers and Processors that are not seeking a dual certification are subject to the above rules and process but can select their desired application.
3. Processor Permit: An applicant may be permitted to obtain a Processor Permit solely for the handling of Hemp and/ or transportation of Hemp, by applying in a form and manner determined by the Department that requires all the minimum information listed above (if applicable). Individuals proposing to handle and/ or transport Hemp must register, submit the appropriate application, pay all fees, and obtain a Permit before handling or transporting Hemp (pending advisement from DRT).
4. Approval/Denial/Renewal of a Certification or Permit: The Department shall grant or deny a certification application after reviewing and ensuring all statutory and Plan requirements have been met. Any applicant denied a certification, permit, or certification/permit renewal may appeal no later than twenty-one (21) days after receipt of the notice of the certification or permit action. A request for an appeal should be submitted in writing to the Department.

a) *Approval*

If approved, the Department may issue a certificate that will contain, at a minimum, the following:

- Full name and address of the applicant(s);
- Name, address, and contact information of the Industrial Hemp operation;
- Department issued certification number;
- Enforcement procedures, and change of status requirements;
- Signature of approval and review by Department representatives;
- A written finding that the Grower/Processor has complied with 7 U.S.C. §§1639o-1639s that indicates licensure is in the best interest of the Territory; and
- Expiration date (All certificates and permits expire on December 31<sup>st</sup> of the year issued)

In the event of any material change to the information provided to the Department in the certification application, including the growing location, the Bona Fide Hemp Grower/Processor shall immediately notify the FSA and Department. Once notified, the Department will review the changes to determine whether a new certification application or an amendment to an existing certification will be required. A Bona Fide Hemp Grower/Processor shall not implement any proposed changes without prior written approval from the Department. All the aforementioned requirements also apply to Permits.



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By applying, the Registrant acknowledges and agrees to the following terms and conditions:

- i. Any information provided to the Department may be disclosed to law enforcement agencies to provide for safety and enforcement procedures, without further notice to the Registrant.
- ii. The Registrant shall allow and fully cooperate with any inspection and sampling that the Department deems necessary.
  - a. A Registrant must have the legal right to cultivate Hemp on a grow site or area and the legal authority to grant the Department access for inspection and sampling.
- iii. The Registrant shall pay for any inspection and laboratory analysis costs that the Department deems necessary within 30 days of the date invoiced.
- iv. The Registrant shall submit all required reports by the applicable due dates specified by the Department.
- v. Registrations cannot be assigned or transferred to another business, individual, or other entity without Department approval.
- vi. Any additions to a grow site or area shall require Registration and approval by the Department and must be reported to the FSA.
  - a. Any Registrant that wishes to alter the growing area(s) on which the Registrant will conduct Hemp cultivation for Industrial or Commercial purposes shall, before altering the area, submit to the Department an updated legal description, global positioning system location, and map specifying the proposed alterations.
  - b. Amendments to an existing Registration are limited to changes within the original land area registered.
- vii. All Hemp plant materials must be planted, grown, and harvested under a valid Registration. Any plant material that is not harvested in the Registration period in which it was planted must be declared for inclusion in a subsequent Registration.
- viii. Incomplete applications will not be processed, and application fees will not be refunded if an application is denied or certification/permit is not granted.
- ix. Any changes to contact information must be provided within 10 days of the change.

*b) Denial*

The Department shall deny an application for a certification or permit filed if the applicant: (i) fails to satisfy the minimum requirements for licensure/permit; or (ii) for good cause shown. Good cause to deny an application may include but is not limited to the following: failure to comply with this Plan or other statutes or regulations that govern Hemp producers, problematic site location (violation of zoning laws), or failure to provide additional information reasonably requested by the Department.

*c) Renewal*



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All Growers and Processors will be required to submit a certification or permit renewal application before the expiration date of their current certification. To ensure that the Department has ample time to review and issue the renewal, renewal applications must be submitted to the Department annually between October 1<sup>st</sup> and November 15<sup>th</sup>. The Department will review all renewal applications under this Plan, and with all regulations, policies, and guidance that may be in effect at the time the renewal application is submitted. The Department will also evaluate the Grower or Processors history with the Guam Hemp Program. The Department may automatically deny a renewal if it determines the Grower or Processor has not complied with this Plan or other statutes or regulations that govern Hemp producers and their operations.

- Each annual renewal application shall be subject to a fee set by the Department.
- If the renewal fee does not accompany the application, the application for licensure renewal will be deemed incomplete, and denied.

d) *Quarterly Reporting and Form Submission Requirements*

At the beginning of each Calendar Quarter, and no later than the 7<sup>th</sup> day of January, April, July, and October, Registrant shall file on a form provided by the Department a report that includes:

1. A statement of verification that the Registrant has reasonable grounds to believe that the plants the Registrant will grow are of a type and variety of Cannabis that will produce a total delta-9 THC concentration of no more than the acceptable hemp THC level.
  2. A description of all the different sources of seeds used during the quarter.
  3. A listing of numbers and varieties of all the living plant counts at the time of the Report, divided into categories: A) Seedlings/Clones, defined as rooted plants less than 12 inches in height B) Growing Plants C) Flowering Plants.
  4. A listing of numbers and varieties of plants destroyed for any reason, and by which destruction method (among options approved by the Department and listed on the Quarterly Report form).
  5. A listing of the amount (in dry weight) and varieties of Industrial Hemp harvested.
  6. A listing of the amount in dry weight of Hemp sold to processors or other buyers, listing the name of each buyer and amount in dry weight flower and other plant biomass purchased.
  7. A statement of intended end use for all parts of any Hemp grown within a Grow Site or Area.
- Additionally, all Bona Fide Hemp Grower/Processor and any approved permits (if applicable) or participants may be subject to the reporting requirements listed in Section VII below.



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## II. GROWER INFORMATION – *Inspection, Sampling, Testing, Disposal, Acceptable Methods, and Post-Harvest Procedures and Requirements*

### A. General Grower Information

An applicant for a Growers certification will be required to certify that they agree to obtain seed with the necessary documentation and to provide this documentation to the Department before planting the Crop, or otherwise upon request. The Department may require that a distributor provide additional information before the distributor is approved to distribute seeds in the Territory.

A Grower *may not* obtain seeds without first obtaining a certificate issued by the Department, and must meet the following requirements:

#### 1. *Seed Acquisition*

Pursuant to Guam Law, a Grower shall only acquire Hemp seeds from a distributor that has been approved by the Department. The Department shall deem a distributor to be an “approved distributor” if it:

- i. Produces certified seeds that contain the Acceptable Hemp THC Level; and
- ii. Provides documentation to the Grower showing the Acceptable Hemp THC Level at the time the seed is received by the Grower.

#### 2. *Sign Posting*

- a. *A Grower must post a Department-approved sign at conspicuous points of entry to the Grow Area or Site where Crop is grown. If there is more than one point of entry, a Grower must post a sign every 200 feet.*
- b. *Signs should be at least fourteen (14) inches by sixteen (16) inches with letters one (1) inch high and contain, at a minimum, the following:*
  - i. *Statement “Crop grown in this field is Hemp that is certified by the Guam Department of Agriculture.”;*
  - ii. *Department issued certificate number;*
  - iii. *Emergency contact information (Name and phone number); and*
  - iv. *Department contact information: \_\_\_\_\_ (input number).*

#### 3. Reporting of planting information to the Department

- a. Upon the Grower receiving the seed, the Grower must provide the Department with a copy of the seed certification obtained from the seed distributor demonstrating that the seed is at or below the Acceptable Hemp THC Level.

### B. Planting Form Submission

The Grower must submit to the Department an approved Planting Form and comply with quarterly reporting requirements and reporting requirements in Section VII below.

### C. Inspection, Testing, and Disposal

The Department is authorized to conduct inspections and testing to ensure compliance of all activities authorized under Guam Law This includes compliance with the Plan, the Final Rules, as well as testing to ensure Acceptable Hemp THC Level. All samples will be taken and collected by the Department or



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personnel designated by the Department and all personnel will receive training on the sample collection techniques; this process of collection requires the following:

- i. Within thirty (30) days of the anticipated harvest, the Bona Fide Hemp Grower/Processor must have a department-approved sampling agent collect samples from the flowering material of such cannabis plants for delta-9 tetrahydrocannabinol concentration level testing. **If harvest does not occur within 30 days of sample collection, a new sample must be pulled.**
    1. Every lot of hemp as reported to FSA must receive a passing THC compliance test within 30 days of harvest. A lot is the same variety/strain of hemp with the same planting date. Consider adding a definition for “lot” to your definitions for clarity.
    2. Each Grower will be contacted by Guam Department of Agriculture by email to notify them when they are approved to sample.
  - ii. Sampling will be conducted per the USDA’s most current *Sampling Guidelines for Hemp Growing Facilities*, which will be made available on the Department’s website.
  - iii. 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.
- i. *Inspections*
- a. All Growers are subject to inspections of Crops to verify that the **total** delta-9 THC concentration of the Cannabis planted within the Registered Grow Site or Area does not exceed **the acceptable hemp THC level** on a dry weight basis. A target routine inspections **of at least 25% of Registrants** shall occur at least once per year **which may be onsite inspections or remote records inspections**. The Department will make every effort to provide advance notice of inspections to the Grower unless such notice impacts the Department’s ability to conduct necessary enforcement activities authorized by Guam Law.
  - b. For routine inspections, the Department or a designee shall send notification by email, phone call or certified mail that an inspection will occur within the following 10 business days. It is the responsibility of the Registrant to contact the Department to schedule a specific inspection time and date within that 10 business-day period. Failure to contact the Department as required will result in a mandatory inspection.
  - c. The Department may order inspections and take samples from any Registered Grow Site or Area during normal business hours without advance notice if they have reason to believe that a violation of the Plan may be occurring or has occurred. The Department may also direct additional inspection and sampling to verify compliance with the reporting requirements of this Plan and if required by USDA.
  - d. During the inspection, the Registrant or authorized representative shall be present at the growing operation on the Registered Grow Site or Area. The Registrant or authorized representative shall provide the Department’s Inspector with complete and unrestricted access to all Cannabis plants, parts and seeds within a Registered Grow Site or Area whether growing or harvested, and all land, buildings and other structures used for the cultivation and storage of Hemp, and all documents and records relevant to the Registrant’s Hemp growing business.





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- e. The following Inspections will occur:
- i. Inspection During Certification Application:
    - Prior to issuing a certificate, the Department may schedule a site visit to the property. The purpose of this visit will be to review the information that was provided during the application process and to also ensure a better understanding of the growing operation.
  - ii. Routine Sampling:
    - The Department will test **each lot** to ensure that the Crop does not exceed the **total** 0.3% THC level. Sampling shall be conducted for all Bona Fide Hemp Grower/Processor before harvest and with the Grower present. Routine sampling will be scheduled in advance with the Grower or an authorized representative of the Grower.
    - Routine sampling must be conducted within 30 days of harvest. If the harvest is not completed within 30 days new compliance sample must be collected and tested. Payment of the additional sampling is the responsibility of grower.
  - iii. Record Inspections:

The Department may conduct routine record inspections to ensure that the Grower is maintaining all necessary information. This may include plant nutrient applications and any other record-keeping required by law or this Plan.
  - iv. Follow up Inspections:

The Department may conduct follow up inspections to determine if the information provided by the Grower is true and accurate. This follow up may include planting and harvesting observations; a sampling of the Crop; shipment procedures; or additional record reviews. These inspections may be announced or unannounced.

## 2. *Sampling and Testing*

- a. Procedures to Conduct Sampling and Testing 30 Days Before the Harvest Date Anticipated:  
The Grower shall contact the Department no later than 30 days prior to harvest of any Crop LOT or any portion of the Crop LOT to schedule sampling and testing, and is subject to the following:
- i. A Bona Fide Hemp Grower/Processor must not harvest any cannabis before samples are taken.
  - ii. Before sampling or testing, samples from different lots are not to be commingled.
  - iii. During a scheduled sample collection, the Bona Fide Hemp Grower/Processor or an authorized representative of the Bona Fide Hemp Grower/Processor must be present at the grow site.
  - iv. The cannabis material to be collected for sampling will be determined by the Department approved sampling agent and is subject to USDA guidelines available below:
    - v. <https://www.ams.usda.gov/rules-regulations/hemp/information-sampling>
  - vi. Individual or composite samples of each variety of Cannabis may be sampled from the Registered Grow Site or Area at the Department's discretion. (The sample collected for official compliance must be a representative sample of the entire LOT.



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- vii. The Department may contract with third-party laboratories to provide testing services on its behalf. Any lab that the Department contracts with shall meet the standards set out by USDA.
  - viii. Only samples taken by a Department's approved sampling agent will be considered official samples.
  - ix. The Bona Fide Hemp Grower/Processor will be responsible for paying all sampling fees. No compensation will be owed by the Department to the Bona Fide Hemp Grower/Processor for any such sampling or for any samples collected by the Department approved sampling agent.
  - x. 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, or storage of all hemp and other cannabis plants, and all locations listed in the Bona Fide Hemp Grower Certification.
- The Grower shall harvest within thirty (30) days of the collection of samples. If harvesting after collection of samples but before receiving the sample results, the Grower must hold onto all harvested Crop material until a Certificate is issued from the Department. A new compliance sample will need to be collected if harvest is not completed within 30 days.
  - The Grower shall submit to the Department an approved Harvest Form within thirty (30) days of harvest.
  - If sample results show Acceptable Hemp THC Level, then a Certificate will be issued by the Department to the Grower. Upon receipt of a Certificate, the Grower may move the Crop off the certified site through a Permit Processor if needed for processing or sale.
- b. Other Procedures:
- The Department shall take samples from Registered Grow Sites or Areas where hemp is being cultivated by the Bona Fide Hemp Grower/Processor. The samples shall consist of cuttings from **at minimum** five hemp plants within the growing location. A set of samples must be taken for each LOT as reported to FSA. The hemp plants selected for sampling shall be determined by the Department and not the Bona Fide Hemp Grower/Processor. The Bona Fide Hemp Grower/Processor shall be afforded one testing sample per LOT as reported to FSA. All additional samples that are taken due to the certified cultivator having multiple fields, greenhouses, buildings, sites, or additional varieties grown on the growing location shall be subject to the fees to be determined by the Department. If there are any variations with the above procedures, please provide DOAG with FSA Form 578.
  - For growing locations/lots that are larger than five acres, the Department is utilizing USDA's formula to calculate the initial number of primary plants to be sampled, with a Failure Rate of 25% with a confidence level of 95%, as noted in the table below. The Department believes that this is consistent with the sampling guidelines released by USDA available below:  
<https://www.ams.usda.gov/sites/default/files/media/SamplingGuidelinesforHemp.pdf>



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p	i	N	n0	n
Confidence Level	National Fail Rate	Acres	Initial number of primary plants	Minimum number of primary plants
95%	25%	0-8	11	5
95%	25%	8-12	11	6
95%	25%	13-17	11	7
95%	25%	17-26	11	8
95%	25%	27-45	11	9
95%	25%	46-100	11	10
95%	25%	100 +	11	11

c. Procedures for Plants that Do Not Meet Sampling Requirements:

- i. The Grower may opt for a second round of sampling at his/her own cost. If the second round of sampling of the Crop does not show Acceptable Hemp THC Level, then the Grower may opt for a third round of sampling of the Crop (including Crop still in the ground or harvested Crop) at his/her own cost. **Compliance samples must be taken within 30 days of harvest.**
- ii. If after obtaining final sampling results, the Crop still does not meet the Acceptable Hemp THC Level the Grower may destroy the Crop OR The Grower and Department will enter into a written agreement setting forth the terms of such resolution for REMEDIATION\* and the Department or its designee will be present for the harvest and disposal of any Crop that does not comply with this Plan.
  1. <https://www.ams.usda.gov/sites/default/files/media/HempRemediationandDisposalGuidelines.pdf>
    - a) If the above procedures are not followed and the Department finds samples that do not meet the Acceptable Hemp THC Level, the Department may summarily suspend the Growers Certification until the Crop is brought into compliance with this Plan.
    - b) Sample test results from Registered Grow Sites or Areas that do not meet the Acceptable Hemp THC Level may be provided to the appropriate law enforcement agencies.
- iii. Plant material which exceeds the Acceptable Hemp THC level shall be destroyed **on-farm** in compliance with the disposal **options outlined in USDA's Remediation and Disposal Guidelines.**

All certified cultivators must submit a destruction report in order to destroy Crop, and reports on the destruction of Crop are required to be submitted by the Department to USDA on the 1<sup>st</sup> day of each month (if no Crop is destroyed this must also be reported by the Department to USDA monthly). To comply with USDA reporting, no destruction of Crop may occur unless Department personnel or designees are present and a report is provided by the Grower with the information required by USDA Hemp Disposal Report available below:

- All forms and reports are submitted through USDA's HeMP System.

d. Procedures to Ensure the Method Used for Sampling Represents a Homogeneous Composition of the Lot:

Procedures to require testing for **total** delta-9 THC concentration with detection. The procedures must require accurate identification of the Acceptable Hemp THC level. Testing methods must include but are not limited to:



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- Post decarboxylation or other similarly reliable method if “similarly reliable,” verify with the Agricultural Marketing Service of the United States Department of Agriculture (“AMS”) Science and Technology Program (S&T)
- Consideration of potential conversion of delta-9 THCA into THC and test result measure total available THC (THC + THCA)
- Gas or liquid chromatography with detection procedures to determine total THC concentration on a dry weight basis.
- Measurement of Uncertainty (MU.)

### i. Grower Laboratory Testing Requirements:

- c. Standard testing procedures are specified for samples taken to measure the delta-9 tetrahydrocannabinol (THC) concentration level of those samples on a dry weight basis, and is subject to USDA guidelines, available below:
  - <https://www.ams.usda.gov/sites/default/files/media/TestingGuidelinesforHemp.pdf>
- b. Analytical testing for purposes of detecting the concentration level of delta-9 tetrahydrocannabinol (THC) must be conducted by a laboratory and Hemp laboratory test data shall be reported to the USDA by the lab in accordance with 7 CFR Part 990, available report below:
- c. Analytical testing for purposes of detecting the concentration level of delta-9 tetrahydrocannabinol (THC) must be conducted under 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. 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;
  - Method performance specifications must ensure analytical tests are sufficiently sensitive for the detectability requirements of this Plan.
  - **The Laboratory must report compliance test results directly to the USDA through the HeMP information sharing system.**
- d. At a minimum, analytical testing of samples for delta-9 tetrahydrocannabinol concentration level must use post-decarboxylation. Compliance tests must show total THC using post-decarboxylation or the appropriate conversion mathematical equation.
  1. Labs must report THC compliance test results by lot (as reported to FSA) to USDA directly through USDA’s Informational Sharing System, HeMP. e. The total delta-9 tetrahydrocannabinol concentration level must be determined and reported on a dry weight basis.
- f. 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 the measurement of uncertainty.
- g. Any sample test result exceeding the Acceptable Hemp THC Level will be conclusive evidence that the lot represented by the sample is not in compliance with these Rules.



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- h. Each Bona Fide Hemp Grower/Processor must ensure that the laboratory conducting the analytical testing of the sample(s) from the Bona Fide Hemp Grower/Processor's lots submits results for all tested samples to the Department and USDA via email and the HeMP Information Sharing System. The test results must be reported using the Department's "Grower Laboratory Test Results Report" form and must contain at least the following information for each sample tested:
- Producer's certification or authorization identifier;
  - Name of producer;
  - Business address of producer;
  - Lot identification number for the sample;
  - Name and DEA registration number of the laboratory after Dec 31, 2023;
  - Date of test and report;
  - Identification of a retest;
  - Measurement of uncertainty (MU); and
  - Test result.
- i. The Bona Fide Hemp Grower/Processor will be responsible for paying all testing fees owed by the Department to the Bona Fide Hemp Grower/Processor for any such testing. No compensation will be owed by the Department to the Bona Fide Hemp Grower/Processor for any such testing.
- j. A Bona Fide Hemp Grower/Processor must not transfer, transport, or otherwise distribute any lot or Crop of cannabis before receiving analytical testing results verifying that the lot or Crop meets the Acceptable Hemp THC Level.

### **ii. Grower Responsibilities and Restrictions:**

- a. The Bona Fide Hemp Grower/Processor must harvest the crop not more than thirty (30) days following the date of sample collection.
- b. If the Bona Fide Hemp Grower/Processor fails to complete harvest within thirty (30) days of sample collection, a secondary pre-harvest sample of the lot will be required to be submitted for testing.
- c. Harvested lots of hemp plants must not be commingled with other harvested lots, until a compliant test result is received.
- d. Only lots that meet the Acceptable Hemp THC level may enter the stream of commerce.
- e. Any lot with an official sample test result exceeding the Acceptable Hemp THC Level must not be entered into the stream of commerce, and the Bona Fide Hemp Grower/Processor must ensure the lot is disposed of in accordance with this Plan.
- f. Any Bona Fide Hemp Grower/Processor may request additional testing if it is believed that the original **total** delta-9 tetrahydrocannabinol concentration level test results were in error.
- g. A Bona Fide Hemp Grower/Processor:
- Must not cultivate hemp on any Grow Site or Area not listed on the Hemp Grower's Certification and must take immediate steps to prevent the inadvertent growth of Hemp outside of the authorized Grow Site(s) or Areas;



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- Must keep Hemp physically separated from other crops.
- Must not Cultivate Hemp on land or property that not registered or owned by or leased from persons who are not certified; and
- The Bona Fide Hemp Grower/Processor must comply with all applicable local, state, and federal laws, rules, regulations, and ordinances at all times.

### 3. *Disposal*

- a. If final sample results do not meet the Acceptable Hemp THC Level then the Crop is no longer considered Hemp and must be disposed of in accordance with this Plan, and the following is required:
  - i. The Bona Fide Hemp Grower/Processor must immediately notify the Department any time analytical testing determines that a lot, or Crop has exceeded the Acceptable Hemp THC Level.
  - ii. Upon final notice and confirmation that a lot, or Crop has exceeded the Acceptable Hemp THC Level, the Department will issue an Order of Disposal, no lot or Crop should be destroyed without the issuance of this Order of Disposal, and disposal shall be set to occur within a reasonable time to be determined by the Department.
  - iii. The Bona Fide Hemp Grower/Processor will be responsible for all costs and fees associated with the disposal of cannabis exceeding the Acceptable Hemp THC Level. No compensation will be owed by the Department to the Bona Fide Hemp Grower/Processor for any such disposal.
  - iv. If the Department does not witness the disposal, the Bona Fide Hemp Grower/Processor will provide evidence of the disposal to the Department.
- b. 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:
  - i. In compliance with 7 CFR 990.70, by the first of each month a report notifying USDA of any occurrence of non-conforming plants or plant material and providing a disposal record of those plants and materials shall be generated.
  - ii. The Department will utilize USDA's informational sharing system, HeMP. The Department shall provide the following information:
    1. Name and address of the cultivator.
    2. Cultivator certificate or authorization identifier.
    3. Location information, such as lot number, location type, and geospatial location, or another location descriptor for the production area subject to disposal.
    4. Information on the agent handling the disposal.
    5. Disposal completion date.
    6. Total acreage
    7. Other reporting information as required by the Final Rule.

### 4. *Fees*

- a. Registrants and Crops subject to inspection, sampling, testing, and disposal shall reimburse the Department for all inspection and laboratory costs incurred by the Department within 30 days of receipt of an invoice issued to the Grower by the Department.
  - i. Inspection, sampling, testing, and disposal fees shall be charged per hour and set by the Department.
  - ii. Failure to pay fees may result in suspension or revocation of the Registrants certification.



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- b. Notwithstanding, the fact that a sample of a Commercial Registrant's Industrial Hemp tests higher than the acceptable hemp THC level but less than 1.0% total delta-9 THC concentration, the Registrant shall not be subject to a negligent violation, revocation or suspension of their Registration if the crop is destroyed.
  - i. Registrants shall have 10 days from the date of notification of test results higher than ~~0.3%~~ acceptable hemp THC level to request a waiver.

### 5. *Pesticide Use*

In the event a Grower uses a pesticide in violation of local or federal regulations, they may be subject to enforcement action by the Department or Guam EPA (<https://www.epa.gov/minimum-risk-pesticides>.)

- a. Any Bona Fide Hemp Grower/Processor who uses a pesticide on Hemp or Crop must comply with all Guam laws and regulations on the application of pesticides including, but not limited to, licensing requirements.
- b. Bona Fide Hemp Grower/Processor must not apply pesticides to Hemp or Crop in violation of the product label.
- c. A Bona Fide Hemp Grower/Processor who uses a pesticide on a site where Hemp or Crop will be planted must comply with the longest of any planting restriction interval on the product label before planting the Hemp.
- d. The Department may perform random pesticide testing or may perform for-cause testing if the Department has reason to believe that a pesticide may have been applied to Hemp or Crop in violation of the product label.
- e. Hemp seeds, plants, crops and materials bearing pesticide residue in violation of the pesticide label may be subject to forfeiture or destruction without compensation.

### 6. *Environmental Standards*

Until such time that the Department issues its own policy on energy efficiency and environmental standards, any indoor facility used for Hemp cultivation, including greenhouses, must comply with guidelines issued by the Cannabis Control Board, in consultation with the Department. If the Board has not adopted guidelines by the time a Grower certification is approved by the Department, the Grower is responsible for reviewing and understanding any guidelines that are adopted after that time. The Grower must ensure compliance with such guidelines, or other Department policies, issued by the time of the Grower's application for certification renewal.

## **D. Post-Harvest Activities**

### *1. Transport of Crop*

Only a Grower or Processor with the proper Certification or Permit by the Department may transport Hemp and no Crop, or any portion thereof, may be transported outside a Registered Grow Site or Area without a copy of a Certificate issued by the Department. The Registrant must ensure that this Certificate stays with the Hemp and Crop at all times and accompanies all shipments of the Hemp or Crop, including any portion thereof, so that anyone coming into contact



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with the Hemp or Crop has access to written documentation demonstrating that the Hemp or Crop complies with this Plan and not subject to confiscation. These sections do not apply to law enforcement agencies or the Department or its designees handling or transporting Hemp or Crop.

- i. All Hemp being shipped, transported, or otherwise delivered into, within, or through Guam must be accompanied by documentation sufficient to prove:
    - a. The Hemp being shipped, transported, or delivered was lawfully produced under a State or Tribal Hemp Plan approved by the USDA, under a Hemp License issued by USDA, or under 7 U.S.C. 5940 through the State or territory of the Indian Tribe, as applicable; and
    - b. The Hemp being shipped, transported, or delivered does not exceed the Acceptable Hemp THC Level.
  - ii. Any person shipping, transporting, or delivering Hemp must also carry a bill of lading that includes the following information:
    - a. Name and Permit number of the persons authorized to transport or deliver Hemp;
    - b. Name and address of the owner of the hemp;
    - c. Point of origin;
    - d. Point of delivery, including name and address;
    - e. Kind and quantity of packages or, if in bulk, the total quantity of Hemp in the shipment; and
    - f. Date of shipment.
  - iii. The person shipping, transporting, or delivering hemp must act in compliance with this Plan.
2. *Storage of Hemp*
- i. A Bona Fide Hemp Grower/Processor may store Hemp cultivated by said Bona Fide Hemp Grower/Processor provided:
    - a. The Bona Fide Hemp Grower/Processor identifies each storage facility on the Bona Fide Hemp Grower Certification Application;
    - b. The Bona Fide Hemp Grower/Processor maintains complete and accurate records detailing the harvest lot(s), including amount being stored at each storage facility. Harvest lots in storage must be separated in such a manner that maintains the unique identity of each harvest lot stored at the storage facility;
    - c. The storage facility is secured with physical containment and reasonable security measures, and information about the security of the storage area is provided to GPD to aid in enforcement in case of theft.
  - ii. All storage area(s) will be subject to inspection by the Department and its designees upon notice.
3. *End of the year reporting and Required FSA or USDA Reporting*
- The Grower shall submit an end-of-year report, on a form prescribed by the Department **by December 1**, with their renewal application, and at a minimum indicate to the Department the following information:
- i. Variety Grown
  - ii. Purpose of Crop Harvested amount





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iii. End destination or use of Crop

#### 4. *Procedure for submitting information to the USDA*

The Department shall supply all required monthly and annual reports to the USDA with information provided on the 1<sup>st</sup> of each month to the Department by Bona Fide Hemp Grower/Processor.

- i. Cultivators are required to submit planting reports and annual production reports to the Department. Additionally, Certified Growers are required to report the following to the Farm Service Agency (“FSA”):
  - a. Hemp crop acreage;
  - b. Total acreage of Hemp planted, harvested, and disposed;
  - c. Guam Hemp Grower Certification Number;
  - d. Street address;
  - e. 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
  - f. Acreage of greenhouse or indoor square footage dedicated to the production of Hemp.



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### III. PROCESSOR INFORMATION – *Extractors and Manufacturers Requirements and Responsibilities, Labeling, and Certified Seeds*

Processors are divided into two different categories based upon their activities:

- Extractor: Processor that removes Hemp from the plant. The Extractor will produce items such as fiber, seed, and oil from the plant.
- Manufacturer: Processor that creates an end product that is packaged, labeled and ready for sale from Hemp (*e.g.* such as but not limited to cloth, infused products, building products, and edibles; see chart on pg. 2 for more examples).

There are different duties and responsibilities as described below depending on the type of Processor activity. A Processor can be both an Extractor and a Manufacturer. A Processor may only take Hemp from a Bona Fide Grower, unless otherwise authorized by federal law. The Department will require documentation demonstrating that such federal authorization is permitted.

#### 1. Duties and Responsibilities of the Extractor:

- a. An Extractor may only receive Hemp from a Bona Fide Grower.
- b. The Crop must have the Department issued Certificate accompanying the Hemp, which certifies that the Crop meets the Acceptable Hemp THC Level.
- c. At the time of the receipt, the Extractor must assign the Hemp a lot number that corresponds with Grower's information such as name, address, contact information, and maintain records relative to the receipt of the Hemp. The records shall include, but not be limited to:
  - i. Date of receipt
  - ii. quantity received
  - iii. Grower information, including name, address of fields that were grown on, certification information, and contact information.
  - iv. Copy of the Certificate
  - v. Lot number assigned by Extractor
- d. An Extractor shall keep records for each batch processed. The records shall be kept for a minimum of three (3) years and shall include, but not be limited to:
  - i. Date of extraction
  - ii. Batch number, including the lot number
  - iii. Type of extraction method
  - iv. Amount extracted
  - v. What was extracted (grain, seed, fiber, oil, CBD)
  - vi. Copy of the Certificate

#### 2. Testing Requirements for the Extractor

- a. If the Crop will be used for human consumption or absorption (including but not limited to, inhaling, eating, drinking, swallowing or topical application), the finished extraction



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must be tested for safety purposes in accordance with Department testing protocol, and at minimum tested for the following:

- i. Cannabinoid profile
  - ii. Solvents
  - iii. Pesticides
  - iv. Metals
- b. All testing is the responsibility of the Extractor and must be done at a lab that has been registered by the Department to perform such testing.
  - c. All lab results must be sent to the Manufacturer with the finished extracted product.
  - d. The Extractor shall send all lab reports to the Department within ten (10) business days of receipt of the results.
  - e. If the test results for the finished extraction exceed the limits outlined in the Protocol, then the finished extraction shall not be used in any product for human consumption or absorption. The Extractor therefore shall not sell the finished extraction to any Manufacturer or any other entity, or otherwise sell or use the extraction for human consumption or absorption. Instead, the Extractor may either destroy the product or work with the Department to find an alternate use for the finished extraction. Should an alternate use be found, the Extractor will enter into a written agreement with the Department setting forth the terms of any such resolution.

### 3. Duties and Responsibilities of the Manufacturer

- a. The Manufacturer shall only receive the extracted products (such as oil, seed, and fiber) from a Bona Fide Extractor.
- b. At the time of the receipt, the Manufacturer shall assign the extracted product a lot number and maintain records relative to the receipt of the extracted product. The records shall be kept for a minimum of three (3) years and include, but not be limited to:
  - i. Date of receipt
  - ii. Amount received
  - iii. Extractor or Grower information including name, certification number, and contact information.
  - iv. Lab results indicating cannabinoid profile, solvents, pesticides and metals
  - v. Extractor assigned batch and lot number
  - vi. Copy of the Certificate
- c. When the Manufacturer produces an end product, records shall be kept for a minimum of three (3) years for each batch of the end product. The records shall include, but not be limited to:
  - i. Date of production
  - ii. Batch number (must include lot number)
  - iii. Amount produced
  - iv. Name of product

### 4. Labeling Requirements for the Manufacturer



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- a. Manufacturers shall ensure that any products that will be used for human consumption and absorption (including but not limited to inhaling, eating, drinking, swallowing or topical application), are labeled in clear, legible wording no less than 1/16 inch in size on each container and affixed with language indicating manufactured in Guam.
  - b. Labels shall be firmly affixed and shall include the following:
    - i. Manufacturer name, certification number and address
    - ii. Cannabinoid profile (Must include THC and CBD concentrations, if any)
    - iii. Batch number
    - iv. Statement *“This product is derived from Hemp and meets the Acceptable Hemp THC Level (or has a THC content concentration level of 0.3% or below).”*
    - v. Statement *“This product has or has not been analyzed or approved by the FDA.”*
    - vi. Statement *“This product is derived from Hemp from an authorized and approved Bona Fide Hemp Grower/Processor in Guam under an approved USDA Plan”*
5. Guam Department of Agriculture Approved Certified Seed
- a. A variety of Hemp may be approved by the Department as Guam Department of Agriculture Approved Certified Seed if it is tested by the Department and confirmed to produce mature plants with a delta-9 THC concentration of no more than 0.3% on a dry weight basis in approved multiple geographic trials in Guam.
  - b. The Department will contract for Guam Department of Agriculture Approved Certified Seed providers at the discretion of the Commissioner. Each Guam Department of Agriculture Approved Certified Seed provider must have its seeds grown in test trials for delta-9 THC concentration testing on mature plants.
  - c. Guam Department of Agriculture Approved Certified Seed will be made available for sale to Registrants.



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### **IV. University Special Permit and Performance Based Sampling – *University Production, Research, and Testing of Hemp and Hemp Products***

- i. A University may establish a Hemp Research and Development Program in Guam.
- ii. Requirements:
  - A. No University in Guam shall cultivate Hemp except under a Hemp Special Research Permit issued by the Department.
    - i. If the University seeks to obtain a Hemp Planting Permit, it shall submit a Hemp Proposal that consists of the following information:
      1. A description of the scope, design, and objectives of the proposed hemp research.
      2. A description of the varieties of Hemp that will be used in the project and a plan that shall ensure that all seed for cultivation of Hemp shall be:
        - a. Accompanied by documentation that the crop from which the seed was harvested meets the Acceptable Hemp THC Level.
        - b. Tagged with a certification statement providing the variety, origin, and quantity on each separate container of seed.
      3. A list of Qualified Program Personnel and university staff involved in the proposed Project, including the university employee that will be designated as the lead oversight manager. The University shall provide the work address, phone numbers, and email for the manager. This manager must submit a Criminal History Report to the Department. The university shall also describe how it intends to meet the sampling and testing requirements for the Department's review and approval.
      4. A description of the proposed facility location(s) by address and GPS coordinates and security measures. The University shall provide a detailed aerial map of the research, cultivation, processing, and testing facility location(s), identifying research plots, limited and general access areas, buildings (with a description of the activities conducted within each), boundaries, and security measures to prevent access by unauthorized parties.
      5. An Environmental Containment Plan for each proposed facility location, which must include the following:
        - a. A containment system of traps, filters, silt fences or berms, or a fallow area consisting of bare earth or ground cover to prevent the Hemp from spreading through ditches, natural waterways, or other drainage.
        - b. The use of dedicated equipment for the facility or a plan to clean any equipment used on the site of all debris before it is moved from the property.
        - c. A transportation and movement plan that ensures that the Hemp (at all growth stages) is covered and moved in full containment during transport from noncontiguous locations.
        - d. A detailed statement of the estimated costs of removing and destroying the plants before vacating the property or ending production.



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- e. A plan to maintain the chain of control of Hemp Material for the proposed Pilot Project, to provide a testing schedule to ensure Hemp Material does not exceed 0.3% concentration of THC at harvest, and to provide a destruction process for any Hemp.
6. A plan to perform an economic impact analysis of the proposed hemp research on the Territory's agricultural sector, including a measure of the direct, indirect, and induced fiscal impact of the proposed Pilot Program.
7. A genetic research plan to ensure that any psychotropic compounds will not be synthesized.
8. A description of how the proposed hemp research will maintain compliance with other applicable state and federal laws. The University shall identify the applicable laws based on the design of their projects.
9. Written authorization from the University's board of trustees authorizing the proposed hemp research.
- 10.
11. The proposal will contain a statement that research hemp will be disposed of or will not enter into commerce at the end of the research period. Any hemp that will be sold or enter into commerce does not qualify for a research permit.
12. If the proposed hemp research is to be conducted on non-government owned lands, proof that the University has written permission from the landowner to utilize the land for Industrial Hemp plantings for the duration of the life of the proposed hemp research.
13. A list of entities that the university plans to collaborate with as Qualified Project Partners and a detailed description of how the entities meet Plan requirements, which must include the following:
  - a. Proof that the entity has a principal place of business in Guam.
  - b. Proof that the entity has access to a Registered Grow site in Guam, which may be the same Registered Grow site that the partnering University plans to use for the Pilot Program, and a detailed description of how the Registered Grow site is acceptable for the cultivation, processing, and manufacturing of industrial hemp and hemp products.
  - c. Proof that the entity has access to a research facility in Guam, which may be the same research facility the partnering University plans to use for the Pilot Program, and a detailed description of how the research facility is acceptable for the cultivation, processing, and manufacturing of industrial hemp and hemp products.
  - d. A copy of the comprehensive business or research plan that was submitted to the partnering University.
  - e. A detailed description of the entities' prior experience in or knowledge of, or demonstrated interest in and commitment to, the cultivation, processing, manufacturing, or research of industrial hemp.
    - i. A separate Pilot Program Proposal shall be required for each noncontiguous growing location.



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- ii. A new hemp research Program Proposal will be required if a new or additional planting (contiguous or noncontiguous) exceeds ten percent (10%) of the existing permitted acreage or if any additional varieties will be added to the hemp research Project.
- iii. Department Review
  - A. As part of the Department's review of the hemp research Proposal, the Department will visit the proposed Pilot Program location(s), at a time agreed upon with the university, to perform an onsite evaluation of the Environmental Containment Plan. If additional environmental containment measures are identified by the Department, the university shall complete an Industrial Hemp Special Planting Permit Addendum that shall describe the additional measures to be implemented by the university to ensure environmental containment of the proposed Pilot Program.
- iv. Permit Approval
  - A. If a hemp research Proposal meets the requirements of this Policy, the Department will issue a Hemp Research Permit to the the lead researcher or-hemp research project manager.
    - i. Any Hemp Research Permit issued must meet the following requirements:
      - 1. *Permit may not allow University to grow Hemp over the Acceptable Hemp THC Level (over 0.3% THC) and outside of accordance with this Plan.*
      - 2. *The Lead Researcher or hemp research project manager certified under the Permit must comply with the USDA guidance and Felon Ban and is responsible for the disposal of hemp grown under the research project.*
  - B. The the lead researcher or-hemp research project manager shall notify the Department of its intent to move Hemp to request an inspection of the transport containment apparatus. The Department shall inspect the apparatus to ensure Hemp is contained for transport to its destination to prevent inadvertent spread during the transit.
  - C. The University oversight manager shall immediately notify the Department in writing if the university or its Qualified Project Partner fails to meet or comply with any portion of this Plan.
    - i. It is the responsibility of the property owner or permit holder to destroy the Crop before vacating the property or stopping production.
    - ii. Upon findings of noncompliance with the Plan, the Department retains the right to issue an immediate final order requiring the immediate removal and destruction of the research hemp. ~~Pilot Program.~~
      - 1. Failure of the permit holder to remove and destroy Crop within 60 days of the order will result in action by the Department against the permit holder.



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## V. Enforcement

### Hemp Enforcement Procedures:

#### **Hemp Grower Compliance Inspections**

1. Bona Fide Hemp Grower/Processors may be subject to annual compliance inspections.
2. The Bona Fide Hemp Grower/Processor's operational procedures, documentation, recordkeeping, and other practices may be verified during the compliance inspection.
3. The Department may assess whether the required reports, records, and documentation are being properly maintained and may assess accuracy and completeness.
4. If during a compliance inspection the Department determines that the Bona Fide Hemp Grower/Processor is not in compliance with the Guam Hemp Plan the Department will require a Corrective Action Plan. The Bona Fide Hemp Grower/Processor's implementation of a Corrective Action Plan will be reviewed by the Department during future compliance inspections and renewals.
5. Compliance inspections may be unannounced and conducted at any time during regular business hours. Bona Fide Hemp Grower/Processors by participating in the Hemp Program authorize the Department to have access to all Hemp plants, material, and seeds, whether growing or harvested, as well as to all Registered land, buildings, and other structures used for the cultivation, handling, or storage of Hemp to inspect, sampling, and enforce the Guam Hemp Plan policies. Bona Fide Hemp Grower/Processors by participating in this Hemp Program also authorize the Department to have access to any records, documents, and information required to be kept and maintained in accordance with this Plan.

#### **Violations and Enforcement**

**Three types of violations are possible under the Hemp Plan. Common violations, Negligent violations, and Culpable violations. Common violations may be issued by the Department and corrected without penalty. Negligent violations are subject to review by the Manager for remediation or may require a Corrective Action Plan. Culpable Violations must be reported to law enforcement.**

##### **1.) Common Violations include, but are not limited to, the following:**

- a. Cultivating, Processing, or Handling Hemp in violation of any of the policies under this Plan;
- d. Denying any Department its designee, or law enforcement official access for compliance, sampling, or inspection purposes;
- e. Failure to keep and maintain any records, documents, or information required by this Plan;
- f. Failure to make any timely report required by this Plan;
- g. Failure to comply with any transportation requirement established by this Plan;





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- h. Failure to comply with any of the Grower Responsibilities and Restrictions;
  - i. Failure to comply with any of the Grower Certification Terms and Conditions; and
1. **Negligent** Violations include, but are not limited to, the following:
    - Negligent violations.
      - (1) Failing to provide an accurate legal description of land where hemp is produced;
      - (2) Producing hemp without a license; and
      - (3) Producing cannabis exceeding the acceptable hemp THC level. Hemp producers do not commit a negligent violation under this paragraph
        - (a) if they make reasonable efforts to grow hemp and the cannabis does not have a total THC concentration of more than 0.3%.
    - Cultivating, Processing, or Handling Hemp in violation of any of the policies under this Plan;
    - Cultivating, Processing, or Handling Hemp without a Hemp Grower or Processor Certification or Permit from the Department;
    - Cultivating, Processing, or Handling Hemp on a Grow Site or Area not approved by the Department as part of the Hemp Grower Certification;

The Department will make every effort to work with Growers and Processors to provide compliance assistance. However, it is the responsibility of the Grower or Processor to review and understand 7 USC §§ 1639o – 1639s, the Final Rules (7 CFR Part 990), USDA guidelines, and this Plan. Failure to comply with the Department's requirements may result in revocation or denial of a certification. Additionally, failure to comply with the requirements may result in the issuance of fines. An entity has the right to appeal any enforcement action under this Plan.

2. The Department shall issue a corrective action plan to any person that it determines has negligently violated this Plan. The following are negligent violations that require a corrective action plan\*:
  - a. Failure to provide a legal description of the land;
  - b. Failure to obtain a certification; and
  - c. Producing cannabis exceeding 1.0%.

\* Hemp between 0.3 -1.0% does not need a corrective action plan or a violation issued. Hemp above 0.3 must be destroyed (or remediated).

3. Procedures to provide for the correction of negligent violations:
  - a. The Department shall include in the corrective action plan both of the following:
    - i. A reasonable date by which the person shall correct the violation;



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- ii. A requirement that the person periodically report to the Department, as applicable, on its compliance and corrective action plan for a period of not less than the next 2 years from the date of the negligent violation;
  - iii. A person that negligently violates a plan approved under this part shall not as a result of that violation be subject to any criminal enforcement action by the Federal or local government;
  - iv. A person that negligently violates this plan three times during a 5-year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation; and
  - v. The Department shall conduct an inspection to determine if the corrective action plan has been implemented as submitted.
- b. If the Department determines that a person negligently violated provisions of this Plan three or more times in a two-year period, the Department shall revoke the person's Hemp Grower/Processor Certification or Permit and can limit the person's ability to receive a Hemp Certification or Permit in Guam for a period of time after the person committed the most recent violation.
4. Culpable Violations. Culpable mental state greater than negligence. To act intentionally, knowingly, willfully, or recklessly. Culpable mental state greater than negligence. If the Department determines that a person has violated the terms and conditions of the bona fide hemp certificate or this Hemp Plan with a culpable mental state greater than negligence. For more information (Please see § 990.6 Violations of State and Tribal plans.)

The Department shall immediately report the person to:

- (i) The U.S. Attorney General,
- (ii) The chief law enforcement officer of Guam, and
- (iii.) Assesses any fines or penalties that the Department determines.

### **Grower Certification Terms and Conditions**

Each Bona Fide Hemp Grower/Processor must acknowledge and agree to the terms and conditions governing the Hemp Grower Certification which include, but are not limited to, the following:

1. Except for primary contact information or corrections of typographical errors approved by the Department, no alterations will be allowed to any Hemp Grower Certification Application once approved, this includes the expansion of any Grow Site. Any changes to primary contact information must be submitted to the Department via e-mail within ten (10) calendar days of any such change.
2. The Bona Fide Hemp Grower/Processor must notify the Department, via e-mail, of any theft or loss of Hemp or Hemp materials, whether growing or not, within forty-eight (48) hours of the discovery of such theft or loss.
3. The Bona Fide Hemp Grower/Processor must report any felony convictions or misdemeanor convictions relating to controlled substances under Guam law or under Federal law to the Department, via e-mail, within five (5) calendar days of receiving notice of such conviction.



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4. The Bona Fide Hemp Grower/Processor must notify the Department, within ten (10) calendar days of the following:
  - a. A disciplinary proceeding or enforcement action by another government entity that may affect the Bona Fide Hemp Grower/Processor's business; and
  - b. Temporary closures of more than thirty (30) calendar days or permanent closure of any Grow Site or storage facility.
5. Any information provided to the Department may be publicly disclosed in accordance with Guam's Open Records Law and may be provided to law enforcement agencies without further notice to the applicant.
6. 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 Guam's 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 Bona Fide Hemp Grower/Processor will be subject to the felony conviction restriction for purposes herein.
7. Hemp Grower Certifications cannot be sold, assigned, transferred, pledged, or otherwise disposed of, alienated, or encumbered to or by another person, business, individual, or entity without application or permission from the Department.
8. The Bona Fide Hemp Grower/Processor must have the legal right to cultivate hemp on the Grow Site(s) or Areas listed on the Hemp Grower Certification Application and must have the legal authority to grant the Department physical access to all land and buildings for inspection and sampling purposes. Legal authority includes, but is not limited to, clear title, necessary easements, necessary licenses, and/or current leases.
9. The Bona Fide Hemp Grower/Processor must allow and fully cooperate with all required sampling, testing, audits, and inspections.
10. The Bona Fide Hemp Grower/Processor must provide for a right of way or another access point allowing the Department and law enforcement agencies to access the certified Grow Site(s) or Areas.
11. The Bona Fide Hemp Grower/Processor must maintain all records, documents, or information and make all reports within the applicable time frames as required in this Plan.
12. If Hemp is to be cultivated, handled, harvested, or stored in any location it must be listed in the Hemp Grower Certification Application so it can be considered a part of the Registered Growing Site or Area.
13. The Bona Fide Hemp Grower/Processor must scout and monitor uncertified fields for volunteer cannabis plants and destroy those volunteer cannabis plants for three (3) years past the last date of planting reported to the Department.
14. The Department will require forfeiture and destruction, without compensation, of plants located in an area that is not certified by the Department as well as plants not accounted for in records required to be maintained by the Bona Fide Hemp Grower/Processor.



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15. If a tested official's final sample exceeds the Acceptable Hemp THC Level, the Bona Fide Hemp Grower/Processor's Crop matching the same GPS coordinates as the sample tested may be destroyed in accordance with this Plan.
16. The Bona Fide Hemp Grower/Processor must ensure that Crop exceeding the Acceptable Hemp THC Level does not enter the stream of commerce.
17. The Bona Fide Hemp Grower/Processor must ensure that Hemp is not commingled with Hemp from other lots.

### **Processor Certification/Permit Terms and Conditions**

Each Permittee must acknowledge and agree to the terms and conditions governing the Hemp Processor Certification or Permit which include, but are not limited to, the following:

1. Except for primary contact information or corrections of typographical errors approved by the Department, no alterations will be allowed to any Hemp Processor Certification or Permit Application once approved. Any changes to primary contact information must be reported to the Department within ten (10) calendar days of the change.
2. The Permittee must notify the Department of any theft or loss of Hemp or Hemp products within forty- eight (48) hours of the discovery of such theft or loss.
3. The applicant, Bona Fide Hemp Grower/Processor, and/or Permittee must report to the Department any felony convictions or misdemeanor convictions relating to controlled substances under Guam law or Federal law, within five (5) calendar days of receiving notice of such conviction.
4. The applicant, Bona Fide Hemp Grower/Processor, or Permittee must notify the Department in writing within ten (10) calendar days of the following:
  - a) A disciplinary proceeding or enforcement action by another government entity that may affect the Permittee's business; and
  - b) Temporary closures of more than thirty (30) days or permanent closure of any processing or storage facility.
5. Any information provided to the Department may be publicly disclosed under the Guam Open Records Law and may be provided to law enforcement agencies without further notice to the applicant.
6. 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 Guam Hemp Cultivation 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 the person holding a beneficial interest of the Bona Fide Hemp Grower/Processor or Permittee will be subject to the felony conviction restriction for purposes herein.
7. Issuance of a Hemp Processor Certification or Permit will be conditioned upon the applicant's compliance with this Plan before initiating hemp processing activities.



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8. Persons holding both a Hemp Processor and a Hemp Grower Certification or Permit must comply with this Plan and the Rules governing or dual Certifications or Permits.

The Department may establish civil administrative fines for violations this Plan. A person aggrieved by the assessment of a fine under this section or a licensure action under the Plan may appeal by filing a notice of appeal with the department not later than 21 days after the receipt of the notice of the fine or licensure action.

The Department will determine the amount of any fines imposed based on the nature of the violations and consider all relevant factors including the ability for the violation to be corrected, the severity of the violation, willfulness, impact to public health and safety.

Additionally, the following acts and omissions by any applicant or Registrant or authorized representative, and key participant thereof shall constitute violations for which civil penalties and disciplinary sanctions, including denial of an application or summary suspension or revocation of a Registration may be imposed by the Department.

- a. Refusal or failure by an applicant, Registrant or authorized representative, and key participant to fully cooperate and assist the Department will all aspects of the administration and enforcement of this Plan, including the application, registration, reporting, inspection and sampling, and waiver processes.
- b. Failure to provide any information required or requested by the Department or law enforcement agency enforcing this Plan to comply with the policies in this Plan.
- c. Providing false, misleading, or incorrect information about the Registrant's cultivation or processing of Hemp to the Department its designees or any law enforcement agencies enforcing this Plan by any means, including but not limited to information provided in any application form, report, record or inspection required or maintained for purposes of compliance with this Plan.
- d. Failure to submit any required report.
- e. Failure to pay fees assessed by the Plan for inspection, sampling, or laboratory analysis costs.

Violations are not subject to federal, state, tribal, or local government criminal enforcement action and any final decision of the Department may be appealed to the Superior Court of Guam by Writ of Review.



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### **VI. Reporting and Recordkeeping Requirements for Growers and Processors - *Collection of Hemp Producer Information and Mandatory Reporting Requirements***

1. Record Retention Required
  - a. Growers/Processors/Manufacturers
    - i. Must retain all records and reports required by this Plan, and upon the creation of any record or report must submit notice of said record or report to the Department no later than 15 days after any such record or report is created.
2. Bona Fide Hemp Grower/Processor Recordkeeping and Reporting
  - a. Bona Fide Hemp Grower/Processor must maintain records of all Crops and Hemp plants acquired, produced, handled, or disposed of as will substantiate all reports required by the Department.
  - b. All records must be made available for inspection by the Department during reasonable business hours. Such records include, but are not limited to, the following:
    - i. Records regarding acquisition of Crop and Hemp;
    - ii. Records regarding all written agreements with Bona Fide Hemp Grower/Processors and Permittees governing their business relationship;
    - iii. Records regarding production and handling of Hemp;
    - iv. Records regarding Crop and Hemp sampling and testing analyses;
    - v. Records regarding storage of hemp;
    - vi. Records regarding the transfer and disposal of Crop and Hemp; and
    - vii. Records regarding the destruction and disposal of all cannabis plants exceeding the Acceptable Hemp THC Level.
  - c. Annual Report
    - i. Each Bona Fide Hemp Grower/Processor must submit an annual report to the Department. The report form must be submitted by November 30<sup>th</sup> of each year and contain the following information:
      - A. Bona Fide Hemp Grower/Processor's name;
      - B. Bona Fide Hemp Grower/Processor's address;
      - C. Bona Fide Hemp Grower Certification Number;
      - D. Street address and geospatial location of each lot, greenhouse, building, or Grow Site or area where Hemp will be produced; Island Acreage dedicated to the production of Hemp, or greenhouse or indoor square footage dedicated to the production of Hemp; and
      - E. Total acreage of Crop and Hemp planted, harvested, and disposed of.
    - ii. The Department will report all information collected in the Annual Report to AMS as required by USDA.
  - d. Reporting to FSA Required
    - i. All Bona Fide Hemp Grower/Processors must report Hemp and Crop acreage with FSA and must provide, at minimum, the following information to FSA:
      - A. Hemp crop acreage;
      - B. Total acreage of hemp planted, harvested, and disposed;
      - C. Bona Fide Hemp Grower Certification Number;
      - D. Street address;



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- E. 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
  - F. Acreage of greenhouse or indoor square footage dedicated to the production of hemp.
- e. All records and reports must be kept and maintained by the Bona Fide Hemp Grower/Processor for not less than three calendar years and in a manner such that they can be readily provided to the Department upon request.
3. Department Recordkeeping and Reporting
- a. The Department will maintain all relevant records and information regarding Bona Fide Hemp Grower/Processors and land on which Hemp is produced in Guam, for not less than three calendar years.
  - b. 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 Bona Fide Hemp Grower/Processor in Guam:
    - i. The contact information of each Bona Fide Hemp Grower/Processor.
    - ii. A legal description of the land on which hemp is grown including its geospatial location; and
    - iii. The status of Bona Fide Hemp Grower/Processors (and any changes) and Hemp Grower Certification number of each hemp grower.
  - c. 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:
    - i. Hemp Grower Report, which will contain the following:
      - A. For each new Bona Fide Hemp Grower/Processor who is an individual and is certified under the Guam Hemp Plan, the report will include the full name of the individual; Guam Hemp Grower Certification number; business address; telephone number; email address (if available); the legal description of the land on which the Bona Fide Hemp Grower/Processor will produce Hemp including, to the extent practicable, its geospatial location; and the scope of the activity authorized;
      - B. For each new Bona Fide Hemp Grower/Processor that is an entity and is certified under the Guam Hemp Plan, the report will include the full name of the entity; the principal business location address; EIN; Guam Hemp Grower Certification 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 Bona Fide Hemp Grower/Processor will produce Hemp including, to the extent practicable, its geospatial location; and the scope of the activity authorized;
      - C. For each Bona Fide Hemp Grower/Processor 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;
      - D. The status of each Hemp grower's certification;
      - E. The period covered by the report; and
      - F. Indication that there were no changes during the current reporting cycle, if applicable.
    - ii. Hemp Disposal Report, which will contain the following:
      - A. Name and contact information of the Bona Fide Hemp Grower/Processor;



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- B. Hemp Grower Certification number;
  - C. Location information, such as lot number, location type, and geospatial location or another location descriptor for the production area subject to disposal;
  - D. A copy of the respective test results.
  - E. Information on the agent handling the disposal;
  - F. Disposal completion date; and
  - G. Total acreage disposed.
- d. Annual Report
- i. 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: This information must be submitted through USDA's information sharing system, HeMP. Please review the full plan for other instances where reporting is done via forms rather than USDA's information sharing system.
    - A. Total planted acreage;
    - B. Total harvested acreage; and
    - C. Total acreage disposed.
- e. Test Results Report
- i. 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. Processor/Manufacturer Recordkeeping and Reporting

- a. Processor/Manufacturer must keep and maintain copies of all written agreements with certified growers, including growers holding a Guam Hemp Grower Certification as well as growers licensed by the USDA or authorized to produce Hemp under other USDA approved state or tribal hemp plans, governing their business relationship.
- b. Processor/Manufacturer must keep and maintain the following records:
  - i. Hemp intake records, which include:
    - A. Name, location, and certification number (Guam Hemp Grower Certification number or other valid Hemp grower identification number) for each grower from whom the Processor/Manufacturer accepts Hemp for processing;
    - B. The date(s) on which Hemp is received from each certified grower;
    - C. Copies of analytical testing results confirming that each lot of Hemp received for processing does not exceed the Acceptable Hemp THC Level;
    - D. The amount of each variety received from each certified grower; and
    - E. The approved Hemp products for which each variety of Hemp received from each certified grower will be used.
  - ii. Inventory records for Hemp products being processed and stored, which include:
    - A. Date of inventory;
    - B. Location of stored inventory;
    - C. Total amount of each hemp product on hand;
    - D. Total amount of hemp and hemp seed of each variety on hand;
    - E. Total amount of unusable hemp and hemp seed of each variety on hand; and
    - F. Name, signature, and title of the employee performing inventory.
  - iii. Disposal records for all unusable Hemp, which include:
    - A. Date of disposal;
    - B. Amount of each Hemp variety disposed;
    - C. Method of disposal or destruction;





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- D. Location of disposal or destruction; and
- E. Name, signature, and title of employee responsible for disposal or destruction.
- iv. Processing records, which include:
  - A. List of products produced from Hemp; and
  - B. List of buyers or recipients of Hemp products including:
    - I. Name, address, and phone number of each buyer or recipient;
    - II. Description of each product purchased or otherwise distributed;
    - III. Quantity of each product purchased or otherwise distributed; and
    - IV. Date of distribution.
  - c. Permittees must keep and maintain copies of all records, documents, and information required by this Plan for at least three (3) years and in a manner such that they can be readily provided to the Department upon request.
  - d. The Department will maintain all relevant records and information regarding Bona Fide Hemp Grower/Processor and Permittees and facilities at which Hemp is processed or handled in the Territory of Guam, including a legal description for property on which each processing or handling facility is located, for not less than three (3) calendar years.



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### **VII. Certification of Resources and Personnel**

The Department hereby certifies that it has the resources and personnel to carry out the requirements, practices, and procedures as outlined in 7 CFR 990.