



## Georgia Department of Banking and Finance Hemp Job Aid

Industrial hemp was legalized at the federal level by the 2018 Farm Bill. The 2018 Farm Bill gave the US Department of Agriculture (USDA) the authority to regulate hemp production and the ability to delegate such authority to individual states so long as those states have a regulatory plan approved by USDA. The Georgia Hemp Farming Act, which was signed into law on May 10, 2019, provides that the Georgia Department of Agriculture (GDA) regulates the production and processing of hemp within the State. O.C.G.A. § 2-23-1 *et seq.* Pursuant to its regulatory authority, GDA enacted rules and regulations surrounding the processing and production of hemp. Ga. Comp. R. & Regs. C. 40-32 *et seq.* The Hemp Farming Act and the associated rules and regulations form the framework of GDA's Georgia Hemp Plan<sup>1</sup> which was approved by USDA on March 9, 2020. The Georgia Hemp Plan and related rules and regulations can be found at this link:

<https://www.ams.usda.gov/sites/default/files/media/GeorgiaHempPlanandRules.pdf>

This job aid is an examiner reference tool providing background as well as Georgia-specific information such as legalization status, risk management considerations, and related topics on hemp.

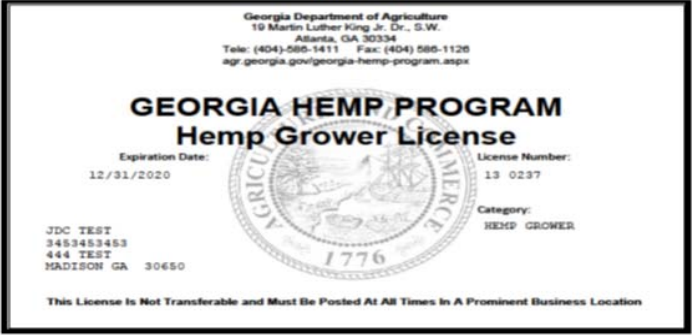
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<sup>1</sup> The Georgia Hemp Plan specifically incorporates all of the provisions of the Georgia Hemp Farming Act and Ga. Comp. R. & Regs. C. 40-32 *et seq.* into the Georgia Hemp Plan. Thus, any reference to the Georgia Hemp Plan necessarily references the Georgia Hemp Farming Act and the related rules and regulations.

Hemp Related Businesses <sup>2</sup>	Information for Examiners	Relevant Policy or Reference	Examiner Notes
<p><b>Part I - Background Information</b></p> <p>This section is designed to help examiners understand the hemp industry.</p>			
<p><b>1. What is hemp (or industrial hemp)?</b></p>	<ul style="list-style-type: none"> <li>• Hemp is any part of the Cannabis sativa L. plant that contains 0.3% THC or less.</li> <li>• The same plant produces marijuana and hemp – the difference is the amount of THC in that plant.</li> </ul>	<p>Hemp is defined as the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3% on a dry weight basis.</p>	
<p><b>2. What are the plans in place now for hemp production?</b></p>	<ul style="list-style-type: none"> <li>• All Georgia hemp growers and processors are required to comply with GDA’s Georgia Hemp Plan.</li> </ul>	<p>The official website of the Georgia Department of Agriculture is: <a href="http://www.agr.georgia.gov">www.agr.georgia.gov</a>.</p>	
<p><b>3. When did Georgia issue hemp regulations?</b></p>	<ul style="list-style-type: none"> <li>• The Georgia Hemp Farming Act was signed into law on May 10, 2019.</li> <li>• The USDA approved GDA’s Georgia Hemp Plan on March 9, 2020.</li> </ul>	<p>O.C.G.A. § 2-23-1 <i>et seq</i> Ga. Comp. R. &amp; Regs. C. 40-32 <i>et seq</i></p>	
<p><b>4. What licenses and/or permits are required by the State of Georgia?</b></p>	<ul style="list-style-type: none"> <li>• Hemp Growers License.</li> <li>• Hemp Processor Permit.</li> <li>• A Hemp Grower Licensee may also be a Hemp Processor Permit Holder.</li> </ul>	<p><a href="http://agr.georgia.gov/georgia-hemp-program.aspx">http://agr.georgia.gov/georgia-hemp-program.aspx</a></p>	

<sup>2</sup> This job aid uses the term Hemp Related Business (HRB) to mean any business that is directly or indirectly related to the hemp industry.

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<p><b>5. What is required by Georgia hemp license and permit holders?</b></p>	<p>Requirements are outlined for items such as recordkeeping, THC level testing, and “hot” plant disposal. All active licensees and permit holders are subject to compliance testing. Such Licensees and Permit Holders must ensure that all hemp related facilities have appropriate signage and can be easily accessed by State personnel. It is imperative that active licensees and permit holders comply with all requirements outlined in the Georgia Hemp Plan to avoid license or permit revocation, suspension, or other corrective action.</p>	<p>Monthly and annual reports to GDA and USDA are required to maintain compliance with Georgia’s Hemp Plan.</p>	
<p><b>6. Where can I verify GDA approved hemp permitted processors?</b></p>	<p>List is maintained on the GDA’s website.</p>	<p><a href="http://agr.georgia.gov/georgia-hemp-program.aspx">http://agr.georgia.gov/georgia-hemp-program.aspx</a></p>	

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<p>7. <b>Where can I verify GDA approved hemp licensed growers?</b></p>	<p>The customer should produce a physical GDA-approved Grower’s License. GDA can also answer questions at 404-586-1140.</p>	<p>Sample License:</p> <p>JDC TEST 123 temp street CR1ent, GA 30518</p> <p>The enclosed Georgia Hemp Grower License is valid through 12/31/2020.</p> <p>If you have questions or concerns regarding your Georgia Hemp Grower License, please contact: Georgia Department of Agriculture, (404)-586-1140.</p> <p>(Fold or cut on line to display)</p>  <p>JDC TEST 3453453453 444 TEST MADISON GA 30650</p>	
<p>8. <b>Can hemp and hemp products be transported across state lines?</b></p>	<p>Interstate transportation of hemp and hemp products is specifically authorized by the 2018 Farm Bill.</p>	<p><b>7 CFR 990.63</b> No State or Indian Tribe may prohibit the transportation or shipment of hemp or hemp products (produced in accordance with an approved plan, under a hemp license issued by USDA, or under 7 U.S.C. § 5940) through the State or the territory of the Indian Tribe, as applicable.</p>	
<p>9. <b>When is a hemp processor permit required?</b></p>	<ul style="list-style-type: none"> <li>Any person processing or intending to process hemp must have a valid Hemp Processor Permit before receiving, processing, handling, or storing hemp at any location in Georgia.</li> <li>A valid permit means the permit has been issued and has not been expired, suspended, or revoked.</li> </ul>	<p>Georgia-specific requirements can be found at this link: <a href="http://agr.georgia.gov/georgia-hemp-program.aspx">http://agr.georgia.gov/georgia-hemp-program.aspx</a>.</p> <p><a href="http://agr.georgia.gov/Hemp/Georgia-Hemp-Program-FAQs-2020.pdf">http://agr.georgia.gov/Hemp/Georgia-Hemp-Program-FAQs-2020.pdf</a></p> <p>O.C.G.A. § 2-23-4</p>	

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<b>10. What hemp activity is legal in Georgia without a license or permit?</b>	<p>Outside of the licensing and permitting requirements for growing and processing, the only limitation on hemp activity are the ones imposed by the FDA which restrict the ingestion of certain products (e.g. CBD oil) derived from hemp.</p>	<p>See the Georgia Department of Agriculture’s FAQ # 11: <a href="http://agr.georgia.gov/georgia-hemp-program.aspx">http://agr.georgia.gov/georgia-hemp-program.aspx</a></p>	
<b>11. How is hemp tested for THC levels to ensure it hasn’t “gone hot”?</b>	<ul style="list-style-type: none"> <li>• Within 15 days prior to harvest, samples of the flower material must be collected.</li> <li>• Sampling must be sufficient at a confidence level of at least 95% that no more than 1% of the plants in the lot would exceed the acceptable THC limit of 0.3%.</li> </ul>	<p>Rule 40-32-2-.03 describes collection. Rule 40-32-2-.04 describes testing.</p> <p>In an interim final rule issued on February 27, 2020, the USDA delayed enforcement of the testing and disposal requirements until October 2021.</p>	

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<p><b>12. Can hemp growers get federal crop insurance?</b></p>	<ul style="list-style-type: none"> <li>On December 23, 2019 the USDA announced a pilot crop insurance program for hemp that covers multi-peril crop insurance (MPCI) for eligible growers in the 2020 production season. Georgia is not included.</li> <li>To be eligible for the MPCI pilot program, among other requirements, a hemp grower must comply with applicable state, tribal or federal regulations for hemp production, have at least one year of history growing the crop, and have a contract for the sale of the insured hemp. The MPCI does not cover the hemp crop if it goes hot. Growers also must be a part of a Section 7606 state or university research pilot, as authorized by the 2014 Farm Bill, or be licensed under a state, tribal or federal program approved under the USDA’s interim final rule issued in October 2019.</li> </ul>	<p>Hemp is now eligible for federal crop insurance. Section 502(b) of the Federal Crop Insurance Act was amended to include hemp as a commodity eligible for federal crop insurance. <b>7 USC § 1502(b)</b></p> <p>On August 27, 2019, the USDA clarified that farmers who were authorized under a Section 7606 state or university research pilot as part of the 2014 Farm Bill can get whole-farm revenue protection federal crop insurance.</p> <p>More information about USDA crop insurance is found at <a href="http://www.rma.usda.gov/en">www.rma.usda.gov/en</a>.</p> <p>Details of the risk management programs that protect hemp growers’ crops from natural disasters were announced February 6, 2020 and can be found at this link: <a href="https://www.usda.gov/media/press-releases/2020/02/06/usda-announces-details-risk-management-programs-hemp-producers">https://www.usda.gov/media/press-releases/2020/02/06/usda-announces-details-risk-management-programs-hemp-producers</a>.</p> <p>USDA web site containing information to help farmers with links to policies and FAQs can be found at: <a href="https://www.farmers.gov/manage/hemp">https://www.farmers.gov/manage/hemp</a>.</p>	

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<b>13. Can growers get intellectual property protection for new varieties of hemp?</b>	<p>The USDA is now accepting applications for plant variety protection under the Plant Variety Protection Act. If granted the protection lasts 20 years.</p>	<p>Details of the plant variety protection of the USDA can be found at this link: <a href="https://www.ams.usda.gov/content/usda-now-accepting-applications-seed-propagated-hemp-plant-variety-protection">https://www.ams.usda.gov/content/usda-now-accepting-applications-seed-propagated-hemp-plant-variety-protection</a>.</p>	
<b>14. Can hemp seeds be imported?</b>	<ul style="list-style-type: none"> <li>• 2018 Farm Bill removed hemp and hemp seeds from the Drug Enforcement Administration's (DEA) schedule of Controlled Substances. This action removed hemp and hemp seeds from DEA authority for products containing THC levels of 0.3% or less.</li> <li>• DEA no longer has authority to require hemp seed permits for import purposes.</li> </ul>	<p>Hemp seeds can be imported from Canada if accompanied by either: 1) a phytosanitary certification from Canada's national plant protection organization to verify the origin of the seed and confirm that no plant pests are detected; or 2) a Federal Seed Analysis Certificate (SAC, PPQ Form 925) for hemp seeds grown in Canada. Hemp seed may be imported from other countries if accompanied by a phytosanitary certificate from the exporting country to verify the origin and lack of pests.</p> <p>Importation of seeds generally is covered under USDA Animal and Plant Health Inspection Service regulations.</p>	
<b>15. Can hemp be sent through the US mail?</b>	<p>The US Postal System allows hemp products to be mailed if the mailer complies with applicable federal, state, and local laws. The mailer must retain proof of compliance with such laws for at least two years after mailing.</p>	<p>The USPS policy document related to mailing of hemp related products can be found at this link: <a href="https://about.usps.com/postal-bulletin/2019/pb22521/html/updt_002.htm">https://about.usps.com/postal-bulletin/2019/pb22521/html/updt_002.htm</a>.</p>	

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<p><b>16. What is CBD or CBD oil? Is it legal?</b></p>	<ul style="list-style-type: none"> <li>• One of the main byproducts of industrial hemp is cannabidiol or CBD oil. The Farm Bill authorizes CBD only to the extent that it is contained in hemp grown in a manner consistent with the Farm Bill and other federal and state regulations.</li> <li>• Cannabidiol (CBD), which is regulated by the Food and Drug Administration, remains <b>illegal</b> for human consumption.</li> <li>• Hemp seeds and hemp seed oil generally do not contain CBD.</li> </ul>	<p>While hemp is no longer a Schedule 1 drug, it remains subject to regulation by the FDA, which considers CBD a drug and an illegal food ingredient.</p> <p>One anti-seizure drug for children produced from CBD has been approved for use, Epidiolex.</p> <p>Three hemp seeds (which do not contain CBD) derived food products – hulled hemp seed, hemp seed protein powder, and hemp seed oil - have been deemed “generally recognized as safe” by the FDA and are safe for consumption.</p>	
<p><b>17. Where is the most current information from the FDA on hemp?</b></p>	<p>The FDA maintains a question and answer website on cannabis with the latest information.</p>	<p><a href="https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd">https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-including-cannabidiol-cbd</a></p>	
<p><b>18. Hemp ingredients in alcohol beverages</b></p>	<p>The Alcohol and Tobacco Tax and Trade Bureau of Treasury previously banned hemp ingredients because it was a Schedule 1 drug and guidance is in process of being updated. Until the guidance is revised, the agency will not approve hemp as an ingredient unless it is approved by the FDA.</p>	<p><a href="https://www.ttb.gov/industry-circulars/ttb-industry-circulars-19-1">https://www.ttb.gov/industry-circulars/ttb-industry-circulars-19-1</a></p>	



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<p><b>19. Are financial institutions required to file Suspicious Activity Reports (SARs) for HRB?</b></p>	<ul style="list-style-type: none"> <li>Because hemp is no longer a Schedule 1 controlled substance under the Controlled Substances Act, institutions are not required to file a SAR on customers <b>solely</b> because they are engaged in the growth or cultivation of hemp in accordance with applicable laws and regulations.</li> <li>Note this requirement is different than for marijuana-related businesses.</li> </ul>	<p>For hemp-related customers, institutions are expected to follow standard SAR procedures, and file a SAR if indications of suspicious activity exist.</p> <p>Providing Financial Services to Customers Engaged in Hemp-Related Businesses  <a href="https://www.fincen.gov/sites/default/files/2019-12/Hemp%20Guidance%20%28Final%2012-3-19%29%20FINAL.pdf">https://www.fincen.gov/sites/default/files/2019-12/Hemp%20Guidance%20%28Final%2012-3-19%29%20FINAL.pdf</a></p> <p>FinCEN Guidance Regarding Due Diligence Requirements under the Bank Secrecy Act for Hemp-Related Business Customers  <a href="https://www.fincen.gov/sites/default/files/2020-06/FinCEN_Hemp_Guidance_508_FINAL.pdf">https://www.fincen.gov/sites/default/files/2020-06/FinCEN_Hemp_Guidance_508_FINAL.pdf</a></p>	
<p><b>Part II - Current and Planned Activities</b></p> <p>The questions in this section are intended to help the examiner build an understanding of an institution's posture regarding the hemp industry.</p>			
<p><b>20. Is the institution currently banking any customers related to the hemp industry?</b></p>	<p>Hemp industry may include growers, transporters, processors, and manufacturers (among others).</p>	<p>Pursuant to the 2018 Farm Bill, hemp is no longer a Schedule 1 controlled substance, and it is legal under federal law to process, distribute, or dispense hemp.</p> <p>Georgia law; however, requires a permit to process hemp, a license to grow hemp, and has specific guidelines when shipping, transporting, and delivering hemp.</p>	

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<p><b>21. What discussions have taken place at the Board of Directors about hemp-related businesses?</b></p>	<p>This question is intended to help develop an understanding of how the institution's management team views banking the HRB industry. It is not intended to imply that specific provisions or steps should have been taken by the institution.</p>		
<p><b>Part III - Risk Management Consideration</b></p> <p>The questions in this section are intended to build an understanding of the institution's posture regarding the hemp industry.</p>			
<p><b>22. What if my financial institution is engaged in banking hemp-related businesses?</b></p>	<p>The financial institution is making a risk management decision. Financial institutions considering whether to bank hemp-related businesses should be confident in their ability to risk assess and provide appropriate ongoing monitoring the business.</p>	<p>FinCEN Guidance Regarding Due Diligence Requirements under the Bank Secrecy Act for Hemp-Related Business Customers  <a href="https://www.fincen.gov/sites/default/files/2020-06/FinCEN_Hemp_Guidance_508_FINAL.pdf">https://www.fincen.gov/sites/default/files/2020-06/FinCEN_Hemp_Guidance_508_FINAL.pdf</a></p> <p>Providing Financial Services to Customers Engaged in Hemp-Related Businesses  <a href="https://www.fincen.gov/sites/default/files/2019-12/Hemp%20Guidance%20%28Final%2012-3-19%29%20FINAL.pdf">https://www.fincen.gov/sites/default/files/2019-12/Hemp%20Guidance%20%28Final%2012-3-19%29%20FINAL.pdf</a></p>	
<p><b>23. What is the state's hemp regulatory setup?</b></p>	<p>Overview and resources included in “Part I – Background Information” of this Job Aid.</p>	<p>The USDA approved GDA’s Georgia Hemp Plan on March 9, 2020.</p>	

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<p><b>24. Did management perform a review of applicable federal and state laws prior to the banking of hemp-related customers?</b></p>	<p>Management would be expected to ensure that any applicable licenses or regulatory requirements have been met before establishing a relationship with any HRB. These reviews should occur on a regular basis to ensure that no licenses have lapsed, or no regulatory requirements have been missed by the HRB that could jeopardize their ability to operate their business.</p>	<p>Verification of Hemp Processor Permit can be found at this link: <a href="http://agr.georgia.gov/georgia-hemp-program.aspx">http://agr.georgia.gov/georgia-hemp-program.aspx</a>.</p> <p>Verification of Hemp Grower License can be confirmed through paper license verification from customer. Refer to Item 7 above.</p>	
<p><b>25. How will the financial institution monitor compliance with applicable state requirements?</b></p>	<p>Georgia Department of Agriculture regulates the production and processing of hemp within the State.</p>	<p><a href="http://agr.georgia.gov/georgia-hemp-program.aspx">http://agr.georgia.gov/georgia-hemp-program.aspx</a></p>	
<p><b>26. Do the institution's policies address banking of hemp-related businesses?</b></p>	<p>There is no requirement that separate policies or procedures be developed for HRBs but if an institution has HRB customers, the handling of such relationships should be addressed in existing or separate policies.</p>		

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<p><b>27. Has the institution adjusted their risk management practices for banking HRBs?</b></p>	<ul style="list-style-type: none"> <li>• Risks specific to HRBs should be included in the institution’s risk assessments if they have current or planned HRB relationships.</li> <li>• The Board is responsible for establishing risk limitations of the financial institution, therefore Board-approved policies and directives should be established for HRBs.</li> </ul>	<p>Based on the banking relationship, risks include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Implications of non-compliance with permit or license requirements from the USDA and/or GDA;</li> <li>• Crop destruction exposure;</li> <li>• Involvement in CBD-infused food, supplement, and ingestion products not authorized by the FDA;</li> <li>• BSA risk assessment, CDD, beneficial ownership, and ongoing monitoring requirements;</li> <li>• Financial institution staff training to understand risks, requirements, and ongoing monitoring requirements of HRBs; and</li> <li>• If applicable, Loan Policy considerations for HRBs such as LTV, concentration limits, collateral considerations, primary and secondary repayment sources, cash flow requirements, etc.</li> </ul>	
<p><b>28. What challenges has the institution encountered in banking HRBs?</b></p>	<p>Responses should help an examiner understand how HRBs have impacted the institution’s risk profile.</p>		
<p><b>29. What training has been done for employees regarding HRBs?</b></p>	<p>Employees that are tasked with oversight of HRBs should be familiar with applicable regulations, risk assessment, and ongoing monitoring requirements of the financial institution.</p>		