

February 23, 2021

Re: *2021 Hemp Licensing Data Report, as Required by Minnesota Statutes, section 18K.04.*

Dear Legislative Coordinating Commission Subcommittee on Data Practices:

During the 2020 legislative session, Minnesota Statutes, section 18K.04 was amended to classify as private or nonpublic information collected, created, or maintained by the Minnesota Department of Agriculture (MDA) that identifies the location where an industrial hemp licensee or applicant grows or processes industrial hemp. This includes street addresses, legal descriptions, geospatial coordinates, and non-designated (i.e. physical, non-mailing) addresses (collectively, “protected location information”). This change was necessary to address the MDA’s transition in 2021 from a hemp pilot program, for which participant data is classified by Minn. Stat. §13.643, to a federally-approved industrial hemp licensing program, for which no existing law otherwise classifies the sensitive information in question.

As part of the 2020 amendments, a provision was added to Minn. Stat. § 18K.04, subdivision 5, that requires the Commissioner of Agriculture, in odd-numbered years, to provide the above-addressed parties with a copy of an audit trail containing “[a]ll queries and responses, including the specific purpose for which [protected location information] is requested and, if applicable, disclosed, and all actions in which [protected location information] are entered, updated, accessed, shared, or disseminated.”

Per the requirements of § 18K.04, subdivision 5, the Minnesota Department of Agriculture (MDA) reports the following:

- The MDA has tracked all queries for, and if applicable disclosures of, protected location information. A summary of these requests is included herewith.
- Licensees are provided with a copy of their own license within 5 days of licensure, as part of MDA’s internal practices; each license contains the protected location information associated with the licensee. The only non-routine sharing of protected location information occurred on February 8, 2021, when protected location information relating to five licensees was improperly disclosed to a sixth licensee. This incident was reported to the Office of the Legislative Auditor, as required by Minn. Stat. § 3.971, subdivision 9.
- Protected location information has not been disseminated (i.e. shared widely) at any time.

At this time, the MDA Hemp Program is unfortunately unable to create or provide an audit trail relating to “all actions in which [protected location information] are entered, updated, accessed, shared, or disseminated.” Prior to initiating its fully-fledged licensing program in 2021, the MDA was required to develop a detailed licensing plan and have it approved by the United States Department of Agriculture (USDA). The MDA’s plan was not approved by the USDA until July 2020. Despite best efforts and ample monetary investment, the MDA has thus far been unsuccessful in developing a computer database system that is sufficiently robust to allow for the creation of a detailed, comprehensible, audit trail that would meet the requirements of § 18K.04.

Despite these setbacks, the MDA is optimistic that by 2023, we will be able to fully comply with the audit trail requirements.

Thank you for your interest in the MDA's Hemp Program. Please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Whitney Place". The signature is written in a cursive, flowing style.

Whitney Place
Assistant Commissioner
Minnesota Department of Agriculture

Cc: Commissioner Alice Roberts-Davis
Senator Torrey Westrom
Senator Andrew Matthews
Representative Carlos Mariani
Representative Jamie Becker-Finn
Representative Mike Sundin

Queries and Reponses for Data Classified as private or nonpublic under § 18K.04					
Date: February 22, 2021					
Date of Request	Requestor	Data Requested	Purpose of Request	Data Provided	Date Provided
12/10/2020	Arjan Kraan, CBD Farm Solutions	licensee name, license type, licensee physical address, licensee phone number and license email for hemp licenses in 2021	Marketing / business development	Provided names, license types, phone numbers, and email addresses of 2021 licensees. Did not provide physical location info for 2021 licensees.	12/14/2020
1/19/2021	Michelle Didrikson, Border Bank	Licensee Kevi Novacek's 2021 license	From bank; to obtain hemp business information for file, per standard operating procedures.	Provided Licensee's 2021 License w/ protected location information redacted.	1/20/2021
2/8/2020	Brian Dillon, Lathrop GPM	Licensee Hemp Acres, LLC 2021 license and application materials	From law firm representing party in a trust / land ownership dispute related to land on which licensee operates	Provided 2021 license and application subission w/ protected location information redacted.	2/18/2021