

330 CMR 32.00: HEMP PRODUCTION

Section

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32.01: Scope and Purpose

330 CMR 32.00 establishes the requirements for the production and research of Hemp within the Commonwealth of Massachusetts. 330 CMR 32.00 is intended to ensure consistency and compliance with Pub. L. No. 115-334, as amended, and 7 CFR Part 990, as amended, and to allow the Commonwealth, through the Department, to exercise primary regulatory authority over the production of Hemp in the Commonwealth in accordance with federal law.

32.02: Definitions

For the purposes of 330 CMR 32.00, the following terms shall have the following meanings. The Department shall interpret and construe these terms and 330 CMR 32.00 to effectuate the purposes of 330 CMR 32.00 as set forth in 330 CMR 32.01 and to make 330 CMR 32.00 consistent with Pub. L. No. 115-334, as amended, and the 7 CFR Part 990, as amended.

Acceptable Hemp THC Level means that when applied to the reported delta-9 tetrahydrocannabinol concentration level on a dry weight basis, the Measurement of Uncertainty produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 tetrahydrocannabinol concentration level is reported as 0.35% and the Measurement of Uncertainty is  $\pm 0.6\%$ , then the measured delta-9 tetrahydrocannabinol concentration level 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 purposes of program compliance.

Applicant means a Person who has submitted an application to the Department to be licensed to produce Hemp.

Breeder means a Producer who cultivates Hemp Stock for sale.

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

Commercial Purposes means for market or for cultivation for market.

Corrective Action Plan means a plan proposed by the Department for correcting violations or noncompliances with 330 CMR 32.00, Pub. L. No. 115-334, as amended, or 7 CFR Part 990, as amended.

Commissioner means the Commissioner of the Department.

Commonwealth means the Commonwealth of Massachusetts.

Crop means any Cannabis grown for the purposes of being Hemp.

DEA means the United States Drug Enforcement Administration.

Department means the Massachusetts Department of Agricultural Resources.

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Federal Act means the Agricultural Improvement Act of 2018, Pub. L. No. 115-334, as amended.

Federal Rule means the Domestic Hemp Production Program, as set forth at 7 CFR Part 990, as amended, promulgated pursuant to Section 10113 of the Federal Act by the United States Secretary of Agriculture.

FSA means the Farm Service Agency of the United States Department of Agriculture.

Hemp means the plant of the genus *Cannabis* and any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis or per volume or weight of marijuana product or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus *Cannabis*, regardless of moisture content. This shall include the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers.

Hemp Certificate means the documentation stating that the Department has sampled and tested a Crop and determined that the Crop has an Acceptable Hemp THC Level and is Hemp.

Hemp Stock means a viable part of a Hemp plant including, but not limited to, seeds, seedlings, and clones, which are to be used for Planting.

Identity History Summary means a report from the Federal Bureau of Investigation based on an individual's name or fingerprints, or other documentation as approved by USDA and the Department.

Key Participant means 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. Key Participant does not include non executive managers such as farm, field, or shift managers. Key Participant also does not include a member of the leadership of a Tribal government who is acting in their capacity as a Tribal leader, except when that member exercises executive managerial control over hemp production. For Research, this shall include the lead individual conducting the Research or responsible for compliance with applicable state and federal laws.

Licensee means the holder of a License from the Department.

License means the documentation provided by the Department after a Person has successfully applied to Produce Hemp in the Commonwealth.

Lot means a quantity of Hemp produced in a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of Hemp throughout the area.

Measurement of Uncertainty means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

Negligence means failure to exercise the level of care that a reasonably prudent person would exercise in complying with 330 CMR 32.00, the Federal Act and the Federal Rule.

Person means a natural person, corporation, association, partnership, or other legal entity.

Planting means the act of introducing seed, seedling, clone, or other planting material into growing media.

Planting Report means a report on a form prescribed by the Department that includes information about the Planting of a Crop.

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Produce means to plant or grow Hemp.

Producer means a person who plants or grows Hemp.

Production means to plant or grow Hemp plants for market, or for cultivation for market, in the United States. Production shall not include Research provided such Research does not result in any Hemp or Hemp-derived product for market or entering the stream of commerce.

Remediate or Remediation means to transform a non-compliant Crop into compliant Hemp while disposing of noncompliant plant parts.

Research means to Produce Hemp for the investigation and study of Hemp in order to establish facts and collect new information.

Sampling Agent means a person authorized by the Department to collect regulatory THC samples in accordance with the 7 CFR Part 990, as amended.

Site means the physical area that is planned for producing Hemp, whether indoors or outdoors including, but not limited to, the terms “farm”, “tract”, “field”, and “subfield” as set forth in 7 CFR Part 990, as amended.

THC means delta-9-tetrahydrocannabinol.

THCa means tetrahydrocannabinolic acid, which converts to THC when decarboxylated.

Total THC means the value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expresses the potential total delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCa content and reported on a dry weight basis. This post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat, such as 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 total THC can also be calculated by using a liquid chromatograph technique, which keeps the THCa intact. This technique requires the use of the following conversion:  $[\text{Total THC} = (0.877 \times \text{THCa}) + \text{THC}]$  which calculates the potential total THC in a given sample.

USDA means the United States Department of Agriculture.

Volunteer Plant means any Hemp which grows of its own accord from seeds or roots in the years following an intentionally planted Crop and which was not intentionally planted.

32.03: License Requirements; Fees

(1) No Person shall Produce Hemp or use Hemp Stock for Production or Research without first obtaining a License from the Department.

(a) A Person may apply for either a License for Production or a License for Research. No Person may apply for both a Production and Research License during the same licensing period.

(b) All Licenses are nontransferable.

(c) Hemp cultivated for Research shall not result in the Production of Hemp or Hemp-derived products.

(d) All Research shall be conducted in accordance with Pub. L. No. 115-334 and 7 CFR Part 990, as amended. If a Research Licensee intends to engage in Production, they must first apply for and obtain a Production License and comply with all the requirements for Production. No Person shall hold both a Production and Research License during the same licensing period.

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(2) New License Applications and Fees.

- (a) A Person shall submit a License application for either Production or Research on a form prescribed by the Department requesting information as set forth for Production in 330 CMR 32.03(5) or Research as set forth in 330 CMR 32.03(6).
- (b) Each License shall contain a License number issued by the Department and a written finding by the Commissioner that the requirements of M.G.L. c. 128, §§ 116 through 123 have been satisfied and that issuing the License is in the best interest of the Commonwealth. In determining whether issuing a License is in the best interest of the Commonwealth, the Commissioner shall presume that this standard is satisfied provided the Applicant is not disqualified for failing to meet the requirements set forth in 330 CMR 32.03(4).
- (c) New License applications may be submitted to the Department between January 1<sup>st</sup> and April 30<sup>th</sup>.
- (d) An application for a License shall be accompanied by a nonrefundable application fee and shall not be deemed complete and shall not be reviewed until such time as the fee has been paid.
- (e) If an application for a License is approved, the Licensee will be required to pay a License fee established by the Department prior to the issuance of any License. A License will not be granted until such time as the Licensee has paid the fee.
- (f) A License shall be issued on an annual basis and shall expire on December 31<sup>st</sup> of the year in which it was issued unless earlier suspended, modified, or revoked by the Department.
- (g) The Licensee shall keep the License, or a copy, at all Sites operated under the License.
- (h) Upon issuance, modification, suspension or revocation of any License, the Department shall provide a copy of the License or documentation of suspension or revocation to the municipality in which Production or Research of Hemp will occur. Such notice shall be provided to the municipality's chief elected official and police department, as well as the state police barracks whose patrol area includes that municipality.
- (i) The Licensee shall promptly notify the Department in writing of any substantial change to information required by 330 CMR 32.03(2). Substantial change may include, but not be limited to, the following:
  1. change of contact information (mailing address, email address, phone number);
  2. change in size or location of the Site(s);
  3. addition of Sites; or
  4. change of land ownership. Any such change in land ownership may require proof of permission to use or continue to use the land subject to the License.

(3) License Renewals and Fees.

- (a) Licenses may be renewed by submitting a renewal application and nonrefundable renewal fee between October 1<sup>st</sup> and December 1<sup>st</sup> of the calendar year in which the License expires.
- (b) Licenses will not be renewed unless the Licensee has submitted the end-of-year report required by the Department under 330 CMR 32.04(3)(d).
- (c) Renewal applications that are not received by the Department by December 1<sup>st</sup> may still be submitted until April 30<sup>th</sup> of the following year but may be assessed an additional late fee.

(4) License Denials, Suspensions and Revocations.

- (a) A License or renewal shall be denied if it fails to satisfy the minimum qualifications for licensure pursuant to M.G.L. c. 128, §§ 116 through 123; or
- (b) For good cause shown. Good cause for denial of a License shall include, but not be limited to, the following:
  1. A Person convicted of a felony relating to a controlled substance under any state or federal law. Such Person shall be ineligible to apply for a License for a period of ten years from the date of the conviction.
  2. Any Applicant who does not satisfy the requirements of 330 CMR 32.00, Pub. L. No. 115-134, as amended, or 7 CFR 990, as amended.
  3. Any person who materially falsifies any information contained in a License application including, but not limited to, the license application and accompanying documents, reports, or who makes fraudulent statements to inspectors.

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(c) A License may be suspended or revoked for failure to comply with M.G.L. c. 128, §§ 116 through 123 or as otherwise set forth in 7 CFR Part 990, as amended.

(d) Any Applicant denied a License or whose License has been suspended or revoked may appeal pursuant to 330 CMR 32.09.

(5) Production License. A complete application for a Production License, including renewal, shall be submitted to the Department on a Department-approved form. The application shall contain, at a minimum, the following information:

(a) Full name, mailing address, and contact information, including email address, for the Applicant; and, if the Applicant is a business entity, the full name of the business; the principal business location address; full name, title, and e-mail address of the Key Participants; and employer identification number (EIN) of the business;

(b) Name and address of the proposed Hemp Production Site(s);

(c) Description of the Site(s), which shall include the street address or parcel identification number if no street address is available;

(d) GPS coordinates provided in decimal degrees taken at the approximate center of the Site(s);

(e) A map of the proposed Site(s) illustrating clear boundaries and locality of the Site(s);

(f) If Hemp is to be planted in a field, the area in acres of each field;

(g) If Hemp is to be planted in a greenhouse or other building, the approximate dimensions or square footage of the Production area;

(h) An Identity History Summary for all Key Participants dated within 60 days prior to the application submission date;

(i) Written assurance by the Applicant that the Applicant will comply with 330 CMR 32.00, Pub. L. No. 115-134, as amended, and 7 CFR Part 990, as amended;

(j) Written consent by the Applicant to the Department to conduct both scheduled and unannounced inspections, sampling, and testing; and

(k). Any other information that the Department may require.

(6) Research License. A complete application for a Research License, including renewal, shall be submitted to the Department on a Department-approved form. The application shall contain, at a minimum, the following information:

(a) Full name, mailing address, and contact information, including email address, for the individual(s) charged with overseeing the Research;

(b) The name and location address of the Research Institution; and

(c) A letter of endorsement from the Research Institution;

(d) The location and description of each Site at which Research shall take place, which shall include the street address or parcel identification number if no street address is available, and GPS coordinates provided in decimal degrees taken at the approximate center of the Site;

(e) A map of the proposed Site(s) illustrating clear boundaries and locality of the Site(s);

(f) If Hemp is to be planted in a field, the area in acres of each field;

(g) If Hemp is to be planted in a greenhouse or other building, the approximate dimensions or square footage of the Production area;

(h) A description of the type of Research to be conducted that includes a plan that clearly defines:

1. Research objectives.

2. Planting and Harvest plans.

3. Sampling methods that comply with 7 CFR Part 990, as amended.

4. Plans for Crop Remediation and disposals that comply with 7 CFR Part 990, as amended.

5. Plans for Crop reporting that comply with 330 CMR 32.04 and 7 CFR Part 990, as amended.

(i) A statement that all Hemp used for conducting Research will either be grown as part of the Research or will be obtained from a Producer duly authorized by USDA, the Commonwealth or another government entity approved by USDA to exercise primary regulatory authority over Hemp;

(j) An Identity History Summary for all Key Participants charged with overseeing the Research dated within 60 days prior to the application submission date;

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- (k) Written assurance by the Applicant that the Applicant will comply with 330 CMR 32.00, Pub. L. No. 115-134, as amended, and 7 CFR Part 990, as amended;
  - (l) Written assurance by the Applicant that Hemp produced for Research shall not enter the stream of commerce and shall be destroyed once the Research is completed;
  - (m) Written consent by the Applicant to the Department to conduct both scheduled and unannounced inspections, sampling, and testing; and
  - (n) Any other information that the Department may require.
- (7) No Licensee shall offer or sell unprocessed, raw, or viable plant material, including the flower, except as follows:
- (a) To a Person Licensed under 330 CMR 32.03;
  - (b) To a Person licensed as a processor pursuant to M.G.L. c. 128, § 118;
  - (c) To a Person Licensed by USDA, or under a state or Tribe authorized to issue a license under a plan approved by 7 CFR Part 990, as amended; or
  - (d) As authorized by M.G.L. c. 94G, § 12 to a Person licensed by the Cannabis Control Commission and in accordance with any guidance or regulation promulgated by the Cannabis Control Commission.

32.04: Hemp Production; Sign Posting; Reporting Requirements

- (1) Hemp that is produced for Research is not subject to the sign posting and reporting requirements in 330 CMR 32.04; provided that the Licensed Researcher adopts and carries out an approved alternative reporting plan as described in 330 CMR 32.03(6).
- (2) Prior to Planting a Crop, the following information must be provided to the Department:
- (a) Documentation showing the Hemp or Hemp Stock has been tested and shows an Acceptable Hemp THC Level; and
  - (b) Any additional information that the Department deems necessary prior to Production.
- (3) Sign Posting.
- (a) A Department-approved sign must be posted at conspicuous points of entry to the Site(s) where the Crop is Produced.
  - (b) In instances where fields abut a public way, a sign must be posted, at a minimum, every 200 feet.
  - (c) Signs should be at least 14 inches by 16 inches with letters one inch high and contain, at a minimum, the following:
    1. Statement “*Crop grown in this field is Hemp that is licensed by the Massachusetts Department of Agricultural Resources.*”;
    2. Department issued License number;
    3. Emergency contact information (Name and phone number) for the Licensee; and
    4. Department contact information.
- (4) Reporting Information to the Department.
- (a) No later than ten days after Planting of the Crop, a Planting Report must be submitted to the Department.
  - (b) The Department must be notified no later than 21 days before anticipated start of harvest using a method prescribed by the Department.
  - (c) Volunteer Plants must be monitored and destroyed if they are outside of the Site.
  - (d) An end-of-year report must be submitted to the Department no later than December 15<sup>th</sup> indicating, at a minimum, the following information, regardless of intent to renew:
    1. Variety of Crop Grown;
    2. Harvest start date;
    3. Harvest end date;
    4. Total area of hemp planted;
    5. Total area of hemp harvested in acres or square feet;
    6. Harvest yield in dry weight; and
    7. Description of Volunteer Plants, if any occurred, and how they were managed.
  - (e) If no Hemp is Produced at the Site, a Planting Report for that growing location must be submitted to the Department no later than September 1<sup>st</sup>.

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(5) Reporting Information to FSA

- (a) Crop acreage must be reported to FSA as required by the 7 CFR Part 990, as amended, and shall provide, at minimum, the following information:
1. Acreage dedicated to the production of Hemp, or greenhouse or indoor square footage dedicated to the production of Hemp; and
  2. License number.
- (b) A record of submission to the FSA shall be kept for three years and made available to the Department upon request.

32.05: Inspections and Testing for Hemp Production; Remediation; Certification of Hemp for Production; Disposal

- (1) Hemp that is produced for Research is not subject to the sampling requirements in 330 CMR 32.05; provided that the Licensed Researcher adopts and carries out an approved alternative sampling method that can ensure, at a confidence level of 95% or greater, that the Hemp subject to this alternative method will not test above the Acceptable Hemp THC level as approved by MDAR and in accordance with the 7 CFR Part 990, as amended.
- (2) All Hemp for Production is subject to testing and inspections as set forth in 330 CMR 32.05.
- (3) No Licensee shall harvest any Crop for Production prior to samples being collected by the Department.
- (4) Any Crop for Production must be sampled by the Department before it can be certified as Hemp.
- (5) Any Licensee seeking certification of Hemp for Production shall contact the Department no later than 21 days prior to the anticipated start of harvest to schedule regulatory sampling for THC testing using a form prescribed by the Department.
- (a) The Licensee or an authorized representative shall be present at the Site while samples are collected.
  - (b) one sample shall be collected by a Sampling Agent for each Lot produced in accordance with 7 CFR Part 990, as amended. Licensees may not collect their own regulatory samples.
  - (c) Lots must be tested individually and should be clearly separated and marked in the field.
  - (d) The Licensee shall harvest the entire Lot within 30 days of the Department's collection of samples. Lots shall not be partially harvested without a waiver as determined by 330 CMR 32.05(4)(e).
  - (e) If the Crop, or any portion of the Crop cannot be harvested with 30 days of sample collection due to weather, equipment failure, or other extenuating circumstances, the Department must be contacted prior to the expiration of the 30-day harvest period. At that time, the Department will evaluate the circumstances and make a determination, in its sole discretion, as to whether additional time to harvest will be allowed. Any additional harvest time granted by the Department shall be in writing and subject to the following conditions:
    1. The Department must collect a new preharvest sample of the Crop at the expense of the Licensed Producer. Additional preharvest testing will count toward the two allowable crop retests.
    2. If any portion of the Crop was harvested within 30 days, it must be held and designated as a separate Lot until test results have been received; and
    3. No Crop shall be certified as Hemp if it is harvested more than 30 days after the collection of a valid preharvest sample.
  - (f) All harvested Lot(s) must be held on Site until a Hemp Certificate is issued by the Department.
  - (g) Harvested Lots may not be comingled or combined until a Hemp Certificate is issued by the Department for the Lot.
  - (h) If sample results show Acceptable Hemp THC Levels, then a Hemp Certificate will be issued by the Department. Upon receipt of a Hemp Certificate, the Hemp Lots that have been certified may be combined or removed from the Site(s).

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- (i) If sample results show THC levels exceed the Acceptable Hemp THC Levels, a second round of sampling may be conducted by the Department upon request of the Licensee. The sample may be taken from intact floral material, or the Crop may be Remediated in accordance with 330 CMR 32.05(6) prior to the second round of sampling.
  - (j) If sample results from the second round of sampling show THC levels exceed the Acceptable Hemp THC Levels, a third round of sampling may be conducted by the Department upon request of the Licensee. The sample may be taken from intact floral material, or the Crop may be Remediated prior to the third round of sampling in accordance with 330 CMR 32.05(6).
  - (k) If sample results from the third round of sampling show THC levels exceed the Acceptable Hemp THC Levels, the Crop must be destroyed in accordance with 330 CMR 32.05.
  - (l) Any request for a second or third round of sampling must be made to the Department within ten days of receipt of results and completed within 30 days.
  - (m) The Licensee shall be responsible for the costs incurred with any second or third round of sampling conducted by the Department.
- (6) Remediation of Crops That Exceed Acceptable Hemp THC Levels.
- (a) Crops may be Remediated before the second or third round of sampling.
  - (b) The Department must be notified of the intent to Remediate any non-compliant Crop prior to any Remediation activity to ensure that it is done in a Department-approved manner.
  - (c) Any Remediation must adhere to the following specifications:
    1. Remediation must take place at the Site and Crops may not be moved off-Site before Remediation takes place.
    2. Remediation may occur by one of the following ways:
      - a. removing and destroying flower material, while retaining stalk, stems, and leaf material; or
      - b. Shredding the entire plant into a bio-mass like material; or
      - c. An alternative MDAR and USDA approved method.
  - (d) Any Remediated material including shredded biomass material, retained stalk, stems, leaf material or seeds must be retested by the Department as set forth in 330 CMR 32.05(3) to ensure compliance.
  - (e) Any Remediated Crop that cannot be certified by the Department as Hemp must be destroyed in accordance with 330 CMR 32.05(5).
- (7) Disposal of Crops.
- (a) Any Crop that is tested by the Department with THC levels in excess of Acceptable Hemp THC Levels shall be destroyed within 30 days of notification of the final test results in a method approved by the Department under its supervision and shall not be used for any purposes.
  - (b) The Department must be notified of the intent to dispose nonconforming plants or plant parts prior to disposal.
  - (c) Licensees under 330 CMR 32.03(6) shall ensure the disposal of all noncompliant Crops in accordance with 330 CMR 32.05. Only Licensees registered with DEA to handle marijuana may keep Crops that test over the Acceptable Hemp THC level to the extent permitted by DEA.
- (8) Lots that do not meet the testing or Remediation requirements and which are not certified as Hemp by the Department may not be further handled, processed, or enter the stream of commerce and must be disposed in accordance with 330 CMR 32.05(7).
- (9) No Crop, or any portion thereof, may be transported from the Site covered by the License without a copy of the Hemp Certificate issued by the Department. The Licensed Producer must ensure that a copy of the Hemp Certificate stays with the Crop at all times and accompanies all shipments of the Crop.
- (10) Any Crop voluntarily destroyed or disposed of as a result of poor plant health, pests, disease, or weather events, along with removal of male or hermaphrodite plants as part of a cross-pollination prevention plan, are not subject to the disposal requirements herein.



32.05: continued

- (11) The Department, may at its sole discretion, witness the destruction of any Crop whether such destruction is done so voluntarily or at the direction of the Department.

32.06: Record Keeping Requirements

- (1) All Licensees shall maintain true and accurate records of the Crop that has been acquired, Produced, Researched, handled, or disposed of.
- (a) Cultivation records must include the following:
    - 1. Documentation showing the Hemp Stock used for Planting has been tested and shows Acceptable Hemp THC levels;
    - 2. Amount of seeds/plants Planted;
    - 3. Total area Planted in acres or square feet;
    - 4. Date that Hemp Stock is put into a growing medium;
    - 5. Variety of Hemp that was Planted; and
    - 6. Lot name or number assigned by the Licensee.
  - (b) Harvest records must include the following:
    - 1. Dates of harvest (start and end);
    - 2. Amount of Hemp harvested (by dry weight and area in acres or square feet);
    - 3. Variety harvested; and
    - 4. Lot harvested.
  - (c) Storage records must include the following:
    - 1. Location where Hemp is stored; and
    - 2. Storage dates.
  - (d) If a Crop is disposed of, either voluntarily or through an enforcement action, the following information must be kept:
    - 1. Date of disposal;
    - 2. Disposal method;
    - 3. Variety disposed of;
    - 4. Lot disposed of; and
    - 5. Amount disposed of.
  - (e) Records regarding Remediation of a Crop that does not meet the definition of Hemp must include the following:
    - 1. Date of Remediation;
    - 2. Remediation method;
    - 3. Amount of Crop subject to Remediation (area in acres or square feet, and weight);
    - 4. Variety of each Lot subject to Remediation;
    - 5. Lots subject to Remediation; and
    - 6. Pre and post-Remediation testing results

- (2) All records shall be made available for inspection by the Department during reasonable business hours.

- (3) All records and reports shall be maintained for at least three years.

32.07: Breeders

- (1) In addition to the recordkeeping requirements as listed in 330 CMR 32.06(1), Breeders are required to keep the following records:
- (a) Lot number assigned to each Production batch;
  - (b) Number of plants produced per Lot planted; and
  - (c) Variety within the individual Lot.
- (2) Breeders may sell Hemp plants only to the following:
- (a) A Person Licensed under 330 CMR 32.03;
  - (b) A Person licensed as a Processor pursuant to M.G.L. c. 128, § 118;
  - (c) A Person Licensed by USDA, or under state or Tribe authorized to issue a license under a plan approved by 7 CFR Part 990, as amended; or
  - (d) As authorized by M.G.L. c. 94G, § 12 to a Person licensed by the Cannabis Control Commission and in accordance with any guidance or regulation promulgated by the Cannabis Control Commission.

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- (3) Upon sale of Hemp plants, the Breeder must provide the purchaser with the following information:
  - (a) Documentation showing the Hemp Stock used for propagation was tested and does not show total THC levels of more than 0.3%;
  - (b) Variety;
  - (c) Number of plants sold; and
  - (d) Lot identifier.
- (4) A copy of the information provided to each Licensee as set forth in 330 CMR 32.07(5) must be retained by the Breeder.
- (5) If any parts of the plant are harvested, including seeds for propagation, the crops from which they are harvested are subject to all pre-harvest testing as required in 330 CMR 32.05 and harvest records must be kept as required in 330 CMR 32.06(1)(b).

32.08: Enforcement

- (1) Any violation of 330 CMR 32.00 shall be subject to enforcement by the Department pursuant to 330 CMR 32.08.
- (2) Negligent Violations.
  - (a) A Negligent violation shall include, but not be limited to, the following:
    1. Failure to provide to the Department an accurate legal description of land on which the Licensee cultivates Hemp;
    2. Failure to obtain a License; or
    3. Producing Cannabis with a delta-9 tetrahydrocannabinol concentration of more than 0.3%, but only if the Cannabis has a delta-9 tetrahydrocannabinol concentration of more than 1.0% on a dry weight basis, provided that the Person made reasonable efforts to grow Hemp.
  - (b) No Person shall receive more than one negligent violation per calendar year unless otherwise authorized by the 7 CFR Part 990, as amended.
  - (c) A Person who is found by the Department to have engaged in a Negligent violation three or more times in a five-year period shall have any License revoked and be ineligible to apply for a License for a period of five years beginning on the date of the third violation.
- (3) Corrective Action Plans for Negligent Violations. The Department shall issue a Corrective Action Plan for Negligent violations that shall include, at a minimum, the following:
  - (a) Steps to correct each Negligent violation identified by the Department;
  - (b) A reasonable date by which the Licensee shall correct the Negligent violation;
  - (c) A requirement that the Licensee report to the Department for a period of not less than two years from the date of the Negligent violation; and
  - (d) A requirement that an inspection be conducted by the Department to determine if the Corrective Action Plan has been implemented as submitted.
- (4) Violations Deemed Greater than Negligent.
  - (a) All other violations which are deemed by the Department to involve a culpable mental state greater than Negligence shall be reported by the Department to the Office of the Attorney General of the Commonwealth and the Attorney General of the United States, shall not be subject to 330 CMR 32.08(2)(b) and may result in refusal to renew, suspension, or revocation of a License.
  - (b) Any person who willfully violates M.G.L. c. 128, §§ 116 through 123, may also be subject to enforcement as set forth therein.

32.09: Appeals

Any person aggrieved by the denial of an application for or the suspension or revocation of a License may appeal by filing a notice of appeal with the Department not later than 21 days after the receipt of the notice of the denial, suspension, or revocation. The adjudicatory hearing shall be conducted in accordance with M.G.L. c. 30A.

REGULATORY AUTHORITY

330 CMR 32.00: M.G.L. c. 128, §§ 116 through 123.