



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <https://rules.wyo.gov>

Revised August 2023

| | | | |
|--|---------------|---|-------------|
| 1. General Information | | | |
| a. Agency/Board Name* | | | |
| b. Agency/Board Address | | c. City | d. Zip Code |
| e. Name of Agency Liaison | | f. Agency Liaison Telephone Number | |
| g. Agency Liaison Email Address | | | |
| h. Date of Public Notice | | i. Comment Period End Date | |
| j. Public Comment URL or Email Address: | | | |
| k. Program | | | |
| Amended Program Name (if applicable): | | | |
| * <input type="checkbox"/> By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules. | | | |
| 2. Legislative Enactment For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate. | | | |
| a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules? | | | |
| <input type="checkbox"/> No. <input type="checkbox"/> Yes. If the rules are new, please provide the Legislative Chapter Number and Year Enacted: | | Chapter: | Year: |
| 3. Rule Type and Information For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created. | | | |
| a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters. | | | |
| Chapter Number: | Chapter Name: | <input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed | |
| Amended Chapter Name (if applicable): | | | |
| Chapter Number: | Chapter Name: | <input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed | |
| Amended Chapter Name (if applicable): | | | |
| Chapter Number: | Chapter Name: | <input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed | |
| Amended Chapter Name (if applicable): | | | |
| Chapter Number: | Chapter Name: | <input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed | |
| Amended Chapter Name (if applicable): | | | |
| Chapter Number: | Chapter Name: | <input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed | |
| Amended Chapter Name (if applicable): | | | |
| Chapter Number: | Chapter Name: | <input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed | |
| Amended Chapter Name (if applicable): | | | |

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

| | | | |
|-------|-------|-------|-----------|
| Date: | Time: | City: | Location: |
| | | | |

b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation: 7 CFR 990

Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

(Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

(Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

Printed Name of Authorized Individual

Title of Authorized Individual

Date of Authorization



Wyoming
DEPARTMENT OF Agriculture

Mark Gordon, *Governor*
Doug Miyamoto, *Director*
2219 Carey Ave. • Cheyenne, WY 82002
Phone: (307) 777-7321 • Fax: (307) 777-6593
Web: agriculture.wy.gov • Email: wda1@wyo.gov

The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

Statement of Principal Reasons

The Wyoming Department of Agriculture (WDA) is proposing changes to its Chapter 61 rules pertaining to hemp. The proposed changes were made to keep the Wyoming Hemp Plan in compliance with the USDA Final Rule for the domestic production of hemp effective on March 22, 2021. The primary changes include allowing producers with “hot” hemp the ability to remediate the crop instead of requiring the crop to be destroyed, and adding a section for hemp research.

Equal Opportunity in Employment and Services

BOARD MEMBERS

Andrew Patrick, *District 1* • James Rogers, *District 2* • Kim Bright, *District 3* • Amanda Hulet, *District 4* • Mike Riley, *District 5*
Jody Bagley, *District 6* • Larry Krause., *District 7*

YOUTH BOARD MEMBERS

Landon Hoffer, *Southeast* • Benjamin Anson, *Northwest* • Hadley Manning, *Southwest* • Lexi Bauder, *Northeast*

Chapter 61 Rules Pertaining to Hemp

Section 1. Authority. These rules are written in accordance with the authority provided in Wyoming Statute § 11-51-105.

Section 2. Definitions. Any applicable term defined in W.S. § 11-51-101 shall have the same meaning throughout these rules. The singular includes the plural and the plural the singular when consistent with the intent of these rules and necessary to affect their purpose.

(a) “Acceptable Hemp THC Level” means that when a laboratory tests a sample, it must report the total delta-9 tetrahydrocannabinol content concentration level on a Dry Weight Basis and the Measurement of Uncertainty. The Acceptable Hemp THC Level for the purposes of compliance with the requirements of this rule is when the application of the Measurement of Uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a Dry Weight Basis produces a distribution or range that includes 0.3% or less. This definition of “Acceptable Hemp THC Level” affects neither the definition of “hemp” nor the definition of “marihuana” or “marijuana” in Wyoming Statutes.

(b) “Batch” means the hemp or products processed during a specific time period indicated by a specific code as designated by a processor.

(c) “Cannabis” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* L. is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. For the purposes of these rules, Cannabis also refers to:

(i) Any form of the plant in which the total delta-9 tetrahydrocannabinol concentration on a Dry Weight Basis has not yet been determined;

(ii) Any form of the plant that exceeds the Acceptable Hemp THC Level; or

(iii) Any form of the plant that has been commingled with Cannabis that exceeds the Acceptable Hemp THC Level.

(d) “Certified Laboratory” means a United States Drug Enforcement Administration certified and ISO/IEC 17025 accredited laboratory accredited for the testing of potency of cannabinoids, including THC in Cannabis.

(e) “Controlled Substances Act” or “CSA” means the Controlled Substances Act as codified in 21 U.S.C. 801 *et seq.*

(f) “Criminal History Report” means the United States Federal Bureau of Investigation’s Identity History Summary.

(g) “Culpable Mental State Greater Than Negligence” means to act intentionally,

knowingly, willfully, or recklessly.

- (h) “Department” means the Wyoming Department of Agriculture.
- (i) “Dry Weight Basis” means 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.
- (j) “Geospatial Location” means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.
- (k) “Handle” means to Harvest or store hemp plants or hemp plant parts prior to the delivery of such plants or plant parts for further processing.
- (l) “Harvest” means the collection of any portion of a Cannabis plant from a Licensed Area at any time. Harvest does not include the movement of Cannabis plants between Licensed Areas associated with a single hemp license.
- (m) “Hemp Statute” means W.S. § 11-51-101 through -107.
- (n) “Key Participant” means a sole proprietor, a partner in a partnership, a member of a limited liability company, a director of a corporation, 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, chief financial officer, principal, officer, member, manager, and director. This definition does not include non-executive managers such as farm, field, or shift managers.
- (o) “Licensed Area” means a field, greenhouse, hoop house, high tunnel, building, or other structure on or in which a licensee plans to produce or process hemp that is licensed by the Department. A Licensed Area may include land, buildings, or other structures that are not used for producing or processing hemp.
- (p) “Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of Cannabis throughout the area.
- (q) “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.
- (r) “Negligence” or “Negligent” means failure to exercise the level of care that a reasonably prudent person would exercise in complying with the provisions of the Hemp Statute or these rules.
- (s) “Official Test Result” means an official result prepared by a Certified Laboratory

about the analytical testing it performed and the results of the testing, including the Department's Official Test Results.

(t) "Sampling Agent" means a person trained and authorized by the Department to sample Cannabis for the purposes of these rules.

(u) "USDA" means the United States Department of Agriculture.

Section 3. Licensing.

(a) Each applicant for a license shall submit a signed, complete, accurate, and legible application. In addition to submitting the Department's application form, an applicant must submit the following:

(i) A copy of the applicant's government issued photo identification or, if a business entity, a Wyoming Secretary of State certificate of good standing.

(ii) An aerial map or photograph (e.g., from Farm Service Agency, Google, or Bing) of all the Licensed Areas on which the applicant plans to grow hemp, showing the boundaries and dimensions of each Lot in acres or square feet.

(iii) An aerial map or photograph (e.g., from Farm Service Agency, Google, or Bing) of all the Licensed Areas on which the applicant plans to process hemp, showing the boundaries and dimensions of each licensed facility in acres or square feet.

(iv) An official Criminal History Report for all Key Participants of the applicant dated within 60 days prior to the application submission date.

(b) In addition to the application, each applicant shall submit the license fee set by W.S. § 11-51-103(c)(ii).

(c) The Department will not begin reviewing an application until it receives the fee specified in W.S. § 11-51-103(c)(ii).

(d) Licenses cannot be assigned or transferred.

(e) To amend a license, including changing a Licensed Area or activity, a licensee must submit the Department's amendment request form and receive the Department's approval.

(f) A licensee must report any changes to contact information listed on the licensee's application form within 10 days of the change by completing the Department's amendment request form and submitting it to the Department via email, mail, contract carrier, or fax.

(g) A license shall be valid for the remainder of the current calendar year in which the application was approved. All licenses will expire on December 31 of each year.

Section 4. Hemp Producer Reporting and Record Keeping Requirements.

(a) A licensee who plans to produce hemp shall report to the Department and USDA Farm Service Agency:

- (i) Hemp crop acreage;
- (ii) Total acreage of hemp planted, Harvested, and disposed of;
- (iii) License number;
- (iv) Street address for each Licensed Area;
- (v) Geospatial location of each Lot or greenhouse where hemp will be produced;

and

(vi) Acreage or indoor square footage of any greenhouse dedicated to the production of hemp.

(b) A licensee must keep all records specified in this section for at least three years.

(c) A licensee must make available for inspection by the Department during reasonable business hours the following records:

- (i) Records regarding acquisition of Cannabis plants;
- (ii) Records regarding production and handling of Cannabis plants;
- (iii) Records regarding storage of Cannabis plants;
- (iv) Records regarding disposal of all Cannabis plants that do not meet the definition of hemp; and
- (v) Records pertaining to compliance with corrective action plans.

(d) Harvest Reports.

(i) No more than 30 days but not less than 15 days prior to anticipated Harvest, each licensee shall submit a Harvest report on the Department's form, via email, mail, contract carrier or fax, which must include the estimated Harvest date and location of each Lot to be Harvested within a Licensed Area.

Section 5. Hemp Producer Inspection and Sampling Protocol.

(a) Upon receipt of a Harvest report, the Department will schedule and send a Sampling Agent to the licensee's Licensed Area. Each Lot must be sampled by a Sampling Agent prior to

Harvest.

(b) A licensee must notify the Department immediately of any changes in the reported Harvest date in excess of five days. If any such changes are made, the Department may require additional sampling prior to Harvest.

(c) All licensees are subject to inspection and sampling to verify that the THC concentration level of all Cannabis does not exceed the Acceptable Hemp THC Level.

(d) During an inspection by the Department or a Sampling Agent, the licensee, a Key Participant, or a designated employee shall be present at the Licensed Area and shall provide the Department with complete and unrestricted access during reasonable business hours to all Licensed Areas and to all documents specified in Section 4 of these rules. When the Department or a Sampling Agent collects samples during an inspection, the licensee, a Key Participant, or a designated employee must accompany the Department's representative throughout the sampling process.

(e) The Department shall only use samples collected by a Sampling Agent and analyzed by the Department or an authorized agent to determine compliance with these rules.

(f) Any Official Test Results showing that a sample's THC concentration level is greater than the Acceptable Hemp THC Level shall constitute evidence that all Cannabis in the sampled Lot has a THC concentration level greater than the Acceptable Hemp THC Level and that the licensee is therefore not in compliance with the Hemp Statute and these rules. Upon receipt of such an Official Test Result, the Department will notify the licensee and USDA and require disposal of each non-compliant Lot in accordance with Section 6. The Department will develop and issue a corrective action plan to the licensee as provided in Section 14.

(g) If a licensee believes that an Official Test Result from the Department is in error, the Department will retest the sample originally collected by the Department if:

(i) The licensee requests a retest within five days of notification of the Official Test Results;

(ii) The licensee pays all costs associated with the retest; and

(iii) Payment for retesting is received within 15 days of the request for retesting.

(h) If Cannabis in a Lot has a THC concentration level that does not exceed the Acceptable Hemp THC Level, it is considered hemp and may enter the stream of commerce.

(i) Cannabis with a THC concentration level exceeding the Acceptable Hemp THC Level must be disposed of in accordance with Section 6.

Section 6. Remediation and Destruction Requirements for Hemp Producers.

(a) A licensee must dispose of non-compliant Cannabis by destroying it in accordance with this section unless the Department’s corrective action plan permits the licensee to first attempt to remediate the non-compliant Cannabis.

(b) Methods of remediation include:

(i) Removing and destroying flower material, while retaining the stalk, stems, leaf material and seeds; or

(ii) Shredding and blending the entire Cannabis plant into a biomass like material.

(c) All Cannabis that has undergone remediation must be sampled and tested by the Department to ensure that the THC concentration level does not exceed the Acceptable Hemp THC Level.

(d) Remediation of non-compliant Cannabis must be completed within 60 days after notification by the Department to the licensee of a non-compliant Lot or by the end of the current calendar year, whichever occurs first.

(e) Non-compliant Cannabis Lots that the licensee does not wish to remediate or that remain non-compliant after remediation must be destroyed.

(f) Methods of destruction include:

(i) Plowing, tilling, or disking the Cannabis into the soil;

(ii) Mulching, composting, chopping, or bush mowing Cannabis into green manure;

(iii) Burning; or

(iv) Burying by covering Cannabis with at least 12 inches of soil.

(g) The licensee shall provide proof of destruction to the Department unless a Department employee observes the destruction.

Section 7. General Hemp Processing Requirements.

(a) A licensee must assign to each Batch a unique number or way to identify the product at the time of processing.

(b) A licensee that extracts THC from hemp must submit for approval by the Department a plan that ensures that the THC is destroyed in accordance with 21 CFR part 1317

and that accounts by Batch number for all THC destroyed.

(c) A licensee must submit for approval by the Department a plan that ensures that all Batches exceeding the Acceptable Hemp THC Level will be disposed of by altering or treating it to ensure that the THC level of the Batch is brought into compliance or, if compliance is not attainable, that the Batch is disposed of in accordance with 21 CFR part 1317.

(d) The licensee may not accept hemp for processing from any source other than a person licensed by the Department, the USDA, or a state or tribe with a plan approved by USDA.

(e) If the Department discovers Cannabis at a Licensed Area for processing for which records are not available to prove that the Cannabis was received from a person licensed by the Department, USDA, or a state or tribe with a plan approved by USDA, the licensee shall ensure that the Cannabis is disposed of in accordance with 21 CFR part 1317. Any Cannabis or Cannabis product commingled with Cannabis for which those records are not available must also be disposed of in accordance with 21 CFR part 1317.

(f) A licensee may not Process or Handle any Cannabis that is not hemp.

(g) A licensee may Process or Handle hemp only on or in Licensed Areas.

Section 8. Hemp Processor Record Requirements.

(a) A licensee who processes hemp must keep the following documentation available for inspection by the Department:

- (i) Copies of all written agreements with licensed growers;
- (ii) The Official Test Results of samples of Cannabis or hemp products.

(b) A licensee must keep and update monthly records and make them available for inspection by the Department upon request. These records must include:

(i) Hemp intake records, which must include:

(A) The name, location, and license number (Wyoming license number or other specific hemp grower identification number) for each grower from whom the licensee accepts hemp for processing;

(B) The date on which hemp is received;

(C) The amount of each variety received;

(D) The hemp products for which each variety of hemp received will be used; and

(E) The Official Test Results providing evidence that the THC concentration level of all hemp received does not exceed the Acceptable Hemp THC Level.

(ii) Disposal records for all non-compliant Cannabis, Cannabis products, hemp, or hemp products, which must include:

- (A) The date on which disposal occurred;
- (B) The method of disposal;
- (C) The location at which disposal occurred;
- (D) The name and title of the person that performed the disposal; and
- (E) Any other information required by the CSA and 21 CFR part 1317.

(iii) Processing records, which must include:

- (A) A list of hemp products made by the licensee; and
- (B) A list of buyers or recipients of hemp products, including:

- (I) The final destination of hemp products after leaving the licensee's facility;
- (II) The description of each product sold or otherwise distributed;
- (III) The quantity of each product sold or otherwise distributed;
- (IV) The date of distribution.

and

(c) A licensee must keep copies of all records, documents, and information required by these rules for at least three years and in a manner such that they can be readily provided to the Department upon request during reasonable business hours.

Section 9. Hemp Processor Inspection and Laboratory Testing.

(a) Each licensee shall select a random sample from every Batch of hemp products made at each of the licensee's facilities that is of sufficient quantity to perform the required tests.

(b) Unless otherwise indicated by the Department, a licensee shall have a Certified Laboratory test every hemp product sample to determine whether the sample's THC concentration level exceeds the Acceptable Hemp THC Level. The licensee must obtain an Official Test Result from the Certified Laboratory for each sample tested.

(c) An Official Test Result showing that the THC concentration level of a sample of a Batch does not exceed the Acceptable Hemp THC Level is evidence that the whole Batch's THC concentration level does not exceed the Acceptable Hemp THC Level.

(d) A licensee shall not sell or otherwise distribute a hemp product unless the hemp product's THC concentration level does not exceed the Acceptable Hemp THC Level and meets all of the other processing requirements in these rules.

Section 10. Storage of Hemp.

(a) Only licensees are authorized to store hemp.

(b) A licensee may store hemp obtained from a person licensed by the Department, USDA, or a state or tribe with a USDA approved plan if:

(i) The licensee identifies each storage facility on the license application;

(ii) The storage facility is owned or leased by the licensee; and

(iii) The licensee keeps complete and accurate records detailing the licensed growers from whom hemp at each storage facility was received, the varieties stored at each storage facility, and the amount of each hemp variety stored at each storage facility.

(c) A licensee must separate Harvested Lots in storage in such a manner that maintains the unique identity of each Harvested Lot. Hemp from one Lot may not be commingled with hemp from other Lots.

(d) If a licensee stores Cannabis or Cannabis products that have a THC concentration level that exceeds the Acceptable Hemp THC Level and they are commingled with hemp or hemp products, then the licensee must ensure that the non-compliant Cannabis or Cannabis products and the commingled hemp or hemp products are disposed of in accordance with Section 6 for Cannabis and hemp and in accordance with the CSA and 21 CFR part 1317 for Cannabis products and hemp products.

(e) The licensee must permit the Department to inspect all storage areas during reasonable business hours.

(f) The licensee must keep inventory records for hemp or hemp products stored, which must include:

(i) The date of inventory;

(ii) The location of stored hemp;

(iii) The name, address, and license number for each licensee that has hemp

stored at the facility:

- (iv) The total amount of each hemp product on hand for each licensee;
- (v) The total amount of hemp and hemp seed of each variety on hand;
- (vi) The total amount of unusable hemp and hemp seed of each variety on hand; and
- (vii) The name, signature, and title of the employee performing inventory.

Section 11. Incorporation by Reference.

- (a) For all regulations incorporated by reference in these rules:
 - (i) The Department has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules;
 - (ii) The incorporation by reference does not include any amendments or editions of the incorporated matter later than March 1, 2022;
 - (iii) The agency originally issuing the incorporated matter has copies of it readily available to the public; and
 - (iv) The Department maintains the incorporated regulations, which is available for public inspection and copying at cost at 2219 Carey Avenue, Cheyenne, WY 82002.
- (b) The following regulations are incorporated by reference in these rules:
 - (i) 21 CFR part 1317 (2022), found electronically at: <https://www.ecfr.gov/current/title-21/chapter-II/part-1317>

Section 12. Research.

- (a) A person that desires to produce or process hemp solely for research purposes must:
 - (i) Obtain a license from the Department; and applicable.
 - (ii) Submit all information required in Section 4, Section 8, or both, as applicable.
- (b) A licensee that produces or processes hemp solely for research purposes is not subject to sampling by the Department.
- (c) A research licensee shall not allow any Cannabis or Cannabis products to enter the stream of commerce.

(d) A Cannabis crop grown for a research licensee's research must be disposed of in accordance with Section 6 by December 1st of the year that it was grown. Reasonable samples from a crop grown by the research licensee may be kept for continued research and testing until May 1st following the year in which the crop was grown so long as the research licensee applies for renewal and receives a new license. A research licensee that Processes hemp solely for research purposes shall dispose of all Cannabis products in accordance with the CSA and 21 CFR part 1317.

(e) The research licensee shall provide proof of disposal to the Department unless the disposal is observed by the Department.

Section 13. Violations.

(a) The Department will initiate a corrective action plan or revoke the license of any licensee who violates the requirements of the Hemp Statute or these rules.

(b) A licensee or Key Participant that violates the provisions of the Hemp Statute or these rules three times in a five year period shall be ineligible for a license to produce or process hemp for a period of five years beginning on the date of the third violation.

(c) Examples of a Negligent violation include:

(i) Failure to provide a legal description of land on which the licensee produces Cannabis.

(ii) Failure to obtain a license.

(iii) Producing Cannabis with a THC concentration level that exceeds the Acceptable Hemp THC Level.

(d) A licensee may not provide false, misleading, or incorrect information pertaining to production or processing of hemp to the Department, including information provided in any application, report, or record.

(e) A licensee may not continue producing or processing hemp if, after receiving a license, the licensee is convicted of or pleads nolo contendere to a state or federal controlled substance felony.

(f) Persons with a revoked license shall not sell, Handle, transport, or otherwise allow into the stream of commerce any Cannabis, Cannabis product, hemp, or hemp product.

(g) If the Department revokes a license, the Department shall require that each Lot of Cannabis or Batch of Cannabis products currently being produced or processed under that license be disposed of unless the ex-licensee has an Official Test Result showing that each Lot or Batch has a THC concentration level that does not exceed the Acceptable Hemp THC Level.

(h) Disposal of Non-Compliant Cannabis and Cannabis Products.

(i) All disposal must be conducted in accordance with these rules.

(ii) If the Official Test Result of a Cannabis or Cannabis product sample shows that the sample's THC concentration level exceeds the Acceptable Hemp THC Level, all Cannabis or Cannabis products in the Lot, Batch, or other unit from which the sample was taken must be disposed of. The licensee is responsible for the cost of disposal. The USDA will be notified and supplied Official Test Results of Cannabis samples above the Acceptable Hemp THC Levels. Cannabis or Cannabis products that are in non-compliant Lots or Batches cannot be further Handled (unless remediation is an allowable form of disposal), processed, or enter the stream of commerce.

(iii) No person may move or transport Cannabis or Cannabis products subject to disposal except those persons authorized by 21 CFR part 1317.

(i) Cannabis that was Harvested prior to sampling by the Department must be disposed of as outlined in Section 6(f).

(j) No licensee shall receive a violation for any Lot that tests above the Acceptable Hemp THC Level if the Department determines that the Lot was required to be resampled because the Department collected a sample incorrectly or because the sample was damaged during transportation to the Certified Laboratory. Nevertheless, any Lot that tests above the Acceptable Hemp THC Level still must be disposed of.

Section 14. Corrective Action Plan.

(a) A licensee that violates the requirements of the Hemp Statute or these rules must comply with a corrective action plan as prescribed by the Department.

(b) The corrective action plan for licensee violations shall include:

(i) A reasonable date by which the licensee will correct the violation;

(ii) A requirement that the licensee shall provide all requested compliance reports to the Department for a period of two years following the date of the violation.

(c) A licensee's violation will not be subject to criminal enforcement action by the federal, state, or local government except for violations found in subsection (f) of this section.

(d) The Department shall conduct inspections to determine if a corrective action plan has been implemented.

(e) If a subsequent violation occurs while a corrective action plan is in place, the Department will either:

(i) Institute a new corrective action plan, which may include quality control,

training, or other quantifiable action requirements; or

(ii) Proceed to revoke the licensee's license.

(f) If the Department determines that a licensee has violated the Hemp Statute or these rules with a Culpable Mental State Greater Than Negligence the Department shall:

(i) Immediately report the licensee to the USDA, United States Attorney General, the prosecuting attorney for the jurisdiction where the violation occurred, and the State of Wyoming Attorney General; and

(ii) Either institute a corrective action plan or proceed to revoke the licensee's license.

Section 15. License Denial, Revocation, and Appeals.

(a) The Department will deny a license application if:

(i) The applicant has made a materially false statement on the application;

(ii) The applicant failed to submit the appropriate fee;

(iii) The applicant failed to submit a correct and complete application; or

(iv) Any applicant or Key Participant of the applicant has been convicted of or pled nolo contendere to a state or federal controlled substance felony within the past 10 years. An exception applies to a person who was lawfully growing hemp under the federal Agricultural Act of 2014 before December 20, 2018, and whose conviction or nolo contendere plea also occurred before that date.

(b) The Department may deny a license application if the applicant has failed to comply with the Hemp Statute or these rules.

(c) If the Department denies a license application, the Department shall provide the applicant with a notice that includes:

(i) The specific reasons for the denial and citations to the applicable provisions of the Hemp Statute or these rules;

(ii) The actions, if any, that the applicant must take to qualify for a license;

(iii) Notice of the applicant's right to request a hearing; and

(iv) The legal authority under which the hearing is to be held.

(d) If the applicant wants a hearing to contest the denial, the applicant must request a

hearing within 20 days of receiving the notice.

(e) If a hearing is requested, the Department shall schedule a time and place for the hearing, to be held not later than 30 days from the date of the request unless a later date is agreed to by the parties.

(f) The Department shall notify the applicant of the time, date and place of the hearing at least seven days before the hearing date.

(g) If prior to the hearing the applicant corrects the deficiency and all other license requirements have been met, the Department may issue a license and cancel the hearing.

(h) If the Department decides to revoke a license, the Department will provide the licensee with a revocation notice, which shall state:

(i) That the license shall be revoked 15 days after mailing of the revocation notice and that all operations shall cease at that time unless a contested case hearing is requested;

(ii) The reasons for revocation and citations to the applicable provisions of the Hemp Statute or these rules;

(iii) That the licensee may request a hearing by submitting a request to the Department within 15 days of the receipt of the notice of revocation;

(iv) The name and address of the Department representative to whom a request for a hearing may be made;

(v) That if a hearing is requested, the hearing shall be conducted by a hearing officer in accordance with the Wyoming Administrative Procedure Act, W.S. 16-3-107 through -115, and the Department's Rules of Practice and Procedure for Contested Case Hearings; and

(vi) That the licensee may appear in person or by counsel licensed to practice law in the State in Wyoming.

(i) The Department shall send all notices in this section by certified mail, return receipt requested.

(j) The director of the Department shall issue the final decision, accompanied by written findings of fact and conclusions of law.

(k) The Department shall deliver the final decision to the licensee by certified mail, return receipt requested.

(l) All hearings provided for in these rules shall be conducted in accordance with the Wyoming Administrative Procedure Act and the Department's Rules of Practice and Procedure for Contested Case Hearings. Appeal from any final order of the Department may be made as provided

by the Wyoming Administrative Procedure Act.

Section 16. Fees.

- (a) The Department will assess the following fees:
 - (i) \$200 per sampling conducted by the Department.
 - (ii) \$200 per analysis conducted by the Department.
 - (iii) \$250 for verification of effective disposal of Cannabis or Cannabis products in accordance with Section 13.

Chapter 61_

Rules Pertaining to Hemp

Section 1. Authority. These rules are written in accordance with the authority provided in Wyoming Statute § 11-51-105.

Section 2. Definitions. Any applicable term defined in W.S. §11-51-101 shall have the same meaning throughout these rules. The singular includes the plural and the plural the singular when consistent with the intent of these rules and necessary to affect their purpose.

(a) “Acceptable Hemp THC Level” means that when a laboratory tests a sample, it must report the total delta-9 tetrahydrocannabinol content concentration level on a Dry Weight Basis and the Measurement of Uncertainty. The Acceptable Hemp THC Level for the purposes of compliance with the requirements of this rule is when the application of the Measurement of Uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a Dry Weight Basis produces a distribution or range that includes 0.3% or less. This definition of “Acceptable Hemp THC Level” affects neither the definition of “hemp” nor the definition of “marihuana” or “marijuana” in Wyoming Statutes.

(b) “Batch” means the hemp or ~~hemp~~ products processed during a specific time period indicated by a specific code- as designated by a processor.

(c) “Cannabis” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* L. is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. For the purposes of these rules, 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.~~ also refers to:

(i) Any form of the plant in which the total delta-9 tetrahydrocannabinol concentration on a Dry Weight Basis has not yet been determined;

(ii) Any form of the plant that exceeds the Acceptable Hemp THC Level; or

(iii) Any form of the plant that has been commingled with Cannabis that exceeds the Acceptable Hemp THC Level.

(d) “Certified Laboratory” means a ~~DEA~~United States Drug Enforcement Administration certified and ISO/IEC 17025 accredited laboratory accredited for the testing of potency of cannabinoids, including THC in Cannabis.

(e) “Controlled Substances Act” or “CSA” means the Controlled Substances Act as codified in 21 U.S.C. 801 *et seq.*

(f) “Criminal History Report” means the United States Federal Bureau of Investigation’s Identity History Summary.

(g) “Culpable Mental State Greater Than Negligence” means to act intentionally, knowingly, willfully, or recklessly.

(h) “Department” means the Wyoming Department of Agriculture.

~~(i) “Drug Enforcement Administration” or “DEA” means the United States Drug Enforcement Administration.~~

~~(j)~~(i) “Dry Weight Basis” means 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.

~~(k)~~(j) “Geospatial Location” means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

~~(l)~~(k) “Handle” means to Harvest or store hemp plants or hemp plant parts prior to the delivery of such plants or plant parts for further processing.

~~(m)~~(l) “Harvest” means the collection of any portion of a Cannabis plant from a Licensed Area at any time. Harvest does not include the movement of Cannabis plants between Licensed Areas associated with a single hemp license.

~~(n)~~(m) “Hemp Statute” means W.S. § 11-51-101 through -107.

~~(o)~~(n) “Key Participant” means a sole proprietor, a partner in a partnership, a member of a limited liability company, a director of a corporation, 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, chief financial officer, principal, officer, member, manager, and director. This definition does not include non-executive managers such as farm, field, or shift managers.

~~(p)~~(o) “Licensed Area” means a field, greenhouse, hoop house, high tunnel, building, or other structure on or in which a licensee plans to produce or process hemp that is licensed by the Department. A Licensed Area may include land, buildings, or other structures that are not used for producing or processing hemp.

~~(q)~~(p) “Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of Cannabis throughout the area.

~~(r)~~(q) “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.

~~(s)~~(r) “Negligence” or “Negligent” means failure to exercise the level of care that a reasonably prudent person would exercise in complying with the provisions of the Hemp Statute or these rules.

~~(s)~~(s) “Official Test Result” means an official result prepared by a Certified Laboratory about the analytical testing it performed and the results of the testing, including the Department's Official Test Results.

(t) “Sampling Agent” means a person trained and authorized by the Department to sample Cannabis for the purposes of these rules.

(u) “USDA” means the United States Department of Agriculture.

Section 3. Licensing.

(a) Each applicant for a license shall submit a signed, complete, accurate, and legible application. In addition to submitting the Department’s application form, an applicant must submit the following:

(i) A copy of the applicant's government issued photo identification or, if a business entity, a Wyoming Secretary of State certificate of good standing.

(ii) An aerial map or photograph (e.g., from Farm Service Agency, Google, or Bing) of all the Licensed Areas on which the applicant plans to grow hemp, showing the boundaries and dimensions of each Lot in acres or square feet.

(iii) An aerial map or photograph (e.g., from Farm Service Agency, Google, or Bing) of all the Licensed Areas on which the applicant plans to process hemp, showing the boundaries and dimensions of each licensed facility in acres or square feet.

(iv) An official Criminal History Report for all Key Participants of the applicant dated within 60 days prior to the application submission date.

~~(v) — If the applicant intends to process hemp, a description of all hemp products the applicant plans to make.~~

~~(vi) — If the applicant intends to process hemp, a statement of the intended end-use for all hemp material received for processing.~~

(b) In addition to the application, each applicant shall submit the license fee set by W.S. § 11-51-103(c)(ii).

(c) The Department will not begin reviewing an application until it receives the fee specified in W.S. § 11-51-103(c)(ii).

(d) Licenses cannot be assigned or transferred.

(e) To amend a license, including changing a Licensed Area or activity, a licensee must submit the Department's amendment request form and receive the Department's approval.

(f) A licensee must report any changes to contact information listed on the licensee's application form within 10 days of the change by completing the Department's amendment request form and submitting it to the Department ~~by~~ via email-, mail, contract carrier, or fax.

(g) A license shall be valid for the remainder of the current calendar year in which the application was approved. All licenses will expire on December 31 of each year.

Section 4. Hemp Producer Reporting and Record Keeping Requirements.

(a) A licensee who plans to produce hemp shall report to the Department and USDA Farm Service Agency:

- (i) Hemp crop acreage;
- (ii) Total acreage of hemp planted, Harvested, and ~~destroyed~~ disposed of;
- (iii) License number;
- (iv) Street address for each Licensed Area;
- (v) Geospatial location(s) of each Lot or greenhouse where hemp will be produced; and
- (vi) Acreage or indoor square footage of any greenhouse dedicated to the production of hemp.

(b) A licensee must keep all records specified in this section for at least three years.

(c) A licensee must make available for inspection by the Department during reasonable business hours the following records:

- (i) Records regarding acquisition of Cannabis plants;
- (ii) Records regarding production and handling of Cannabis plants;
- (iii) Records regarding storage of Cannabis plants; ~~and~~
- (iv) Records regarding ~~destruction~~ disposal of all Cannabis plants that do not meet the definition of hemp; and
- (v) Records pertaining to compliance with corrective action plans.

(d) Harvest Reports

(i) ~~Fifteen~~ No more than 30 days but not less than 15 days prior to anticipated Harvest, each licensee shall ~~file~~ submit a Harvest report on the Department's form, via email, mail, contract carrier or fax, which must include the estimated Harvest date(s) and location of each Lot to be Harvested within a Licensed Area.

Section 5. Hemp Producer Inspection and Sampling Protocol.

(a) ~~Within that 15 day time period~~ Upon receipt of a Harvest report, the Department will ~~sample each Lot to be Harvested~~ schedule and send a Sampling Agent to the licensee's Licensed Area. The licensee may not Harvest Each Lot must be sampled by a Sampling Agent prior to ~~Department sampling~~ Harvest.

(b) A licensee must notify the Department immediately of any changes in the reported Harvest date(s) in excess of five days. If any such changes are made, the Department may require additional sampling prior to Harvest.

~~(c)~~ A licensee shall not Harvest any portion of a Lot before the Department takes samples of that Lot.

~~(d)~~(c) All licensees are subject to inspection and sampling to verify that the THC concentration level of all Cannabis does not exceed the Acceptable Hemp THC Level.

~~(e)~~(d) During an inspection by the Department or a Sampling Agent, the licensee, a Key Participant, or a designated employee shall be present at the Licensed Area and shall provide the Department with complete and unrestricted access during reasonable business hours to all Licensed Areas and to all documents specified in Section 4 of these rules. When the Department or a Sampling Agent collects samples during an inspection, the licensee, a Key Participant, or a designated employee must accompany the Department's representative throughout the sampling process.

~~(f)~~(e) The Department shall only use samples collected by a Sampling Agent and analyzed by the Department or an authorized agent to determine compliance with these rules.

~~(g)~~(f) Any Official Test Results showing that a sample's THC concentration level is greater than the Acceptable Hemp THC Level shall constitute evidence that all Cannabis in the sampled Lot has a THC concentration level greater than the Acceptable Hemp THC Level and that the licensee is therefore not in compliance with the Hemp Statute and these rules. Upon receipt of such an Official Test Result, the Department will notify ~~federal, state, or local law-enforcement~~ the licensee and request destruction USDA and require disposal of each non-compliant Lot: in accordance with Section 6. The Department will ~~also negotiate~~ develop and issue a corrective action plan with to the licensee as provided in Section ~~4214~~.

~~(h)~~(g) If a licensee believes that an Official Test Result ~~is in error~~, and ~~pays for a retest~~

~~of the originally submitted sample, from~~ the Department is in error, the Department will retest the sample: originally collected by the Department if:

- (i) The licensee requests a retest within five days of notification of the Official Test Results;
- (ii) The licensee pays all costs associated with the retest; and
- (iii) Payment for the retesting is received within 15 days of the request for retesting.

~~(h)~~ If Cannabis in a Lot has a THC concentration level that does not exceed the Acceptable Hemp THC Level, it is considered hemp and may enter the stream of commerce.

~~(i)~~ Cannabis with a THC concentration level exceeding the Acceptable Hemp THC Level ~~constitutes marijuana, a schedule I controlled substance under the CSA, and must be destroyed~~ must be disposed of in accordance with the CSA and 21 CFR part 1317. Section 6.

Section 6. Remediation and Destruction Requirements for Hemp Producers.

(a) A licensee must dispose of non-compliant Cannabis by destroying it in accordance with this section unless the Department's corrective action plan permits the licensee to first attempt to remediate the non-compliant Cannabis.

(b) Methods of remediation include:

(i) Removing and destroying flower material, while retaining the stalk, stems, leaf material and seeds; or

(ii) Shredding and blending the entire Cannabis plant into a biomass like material.

(c) All Cannabis that has undergone remediation must be sampled and tested by the Department to ensure that the THC concentration level does not exceed the Acceptable Hemp THC Level.

(d) Remediation of non-compliant Cannabis must be completed within 60 days after notification by the Department to the licensee of a non-compliant Lot or by the end of the current calendar year, whichever occurs first.

(e) Non-compliant Cannabis Lots that the licensee does not wish to remediate or that remain non-compliant after remediation must be destroyed.

(f) Methods of destruction include:

- (i) Plowing, tilling, or disking the Cannabis into the soil;
 - (ii) Mulching, composting, chopping, or bush mowing Cannabis into green manure;
 - (iii) Burning; or
 - (iv) Burying by covering Cannabis with at least 12 inches of soil.
- (g) The licensee shall provide proof of destruction to the Department unless a Department employee observes the destruction.

Section 67. General Hemp Processing Requirements.

- (a) A licensee must assign to each Batch a unique number or way to identify the product at the time of processing.
- (b) A licensee that extracts THC from hemp must submit for approval by the Department a plan that ensures that the THC is destroyed in accordance with 21 CFR part 1317 and that accounts by Batch number for all THC destroyed.
- (c) A licensee must submit for approval by the Department a plan that ensures that all Batches exceeding the Acceptable Hemp THC Level will be disposed of by altering or treating it to ensure that the THC level of the Batch is brought into compliance or, if compliance is not attainable, that the Batch is disposed of in accordance with 21 CFR part 1317.
- ~~(e)~~(d) The licensee may not accept hemp for processing from any source other than a person licensed by the Department, the ~~United States Department of Agriculture (USDA);~~ USDA, or a state or tribe with a plan approved by USDA.
- ~~(d)~~(e) The If the Department will require destruction of discovers Cannabis discovered at a Licensed Area for processing for which records are not available to prove that the Cannabis was received from a person licensed by the Department, USDA, or a state or tribe with a plan approved by USDA, the licensee shall ensure that the Cannabis is disposed of in accordance with 21 CFR part 1317. Any Cannabis or Cannabis product commingled with Cannabis for which those records are not available will must also be subject to destruction disposed of in accordance with 21 CFR part 1317.
- ~~(e)~~(f) A licensee may not pProcess or Handle any Cannabis that is not hemp.
- ~~(f)~~(g) A licensee may pProcess or Handle hemp only on or in Licensed Areas.

Section 78. Hemp Processor Record Requirements

(a) A licensee who processes hemp must keep the following documentation available for inspection by the Department:

(i) Copies of all written agreements with licensed growers;

(ii) The Official Test Results for all of samples of Cannabis or hemp products sampled and tested by the licensee or by a Certified Laboratory.

(b) A licensee must keep and update monthly records and make them available for inspection by the Department upon request. These records must include:

(i) Hemp intake records, which must include:

(A) The name, location, and license number (Wyoming license number or other specific hemp grower identification number) for each grower from whom the licensee accepts hemp for processing;

(B) The date(s) on which hemp is received;

(C) The amount of each variety received;

(D) The hemp products for which each variety of hemp received will be used; and

(E) The Official Test Results providing evidence that the THC concentration level of all hemp received does not exceed the Acceptable Hemp THC Level.

(ii) ~~Destruction~~ Disposal records for all non-compliant Cannabis ~~or~~ Cannabis products, hemp, or hemp products, which must include:

(A) The date on which disposal occurred ~~a person authorized by 21 CFR part 1317 destroyed or took possession of the non-compliant Cannabis or Cannabis products;~~

(B) The method of ~~destruction, if known~~ disposal;

(C) The location at which ~~a person authorized by 21 CFR part 1317 destroyed or took possession of the non-compliant Cannabis or Cannabis products~~ disposal occurred;

(D) The name and title of the person ~~authorized by 21 CFR part 1317 who destroyed or took possession of the non-compliant Cannabis or Cannabis products, and if possible, the person's signature.~~ that performed the disposal; and

(E) Any other information required by the CSA and 21 CFR part 1317

(iii) Processing records, which must include:

- (A) A list of hemp products made by the licensee; and
- (B) A list of buyers or recipients of hemp products, including:

licensee's facility;

(I) The final destination of hemp products after leaving the

distributed;

(II) The description of each product sold or otherwise

and (III) The quantity of each product sold or otherwise distributed;

(IV) The date of distribution.

(c) A licensee must keep copies of all records, documents, and information required by these rules for at least three years and in a manner such that they can be readily provided to the Department upon request during reasonable business hours.

Section 99. Hemp Processor Inspection and Laboratory Testing.

(a) Each licensee shall select a random sample from every Batch of hemp products made at each of the licensee's facilities that is of sufficient quantity to perform the required tests.

(b) Unless otherwise indicated by the Department, a licensee shall have a Certified Laboratory test every hemp product sample to determine whether the sample's THC concentration level exceeds the Acceptable Hemp THC Level. The licensee must obtain an Official Test Result from the Certified Laboratory for each sample tested.

(c) An Official Test Result showing that the THC concentration level of a sample of a Batch does not exceed the Acceptable Hemp THC Level is evidence that the whole Batch's THC concentration level does not exceed the Acceptable Hemp THC Level.

(d) A licensee shall not sell or otherwise distribute a hemp product unless the hemp product's THC concentration level does not exceed the Acceptable Hemp THC Level and meets all of the other processing requirements in these rules.

Section 910. Storage of Hemp.

(a) Only licensees are authorized to store hemp.

(b) A licensee may store hemp obtained from a person licensed by the Department, USDA, or a state or tribe with a USDA approved plan if:

- (i) The licensee identifies each storage facility on the license application;
- (ii) The storage facility is owned or leased by the licensee; and
- (iii) The licensee keeps complete and accurate records detailing the licensed growers from whom hemp at each storage facility was received, the varieties stored at each storage facility, and the amount of each hemp variety stored at each storage facility;

~~(e)~~ — A licensee may not warehouse or otherwise store hemp that are not owned by the licensee.

~~(d)~~(c) A licensee must separate Harvested Lots in storage in such a manner that maintains the unique identity of each Harvested Lot. Hemp from one Lot may not be commingled with hemp from other Lots.

~~(e)~~(d) If a licensee stores Cannabis or Cannabis products that have a THC concentration level that exceeds the ~~acceptable hemp level~~ Acceptable Hemp THC Level and ~~that Cannabis or Cannabis products have been~~ they are commingled with hemp or hemp products, then the licensee must ensure that the non-compliant Cannabis or Cannabis products and the commingled hemp or hemp or hemp products are disposed of in accordance with Section 6 for Cannabis and hemp must all be destroyed and in accordance with the CSA and 21 CFR part 1317 for Cannabis products and hemp products.

~~(f)~~(e) The licensee must permit the Department to inspect all storage areas during reasonable business hours.

~~(g)~~(f) The licensee must keep inventory records for hemp or hemp products stored, which must include:

- (i) The date of inventory;
- (ii) The location of stored hemp;
- (iii) The name, address, and license number for each licensee that has hemp stored at the facility;

~~(iii)~~(iv) The total amount of each hemp product on hand;

~~(iv)~~(v) The total amount of hemp and hemp seed of each variety on hand;

~~(v)~~(vi) The total amount of unusable hemp and hemp seed of each variety on hand; and

~~(vi)~~(vii) The name, signature, and title of the employee performing inventory.

Section ~~10~~11. Incorporation by Reference.

- (a) For all regulations incorporated by reference in these rules:
- (i) The Department has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules;
 - (ii) The incorporation by reference does not include any amendments or editions of the incorporated matter later than ~~January~~March 1, 2020~~2022~~;
 - (iii) The agency originally issuing the incorporated matter has copies of it readily available to the public; and
 - (iv) The Department maintains the incorporated regulations, which is available for public inspection and copying at cost at 2219 Carey Avenue, Cheyenne, WY 82002.

- (b) The following regulations are incorporated by reference in these rules:

(i) 21 CFR part 1317 (~~2019~~2022), found electronically at:
~~<https://www.ecfr.gov/cgi-bin/text-idx?SID=b533e23fd52fee42d48af83de9f5a2e3&mc=true&node=pt21.9.1317&rgn=div5>~~
<https://www.ecfr.gov/current/title-21/chapter-II/part-1317>

Section 12. Research

(a) A person that desires to produce or process hemp solely for research purposes must:

- (i) Obtain a license from the Department; and
- (ii) Submit all information required in Section 4, Section 8, or both, as applicable.

(b) A licensee that produces or processes hemp solely for research purposes is not subject to sampling by the Department.

(c) A research licensee shall not allow any Cannabis or Cannabis products to enter the stream of commerce.

(d) A Cannabis crop grown for a research licensee's research must be disposed of in accordance with Section 6 by December 1st of the year that it was grown. Reasonable samples from a crop grown by the research licensee may be kept for continued research and testing until May 1st following the year in which the crop was grown so long as the research licensee applies for renewal and receives a new license. A research licensee that Processes hemp solely for research purposes shall dispose of all Cannabis products in accordance with the CSA and 21 CFR part 1317.

(e) The research licensee shall provide proof of disposal to the Department unless the disposal is observed by the Department.

Section 143. Violations.

(a) The Department will initiate a corrective action plan or revoke the license of any licensee who violates the requirements of the Hemp Statute or these rules.

(b) A licensee or Key Participant that violates the provisions of the Hemp Statute or these rules three times in a five year period shall be ineligible for a license to produce or process hemp for a period of five years beginning on the date of the third violation. Specific examples of violations that the Department could determine to be Negligent include:

(c) Examples of a Negligent violation include:

(i) Failure to provide a legal description of land on which the licensee produces Cannabis.

(ii) Failure to obtain a license.

(iii) Producing Cannabis with a THC concentration level that exceeds the Acceptable Hemp THC Level.

~~(e)~~(d) A licensee may not provide false, misleading, or incorrect information pertaining to production or processing of hemp to the Department, including information provided in any application, report, or record.

~~(d)~~(e) A licensee may not continue producing or processing hemp if, after receiving a license, the licensee is convicted of or pleads nolo contendere to a state or federal controlled substance felony.

~~(e)~~(f) Persons with a revoked license shall not sell, Handle, transport, or otherwise allow into the stream of commerce any Cannabis ~~or~~, Cannabis product, hemp, or hemp product.

~~(f)~~(g) If the Department revokes a license, the Department ~~will~~shall require that each Lot of Cannabis or Batch of Cannabis products currently being produced or processed under that license ~~must be destroyed~~disposed of unless the ex-licensee has an Official Test Result showing that each Lot or Batch has a THC concentration level that does not exceed the Acceptable Hemp THC Level.

~~(g)~~(h) ~~Destruction~~Disposal of Non-Compliant Cannabis and Cannabis Products~~:~~

(i) ~~All destruction of noncompliant Cannabis and Cannabis products disposal~~ must be conducted in accordance with ~~the CSA and 21 CFR part 1317~~these rules.

(ii) If the Official Test Result of a Cannabis or Cannabis product sample

shows that the sample's THC concentration level exceeds the Acceptable Hemp THC Level, all Cannabis or Cannabis products in the Lot, Batch, or other unit from which the sample was taken must be ~~destroyed~~disposed of. The licensee is responsible for the cost of ~~destruction~~disposal. The USDA will be notified and supplied Official Test Results of hemp Cannabis samples above the Acceptable Hemp THC Levels. Hemp Cannabis or hemp Cannabis products that are in non-compliant Lots or Batches cannot be further Handled; (unless remediation is an allowable form of disposal), processed, or enter the stream of commerce.

(iii) No person may move or transport Cannabis or Cannabis products subject to ~~destruction~~disposal except those persons authorized by 21 CFR part 1317.

(i) Cannabis that was Harvested prior to sampling by the Department must be disposed of as outlined in Section 6(f).

(j) No licensee shall receive a violation for any Lot that tests above the Acceptable Hemp THC Level if the Department determines that the Lot was required to be resampled because the Department collected a sample incorrectly or because the sample was damaged during transportation to the Certified Laboratory. Nevertheless, any Lot that tests above the Acceptable Hemp THC Level still must be disposed of.

Section 124. Corrective Action Plan.

(a) A licensee that ~~Negligently~~ violates the requirements of the Hemp Statute or these rules must comply with a corrective action plan as prescribed by the Department.

(b) The corrective action plan for licensee violations ~~that the Department determines to be Negligent~~ shall include:

(i) A reasonable date by which the licensee will correct the ~~Negligent~~ Violation;

(ii) A requirement that the licensee shall provide all requested compliance reports to the Department for a period of two years following the date of the ~~Negligent~~ violation.

(c) A licensee's ~~Negligent~~ violation will not be subject to criminal enforcement action by the federal, state, or local government except for violations found in subsection (f) of this section.

~~(d) — A licensee that violates the provisions of the Hemp Statute or these rules three times in a five year period shall be ineligible for a license to produce or process hemp for a period of five years beginning on the date of the third violation.~~

~~(e)~~(d) The Department shall conduct inspections to determine if a corrective action plan has been implemented.

~~(f)~~(e) If a subsequent violation occurs while a corrective action plan is in place, the Department will either:

- (i) Institute a new corrective action plan, which may include quality control, training, or other quantifiable action requirements; or
- (ii) Proceed to revoke the licensee's license.

~~(g)~~(f) If the Department determines that a licensee has violated the Hemp Statute or these rules with a Culpable Mental State Greater Than Negligence the Department shall:

- (i) Immediately report the licensee to the USDA, United States Attorney General, the prosecuting attorney for the jurisdiction where the violation occurred, and the State of Wyoming Attorney General; and
- (ii) Either institute a corrective action plan or proceed to revoke the licensee's license.

Section 135. License Denial, Revocation, and Appeals.

- (a) The Department will deny a license application if:
 - (i) The applicant has made a materially false statement~~(s)~~ on the application;
 - (ii) The applicant failed to submit the appropriate fee;
 - (iii) The applicant failed to submit a correct and complete application; or
 - (iv) Any applicant or Key Participant of the applicant has been convicted of or pled nolo contendere to a state or federal controlled substance felony within the past 10 years. An exception applies to a person who was lawfully growing hemp under the federal Agricultural Act of 2014 before December 20, 2018, and whose conviction or nolo contendere plea also occurred before that date.
- (b) The Department may deny a license application if the applicant has failed to comply with the Hemp Statute or these rules.
- (c) If the Department denies a license application, the Department shall provide the applicant with a notice that includes:
 - (i) The specific reasons for the denial and citations to the applicable provisions of the Hemp Statute or these rules;
 - (ii) The actions, if any, that the applicant must take to qualify for a license;

- (iii) Notice of the applicant's right to request a hearing; and
- (iv) The legal authority under which the hearing is to be held.

(d) If the applicant wants a hearing to contest the denial, the applicant must request a hearing within 20 days of receiving the notice.

(e) If a hearing is requested, the Department shall schedule a time and place for the hearing, to be held not later than 30 days from the date of the request unless a later date is agreed to by the parties.

(f) The Department shall notify the applicant of the time, date and place of the hearing at least seven days before the hearing date.

(g) If prior to the hearing the applicant ~~supplies evidence of correction~~ corrects the deficiency and all other license requirements have been met, the Department may issue a license and cancel the hearing.

(h) If the Department decides to revoke a license, the Department will provide the licensee with a revocation notice, which shall state:

(i) That the license shall be revoked 15 days after ~~receipt~~ mailing of the revocation notice and that all operations shall cease at that time unless a contested case hearing is requested;

(ii) The reasons for revocation and citations to the applicable provisions of the Hemp Statute or these rules;

(iii) That the licensee may request a hearing by submitting a request to the Department within 15 days of the receipt of the notice of revocation;

(iv) The name and address of the Department representative to whom a request for a hearing may be made;

(v) That if a hearing is requested, the hearing shall be conducted by a hearing officer in accordance with the Wyoming Administrative Procedure Act, W.S. 16-3-107 through -115, and the Department's Rules of Practice and Procedures for Contested Case Hearings; and

(vi) That the licensee may appear in person or by counsel licensed to practice law in the State in Wyoming.

~~(i)~~ (i) The Department shall send all notices in this section by certified mail, return receipt requested.

~~(k)~~ (k) ~~If the licensee does not confirm attendance at the requested hearing within five days of the scheduled hearing, the Department will cancel the hearing.~~

~~(j)~~(j) The director of the Department shall issue the final decision, accompanied by written findings of fact and conclusions of law.

~~(k)~~(k) The Department shall deliver the final decision to the licensee by certified mail, return receipt requested.

~~(n)~~—Hearings.

~~(l)~~(l) All hearings provided for in these rules shall be conducted in accordance with the Wyoming Administrative Procedure Act and the Department's Rules of Practice and Procedures for Contested Case Hearings. Appeal from any final order of the Department may be made as provided by the Wyoming Administrative Procedure Act.

Section 146. Fees.

- (a) The Department will assess the following fees:
- (i) \$200 per sampling conducted by the Department.
 - (ii) \$200 per analysis conducted by the Department.
 - (iii) \$250 for verification of effective disposal of Cannabis or Cannabis products in accordance with Section 143.