

RULES OF THE
GEORGIA DEPARTMENT OF AGRICULTURE

CHAPTER 40-32
HEMP GROWERS AND PROCESSORS

TABLE OF CONTENTS

<u>40-32-1</u>	<u>General Provisions</u>
<u>40-32-2</u>	<u>Hemp Growers</u>
<u>40-32-3</u>	<u>Hemp Processors</u>

SUBJECT 40-32-1
GENERAL PROVISIONS

TABLE OF CONTENTS

40-32-1-.01 Authority and Purpose of Rules
40-32-1-.02 Definitions
40-32-1-.03 Compliance with Federal Law
40-32-1-.04 Georgia Hemp Plan – Incorporation by Reference
40-32-1-.05 Consultation with the Georgia Bureau of Investigation
40-32-1-.06 Severability

40-32-1-.01 Authority and Purpose of Rules

Pursuant to the authority vested in the Georgia Department of Agriculture under the Georgia Hemp Farming Act, O.C.G.A. § 2-23-1 et. seq., the purpose of these Rules is to establish the standards, practices, procedures, and requirements for growing and processing hemp in Georgia.

Authority: O.C.G.A. Sec.2-23-12.

40-32-1-.02 Definitions

Words used in these Rules in the singular form will be deemed to impart the plural, and vice versa, as the case may demand. For the purposes of these Rules, unless the context otherwise requires, the following terms will be construed, respectively, to mean:

- (a) “Acceptable hemp THC level” – when a laboratory tests a sample, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level is when the application of the measurement of uncertainty to the reported delta-9 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.
- (b) “Agricultural Marketing Service” or “AMS” – the Agricultural Marketing Service of the United States Department of Agriculture.
- (c) “Application” – the necessary and required written request which must be submitted to the Department by an Applicant, as required by the Department, and which includes, but may not be limited to, all requirements of O.C.G.A. §§ 2-5-1 through 2-5-4.1 as stated therein.

- (d) “Applicant” – a person, or a person serving in an official capacity or as an agent who is authorized to sign for a business entity, who submits an application for a Hemp Grower License or a Hemp Processor Permit.
- (e) “Commercial sale” – the sale of a product in the stream of commerce at retail, at wholesale, and online.
- (f) “Commissioner” – the Georgia Commissioner of Agriculture.
- (g) “Controlled Substances Act” or “CSA” – the federal Controlled Substances Act as codified in 21 U.S.C. 801 et seq.
- (h) “Conviction” – 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 part.
- (i) “Corrective action plan” – a plan established by the Department for a Licensee or Permittee to correct negligent violations of or non-compliance with the Act or these Rules.
- (j) “Culpable mental state greater than negligence” – to act intentionally, knowingly, willfully, or recklessly.
- (k) “Cultivate” means to plant, water, grow, and harvest a plant or crop.
- (l) “Decarboxylated” – the completion of the chemical reaction that converts THC-acid (THC-A) into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.
- (m) “Decarboxylation” – the removal or elimination of carboxyl group from a molecule or organic compound.
- (n) “Delta-9 tetrahydrocannabinol” or “Delta-9 THC” – the primary psychoactive component of cannabis. For the purposes of this part, delta-9 THC and THC are interchangeable.
- (o) “Department” – the Georgia Department of Agriculture, its agent(s), or its designee(s).

- (p) “Drug Enforcement Administration” or “DEA” – the United States Drug Enforcement Administration.
- (q) “Dry weight basis” – the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing 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 item (plant, extract, or other derivative), after excluding moisture from the item.
- (r) “Entity” – 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 the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.
- (s) “Farm Service Agency” or “FSA” – the Farm Service Agency of the United States Department of Agriculture.
- (t) “Federally defined THC level for hemp” – a delta-9-THC concentration of not more than 0.3 percent on a dry weight basis, or the THC concentration for hemp defined in 7 U.S.C. Section 5940, whichever is greater.
- (u) “Gas chromatography” or “GC” – a type of chromatography in analytical chemistry used to separate, identify, and quantify each component in a mixture. GC relies on heat for separating and analyzing compounds that can be vaporized without decomposition.
- (v) “Georgia Hemp Farming Act” – the Georgia law authorizing the Department to regulate hemp growers and processors, as provided in O.C.G.A. § 2-23-1 et. seq.
- (w) “Geospatial location” or “GPS coordinates” – a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.
- (x) “Grow site” – a contiguous lot, parcel, or tract of land identified in an approved Hemp Grower License application on which a Licensee 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. Each lot, parcel, or tract of land separated by a barrier or buffer of at least twelve feet (12’) in width will be considered a separate Grow Site.
- (y) “Handle” – to possess or store hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp, or to possess or store hemp plants in a vehicle for any period of time other than during the actual transport of such plants from the premises of a person licensed to cultivate or process hemp to the premises of another licensed person; provided, however, that such term does not include possessing or storing finished hemp products.

- (z) “Harvest lot” or “Lot” – a quantity of hemp, of the same variety, harvested in a distinct timeframe that is: (1) Cultivated in one contiguous production area within a grow site; or (2) Cultivated in a portion or portions of one contiguous production area within a grow site. Harvest lot does not include a quantity of hemp comprised of hemp grown in noncontiguous production areas.
- (aa) “Hemp” – the Cannabis sativa L. plant and any part of such 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 or a lower level.
- (bb) “Hemp Crop” – one (1) or more unprocessed hemp plant(s) or plant parts.
- (cc) “Hemp Grower License” or “Grower License” – a license issued by the Department under the authority of the Georgia Hemp Farming Act authorizing a person to handle and cultivate hemp in the State of Georgia
- (dd) “Hemp Processor Permit” or “Processor Permit” – a permit issued by the Department under the authority of the Georgia Hemp Farming Act authorizing a person to handle and process hemp in the State of Georgia.
- (ee) “Hemp Product” – all products with the federally defined THC level for hemp derived from, or made by, processing hemp plants or plant parts that are prepared in a form available for commercial sale, but not including food products infused with THC unless approved by the United States Food and Drug Administration.
- (ff) “High-performance liquid chromatography” or “HPLC” – a type of chromatography technique in analytical chemistry used to separate, identify, and quantify each component in a mixture. HPLC relies on pumps to pass a pressurized liquid solvent containing the sample mixture through a column filled with a solid adsorbent material to separate and analyze compounds.
- (gg) “Information sharing system” – the database mandated under the federal Agricultural Marketing Act of 1946 which allows USDA to share information collected under State, Tribal, and USDA plans with Federal, State, Tribal, and local law enforcement.
- (hh) “Key participant” – a sole proprietor, a partner in 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.
- (ii) “Law enforcement” or “Law enforcement agency” – any Federal, State, or local law enforcement agency.

- (jj) “Licensee” – an individual or business entity possessing a Hemp Grower License issued by the Department under the authority of the Georgia Hemp Farming Act to handle and cultivate hemp in the State of Georgia.
- (kk) “Measurement of Uncertainty” or “MU” – 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.
- (ll) “Negligence” – failure to exercise the level of care that a reasonably prudent person would exercise in complying with the regulations set forth under this part.
- (mm) “Permittee” – an individual or business entity possessing a Hemp Processor Permit issued by the Department under the authority of the Georgia Hemp Farming Act to handle and process hemp in the State of Georgia.
- (nn) “Person” – a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity, as well as a state or local government entity.
- (oo) “Phytocannabinoid” – cannabinoid chemical compounds found in the cannabis plant, two of which are Delta-9 tetrahydrocannabinol (delta-9 THC) and cannabidiol (CBD).
- (pp) “Postdecarboxylation” – in the context of testing methodologies for THC concentration levels in hemp, means a value determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of the THC and THC-A content and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THC-A intact, and requires a conversion calculation of that THC-A to calculate total potential THC in a given sample. See the definition for decarboxylation.
- (qq) “Process” or “processing” – converting an agricultural commodity into a marketable form.
- (rr) “Product lot” – a specific quantity of finished hemp products having uniform character and quality within specified limits.
- (ss) “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 have the capacity to 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.
- (tt) “Reverse distributor” – a person who is registered with the DEA in accordance with 21 CFR 1317.15 to dispose of marijuana under the Controlled Substances Act.
- (uu) “Secretary” – the United States Secretary of Agriculture.
- (vv) “USDA” – the United States Department of Agriculture.
- (ww) “Variety” – a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition.
- (xx) “Volunteer cannabis plant” – any cannabis plant that: (a) Grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and (b) Is not intentionally planted.

Authority: O.C.G.A. Sec.2-23-12.

40-32-1-.03 Compliance with Federal Law

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

Authority: O.C.G.A. Sec.2-23-12.

40-32-1-.04 Georgia Hemp Plan – Incorporation by Reference

Pursuant to the requirements of O.C.G.A. § 2-23-11, the Georgia Department of Agriculture, in consultation with the Governor and Attorney General, has submitted to the Secretary of Agriculture of the United States a plan under which the Department intends to regulate hemp production in Georgia. Upon approval of the Georgia Hemp Plan, or an amended plan, by the Secretary of Agriculture, such plan will be deemed incorporated into these Rules by reference. The approved plan will be posted on the Department’s website at agr.georgia.gov.

Authority: O.C.G.A. Sec.2-23-12.

40-32-1-.05 Consultation with the Georgia Bureau of Investigation

Pursuant to the requirements of O.C.G.A. § 2-23-12, these Rules, which are necessary to implement the provisions of the Georgia Hemp Farming Act, have been developed in consultation with the Georgia Bureau of Investigation.

Authority: O.C.G.A. Sec.2-23-12.

40-32-1-.06 Severability

If any provision of these Rules or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these Rules which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

Authority: O.C.G.A. Sec.2-23-12.

SUBJECT 40-32-2
HEMP GROWERS

TABLE OF CONTENTS

40-32-2-.01 Application for Hemp Grower License
40-32-2-.02 Grower License Terms and Conditions
40-32-2-.03 Grower Sampling Requirements
40-32-2-.04 Grower Laboratory Testing Requirements
40-32-2-.05 Grower Responsibilities and Restrictions
40-32-2-.06 Disposal of Non-Compliant Cannabis
40-32-2-.07 Transportation Requirements
40-32-2-.08 Storage of Hemp
40-32-2-.09 Pesticide Use
40-32-2-.10 Recordkeeping and Reporting Requirements
40-32-2-.11 Hemp Grower Compliance Inspections
40-32-2-.12 Violations and Enforcement

40-32-2-.01 Application for Hemp Grower License

- (1) Any person desiring to cultivate and handle hemp at any location in Georgia must submit a complete and accurate Hemp Grower License Application online at the Department's website, agr.georgia.gov.
- (2) Any person producing or intending to produce hemp must have a valid Hemp Grower License prior to receiving, producing, cultivating, handling, or storing hemp. A valid license means that the license has been issued and is unexpired, unsuspended, and unrevoked.
- (3) As part of the Hemp Grower License Application, each applicant must submit to the Department the following:
 - (a) An annual Hemp Grower License fee of \$50.00 per acre cultivated up to a maximum application fee of \$5,000.00;
 1. The applicant must provide the maximum total acres of hemp intended to be cultivated in fields during the relevant licensing period.
 2. Applicants cultivating hemp in greenhouses or other buildings or structures must identify the maximum number of greenhouses or other buildings or structures intended to be used for cultivation during the relevant licensing period.
 3. The license fee will not be prorated for fractions of acres. Fractional acreage will be rounded up to the next whole number for fee calculation purposes.

4. Each greenhouse or other building or structure in which hemp is cultivated will be considered a separate acre for fee calculation purposes. Acreage calculations for each greenhouse or other building or structure will be determined on a 43,560 square-foot basis.
 5. Any Licensee who cultivates more acres than that which is listed on the Hemp Grower License Application will be deemed to have violated their Hemp Grower License and will be subject to enforcement under the Georgia Hemp Farming Act and these Rules.
- (b) Information sufficient to prove that the applicant is a qualified agricultural producer including, but not limited to, an acknowledgment and production, upon request, of at least one of the following:
1. Current Georgia Agriculture Tax Exemption Certification;
 2. IRS schedule F form (Profit or Loss from Farming);
 3. IRS form 4835 form (Farm Rental Income and Expenses);
 4. IRS schedule E form (Supplemental Income and Loss);
 5. IRS form 4797 form (Sales of Business Property);
 6. IRS form 1065 form (U.S. Return of Partnership Income);
 7. IRS form 1120 form (U.S. Corporation Income Tax Return);
 8. IRS form 1120S (U.S. Income Tax Return for an S Corporation); or
 9. Any tax returns, forms, sales receipts, or other information or documentation as may be requested or required by the Commissioner.
- (c) Contact information including, but not limited to:
1. Name;
 2. Street Address;
 3. Mailing Address;
 4. Telephone Number; and
 5. Email Address.
- (d) If the applicant is a business entity, information including, but not limited to:

1. Legal business name or trade name;
 2. Business structure type;
 3. Address of the principal business location;
 4. Primary contact information;
 5. Current Certificate of Existence obtained through the Georgia Secretary of State's Office;
 6. Any required local business license(s);
 7. Employer Identification Number (EIN); and
 8. Name, title, and current primary contact information, including telephone number and email address, for each owner, key participant, and person holding a beneficial interest in the Hemp Grower License for which an application is being made.
- (e) Information sufficient for locating fields and greenhouses to be used to cultivate and harvest hemp, specifically;
1. If hemp is cultivated or is intended to be cultivated in a field:
 - (i) A legal description, obtained from the relevant county courthouse property records, of land on which hemp will be cultivated or handled;
 - (ii) GPS coordinates provided in decimal of degrees and taken at the approximate center of each Grow Site; and
 - (iii) An aerial map or photograph that clearly shows the boundaries and dimensions of each Grow Site in acres or square feet.
 2. If hemp is cultivated or is intended to be cultivated in a greenhouse or other building or structure:
 - (i) A legal description, obtained from the relevant county courthouse property records, of land on which hemp will be cultivated or handled;
 - (ii) GPS coordinates provided in decimal of degrees and taken at the approximate entrance of the greenhouse or other building composing the Grow Site;
 - (iii) The approximate dimension or square feet of the greenhouse or other building composing the Grow Site; and
 - (iv) An aerial map or photograph that clearly shows the boundaries and dimensions of each Grow Site in acres or square feet.
- (f) Information sufficient for locating hemp storage facilities including, but not limited to:

1. A legal description, obtained from the relevant county courthouse property records, of land on which hemp will be stored;
 2. GPS coordinates provided in decimal of degrees and taken at the approximate entrance of each storage facility;
 3. The approximate dimension or square feet of each storage facility; and
 4. An aerial map or photograph that clearly shows the boundaries and dimensions of each storage facility.
- (g) The name and contact information including, but not limited to, physical address, mailing address, telephone number, and e-mail address, of the Permittee(s) with whom the applicant has entered into or intends to enter into an agreement pursuant to O.C.G.A. § 2-23-7 and the affidavit(s) required by O.C.G.A. § 2-23-6;
- (h) Written consent allowing representatives of the Department, the Georgia Bureau of Investigation, and other federal, state, and local law enforcement agencies to enter all premises where hemp is being cultivated, harvested, or handled for the purpose of conducting physical inspections and ensuring compliance with the requirements of the Georgia Hemp Farming Act and these Rules;
- (i) A current criminal background check for each owner, key participant, and person holding a beneficial interest conducted by local law enforcement and dated within 60 days prior to the application submission date. A license application will not be considered complete without all required criminal background checks;
- (j) An acknowledgement of the Grower License Terms and Conditions;
- (k) A copy of the deed or lease for the Grow Site(s) property, whether it is a field or a greenhouse, along with copies of relevant easements or licenses as proof of legal authority to cultivate hemp on the Grow Site(s); and
- (l) Any other information, disclosure, or documents required to be submitted by Georgia or Federal law or regulation.
- (4) Except for the 2020 growing season, Hemp Grower Licenses will be issued on January 1 of each year.
- (5) Hemp Grower Licenses will expire on December 31 of each year unless suspended, cancelled, or revoked at an earlier date.
- (6) A current and valid Hemp Grower License may be renewed by submitting a renewal application, annual license fee, annual criminal background checks dated within 60 days prior to the renewal application submission date, and all other required

information online at the Department's website, agr.georgia.gov, by December 1 of each year.

- (7) Any person who materially falsifies any information contained in an application for a Hemp Grower License will be ineligible to receive a Hemp Grower License or otherwise participate in the Georgia Hemp Program.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.02 Grower License Terms and Conditions

Each Licensee must acknowledge and agree to the terms and conditions governing the Hemp Grower License which include, but are not limited to, the following:

- (a) Except for primary contact information or corrections of typographical errors approved by the Department, no alterations will be allowed to any Hemp Grower License Application or to any Grow Site once approved. Any changes to primary contact information must be submitted to the Department via e-mail to hemp@agr.georgia.gov within ten (10) calendar days of any such change.
- (b) The Licensee must notify the Department, via e-mail to hemp@agr.georgia.gov, 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.
- (c) The Licensee must report any felony convictions or misdemeanor convictions relating to controlled substances under Georgia law or under Federal law to the Department, via e-mail to hemp@agr.georgia.gov, within five (5) calendar days of receiving notice of such conviction.
- (d) The Licensee must notify the Department, via e-mail to hemp@agr.georgia.gov, within ten (10) calendar days of the following:
1. A disciplinary proceeding or enforcement action by another government entity that may affect the Licensee's business; and
 2. Temporary closures of more than thirty (30) calendar days or permanent closure of any Grow Site or storage facility.
- (e) Any information provided to the Department may be publicly disclosed in accordance with the Georgia Open Records Act (O.C.G.A. § 50-18-70 et. seq.) and may be provided to law enforcement agencies without further notice to the applicant.
- (f) 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 Georgia 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 Licensee will be subject to the felony conviction restriction for purposes herein.

- (g) No person will be issued more than one Hemp Grower License, nor will any person be permitted to have a beneficial interest in more than one Hemp Grower License, regardless of the degree of such interest, as provided in O.C.G.A. § 2-23-5.
- (h) Hemp Grower Licenses cannot be sold, assigned, transferred, pledged, or otherwise disposed of, alienated, or encumbered to or by another person, business, individual, or entity.
- (i) The Licensee must have the legal right to cultivate hemp on the Grow Site(s) listed on the Hemp Grower License 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.
- (j) The Licensee must allow and fully cooperate with all required sampling, testing, audits, and inspections.
- (k) The Licensee must provide for a right of way or other access point allowing the Department and law enforcement agencies to access the licensed Grow Site(s).
- (l) The Licensee must maintain all records, documents, or information and make all reports within the applicable time frames as required in these Rules.
- (m) Hemp must not be cultivated, handled, harvested, or stored in any location that is not listed in the Hemp Grower License Application.
- (n) The Licensee must scout and monitor unlicensed 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.
- (o) The Department will require forfeiture and destruction, without compensation, of plants located in an area that is not licensed by the Department as well as plants not accounted for in records required to be maintained by the Licensee.
- (p) In the event that a tested official sample exceeds the acceptable hemp THC level, the Licensee's entire crop with the same GPS coordinates will be destroyed in accordance with these Rules.
- (q) The Licensee must not handle, process, store, sell, transfer, ship, transport, deliver, distribute, or otherwise provide any cannabis that exceeds the acceptable hemp THC level. The Licensee must ensure that cannabis exceeding the acceptable hemp THC level does not enter the stream of commerce.

- (r) The Licensee must ensure that hemp and hemp plant material from one lot is not commingled with hemp or hemp plant material from other lots.
- (s) The Licensee must not ship, transport, deliver, or allow live hemp plants and hemp materials produced by the Licensee to be shipped, transported, or otherwise delivered to unlicensed areas including, but not limited to, trade shows, county fairs, educational events, or other events.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.03 Grower Sampling Requirements

- (1) Within 15 days prior to the anticipated harvest of any cannabis plants, the Licensee must have a Department-approved sampling agent collect samples from the flower material of such cannabis plants for delta-9 tetrahydrocannabinol concentration level testing.
- (2) Sampling will be conducted in accordance with the USDA's most current *Sampling Guidelines for Hemp Growing Facilities*, which will be made available on the Department's website at agr.georgia.gov.
- (3) 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.
- (4) During a scheduled sample collection, the Licensee or an authorized representative of the Licensee must be present at the grow site.
- (5) The cannabis material to be collected for sampling will be determined by the Department-approved sampling agent.
- (6) The Licensee will be responsible for paying all sampling fees. No compensation will be owed by the Department to the Licensee for any such sampling or for any samples collected by the Department-approved sampling agent.
- (7) Only samples taken by a Department-approved sampling agent will be considered official samples.
- (8) 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 Hemp Grower License.

- (9) A Licensee must not harvest any cannabis prior to samples being taken.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.04 Grower Laboratory Testing Requirements

- (1) Standard testing procedures are specified for samples taken in accordance with the sampling procedures for the Georgia Hemp Program to measure the delta-9 tetrahydrocannabinol (THC) concentration levels of those samples on a dry weight basis.
- (2) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) must be conducted and reported by a laboratory registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.
- (3) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) must be conducted in accordance with 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 at agr.georgia.gov. Such testing must meet the following standards:
- (a) Laboratory quality assurance must ensure the validity and reliability of test results;
 - (b) 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;
 - (c) The demonstration of testing validity must ensure consistent, accurate analytical performance; and
 - (d) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this Rule.
- (4) At a minimum, analytical testing of samples for delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods approved by the Secretary or Commissioner. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test result reflect the total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting the requirements of this Rule include, but are not limited to, gas or liquid chromatography with detection.

- (5) The total delta-9 tetrahydrocannabinol concentration level must be determined and reported on a dry weight basis.
- (6) 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 measurement of uncertainty.
- (7) 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.
- (8) Each Licensee must ensure that the DEA-registered laboratory conducting the analytical testing of the sample(s) from the Licensee's lots submits results for all tested samples to the Department via e-mail to hemp@agr.georgia.gov. The test results must be reported using the Department's "Grower Laboratory Test Results Report" form and must contain the following information for each sample tested:
 - (a) Producer's license or authorization identifier;
 - (b) Name of producer;
 - (c) Business address of producer;
 - (d) Lot identification number for the sample;
 - (e) Name and DEA registration number of the laboratory;
 - (f) Date of test and report;
 - (g) Identification of a retest;
 - (h) Measurement of uncertainty (MU); and
 - (i) Test result.
- (9) The Licensee will be responsible for paying all testing fees. No compensation will be owed by the Department to the Licensee for any such testing.
- (10) A Licensee must not transfer, transport, or otherwise distribute any lot of cannabis prior to receiving analytical testing results verifying that the lot does not exceed the acceptable hemp THC level.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.05 Grower Responsibilities and Restrictions

- (1) The Licensee must harvest the crop not more than fifteen (15) days following the date of sample collection.
- (2) If the Licensee fails to complete harvest within fifteen (15) days of sample collection, a secondary pre-harvest sample of the lot will be required to be submitted for testing.
- (3) Harvested lots of hemp plants must not be commingled with other harvested lots or other material without prior written permission from the Department.
- (4) Only lots that meet the acceptable hemp THC level may enter the stream of commerce.
- (5) Any lot with an official sample test result exceeding the acceptable hemp THC level must not be further handled, processed, or enter the stream of commerce, and the Licensee must ensure the lot is disposed of in accordance with these Rules.
- (6) Any Licensee may request additional testing if it is believed that the original delta-9 tetrahydrocannabinol concentration level test results were in error.
- (7) A Licensee must not:
 - (a) Cultivate or handle hemp on any Grow Site not listed on the Hemp Grower License Application and must take immediate steps to prevent the inadvertent growth of hemp outside of the authorized Grow Site(s);
 - (b) Cultivate or handle any cannabis that is not hemp;
 - (c) Cultivate or handle hemp in any structure that is used for residential purposes;
 - (d) Fail to keep hemp physically separated from other crops unless prior approval is obtained in writing from the Department;
 - (e) Allow unsupervised public access to hemp or hemp Grow Sites; or
 - (f) Cultivate or handle hemp on property owned by, leased from, or previously submitted in a Hemp Grower License Application by any person who is ineligible for, was terminated from, or was denied admission to the program for failure to obtain an acceptable criminal history report or for violations of the Georgia Hemp Farming Act or these Rules.
- (2) The Licensee must post signage at the entrance to each Grow Site that is one (1) acre or less in size as well as at locations where Grow Sites are visible to public roadways in a manner that would reasonably be expected to be seen by a person in the area. The signage must be at least three feet (3') in length and two feet (2') in height or the

maximum allowable size for signage pursuant to applicable local ordinances, which is smaller, and must include the following information:

- (a) The statement, "Georgia Department of Agriculture Licensed Hemp Grower";
 - (b) The name of the Licensee;
 - (c) The Georgia Department of Agriculture Hemp Grower License number; and
 - (d) The Department's telephone number, (404) 656-3600.
- (3) The Licensee must comply with all applicable local, state, and federal laws, rules, regulations, and ordinances at all times.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.06 Disposal of Non-Compliant Cannabis

- (1) Cannabis exceeding the acceptable hemp THC level constitutes marijuana, a schedule I controlled substance under Georgia law and federal law.
- (2) Marijuana must be disposed of in accordance with the CSA and DEA regulations found at 21 CFR 1317.15 by a reverse distributor.
- (3) The Licensee must immediately notify the Department via email to hemp@agr.georgia.gov any time analytical testing determines that a lot has exceeded the acceptable hemp THC level.
- (4) Upon notice and confirmation that a lot has exceeded the acceptable hemp THC level, the Department will issue an Order of Disposal requiring the entire crop and all plant material to be disposed within a reasonable time to be determined by the Department.
- (5) The Licensee will be responsible for arranging disposal through a reverse distributor.
- (6) The Licensee 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 Licensee for any such disposal.
- (7) Cannabis subject to disposal must not be removed from the Grow Site or from any other area where such cannabis is being handled or stored.
- (8) Within 30 days of the date of completion of disposal, the Licensee must submit a "Disposal Report" form to the Department, which must contain the following information:
 - (a) Name and address of the Licensee;

- (b) Hemp Grower License number;
- (c) Geospatial location, including location type, or other valid land descriptor, for the production area subject to disposal;
- (d) Information on the reverse distributor agent handling the disposal;
- (e) Total acreage disposed;
- (f) Date of completion of disposal;
- (g) Signature of the Licensee; and
- (h) Reverse distributor agent certification of completion of the disposal.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.07 Transportation Requirements

- (1) All hemp being shipped, transported, or otherwise delivered into, within, or through the State of Georgia 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.
- (2) Any person shipping, transporting, or delivering hemp must also carry a bill of lading that includes the following information:
 - (a) Name and address of the owner of the hemp;
 - (b) Point of origin;
 - (c) Point of delivery, including name and address;
 - (d) Kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and
 - (e) Date of shipment.

- (3) The person shipping, transporting, or delivering hemp must act in compliance with all Georgia and Federal laws and regulations.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.08 Storage of Hemp

- (1) Only Licensees and Permittees are authorized to store hemp.
- (2) A Licensee may store hemp cultivated by said Licensee provided:
 - (a) The Licensee identifies each storage facility on the Hemp Grower License Application;
 - (b) The Licensee 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;
 1. In the event that a tested official sample of hemp held at a storage facility exceeds the acceptable hemp THC level, all comingled hemp held at the storage facility will be promptly destroyed in accordance with these Rules.
 - (c) The storage facility is owned or leased by the Licensee;
 - (d) The storage facility is secured with physical containment and reasonable security measures.
- (3) No Licensee may warehouse or otherwise store hemp that is not owned by the Licensee.
- (4) All storage area(s) will be subject to inspection by Department officials.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.09 Pesticide Use

- (1) Any Licensee who uses a pesticide on hemp must comply with all Georgia laws and regulations pertaining to applications of pesticides including, but not limited to, licensing requirements.
- (2) Licensees must not apply pesticides to hemp in violation of the product label.
- (3) A Licensee who uses a pesticide on a site where hemp will be planted must comply with the longest of any planting restriction interval on the product label prior to planting the hemp.

- (4) 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 in violation of the product label.
- (5) Hemp seeds, plants, and materials bearing pesticide residue in violation of the pesticide label may be subject to forfeiture or destruction without compensation.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.10 Recordkeeping and Reporting Requirements

- (1) Licensee Recordkeeping and Reporting
 - (a) Licensees must maintain records of all hemp plants acquired, produced, handled, or disposed of as will substantiate any and all reports required by the Department.
 - (b) All records must be made available for inspection by the Department during reasonable business hours. The such records including, but are not limited to, the following:
 - 1. Records regarding acquisition of hemp;
 - 2. Records regarding all written agreements with Permittees governing their business relationship;
 - 3. Records regarding production and handling of hemp;
 - 4. Records regarding hemp sampling and testing analyses;
 - 5. Records regarding storage of hemp;
 - 6. Records regarding the transfer and disposal of hemp; and
 - 7. Records regarding destruction and disposal of all cannabis plants exceeding the acceptable hemp THC level.
 - (c) Annual Report
 - 1. Each Licensee must submit an annual report to the Department. The report form must be submitted by November 30 of each year and contain the following information:
 - (i) Licensee's name;
 - (ii) Licensee's address;
 - (iii) Georgia Hemp Grower License Number;

- (iv) Street address and geospatial location of each lot, greenhouse, building, or site where hemp will be produced;
- (v) Acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp; and
- (vi) Total acreage of hemp planted, harvested, and disposed.

2. The Department will report all information collected in the Annual Report to AMS as required by USDA.

(d) Reporting to FSA Required

1. All Licensees must report hemp crop acreage with FSA and must provide, at minimum, the following information to FSA:

- (i) Hemp crop acreage;
- (ii) Total acreage of hemp planted, harvested, and disposed;
- (iii) Georgia Hemp Grower License Number;
- (iv) Street address;
- (v) 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
- (vi) 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 Licensee for not less than three calendar years and in a manner such that they can be readily provided to the Department upon request.

(2) Department Recordkeeping and Reporting

(a) The Department will maintain all relevant records and information regarding Licensees and land on which hemp is produced in Georgia, including a legal description of the land, for a period of not less than three calendar years.

(b) The Department will collect, maintain, and report to USDA the following contact and real-time information for each Licensee in Georgia:

1. The contact information of each Licensee collected pursuant to Rule 40-32-2-.01.
2. A legal description of the land on which hemp is grown including its geospatial location; and
3. The status of licensed growers (and any changes) and Hemp Grower License number of each hemp grower.

(c) By the first of each month, and not more than thirty (30) days after receipt, the Department 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:

1. Hemp Grower Report, which will contain the following:

- (i) For each new Licensee who is an individual and is licensed under the Georgia Hemp Plan, the report will include the full name of the individual; Georgia Hemp Grower License number; business address; telephone number; email address (if available); the legal description of the land on which the Licensee will produce hemp including, to the extent practicable, its geospatial location; and the scope of activity authorized;
- (ii) For each new Licensee that is an entity and is licensed under the Georgia Hemp Plan, the report will include the full name of the entity; the principal business location address; EIN number; Georgia Hemp Grower License 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 Licensee will produce hemp including, to the extent practicable, its geospatial location; and the scope of activity authorized;
- (iii) For each Licensee 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;
- (iv) The status of each hemp grower's license;
- (v) The period covered by the report; and
- (vi) Indication that there were no changes during the current reporting cycle, if applicable.

2. Hemp Disposal Report, which will contain the following:

- (i) Name and contact information of the Licensee;
- (ii) Hemp Grower License number;
- (iii) Location information, such as lot number, location type, and geospatial location or other location descriptor for the production area subject to disposal;
- (iv) A copy of the respective test results.
- (v) Information on the agent handling the disposal;
- (vi) Disposal completion date; and
- (vii) Total acreage disposed.

(d) Annual Report

1. 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:
 - (i) Total planted acreage;
 - (ii) Total harvested acreage; and
 - (iii) Total acreage disposed

(e) Test Results Report

1. 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 the records demonstrating the appropriate disposal of all of those plants and materials in the lot from which the representative samples were taken.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.11 Hemp Grower Compliance Inspections

- (1) Licensees may be subject to annual compliance inspections.
- (2) The Licensee's operational procedures, documentation, recordkeeping, and other practices may be verified during the compliance inspection.
- (3) The Department may assess whether 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 Licensee is not in compliance with the Georgia Hemp Farming Act or these Rules, the Department will require a Corrective Action Plan. The Licensee's implementation of a Corrective Action Plan will be reviewed by the Department during future compliance inspections.
- (5) Compliance inspections may be unannounced and conducted at any time during regular business hours. The Department will have complete and unrestricted access to all hemp plants, material, and seeds, whether growing or harvested, as well as to all land, buildings, and other structures used for the cultivation, handling, or storage of hemp. The Department will also have full access to any and all records, documents, and information required to be kept and maintained in accordance with these Rules.

Authority: O.C.G.A. Sec.2-23-12.

40-32-2-.12 Violations and Enforcement

- (1) Violations include, but are not limited to, the following:
 - (a) Cultivating or handling hemp without a Hemp Grower License from the Department;
 - (b) Cultivating or handling any cannabis that is not hemp;
 - (c) Cultivating hemp that exceeds the acceptable hemp THC level;
 - (d) Selling, transferring, shipping, transporting, delivering, distributing, or otherwise providing hemp that exceeds the acceptable hemp THC level;
 - (e) Cultivating or handling hemp on a site not approved by the Department as part of the Hemp Grower License;
 - (f) Allowing unsupervised public access to hemp growing or handling areas, including storage areas;
 - (g) Denying any Department or law enforcement official access for compliance, sampling, or inspection purposes;
 - (h) Failure to keep and maintain any records, documents, or information required by these Rules;
 - (i) Failure to make any timely report required by these Rules;
 - (j) Failure to comply with any transportation requirement established by these Rules;
 - (k) Failure to comply with any of the Grower Responsibilities and Restrictions;
 - (l) Failure to comply with any of the Grower License Term and Conditions; and
 - (m) Failure to comply with, or any violation of, any other provision of the Georgia Hemp Farming Act or these Rules.
- (2) A violation of the Georgia Hemp Farming Act or these Rules will be subject to enforcement in accordance with O.C.G.A. § 2-23-10.
 - (a) In the event the Department determines that a Licensee has negligently violated the Georgia Hemp Farming Act or these Rules, then the Department will issue a Corrective Action Plan to said Licensee.
 1. The Corrective Action Plan will include, but may not be limited to:

- (i) A reasonable date by which the Licensee must correct the negligent violation, which may include destruction of hemp crops in accordance with these Rules;
 - (ii) A requirement that the Licensee must periodically report to the Commissioner on the compliance status of the Licensee with the Corrective Action Plan for a period of not less than two (2) years after the violation; and
 - (iii) Any and all reasonable steps the Department deems necessary and proper to address the negligent violation(s).
2. Licensees do not commit a negligent violation if they make reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a dry weight basis.
3. The Department will monitor and conduct any and all inspections necessary to determine if the Corrective Action Plan has been implemented as required.
- (b) If the Commissioner determines that a Licensee has violated the Georgia Hemp Farming Act or these Rules with a culpable mental state greater than negligence, the Commissioner will immediately report the Licensee to the United States Attorney General and the Georgia Attorney General, and such violations will be subject to enforcement in accordance with applicable law.
 - (c) Persons who violate the Georgia Hemp Farming Act or these Rules are subject to enforcement in accordance with the Georgia Hemp Farming Act, these Rules, and other applicable state law.
 - (d) Violations of the Georgia Hemp Farming Act or these Rules may constitute a public nuisance under Georgia law, and civil enforcement may result.

Authority: O.C.G.A. Sec.2-23-12.

SUBJECT 40-32-3
HEMP PROCESSORS

TABLE OF CONTENTS

40-32-3-.01 Application for Hemp Processor Permit
40-32-3-.02 Processor Permit Terms and Conditions
40-32-3-.03 Processor Sampling
40-32-3-.04 Processor Laboratory Testing
40-32-3-.05 Permittee Restrictions
40-32-3-.06 Disposal of Non-Compliant Cannabis Products
40-32-3-.07 Transportation Requirements
40-32-3-.08 Storage of Hemp
40-32-3-.09 Recordkeeping Requirements
40-32-3-.10 Hemp Processor Compliance Inspections
40-32-3-.11 Violations and Enforcement

40-32-3-.01 Application for Hemp Processor Permit

- (1) Any person desiring to process and handle hemp at any location in Georgia must submit a complete and accurate Hemp Processor Permit Application online at the Department's website, agr.georgia.gov.
- (2) Any person processing or intending to process hemp must have a valid Hemp Processor Permit prior to receiving, processing, handling, or storing hemp. A valid permit means the permit has been issued and is unexpired, unsuspended, and unrevoked.
- (3) As part of the Hemp Processor Permit Application, each applicant must submit to the Department the following:
 - (a) An initial annual Hemp Processor Permit fee of \$25,000.00;
 - (b) A surety bond in the amount of \$100,000.00 issued by a surety company authorized by law to do business in Georgia pursuant to a current certificate of authority to transact surety business by the Commissioner of Insurance;
 - (c) Information regarding the applicant's business including, but not limited to:
 1. Legal business name or trade name;
 2. Business structure type;
 3. Address of the principal business location;
 4. Primary contact information;

5. Current Certificate of Existence obtained through the Georgia Secretary of State's Office;
 6. Any required local business license(s);
 7. Employer Identification Number (EIN); and
 8. Name, title, and current primary contact information, including telephone number and email address, for each owner, key participant, and person holding a beneficial interest in the Hemp Grower License for which an application is being made.
- (d) A legal description, obtained from the relevant county courthouse property records, for property on which each processing or handling facility is located;
 - (e) GPS coordinates provided in decimal of degrees and taken at the approximate entrance of each facility;
 - (f) The approximate dimension or square feet of each facility;
 - (g) An aerial map or photograph of the processing facilities showing clear boundaries of each facility;
 - (h) Information sufficient for locating hemp storage facilities including, but not limited to:
 1. A legal description, obtained from the relevant county courthouse property records, for property on which each storage facility is located;
 2. GPS coordinates provided in decimal of degrees and taken at the approximate entrance of each storage facility;
 3. The approximate dimension or square feet of each storage facility; and
 4. An aerial map or photograph that clearly shows the boundaries and dimensions of each storage facility.
 - (i) A description of all hemp products to be produced as well as an estimate of the volume of each such product projected to be produced;
 - (j) A statement of the intended end use and/or disposal plan for all parts of hemp plants and hemp material received for processing;
 - (k) Affidavits of the applicant and every Licensee with whom such applicant has entered into a written agreement pursuant to O.C.G.A. § 2-23-7 in which both parties swear that they have entered into or intend to enter into such an agreement;

- (l) Written consent, allowing representatives of the Department, the Georgia Bureau of Investigation, and other affected state and local law enforcement agencies to enter all premises where hemp is being processed or handled for the purpose of conducting physical inspections and ensuring compliance with the requirements of the Georgia Hemp Farming Act and these Rules;
 - (m) A current criminal background check for each owner, key participant, and person holding a beneficial interest conducted by local law enforcement and dated within 60 days prior to the application submission date. A permit application will not be considered complete without all required criminal background checks;
 - (n) An acknowledgment of the Processor Permit Terms and Conditions; and
 - (o) Any other information, disclosure, or documents required to be submitted by Georgia or Federal law or regulation.
- (4) Except for the 2020 growing season, Hemp Processor Permits will be issued on January 1 of each year.
 - (5) After the first full calendar year of holding a Hemp Processor Permit, a Permittee will be entitled to an automatic permit renewal annually upon timely submission of a permit fee of \$10,000.00 per year as well as annual criminal background checks, so long as no administrative action has been taken by the Department against the Permittee and provided the information in the Permit application is unchanged.
 - (a) Renewal fees and annual criminal background checks dated within 60 days prior to the submission date must be submitted by December 1 of each year. Permits will expire on December 31 of each year if renewal fees are not timely submitted as required hereunder.
 - (6) If the information in the original Permit application is no longer accurate, the Permittee must submit a new permit application to the Department.
 - (7) Any person who materially falsifies any information contained in an application for a Hemp Processor Permit will be ineligible to receive a Hemp Processor Permit or otherwise participate in the Georgia Hemp Program.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.02 Processor Permit Terms and Conditions

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

- (a) Except for primary contact information or corrections of typographical errors approved by the Department, no alterations will be allowed to any Hemp Processor Permit

Application once approved. Any changes to primary contact information must be reported to the Department within ten (10) calendar days of the change.

- (b) The Permittee must notify the Department, via e-mail to hemp@agr.georgia.gov, of any theft or loss of hemp or hemp products within forty-eight (48) hours of discovery of such theft or loss.
- (c) The applicant and/or Permittee must report any felony convictions or misdemeanor convictions relating to controlled substances under Georgia law or under Federal law to the Department, via e-mail to hemp@agr.georgia.gov, within five (5) calendar days of receiving notice of such conviction.
- (d) The applicant or Permittee must notify the Department in writing within ten (10) calendar days of the following:
 - 1. A disciplinary proceeding or enforcement action by another government entity that may affect the Permittee's business; and
 - 2. Temporary closures of more than thirty (30) days or permanent closure of any processing or storage facility.
- (e) Any information provided to the Department may be publicly disclosed in accordance with the Georgia Open Records Act (O.C.G.A. § 50-18-70 et. seq.) and may be provided to law enforcement agencies without further notice to the applicant.
- (f) 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 Georgia 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 Permittee will be subject to the felony conviction restriction for purposes herein.
- (g) Issuance of a Hemp Processor Permit will be conditioned upon the applicant's compliance with O.C.G.A. § 2-23-7 prior to initiating hemp processing activities.
- (h) A Permittee may also apply for and be issued no more than one Hemp Grower License. Any person holding both a Hemp Processor Permit and a Hemp Grower License must comply with Georgia Rules governing both Licensees and Permittees.
- (i) No person will be issued more than one Hemp Processor Permit, nor will any person be permitted to have a beneficial interest in more than one Hemp Processor Permit, regardless of the degree of such interest, as provided in O.C.G.A. § 2-23-5.

- (j) Hemp Processor Permits cannot be sold, assigned, transferred, pledged, or otherwise disposed of, alienated, or encumbered to or by another person, business, individual, or entity.
- (k) The Permittee must only process hemp at facilities identified in the Hemp Processor Permit Application and must have the legal authority to grant the Department access to any and all such facilities for inspection and sampling.
- (l) The Permittee must allow and fully cooperate with all required inspections and sampling.
- (m) The Permittee must maintain all records and information and make all reports within the applicable time frames as required in these Rules.
- (n) The Permittee must only accept for processing hemp that 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.
- (o) The Permittee must not handle, process, store, sell, transfer, ship, transport, deliver, distribute, or otherwise provide any cannabis or cannabis product that exceeds the acceptable hemp THC level. The Permittee must ensure that cannabis or cannabis products exceeding the acceptable hemp THC level do not enter the stream of commerce.
- (p) The Department will require forfeiture and destruction, without compensation, of hemp discovered at a processing facility for which records are not available to prove that said hemp was received from a Licensee or from a state with a plan to regulate hemp production that is approved by the USDA Secretary of Agriculture or otherwise in accordance with regulations promulgated by the USDA. Any hemp comingled with such hemp for which records are not available will also be subject to destruction.
- (q) In the event that a tested official sample exceeds the acceptable hemp THC level, the Department will require all related hemp products be disposed by a reverse distributor without compensation to the Permittee and under the supervision of local law enforcement.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.03 Processor Sampling

- (1) Hemp products are subject to sampling by a Department-approved sampling agent for delta-9 tetrahydrocannabinol concentration level testing. The frequency of sampling and number of hemp products sampled for such testing will be determined by the Department.

- (2) Sampling will be conducted in accordance with the Department's most current *Sampling and Testing Guidelines for Hemp Processing Facilities*, which will be made available on the Department's website at agr.georgia.gov.
- (3) The method used for sampling must ensure that a representative sample is collected that represents a homogeneous composition of the product lot.
- (4) During a scheduled sample collection, the Permittee or an authorized representative of the Permittee must be present at the facility.
- (5) The Permittee will be responsible for paying all sampling fees. No compensation will be owed by the Department to the Permittee for any such sampling or for any samples collected by the Department-approved sampling agent.
- (6) Only samples taken by a Department-approved sampling agent will be considered official samples.
- (7) The Department-approved sampling agent(s) must be provided with complete and unrestricted access during business hours to all hemp, hemp products, land, buildings and other structures used for the processing, handling, and storing of hemp and hemp products. The Department must also be provided with complete and unrestricted access to any and all records, documents, and information required to be kept and maintained in accordance with these Rules.
- (8) A Permittee must not transfer, transport, or otherwise distribute hemp products from a sampled product lot prior to receiving analytical testing results verifying that the product lot sampled does not exceed the acceptable hemp THC level.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.04 Processor Laboratory Testing

- (1) Standard testing procedures are specified for samples taken to measure the delta-9 tetrahydrocannabinol (THC) concentration levels of those samples.
- (2) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) must be conducted and reported by a laboratory registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.
- (3) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) must be conducted in accordance with the Departments *Sampling and Testing Guidelines for Hemp Processing Facilities*, which will be made available on the Department's website at agr.georgia.gov. Such testing must meet the following standards:

- (a) Laboratory quality assurance must ensure the validity and reliability of test results;
 - (b) 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;
 - (c) The demonstration of testing validity must ensure consistent, accurate analytical performance; and
 - (d) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this Rule.
- (4) At a minimum, analytical testing of samples for delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods approved by the Secretary or Commissioner. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test result reflect the total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting the requirements of this paragraph include, but are not limited to, gas or liquid chromatography with detection.
- (5) The total delta-9 tetrahydrocannabinol concentration level must be determined and reported. Additionally, 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 measurement of uncertainty.
- (6) Any sample test result exceeding the acceptable hemp THC level will be conclusive evidence that the product lot represented by the sample is not in compliance with these Rules.
- (7) 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 measurement of uncertainty.
- (8) Each Processor must ensure that the DEA-registered laboratory conducting the analytical testing of the sample(s) from the Processor's product lots submits results for all tested samples to the Department via e-mail to hemp@agr.georgia.gov. The test results must be reported using the Department's "Processor Laboratory Test Results Report" form and must contain the following information for each sample tested:
- (a) Georgia Processor Permit number;
 - (b) Name of Processor;
 - (c) Business address of Processor;

- (d) Lot identification number for the sample;
 - (e) Name and DEA registration number of the laboratory;
 - (f) Date of test and report;
 - (g) Identification of a retest;
 - (h) Measurement of uncertainty (MU); and
 - (i) Test result.
- (9) The Permittee will be responsible for paying all testing fees. No compensation will be owed by the Department to the Permittee for any such testing.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.05 Permittee Restrictions

- (1) A Permittee must not:
- (a) Process or handle hemp on any site not listed on the Hemp Processor Permit application;
 - (b) Process or handle any cannabis that is not hemp;
 - (c) Sell, transfer, ship, transport, deliver, distribute, or otherwise provide hemp products that exceed the acceptable hemp THC level;
 - (d) Process or handle hemp or hemp products in any structure that is used for residential purposes;
 - (e) Process hemp with other products. Hemp must be processed separately from other products unless otherwise authorized in writing by the Department;
 - (f) Store hemp products with other products. Hemp products must be physically stored separately from other products at a processing or storage facility unless otherwise authorized in writing by the Department;
 - (g) Allow unsupervised public access to hemp or hemp processing and storage facilities; or
 - (h) Process or handle hemp on property owned by, leased from, or previously submitted in a permit application by any person who is ineligible for, was terminated from, or was denied admission to the program for failure to obtain an

acceptable criminal background check or for violations of the Georgia Hemp Farming Act or these Rules.

- (2) The Permittee must comply with all applicable local, state, and federal laws, rules, regulations, and ordinances at all times including, but not limited to, the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all laws, rules, regulations, and ordinances relating to product development, product manufacturing, consumer safety, and public health.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.06 Disposal of Non-Compliant Cannabis Products

- (1) Cannabis products exceeding the acceptable hemp THC level constitute marijuana, a schedule I controlled substance under Georgia law and federal law.
- (2) Cannabis products exceeding the acceptable hemp THC level must be disposed of in accordance with the CSA and DEA regulations found at 21 CFR 1317.15 by a reverse distributor and in the presence of local law enforcement.
- (3) The Permittee must immediately notify the Department via email to hemp@agr.georgia.gov any time analytical testing determines that cannabis products exceed the acceptable hemp THC level.
- (4) Upon notice and confirmation that a cannabis product has exceeded the acceptable hemp THC level, the Department will issue an Order of Disposal requiring all related cannabis products to be disposed within a reasonable time to be determined by the Department.
- (5) The Permittee will be responsible for arranging disposal through a reverse distributor. The Permittee will also be responsible for ensuring that local law enforcement is present to supervise such disposal.
- (6) The Permittee will be responsible for all costs and fees associated with the disposal of cannabis products exceeding the acceptable hemp THC level.
- (7) Cannabis products subject to disposal must not be removed from the permitted facility or from any other area where such cannabis is being processed, handled, or stored.
- (8) Within 30 days of the date of completion of disposal, the Processor must submit a "Disposal Report" form to the Department, which must contain the following information:
 - (a) Name and address of the Permittee;
 - (b) Georgia Processor Permit number;

- (c) Information on the reverse distributor agent handling the disposal.
- (d) Date of completion of disposal;
- (e) Signature of the Permittee;
- (f) Signature of local law enforcement agent; and
- (g) Reverse distributor certification of completion of the disposal.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.07 Transportation Requirements

- (1) All hemp products being shipped into or transported within or through the State of Georgia must be accompanied by documentation sufficient to prove that the hemp products being shipped or transported were produced from hemp that 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.
- (2) Any person transporting hemp products must also carry a bill of lading that includes the following information:
 - (a) Name and address of the owner of the hemp products;
 - (b) Point of origin;
 - (c) Point of delivery, including name and address;
 - (d) Kind and quantity of packages or, if in bulk, the total quantity of hemp products in the shipment; and
 - (e) Date of shipment.
- (3) The person transporting hemp products must act in compliance with all Georgia and Federal laws and regulations.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.08 Storage of Hemp

- (1) Only Licensees and Permittees are authorized to store hemp.

- (2) A Permittee may store hemp obtained from licensed growers and/or processed by said Permittee provided:
- (a) The Permittee identifies each storage facility on the Hemp Processor Permit Application;
 - (b) The Permittee maintains complete and accurate records detailing the licensed growers from whom hemp at each storage facility was received, varieties stored at each storage facility, and amount of each hemp variety stored at each storage facility. Product lots in storage must be separated in such a manner that maintains the unique identity of each product lot stored at the storage facility;
 - 1. In the event analytical testing determines that an official sample of hemp products held at a storage facility exceeds the acceptable hemp THC level, all comingled hemp products held at the storage facility must be promptly disposed of in accordance with the CSA and DEA regulations found at 21 CFR 1317.15 by a reverse distributor and in the presence of local law enforcement.
 - (c) The storage facility is owned or leased by the Permittee; and
 - (d) The storage facility is secured with physical containment and reasonable security measures.
- (3) No Permittee may warehouse or otherwise store hemp that is not owned by the Permittee.
- (4) All storage area(s) will be subject to inspection by the Department.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.09 Recordkeeping Requirements

- (1) Permittees must keep and maintain copies of all written agreements with licensed growers, including growers holding a Georgia Hemp Grower License 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.
- (2) Permittees must keep and maintain the following records:
- (a) Hemp intake records, which include:
 - 1. Name, location, and license number (Georgia Hemp Grower License number or other valid hemp grower identification number) for each grower from whom the Permittee accepts hemp for processing;
 - 2. The date(s) on which hemp is received from each licensed grower;

3. Copies of analytical testing results confirming that each lot of hemp received for processing does not exceed the acceptable hemp THC level;
 4. The amount of each variety received from each licensed grower; and
 5. The hemp products for which each variety of hemp received from each licensed grower will be used.
- (b) Inventory records for hemp products being processed and stored, which include:
1. Date of inventory;
 2. Location of stored inventory;
 3. Total amount of each hemp product on hand;
 4. Total amount of hemp and hemp seed of each variety on hand;
 5. Total amount of unusable hemp and hemp seed of each variety on hand; and
 6. Name, signature, and title of the employee performing inventory.
- (c) Disposal records for all unusable hemp, which include:
1. Date of disposal;
 2. Amount of each hemp variety disposed;
 3. Method of disposal or destruction;
 4. Location of disposal or destruction; and
 5. Name, signature, and title of employee responsible for disposal or destruction.
- (d) Processing records, which include:
1. List of products produced from hemp; and
 2. 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.

- (3) Permittees must keep and maintain copies of all records, documents, and information required by this Rule for at least three (3) years and in a manner such that they can be readily provided to the Department upon request.
- (4) The Department will maintain all relevant records and information regarding Permittees and facilities at which hemp is processed or handled in Georgia, including a legal description for property on which each processing or handling facility is located, for a period of not less than three (3) calendar years.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.10 Hemp Processor Compliance Inspections

- (1) Processors may subject to compliance inspections.
- (2) The Processor's operational procedures, documentation, recordkeeping, and other practices may be verified during the compliance inspection.
- (3) The Department may assess whether 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 Processor is not in compliance with the Georgia Hemp Farming Act or these Rules, the Department will require a Corrective Action Plan. The Processor's implementation of a Corrective Action Plan will be reviewed by the Department during future compliance inspections.
- (5) Compliance inspections may be unannounced and conducted at any time during regular business hours. The Department will have complete and unrestricted access during business hours to all hemp, hemp products, land, buildings and other structures used for the processing and handling of hemp. The Department will also have complete and unrestricted access to any and all records, documents, and information required to be kept and maintained in accordance with these Rules.

Authority: O.C.G.A. Sec.2-23-12.

40-32-3-.11 Violations and Enforcement

- (1) Violations include, but are not limited to, the following:
 - (a) Processing or handling hemp or hemp products without a Hemp Processor Permit from the Department;
 - (b) Processing or handling any cannabis that is not hemp;

- (c) Processing or handling hemp or hemp products that exceeds the acceptable hemp THC level;
 - (d) Selling, transferring, shipping, transporting, delivering, distributing, or otherwise providing hemp or hemp products that exceeds the acceptable hemp THC level;
 - (e) Processing or handling hemp or hemp products at a facility not approved by the Department as part of the Hemp Processor Permit;
 - (f) Allowing unsupervised public access to hemp processing or handling areas, including storage areas;
 - (g) Denying any Department or law enforcement official access for compliance, sampling, or inspection purposes;
 - (h) Failure to keep and maintain any records, documents, or information required by these Rules;
 - (i) Failure to make any timely report required by these Rules;
 - (j) Failure to comply with any transportation requirement established by these Rules;
 - (k) Failure to comply with any Permittee Restriction;
 - (l) Failure to comply with any Processor Permit Term or Condition; and
 - (m) Failure to comply with, or any violation of, any other provision of the Georgia Hemp Farming Act or these Rules.
- (2) A violation of the Georgia Hemp Farming Act or these Rules will be subject to enforcement in accordance with the Georgia Hemp Farming Act, these Rules, and other applicable state law.
- (3) If the Commissioner determines that a Permittee has violated the Georgia Hemp Farming Act or these Rules with a culpable mental state greater than negligence, the Commissioner will immediately report the Permittee to the United States Attorney General and the Georgia Attorney General.

Authority: O.C.G.A. Sec.2-23-12.