

CHAPTER 1565
DEPARTMENT OF AGRICULTURE
HEMP

- 1565.0100 PURPOSE.
- 1565.0200 DEFINITIONS.
- 1565.0300 APPLICATION PROCESS.
- 1565.0400 GROWER LICENSE.
- 1565.0500 PROCESSOR LICENSE.
- 1565.0600 SUPERVISION, SAMPLING, AND INSPECTION.
- 1565.0700 CANNABIS PLANT; THC LEVEL OVER 0.3 PERCENT.
- 1565.0800 FIT FOR COMMERCE CERTIFICATION.
- 1565.0900 TRANSPORTING HEMP.
- 1565.1000 HEMP PROPAGULES.
- 1565.1100 HEMP PRODUCTION.
- 1565.1200 HEMP DATA AND REPORTING REQUIREMENTS.
- 1565.1300 DENIALS AND VIOLATIONS.
- 1565.1400 LICENSE REVOCATION.
- 1565.1500 LABORATORY REQUIREMENTS.

1565.0100 PURPOSE.

The purpose of this chapter is to establish the requirements for a person to commercially produce and process hemp as provided under Minnesota Statutes, chapter 18K. A license issued under this chapter is required for a person to grow or process hemp in Minnesota.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.0200 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter.

Subp. 2. **Acceptable hemp THC level.** "Acceptable hemp THC level" means when the measurement of uncertainty is applied to total THC resulting in a distribution or range that includes 0.3 percent or less of delta-9 tetrahydrocannabinol as defined in Code of Federal Regulations, title 7, part 990.1.

Subp. 3. **Applicant.** "Applicant" means a person who submits an application for a license as required under this chapter. If the applicant is an entity, applicant means the owner or most responsible individual in charge of the entity.

Subp. 4. **Authorized representative.** "Authorized representative" means any individual authorized by the licensee to make changes to the license and share data on behalf of the licensee. The licensee remains responsible for compliance with the license requirements irrespective of the acts or omissions of an authorized representative.

Subp. 5. **Cannabis.** "Cannabis" means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and of which *Cannabis ruderalis* and *Cannabis indica* are subspecies. Cannabis also refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

Subp. 6. **Certified seed.** "Certified seed" means a hemp seed variety that has been bred to comprise satisfactory genetic purity and varietal identity and has been accepted by the Association of Seed Certifying Agencies (AOSCA), Organization of Economic Cooperation and Development (OECD), or other certifying entity as determined by the commissioner.

Subp. 7. **Certificate of analysis.** "Certificate of analysis" means a document issued by an ISO 17025 accredited laboratory that documents the total THC concentration of a lot that it accompanies.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subp. 9. **Controlled Substances Act.** "Controlled Substances Act" is the law codified in United States Code, title 21, sections 801-971.

Subp. 10. **Conviction.** "Conviction" means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. For purposes of this part, a conviction is expunged when the conviction is removed from the individual's criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes for subsequent convictions. In addition, where an individual is allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently dismissed, the individual is no longer considered to have a conviction for purposes of this chapter.

Subp. 11. **Corrective action plan.** "Corrective action plan" means a plan proposed by a licensed hemp producer and approved by the commissioner to correct a negligent violation of or noncompliance with a United States Department of Agriculture approved state hemp production plan, Minnesota statute, or any other provision under this chapter.

Subp. 12. **Criminal history report.** "Criminal history report" means a Federal Bureau of Investigation Identity History Summary that includes both federal and state criminal histories of an applicant obtained from the Bureau of Criminal Apprehension.

Subp. 13. **Culpable mental state greater than negligence.** "Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, recklessly, or with criminal negligence.

Subp. 14. **Decarboxylation.** "Decarboxylation" means the completion of the chemical reaction that converts THC acid (THCA) into delta-9 THC, the intoxicating component of cannabis. The decarboxylation value is also calculated using a conversion formula that sums delta-9 THC and 87.7 percent of THC acid.

Subp. 15. **Delta-9 tetrahydrocannabinol or THC.** "Delta-9 tetrahydrocannabinol" or "THC" mean the primary psychoactive component of cannabis. For the purposes of this chapter, delta-9 tetrahydrocannabinol and THC are interchangeable.

Subp. 16. **Department.** "Department" means the Department of Agriculture.

Subp. 17. **Destruction.** "Destruction" has the same meaning as disposal.

Subp. 18. **Disposal or dispose.** "Disposal" or "dispose" means an activity that transitions the noncompliant product into a nonretrievable or noningestible form. Disposal activities include plowing, tilling, or disking plant material into the soil; mulching, composting, chopping, or bush mowing plant material into green manure; burning plant material; and burying plant material into the earth and covering it with soil.

Subp. 19. **Dry weight basis.** "Dry weight basis" means the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis substance including the plant, extract, or other derivative, after excluding moisture from the item.

Subp. 20. **Dwelling.** "Dwelling" means any residential building or portion of the building intended or built for occupancy by one or more persons with facilities for living, sleeping, cooking, and eating, including apartments, townhomes, and any other multi-family structures.

Subp. 21. **Entity.** "Entity" means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

Subp. 22. **Farm Service Agency or FSA.** "Farm Service Agency" or "FSA" means the agency formed with the United States Department of Agriculture.

Subp. 23. **Fit for Commerce certificate.** "Fit for Commerce certificate" means a document issued by the commissioner attesting that raw hemp plant material has been tested for total THC concentration and is in compliance with this chapter.

Subp. 24. **Geospatial location.** "Geospatial location" means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

Subp. 25. **Grow location.** "Grow location" means a contiguous land area, or greenhouses, hoop houses, or buildings for indoor cultivation, registered with the commissioner, on which a licensee or applicant conducts or will conduct licensed hemp cultivation activities. Each noncontiguous grow location must be registered separately.

Subp. 26. **Grower.** "Grower" means a person who grows hemp in order to harvest plants, plant parts, grain, or seed.

Subp. 27. **Genuine grower's declaration.** "Genuine grower's declaration" means a statement signed by a grower for a lot of hemp propagules that provides the lot number, kind, variety, origin, quantity, year of production, date of shipment, and name of the person to whom the lot was sold, shipped, or delivered.

Subp. 28. **Harvest report.** "Harvest report" means a form required to be submitted to the commissioner of agriculture by a licensed hemp grower on which the grower indicates the date the grower intends to harvest each hemp lot the grower reported on the planting report.

Subp. 29. **Immature plant.** "Immature plant" means a cannabis plant that is not flowering.

Subp. 30. **Key participant.**

A. "Key participant" means a sole proprietor, a partner in a partnership, a person with executive managerial control in a corporation, or a person who has a direct or indirect financial interest in an entity producing hemp.

B. A person with executive managerial control includes a person such as a chief executive officer, chief operating officer, or chief financial officer.

C. Key participant does not include farm, field, and shift managers.

D. Key participant does not include a member of the leadership of a Tribal government who is acting in the member's capacity as a Tribal leader, except when that member exercises executive managerial control over hemp production.

Subp. 31. **Licensee.** "Licensee" means any person who holds a license from the commissioner to grow, produce, or process hemp.

Subp. 32. **Lot.** "Lot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout, and all hemp plants, plant parts, extracts, and derivatives from a common source. Lot also has the meaning given to "farm," "tract," "field," and "subfield" as these terms are defined in Code of Federal Regulations, title 7, section 718.2.

Subp. 33. **Marketable hemp product.** "Marketable hemp product" means a hemp product that does not contain any living hemp plant parts or viable seeds, and does not contain THC above the acceptable hemp THC level.

Subp. 34. **Measurement of uncertainty.** "Measurement of uncertainty" means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that

could reasonably be attributed to the particular quantity subject to measurement. Measurement of uncertainty includes uncertainty due to sampling.

Subp. 35. **Negligence.** "Negligence" means failure to exercise the level of care that a reasonably prudent person would exercise in complying with this chapter.

Subp. 36. **Person.** "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, corporations, or businesses.

Subp. 37. **Planting report.** "Planting report" means a form required to be submitted to the commissioner of agriculture by a licensed hemp grower on which the grower indicates the date the grower planted each hemp lot, the variety name or names, and the FSA lot number or numbers.

Subp. 38. **Postdecarboxylation value.** "Postdecarboxylation value" means the THC value calculated with a chromatograph technique using heat, such as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. This test calculates the total potential THC in a given sample.

Subp. 39. **Processing.** "Processing" means rendering hemp plants or plant parts from their natural or original state after harvest by refinement, decorticating, devitalizing, chopping, crushing, extracting, or packaging. Typical farm operations, including sorting, grading, baling, and harvesting, are not considered processing for purposes of this definition.

Subp. 40. **Processing location.** "Processing location" means any area, building, plant, or facility registered with and approved by the commissioner in which a licensee converts raw hemp into a marketable product.

Subp. 41. **Processor.** "Processor" means a person or business that converts raw hemp into a product.

Subp. 42. **Propagule.** "Propagule" means seeds, clones, transplants, and any other propagative hemp material.

Subp. 43. **Raw hemp.** "Raw hemp" means whole hemp plants, whether growing or not, or the stalks, viable seeds, unaltered flowers or leaves, or any unprocessed plant pieces or parts of hemp.

Subp. 44. **Remediation or remediating.** "Remediation" or "remediating" means the process of rendering noncompliant cannabis compliant by removing and destroying flower material while retaining stalk, stems, leaf material, and seeds, or shredding an entire plant into a biomass-like material, then retesting the shredded biomass material for compliance.

Subp. 45. **Sampling agent.** "Sampling agent" means a person trained on applicable United States Department of Agriculture, state, or Tribal procedures to collect hemp samples and who has approval and certification from the commissioner in order to collect regulatory samples for the department.

Subp. 46. **Sell or sale.** "Sell" or "sale" means:

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

Subp. 47. **Territory of an Indian Tribe.** "Territory of an Indian Tribe" means:

- A. all land within the limits of an Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, including rights-of-way running through the reservation;
- B. all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or outside of the limits of a state;
- C. all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same; and
- D. any land title that is either held in trust by the United States for the benefit of an Indian Tribe or individual or held by an Indian Tribe or individual subject to restriction by the United States against alienation and over which an Indian Tribe exercises jurisdiction.

Subp. 48. **Total THC.** "Total THC" means the value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expresses the potential total delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis. The total THC also means the value determined by using a liquid chromatograph technique, which keeps the THCA intact. The chromatograph technique means $\text{Total THC} = (0.877 \times \text{THCA}) + \text{THC}$, which calculates the potential total THC in a given sample.

Subp. 49. **Volunteer hemp plant.** "Volunteer hemp plant" means a hemp plant that results from a previous crop.

Subp. 50. **Variety.** "Variety" means:

- A. a subdivision of a kind that is distinct, uniform, and stable;
- B. distinct in the sense that the variety can be differentiated by one or more identifiable morphological, genetic, physiological, or other characteristics from all other varieties of public knowledge;

C. uniform in the sense that variations in essential and distinctive characteristics are describable; and

D. stable in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.0300 APPLICATION PROCESS.

Subpart 1. Application.

A. An applicant for a hemp grower or processor license must pay a nonrefundable registration and inspection fee and submit an application to the commissioner containing the following information:

- (1) the applicant's full name, business address, telephone number, and email address if available. For an entity, the full business name, the principal business location address, the telephone number, and the full name, title, and email address, if available, of each key participant of the entity;
- (2) a list of authorized representatives to be registered under the license;
- (3) the proposed acreage and indoor square footage to be planted, if applicable;
- (4) the legal description and geospatial location of any proposed registered grow or processing area;
- (5) a map of the grow location, showing the boundaries and dimensions of the grow location in acres or square feet, if applicable; and
- (6) the landowner's name, telephone number, and email address, if different than the grower, if applicable.

B. As part of a complete application under this part, a first-time applicant must provide to the Bureau of Criminal Apprehension an official fingerprint card of the applicant, a nonrefundable background check fee, and a completed informed consent form authorizing the commissioner to obtain a criminal history report on the applicant. The criminal history report must be dated within 60 days of application.

C. As part of an annual renewal, a licensee must pay a nonrefundable license renewal fee to the commissioner.

Subp. 2. **License issuance prohibited in certain circumstances.** The commissioner must not issue a license:

A. unless the application submitted for review is complete and accurate, and the criminal history report confirms that the applicant has not been convicted of a felony under state or federal law relating to a controlled substance within the past ten years unless the exception in Code of Federal Regulations, title 7, part 990.20(b), applies;

B. if the applicant has not submitted all reports required under this chapter or owes past inspection fees or a penalty to the commissioner for violating a provision of this chapter; or

C. if the commissioner obtains knowledge that the applicant is applying for a license as a stand-in for someone whose license has been suspended, revoked, or is otherwise ineligible to participate.

Subp. 3. **Ineligibility due to certain convictions.** An applicant is required during the course of the applicant's license period to ensure that the individual grower, authorized representative, licensed applicant, or key participant has not been convicted of a felony relating to a controlled substance, including but not limited to possession, production, sale, use, or distribution of a controlled substance in any form within ten years of the date of the application. If an individual has been convicted of a felony as described in subpart 2, the individual is ineligible, during the ten-year period following the date of the conviction, to grow hemp or participate in the hemp program under this chapter.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *January 30, 2024*

1565.0400 GROWER LICENSE.

Subpart 1. **License required.** A person must possess a hemp grower license before planting or growing raw hemp in Minnesota.

Subp. 2. **FSA reporting.** A licensee must report all plantings by variety to the licensee's local FSA office as required under Code of Federal Regulations, title 7, section 990.7. A grower must consult with the grower's local FSA county office for acreage reporting requirements.

Subp. 3. **Forms; planting/harvesting report.**

A. A licensee must submit an FSA 578 form to the Farm Service Agency no more than ten days after planting a hemp lot.

B. A licensee must submit a planting report to the commissioner no more than ten days after submitting an FSA 578 form.

C. A licensee must submit a harvest report to the commissioner no more than 30 days and no less than five days before harvest. The licensee must include in the harvest report a certificate of analysis for any hemp lot that has not been selected by the commissioner demonstrating the THC levels of a representative sample of the hemp lot, collected within 30 days before the harvest date.

Subp. 4. **License period.** A license issued under this chapter is valid until the last day of the calendar year in which the license was issued and may be renewed in successive years.

Subp. 5. **Harvesting during license period required.** A person growing hemp must destroy any growing plant that is not harvested during the license period in which it was planted unless the license has been renewed.

Subp. 6. **Change in grow location.** A licensee must not change the location of a registered grow location without first notifying the commissioner and the licensee's local Farm Service Agency. A licensee must submit the proposed change to the commissioner along with an updated legal description, geospatial location, and map specifying the proposed changes to the registered grow location or grow locations and pay any applicant fees before planting.

Subp. 7. **Hemp seed certification.** A licensee growing hemp to produce certified seed must register with and follow the requirements for seed certification by the Minnesota Crop Improvement Association.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.0500 PROCESSOR LICENSE.

Subpart 1. **License required.** A person must possess a hemp processor license before obtaining raw hemp materials for commercial processing purposes. Hemp may only be processed in this state by a person with a processor license. If hemp is processed in this state by a person without a processor license, the processed hemp is prohibited from entering the stream of commerce.

Subp. 2. **Source material documentation.** A licensee must provide upon request to the commissioner or to law enforcement information documenting the source material for any hemp plants, plant parts, grain, seeds, and products that the licensee is in possession of or had processed. Documentation must include any test results from an accredited laboratory validating that plant materials and products do not exceed the acceptable hemp THC level.

Subp. 3. **Change in processing location.** A licensee must not change the location of a registered processing location without first notifying the commissioner. A licensee must submit the proposed change to the commissioner along with an updated legal description, geospatial location, or map specifying the proposed changes to the registered processing location and, if applicable, pay additional fees before commencing processing at the new location.

Subp. 4. **Hemp sourcing requirements.** A processor must obtain hemp from a licensed Minnesota grower or from sources approved through another state or federally approved plan. A processor must obtain a copy of the Fit for Commerce certificate or certificate of analysis demonstrating the hemp material is within the acceptable hemp THC level from the grower, specific to the lot being purchased, before processing the hemp.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.0600 SUPERVISION, SAMPLING, AND INSPECTION.

Subpart 1. **Licensee requirements.** A licensee must:

- A. maintain on record any additional testing results of final harvested materials and any processed materials to ensure compliance with the 0.3 percent total THC requirement;
- B. not knowingly make any materially false statement or misrepresentations regarding the licensee's cultivation or processing of cannabis plants;
- C. not cultivate, process, move, or distribute cannabis plants other than hemp unless licensed to do so;
- D. not cultivate or process hemp in an area not licensed by the commissioner;
- E. pay any fees applicable to the licensed activities; and
- F. have the legal right to the registered grow location, including the legal authority to grant the commissioner access to the grow location for inspection and sampling.

Subp. 2. **Sampling, testing, and destruction.**

- A. A licensee is responsible to ensure the licensee's hemp plants are within acceptable hemp THC levels.
- B. As a condition of obtaining and maintaining a license under this chapter, a licensee must allow a sampling agent, the commissioner, or the commissioner's designee to conduct field surveillance and crop sampling of the licensee's grow location or locations as requested by the commissioner. A regulatory sample must be collected by a sampling agent, the commissioner, or the commissioner's designee. A licensee is prohibited from collecting regulatory samples from the licensee's own growing locations.
- C. A license holder or an authorized representative shall be present at the grow location during inspection and be available by telephone before or during the inspection, if possible. The landowner on record may be an authorized representative if authorized by the license holder. Authorization for entrance to and inspection of property and collection of hemp samples for testing must be granted by signature of the licensee as a part of the licensing process. If neither the license holder nor an authorized agent is planning to be present during the inspection and sampling event, communications with the license holder occurring before the inspection and sampling event must make the licensee and the sampling agent aware of the lots to be sampled, the location of the lots, and any other information pertinent to the inspection process.

D. The licensee must provide the sampling agent, the commissioner, or any law enforcement agency with complete and unrestricted access during business hours to:

- (1) all areas where growing or harvested hemp and other cannabis plants are stored;
- (2) all land, buildings, and other structures used for the cultivation, handling, producing, and storage of all hemp and other cannabis plants; and
- (3) all locations listed in the producer's application and license.

E. A producer must not harvest a hemp lot unless a sample has been collected by the sampling agent no more than 30 days before the harvest. A sample must be collected by a sampling agent. A producer is prohibited from collecting a sample from the producer's own growing facility.

F. A sample collected according to established protocols approved by the commissioner are deemed representative of the location or lot from which the sample is obtained.

G. Lot compliance is based on whether the hemp THC level result determined on a dry weight basis includes a value of 0.3 percent within a range of values specified by plus or minus the measurement of uncertainty.

H. Any sample test result exceeding the acceptable hemp THC level is conclusive evidence that the lot represented by the sample is not in compliance with this chapter and must be disposed of or remediated in accordance with Code of Federal Regulations, title 7, section 990.27.

I. Any test result from a sample collected by the sampling agent is considered the official test result representing the lot.

J. A licensee must not commingle harvested lots of hemp plants with other harvested lots or other material without a proper Fit for Commerce certificate.

K. If a licensee is notified by the commissioner that the licensee's location will not be inspected by the commissioner within 30 days before harvest, the licensee is required to submit a certificate of analysis from an approved testing lab to demonstrate that the licensee's lots are within acceptable hemp THC levels.

Subp. 3. **Research and breeding.**

A. In addition to the requirements of part 1565.0400, an individual applying for a license to conduct hemp research and hemp breeding must submit to the commissioner a summary outlining the individual's objectives for performing hemp research or breeding, a timeline of activities, and a sampling plan that demonstrates a confidence level of 95 percent that no more than one percent of the plants in each lot would exceed the acceptable hemp THC level. The sampling plan must also demonstrate a process for collecting a representative sample that is a homogeneous composition of the lot and provide a disposal plan for any cannabis plants that are found to exceed the acceptable hemp THC level.

B. A research and breeding licensee must provide testing data to the commissioner when requested and may be subject to inspection, sampling, and testing by the commissioner.

C. Hemp that is grown for research purposes may not be offered for sale or otherwise enter the stream of commerce.

D. A hemp breeder must report all new varieties to the commissioner before release for commercial sale. A hemp breeder must also provide documentation that shows the varieties developed have been tested through a minimum of two generations to be at or below 0.3 percent THC.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.0700 CANNABIS PLANT; THC LEVEL OVER 0.3 PERCENT.

Subpart 1. **Disposal of certain plants.** A cannabis plant with a THC level exceeding the acceptable hemp THC level constitutes marijuana, a Schedule I Controlled Substances Act drug, and the producer must dispose of the noncompliant plants.

Subp. 2. **Disposal requirements.** The producer must dispose of noncompliant plants by using a Drug Enforcement Agency-registered reverse distributor or law enforcement agency, or the producer must dispose of the noncompliant plants on site at the farm or the hemp production facility.

Subp. 3. **Remediation.** A producer may bring noncompliant plants through the remediation process. Noncompliant plants that have gone through the remediation process may be resampled and retested to ensure the plant material is within the acceptable hemp THC level before it may enter the stream of commerce. If the plant material tests above the acceptable hemp THC level, the plant material is noncompliant hemp and must be disposed.

Subp. 4. **Documentation.** A licensee must provide documentation to the commissioner in the form of in-person meetings, pictures, videos, or other proof to verify that proper disposal or remediation of noncompliant plants occurred successfully.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.0800 FIT FOR COMMERCE CERTIFICATION.

Subpart 1. **Transferring hemp ownership.** A person must not transfer ownership of raw hemp to a processor or to the public without a Fit for Commerce certificate.

Subp. 2. **Acquiring raw hemp.** A processor must not acquire or process raw hemp grown within Minnesota without acquiring a copy of a Fit for Commerce certificate issued by the commissioner to the grower specific to the lot being purchased.

Subp. 3. **Drying or field-cleaning hemp.** For purposes of this part, "processing" does not include drying or field-cleaning of hemp. The licensee must notify the commissioner if the licensee is drying or field-cleaning hemp from the lot in a location other than what is listed on the licensee's application or license.

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

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.0900 TRANSPORTING HEMP.

During transport of any raw hemp, the transporter must have in the transporter's possession:

A. a copy of the owner of the raw hemp's license and, if different, the license of the individual receiving the raw hemp, a Fit for Commerce certificate, and a certificate of analysis or equivalent; and

B. if the hemp is from another state, a bill of lading or other proper documentation demonstrating that the hemp was legally imported into Minnesota under applicable state and federal laws and from sources approved through another state or federally approved plan.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.1000 HEMP PROPAGULES.

Subpart 1. **Record keeping.** To sell or purchase hemp propagules, a licensee must maintain the following documents on record for three years:

A. the lot number or other lot identification of the hemp propagule lot;

B. a copy of the genuine grower's declaration or similar documents containing the same information;

C. copies of invoices showing the sale of each propagule lot, including the name of the person the lot was sold to, the amount sold, the date of sale, the name of the variety, and the lot number;

D. a copy of the label that was attached to or accompanied the propagule lot;

E. a copy of the field and final certification documents, if applicable;

F. a copy of each report concerning the testing of hemp seed for labeling purposes, including the total THC concentration; and

G. a copy of required United States Department of Agriculture documents if importing the propagules from another country.

Subp. 2. **Hemp destruction required.** Upon suspension, revocation, expiration, or nonrenewal of a licensee's license under this chapter, the licensee must destroy any live cannabis plants without reimbursement.

Subp. 3. **Volunteer hemp plants.** When volunteer hemp plants are present, a licensee must either (1) destroy the volunteer hemp plants, or (2) register the location where the plants are present as a new grow location and pay any fees required by this chapter. The licensee must also update the location information with the Farm Service Agency.

Subp. 4. **Hemp seed labeler.** A hemp seed labeler selling seed in Minnesota must possess a current Minnesota seed permit and comply with Minnesota Statutes, sections 21.80 to 21.92, Minnesota Rules, parts 1510.0011 to 1510.0360, the Federal Seed Act under United States Code, title 7, sections 1551 to 1611, and Federal Seed Act Regulations under Code of Federal Regulations, title 7, part 201.

Subp. 5. **Prohibited sales.** A person must not sell hemp propagules for commercial purposes to any person in the state that is not licensed by the commissioner under this chapter. Upon request from the commissioner, a person selling hemp propagules for commercial purposes must provide records showing to whom hemp propagules were distributed.

Subp. 6. **Wild hemp.** A licensee must not acquire or grow hemp propagules of wild, landrace, or unknown origin without first obtaining written approval from the commissioner. Hemp clone lots must have the total THC concentration tested for each generation before sale of any plants from that lot.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.1100 HEMP PRODUCTION.

Subpart 1. **Grow location.** Unless restricted by local ordinance or other state law, a person licensed under this chapter may grow hemp in any area zoned for agriculture.

Subp. 2. **Residential prohibition.** A person must not grow, dry, process, or store hemp plants in residential dwellings.

Subp. 3. **Compliance.** A person producing or processing hemp must comply with all federal and state pesticide, food, and feed laws.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.1200 HEMP DATA AND REPORTING REQUIREMENTS.

Subpart 1. **Record keeping.** A licensee must maintain records regarding the acquisition, production, handling, selling, remediation, and disposal of all plants subject to this chapter. All records must be maintained for at least three years. A licensee's records and data maintained at a grow location or processing area are subject to an audit by the commissioner. A licensee must make available for inspection by the commissioner or the commissioner's designee during reasonable business hours or upon request by the commissioner all records required to be kept under this subpart.

Subp. 2. **Required notification.** A licensee must notify the commissioner and local law enforcement within 24 hours of discovery that any of the licensee's hemp is missing, has been stolen, or is suspected to have been modified or tampered with without the licensee's approval.

Subp. 3. **Copy of license.** A licensee must provide a copy of the licensee's license upon request by the commissioner or law enforcement at any time. A copy must be given to the landowner or facility owner where hemp is grown or processed if the landowner or facility owner is not the licensee.

Subp. 4. **Data transferring.** Any information obtained by the commissioner regarding a licensee's growing or production of hemp may be provided to federal, state, or local law enforcement agencies by the commissioner without further notice to the licensee.

Subp. 5. **Required report.** A producer must report the producer's hemp crop acreage to the Farm Service Agency as required by Code of Federal Regulations, title 7, part 990.7.

Subp. 6. **Required lab reports.** A laboratory approved by the commissioner to conduct regulatory samples of hemp for licensees under this chapter must report its results for all samples tested to the United States Department of Agriculture as required by Code of Federal Regulations, title 7, part 990.7. A laboratory must only submit test results used to determine compliance with

this part. Test results from informal testing conducted throughout the growing season are not required to be reported to the United States Department of Agriculture.

Subp. 7. **Sampling agents' information.** The commissioner must maintain information on sampling agents as required by federal law.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.1300 DENIALS AND VIOLATIONS.

Subpart 1. Disqualifying convictions.

A. The commissioner must deny an application for a license if the applicant or a key participant has been convicted of any felony related to the possession, production, sale, or distribution of a controlled substance in any form within ten years of the date of the application.

B. If an individual, as described in part 1565.0300, subpart 3, has any felony related to the possession, production, sale, or distribution of a controlled substance on the individual's criminal history report, the individual is ineligible to produce hemp or participate in the hemp program under this chapter for ten years following the date of the conviction.

Subp. 2. **Seizure and destruction of hemp.** When the commissioner revokes a license or registration, any hemp in possession of the revoked party must be destroyed by the revoked party. If the hemp is not destroyed, it is subject to seizure and destruction by the commissioner or law enforcement. The revoked party is responsible for the cost of the seizure and destruction of the hemp.

Subp. 3. Negligent violations.

A. A producer is subject to corrective action under subpart 4 for negligently:

- (1) failing to provide an accurate legal description of land where hemp is produced;
- (2) producing hemp without a license; or
- (3) producing cannabis (marijuana) exceeding the acceptable hemp THC level.

B. A hemp producer is not negligent under this subpart if the producer makes reasonable efforts to grow hemp and the cannabis does not have a delta-9 tetrahydrocannabinol concentration exceeding the level defined in Code of Federal Regulations, title 7, part 990.6(b)(3).

Subp. 4. Corrective actions for negligent violations.

A. For each negligent violation, the commissioner must issue a Notice of Violation and require a corrective action plan for the producer. The producer must comply with the corrective

action plan to cure the negligent violation. Corrective action plans must be in place for a minimum of two years from the date of the corrective action plan's approval. The producer is subject to and must cooperate with additional inspections to ensure compliance with the corrective action plan.

B. Corrective action plans must, at a minimum, include:

- (1) the date by which the producer is required to correct each negligent violation;
- (2) steps to correct each negligent violation; and
- (3) a description of the procedures to demonstrate compliance.

C. A producer that negligently violates this part must not, as a result of the violation, be subject to any criminal enforcement by any federal, state, or local government.

D. If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan must be submitted with a heightened level of quality control, staff training, and quantifiable action measures.

E. The commissioner must revoke the license of a producer that has three negligent violations in a five-year period. The negligent producer is also ineligible to produce hemp for a period of five years beginning on the date of the third violation. Producers shall not receive more than one negligent violation per growing season.

Subp. 5. Other violations.

A. If the commissioner determines that a licensee has violated the terms of the license or of this part with a culpable mental state greater than negligence, the commissioner must immediately report the violation to the United States Department of Agriculture, the United States Attorney General, and the chief law enforcement officer of the state.

B. When the terms of item A have been met, subparts 3 and 4 do not apply to the violation.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.1400 LICENSE REVOCATION.

Subpart 1. **Immediate license revocation.** The commissioner must immediately revoke a license if a licensee:

- A. pleads guilty to, or is convicted of, any felony related to a controlled substance;
- B. made any materially false statement regarding the requirements of this chapter to the commissioner with a culpable mental state greater than negligence;

C. is found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence; or

D. has negligently violated this chapter three times in five years.

Subp. 2. **Inspection interference.** It is unlawful for any person to hinder or obstruct an inspector from inspecting, sampling, or carrying out the duties under this chapter or Minnesota Statutes, chapter 18K.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*

1565.1500 LABORATORY REQUIREMENTS.

After December 31, 2022, only laboratories registered with the Drug Enforcement Agency may conduct testing under this part. At a minimum, a laboratory conducting analytical testing of samples for delta-9 tetrahydrocannabinol concentration levels for purposes of the testing required by this chapter must:

A. use the postdecarboxylation value method or other similarly reliable methods approved by the commissioner and the United States Department of Agriculture;

B. determine and report the total delta-9 tetrahydrocannabinol concentration level on a dry weight basis;

C. estimate and report the measurement of uncertainty with test results; and

D. use appropriate, validated methods and procedures for all testing activities required under this chapter and evaluate the measurement of uncertainty.

Statutory Authority: *MS s 18K.06; L 2019 1Sp1 art 2 s 20*

History: *46 SR 150*

NOTE: This temporary exempt rule is effective until August 16, 2025, or until permanent rules implementing chapter 18K are adopted, whichever occurs first.

Published Electronically: *August 23, 2023*