

test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

(G) Sample preparation of pre- or post-harvest samples shall require grinding of sample to ensure homogeneity of plant material prior to testing. Sample preparation may follow a procedure described by USDA.

(H) After December 31, 2022, States and Indian Tribes shall require that only laboratories registered with the DEA may conduct testing under this section.

(4) A State or Indian Tribe shall require testing laboratories to comply with USDA reporting requirements in subpart F of this part. Laboratories shall only submit test results used to determine compliance with this part. Test results from informal testing conducted throughout the growing season shall not be reported to USDA.

(5) A State or Tribal plan must include a procedure to comply with the enforcement procedures in §990.6.

(6) A State or Tribal plan must include a procedure for the disposal or remediation of cannabis plants if the sample representing that plant tests above the acceptable hemp THC level.

(i) The disposal must be conducted either by using a DEA-registered reverse distributor or law enforcement; or on site at the farm or hemp production facility.

(ii) The State or Tribal plan must include procedures to verify the disposal or remediation of the cannabis plant. This may come in the form of in-person verification by State or Tribal representatives, or alternative requirements that direct growers to provide pictures, videos, or other proof that disposal or remediation occurred successfully. Disposal and remediation means are described at AMS's website.

(iii) If a producer elects to perform remediation activities, an additional sampling and testing of the post-remediated crop must occur to determine THC concentration levels.

(7) A State or Tribal plan must include a procedure for conducting annual inspections of, at a minimum, a random group of producers to verify that hemp is not produced in violation of this part.

(8) A State or Tribal plan must include a procedure for submitting the report described in §990.70 to the Secretary by the first of each month. If the first of the month falls on a weekend or holiday, the report is due by the first business day following the due date. All such information must be submitted to the USDA in a format that is compatible with USDA's information sharing system.

(9) The State or Tribal government must certify that the State or Indian Tribe has the resources and personnel to carry out the practices and procedures described in paragraphs (a)(1) through (9) of this section.

(10) The State or Tribal plan must include a procedure to collect and share information with USDA to support the information sharing requirements in 7 U.S.C. 1639q(d). The State or Tribal government is responsible for reporting the information identified in paragraphs (a)(10)(i) through (iii) of this section with AMS. The State or Tribal hemp production plan must include the following:

(i) A requirement that producers report their hemp crop acreage to the FSA, consistent with the requirement in §990.7.

(ii) Assignment of a license or authorization identifier for each producer in a format prescribed by USDA.

(iii) A requirement that producers report the total acreage of hemp planted, harvested, and, if applicable, disposed or remediated. The State or Tribal government shall collect this information and report it to AMS.

(b) *Relation to State and Tribal law.* A State or Tribal plan may include any other practice or procedure established by a State or Indian Tribe, as applicable; *Provided*, That the practice or procedure is consistent with this part and Subtitle G of the Act.

(1) *No preemption.* Nothing in this part preempts or limits any law of a State or Indian Tribe that:

(i) Regulates the production of hemp; and

(ii) Is more stringent than this part or Subtitle G of the Act.

(2) *References in plans.* A State or Tribal plan may include a reference to a law of the State or Indian Tribe regulating the production of hemp, to the

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extent that the law is consistent with this part.

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§ 990.4 USDA approval of State and Tribal plans.

(a) *General authority.* No later than 60 calendar days after the receipt of a State or Tribal plan for a State or Tribal territory in which production of hemp is legal, the Secretary shall:

(1) Approve the State or Tribal plan only if the State or Tribal plan complies with this part; or

(2) Disapprove the State or Tribal plan if the plan does not comply with this part. USDA shall provide the State or Tribe with written notification of the disapproval and the cause for the disapproval.

(b) *Amended plans.* A State or Tribal government, as applicable, must submit to the Secretary an amended plan if:

(1) The Secretary disapproves a State or Tribal plan and the State or Indian Tribe wishes to have primary regulatory authority over hemp production within its State or territory of the Indian Tribe; or

(2) The State or Indian Tribe makes substantive revisions to its plan or its laws which alter the way the plan meets the requirements of this part. If this occurs, the State or Tribal government must re-submit the revised plan for USDA approval. Such re-submissions should be provided to USDA within 60 days from the date that the State or Tribal laws and regulations are effective. Producers shall continue to comply with the requirements of the existing plan while such modifications are under consideration by USDA. If State or Tribal government laws or regulations in effect under the USDA-approved plan change but the State or Tribal government does not submit a revised plan within 60 days from the effective date of the new law or regulation, the existing plan is revoked.

(3) USDA approval of State or Tribal government plan shall remain in effect unless an amended plan must be submitted to USDA because of a substantive revision to a State's or Tribe's plan, a relevant change in State or

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Tribal laws or regulations, or approval of the plan is revoked by USDA.

(4) Upon USDA approval of a Tribal plan, an Indian Tribe may exercise jurisdiction and therefore primary regulatory authority over all production of hemp in its Territory regardless of the extent of its inherent regulatory authority.

(c) *Technical assistance.* The Secretary may provide technical assistance to help a State or Indian Tribe develop or amend a plan. This may include the review of draft plans or other informal consultation as necessary.

(d) *Approved State or Tribal plans.* If the Secretary approves a State or Tribal plan, the Secretary shall notify the State or Indian Tribe by letter or email.

(1) In addition to the approval letter, the State or Indian Tribe shall receive their plan approval certificate either as an attachment or via website link.

(2) The USDA shall post information regarding approved plans on its website.

(3) USDA approval of State or Tribal government plans shall remain in effect unless:

(i) The State or Tribal government's laws and regulations in effect under the USDA-approved plan change, thus requiring such plan to be revised and re-submitted for USDA approval.

(ii) A State or Tribal plan must be amended in order to comply with future amendments to Subtitle G the Act and this part.

(e) *Producer rights upon revocation of State or Tribal plan.* If USDA revokes approval of a State or Tribal plan due to noncompliance as defined in paragraph (b)(2) of this section and § 990.5, producers licensed or authorized to produce hemp under the revoked State or Tribal plan may continue to produce for the remainder of the calendar year in which the revocation became effective. Producers operating in a State or Tribal territory with a revoked plan would have to apply to USDA for a license to continue producing.

§ 990.5 Audit of State or Tribal plan compliance.

The Secretary may conduct an audit to determine a State or Indian Tribe's compliance with their approved plan.