

Minnesota Hemp Plan

2021 version

Timeline

- Minnesota started operating under pilot program 2015
- 2018 Farm Bill removed industrial hemp from Controlled Substances Act; Allowed for States to either allow Feds to enforce or get State Plan approved by the Feds and run it themselves.
- October 31, 2019, USDA published Interim Rules for State plans; Allow States to run under pilot program until November 2020.
- Minnesota elected to stay under pilot program for 2020 growing season
- Minnesota submitted draft State Plan to USDA on March 31, 2020
- After several drafts, USDA approved Minnesota Plan on July 14, 2020
- Minnesota will operate under approved State Plan in 2021
- USDA final rule published and effective 3/22/2021

Legislation

- In 2020, Minnesota Legislature amended Minnesota Statutes Chapter 18K:
 - Allowed for growing of industrial hemp for research purposes
 - Allowed for licensing of processing for commercial purposes
 - Added data practices language to be consistent with federal requirements
 - Allowed for rulemaking

What is in the Approved State Plan?

- Application Process
 - Applicant for hemp grower or processor license must:
 - Pay nonrefundable registration and inspection fee
 - Name, address, contact information if individual
 - If entity, name and contact information of each key participant of the entity
 - Person with executive managerial control; direct or indirect financial interest in entity producing hemp; chief executive officer, chief operating officer and chief financial officer.
Does not include management such as farm, field or shift managers
 - Authorized representatives
 - Proposed acreage of growing/processing; legal description, Geospatial coordinates; map
 - Landowner contact information
 - First time applicants-fingerprints, fee, consent to background check within 60 days

What is in the Approved State Plan

- Application will be approved when:
 - Application is complete
 - Criminal history confirms applicant has not been convicted of a felony related to controlled substance within the past 10 years.
 - Applicant has submitted all reports and has paid any outstanding penalties
- Applicant must also be in compliance with all state, local and federal laws.
- Applicant has ongoing obligation to ensure that grower, authorized representatives, licensed applicant, and key participants have not been convicted of a felony related to controlled substance in last 10 years.

What is in the Approved State Plan

- Must have a license before obtaining raw hemp for commercial processing:
 - Must be able to document source material for any hemp plants, extracts, grain, seeds and products that they are in possession of or had processed.
 - Documentation includes any test results from accredited lab validating materials not exceeding acceptable hemp THC level
 - Any changes to location must be approved prior to processing
 - Must obtain hemp from licensed Minnesota grower or from sources approved through another state or federally approved plan.
 - Must obtain copy of fit for commerce certificate or equivalent from another state from the grower specific to the lot being purchased

Sampling/Supervision/Inspection

- Licensee must retain records of any testing results of final harvested materials/processed materials to ensure compliance with .3% THC
- Producer can't harvest a "lot" unless a sample has been collected no more than 15 days previous.
- Licensee or authorized representative should be present during inspection.
- Compliance is based on whether the % of total THC results determined on a dry weight basis includes a value of .3% within a range of values specified by plus or minus the measurement of uncertainty.
- Any sample test result exceeding the acceptable THC shall be conclusive evidence that the lot represented by the sample is not in compliance.
- The test result from MDA is considered the official test result
- No commingling with other harvested lots without proper commerce certificates

Fit for Commerce Certification

- Ownership of raw hemp may not be transferred to a processor or to the public without a Fit for Commerce Certificate
- Licensed Processor using hemp obtained from outside Minnesota must maintain a bill of lading, certificate of analysis, and other proper documentation demonstrating hemp was from a source approved through another state or federally approved plan. Records must be maintained for 3 years.

Transporting Hemp

- During transport of any raw hemp, transporter must have:
 - Copy of owner of raw hemp's license and, if different, license of individual receiving the raw hemp; fit for commerce certificate, certificate of analysis and
 - Bill of lading or other documentation demonstrating hemp was legally imported into Minnesota under applicable state and federal laws and from sources approved through another state or federally approved plan.

Hemp Propagules

- To sell/purchase, licensee must maintain the following for 3 years:
 - Lot number
 - Grower's declaration containing lot number
 - Copies of invoices showing sale of each lot, including name of the person the lot was sold to, the amount sold, the date of sale, name of variety, and lot number
 - Copy of the label that was attached to or accompanied the lot;
 - Copy of the field and final certification documents
 - Copy of each report concerning testing of hemp seed for labeling purposes, including total THC and
 - Required USDA document if importing from another country

Hemp Propagules, Continued..

- Upon suspension, revocation, nonrenewal, any live cannabis plants must be destroyed without reimbursement.
- Any volunteer hemp plants growing in subsequent years must be destroyed or a licensee may register that grow location and cultivate and harvest the volunteer plants if they obtain permission from the department and pay fees associated with registering the grow location.
- A hemp seed labeler selling seed in Minnesota must possess a current Minnesota seed permit and follow all federal and state seed laws.
- A person shall not acquire/grow hemp propagules of wild, landrace or unknown origin without first obtaining written approval from MDA. Each lot of hemp clones must have THC tested for each parental source before sale of any plants from that lot.
- A person shall not sell hemp propagules to any person in the state that is not licensed by MDA. A person selling propagules shall provide records showing to whom hemp propagules were distributed.

Hemp Restrictions

- Hemp can be grown in any area zoned for agriculture, unless restricted by local ordinance or other state law.
- Hemp cannot be grown in residential dwellings.
- Hemp production and processing practices must meet all federal and state pesticide, food and feed laws.

Hemp Data and Reporting Requirements

- Licensee must maintain records regarding the acquiring, production, handling, selling and disposal of all plants subject to this chapter for 3 years.
- Producers shall report their hemp crop acreage to FSA.
- Labs approved by MDA to conduct regulatory samples of hemp for licensees shall report the results for all samples tested to USDA.

Enforcement

- Under 2018 Farm Bill, it is a violation of law to violate an approved State Plan.
- Negligent violation for:
 - Failing to provide an accurate legal description of land where hemp is produced
 - Producing hemp without a license
 - Producing cannabis exceeding the acceptable hemp THC level.
- For each negligent violation, MDA will issue Notice of Violation and require corrective action plan, which the producer is required to follow. Corrective Action Plans are in place for at least 2 years.

Corrective Action Plans

- Must include:
 - Date by which producer shall correct each violation
 - Steps to correct the violation
 - Description of procedures to demonstrate compliance
- If subsequent violation occurs while a corrective action plan is in place, a new plan must be submitted with a heightened level of quality control, staff training, and quantifiable measures.
- 3 violations in 5 years, you lose your license and ineligible for 5 years

Enforcement, continued...

- If MDA determines violation of license with culpable mental state greater than negligence:
 - MDA immediately report to USDA, U.S. Attorney General, and Minnesota Attorney General
- Immediate revocation if:
 - Producer pleads guilty to or is convicted of any felony related to controlled substance
 - Producer made materially false statements to MDA
 - Growing hemp exceeding acceptable THC level with a culpable mental state greater than negligence

Final Rule Changes

- **Negligent violation** –The final rule raises the negligence threshold from .5 percent to 1 percent and limits the maximum number of negligent violations that a producer can receive in a growing season (calendar year) to one.
- **Disposal and remediation of non-compliant plants** – the final rule allows for alternative disposal methods for non-compliant plants that do not require using a DEA reverse distributor or law enforcement and expands the disposal and remediation measures available to producers. Feds will provide acceptable remediation techniques in a separate guidance document.

Final Rule Changes

- **Testing using DEA-registered laboratories** – DEA has agreed to extend the enforcement flexibility allowing non-DEA registered labs to test hemp until January 1, 2022.
- **Timing of sample collection** – the IFR stated a 15-day window to collect samples before harvest. The FR extends this requirement to 30 days before harvest.

Final Rule Changes

- **Sampling method** – allow states and tribes to adopt a performance-based approach to sampling in their plans. The plan must be submitted to USDA for approval. It may take into consideration state seed certification programs, history of producer compliance and other factors determined by the State or Tribe. Samples should be 5 to 8 inches from main stem/terminal bud/central cola of the flowering top of plant.
- **Extent of Tribal Regulatory Authority over the Territory of the Indian Tribe** – the IFR did not specifically address whether a tribe with an approved USDA plan could exercise primary regulatory authority over the production of hemp across all its territory or only lands over which it has inherent jurisdiction. The final rule provides that a tribe may exercise jurisdiction and therefore regulatory authority over the production of hemp throughout its territory regardless of the extent of its inherent regulatory authority

Approved State Plan

- Any questions?

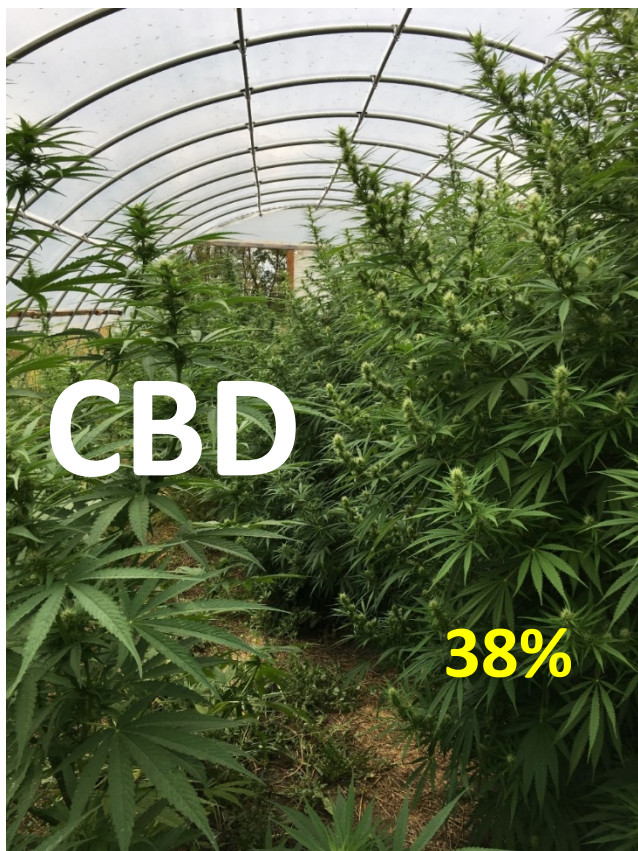
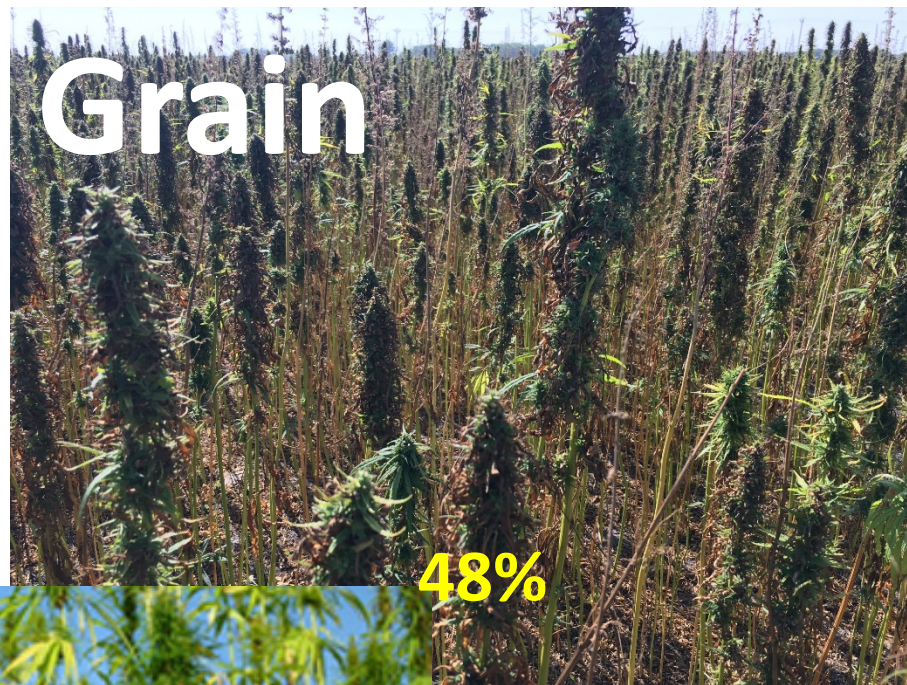


MN Overview

Year	Licensed Growers	Licensed Processors	Acres Grown
2016	6	0	38
2017	33	5	1,210
2018	56	21	710 acres & 55,000 sq. ft. indoor
2019	449	214	7,353 acres & 403,304 sq. ft. indoor
2020	461	235	4,690 acres & 282,800 sq. ft. indoor
2021	169*	160*	4,552 acres & 4,128,034 sq. ft indoor registered*

* Indicates current data as of February 4, 2021

Four Types of Hemp Varieties



- As of 2/3/21-- 230 applicants
 - New applicants: 89
 - Renewals: 141
- Application deadline is April 30, 2021



Application available here: mda.state.mn.us/plants/hemp

Applicant applies to MDA Hemp Program

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graph TD; A[Applicant applies to MDA Hemp Program] --> B[First-time applicants-fingerprinting & background check]; B --> C[License issued]; C --> D[Licensee plants hemp];
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First-time applicants-fingerprinting & background check

License issued

Licensee plants hemp

Licensee reports hemp acreage
planted to FSA

License reports hemp acreage planted
to MDA

MDA samples hemp 15 days prior to
harvest

MDA issues Fit For Commerce
certificate

Hemp Program License

License Number: 202 [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Pursuant to Minnesota Statutes Chapter 18K and the Minnesota state plan, the above-named person/business is authorized to act as a Grower or Processor or both based on the locations listed below.

Effective Date: 01/01/2021

Expiration Date: 12/31/2021

Physical Locations:

- 1 - GROW LOCATION 1: 38540.49 SQ FT INDOOR [REDACTED] MN [REDACTED] GPS POINT [REDACTED]
[REDACTED] TOWNSHIP:115 RANGE:20 SECTION: [REDACTED] 1/4 SECTION [REDACTED]
- 2 - GROW LOCATION 2: 3.04 ACRE OUTDOOR [REDACTED] MN [REDACTED] GPS POINT [REDACTED]
TOWNSHIP:114 RANGE:18 SECTION: [REDACTED] 1/4 SECTION [REDACTED]
- 3 - GROW LOCATION 3: 4.21 ACRE OUTDOOR [REDACTED] MN [REDACTED]
[REDACTED] GPS POINT [REDACTED] TOWNSHIP:114 RANGE:19 SECTION: [REDACTED] 1/4 SECTION [REDACTED]
- 4 - PROCESSING LOCATION 1: [REDACTED] MN [REDACTED] GPS POINT [REDACTED]
TOWNSHIP:115 RANGE:20 SECTION: [REDACTED] 1/4 SECTION [REDACTED]

Changes to License

- Adding Locations or License category-- \$50 change fee
- Submit a Change Request Form
- Do not grow or process hemp in a new location until you have registered it



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www.mda.state.mn.us

PLANT PROTECTION DIVISION Phone: 651-201-6600

Minnesota Statute 18K

HEMP PROGRAM LICENSE CHANGE REQUEST

Submission of this form will trigger the MDA to schedule an inspection 15 days prior to harvest

PPD – Hemp Planting Cycle Form



Once you submit this form, we will place your hemp grow location/lot on our schedule for inspection at the appropriate time (within 30 days of your anticipated harvest date). For each variety that is ready for harvest, enter it on a separate line and press "Add" to add another one. All varieties within the same grow location with the same harvest date must be reported on the same form.

You will get an email with a different link for each grow location that you have registered. Please enter in only those hemp varieties/lots that are planted on that specific land area. In addition, if you have varieties that will be harvested on different dates, please fill out a separate form.

Today's Date

06/26/2020

License Number*

20210971

Hemp Grow Location Number*

360

Enter in a Hemp Lot Number in the space below. The Hemp Lot Number should be your FSA-assigned field lot number (Farm Number/Tract Number/Field, example: 12345-9766-2). Starting in 2021, the FSA field lot number is required on the form. For 2020, it is greatly preferred that you use the FSA number but not required. If you do not have an FSA number, put in any number in that space. Be sure to assign each variety a different number.

PPD – Hemp Planting Cycles

Hemp Lot Number*

12345-9766-2

Hemp – Variety List*

Anka

Date of Planting*

3/1/2020

Date of Anticipated Harvest*

7/11/2020

Hemp Lot Number*

12345-9766-3

Hemp – Variety List*

C4

Date of Planting*

3/1/2020

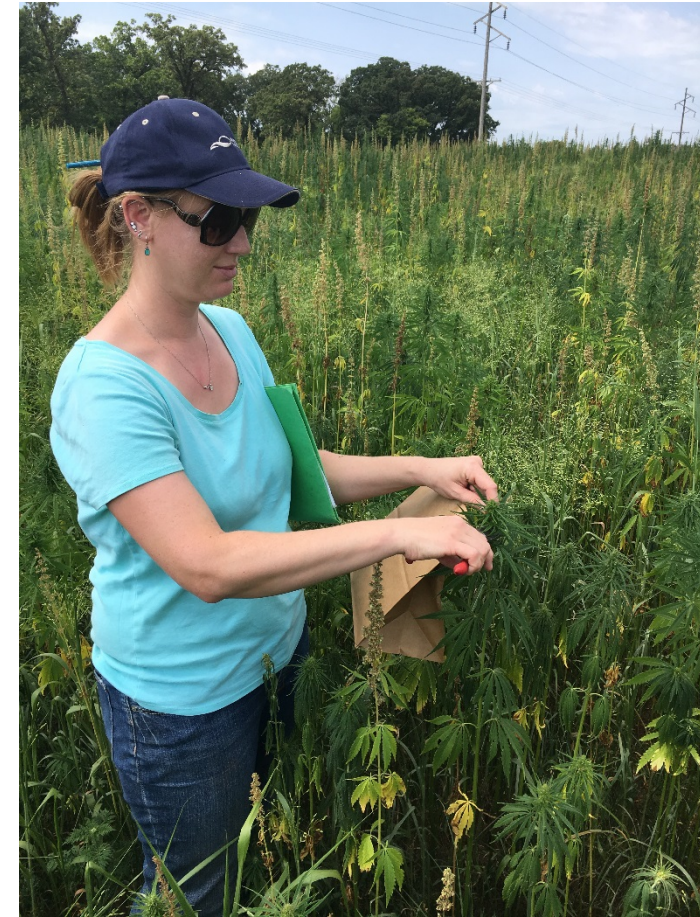
Date of Anticipated Harvest*

7/11/2020

Submit

Field Inspection and THC Sampling

- Hemp lot must be harvested 15 days after regulatory sample is collected
- We cut the top 2" from 30 plants randomly selected throughout the field



- Sample is sent to Legend Technical Services for THC analysis
- THC Test results must be 0.30% or less to be legal hemp- factoring with the measurement of uncertainty
- Over 0.30% - can request a retest
- Two failed tests and it must be destroyed

Industrial Hemp Program Fit For Commerce Certificate

January 21, 2021



License Number:



Email:



This certificate concerns the test result for the industrial hemp plant sample collected at the licensed grow location indicated below by the sample number. The sample was collected by an MDA inspector on 1/21/21. As defined in Minnesota Statue 18K.02 and Subtitle G of the Agricultural Marketing Act of 1946, 7 U.S.C. §§ 1639o – 1639s (2018 “Farm Bill”), the delta-9 tetrahydrocannabinol post-decarboxylation (Total Potential THC) content is specified by a range of values plus or minus the measurement of uncertainty (MU). The MU adopted by the Minnesota Hemp Program is based on the laboratory measurement of uncertainty plus sampling variability. The value 0.30% must lie within the THC content range for your sample, which is listed below.

Sample Number	Grow Location	Variety Name	Total Potential THC (Lower Value w/ MU- Upper Value w/ MU)
MW21001	781	Queen Dream	0.339% (0.258%- 0.421%)

The sample taken at your hemp grow location was tested for THC concentration and found to be in compliance with MS Chapter 18K.02 and Subtitle G of the Agricultural Marketing Act of 1946, 7 U.S.C. §§ 1639o – 1639s. The industrial hemp material harvested from this specified lot is fit to enter the stream of commerce.

Measurement of Uncertainty

- Provides a THC test result range that factors in lab & sampling variability

EXAMPLE 1

Sample Number	Variety Name	Total Potential THC= D9 THC + (THCA*0.877)	Total THC Result- Lower Value w/ MU	Total THC Result- Upper Value w/ MW
001	Autoflower	0.306%	0.231%	0.381%

EXAMPLE 2

Sample Number	Variety Name	Total Potential THC= D9 THC + (THCA*0.877)	Total THC Result- Lower Value w/ MU	Total THC Result- Upper Value w/ MW
002	Cherry	0.395%	0.2994%	0.490%

Records- Growers

- Must keep records for 3 years
- Growers must retain—
 - For Seed or Propagules purchased:
 - A Certificate of Analysis
 - Lot number or other lot identification;
 - Invoices
 - Name of the variety/varieties; and
 - Copy of seed label

Records- Processors

- Must keep records for 3 years
- Processors must retain—
 - Information documenting the source material for any hemp that they are in possession of or have processed
 - Fit For Commerce certificate, or
 - Certificate of Analysis

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THANK YOU!