



Subject: Serving Job Seekers and Employers in the Hemp Industry

Colorado Policy Guidance Letter#: WP-2019-01

Revise/Replace PGL#: N/A

Date: October 18, 2019

Distribution: CDLE Management/Finance, State/Local Workforce Directors & Staff, Partners

I. REFERENCES:

- [Agricultural Improvement Act of 2018](#)
- Controlled Substances Act, 21 U.S.C. § [802\(16\)](#), § [812\(c\)](#).
- Federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 301 et seq.).
- [Title I of the Workforce Innovation and Opportunity Act \(WIOA\) of 2014](#)
- WIOA Department of Labor-Only Final Rule ([81 FR 56072](#), Aug. 19, 2016).
- Wagner-Peyser Act of 1933 as amended by [Title III of WIOA](#).
- Colorado Revised Statutes, Title 35, Article 61, Industrial Hemp Regulatory Program ([C.R.S. 35-61-101](#)).
- Colorado [Senate Bill 19-220](#), Hemp Regulation Alignment With 2018 Federal Farm Bill.
- Colorado [Senate Bill 19-240](#), Industrial Hemp Products Regulation
- [Defining Hemp: A Fact Sheet](#), Congressional Research Service
- Colorado Policy Guidance Letter (PGL) [WP-2016-04, A Comprehensive Approach to Business Services](#).
- PGL [WP-2011-01, H-2A Foreign Labor Certification Guidelines](#)
- PGL [WP-2013-01, MSFW Program Funding Guidelines](#)
- [Approved Source List](#) of businesses registered with the Colorado Department of Public Health and Environment to process, sell, and distribute hemp products for human use/consumption
- [List](#) of businesses registered with the Colorado Department of Agriculture to cultivate hemp

II. PURPOSE:

To provide guidance to Local Workforce Development Boards and Local Areas on service delivery to job seekers and businesses in the hemp industry.

III. BACKGROUND:

Until recently, all cannabis varieties were considered Schedule I controlled substances under the Controlled Substances Act. In December 2018, the Agricultural Improvement Act of 2018 (known as the Farm Bill) was passed by Congress. This bill removes hemp from the federal definition of marijuana, decriminalizes the cultivation of hemp and the sale of products derived from hemp under federal law, and removes hemp from the Controlled Substances Act. This change differentiated between hemp and marijuana in terms of farm policy and federal regulatory oversight. Federal law no longer prohibits the use of federal funds to support businesses that are cultivating hemp or selling hemp products.

In Colorado, the Department of Agriculture (CDA) is responsible for regulating the cultivation of hemp and testing hemp plants to ensure that the tetrahydrocannabinol (THC) concentration is not higher than 0.3 percent. Any cannabis plant or product that contains more than 0.3 percent THC is considered marijuana under federal law.

The Food and Drug Administration (FDA) maintains oversight of hemp-derived consumer products under the Federal Food, Drug, and Cosmetic Act. FDA's oversight includes hemp and hemp-derived products as a food and food ingredient, as well as an ingredient for use in body products, cosmetics, dietary supplements, and therapeutic products. The Colorado Department of Public Health and Environment (CDPHE) is responsible for monitoring Colorado's hemp businesses that fall under FDA's jurisdiction. There is currently no state regulation for businesses that are processing, selling, and distributing other types of hemp products that do NOT fall under FDA's oversight. Colorado [Senate Bill 19-240](#) delegates regulation of other hemp products (non-food) to local governments to adopt ordinances or resolutions regulating the storage, extraction, processing, or manufacturing of hemp products.

IV. POLICY/ACTION:

A. Definitions

Cannabis is a plant of the Cannabaceae family and contains more than eighty biologically active chemical compounds. The most commonly known compounds are delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD). Hemp and marijuana are from the same species of plant, *Cannabis sativa*.

Hemp means the plant *Cannabis sativa* 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 percent on a dry weight basis.

B. Approval of Employers in Connecting Colorado

Employers in the hemp industry will follow the standard business services policy and procedures and may access all available business services for which they are eligible. Local staff must follow the standard employer verification procedures in PGL [WP-2016-04, A Comprehensive Approach to Business Services](#).

In addition, local staff must verify that the business is registered with the appropriate oversight agency to legally cultivate, process, sell or distribute hemp in Colorado.

1. Businesses cultivating hemp: [Verify registration](#) with the Colorado Department of Agriculture.
2. Businesses processing, selling, and distributing hemp-based products for human use/consumption (this includes cosmetics, foods, food additives, herbs, supplements): Verify registration on the [Approved Source List](#) with the Colorado Department of Public Health and Environment
3. There is currently no state regulation for businesses that are processing, selling, and distributing hemp products that are NOT cosmetics, foods, food additives, herbs, and supplements for human use/consumption.

Documentation of the employer's registration status is required for #1 and #2 above and must be uploaded into the employer notes in Connecting Colorado. Hemp businesses may be registered with one or both agencies, depending on their business activities (cultivation, processing, sale, and distribution).

Acceptable documentation includes one of the following:

- A screenshot with the business name and [certificate number](#) from the Colorado Department of Agriculture (CDA) website;
- A screenshot of the company listing on the Colorado Department of Public Health & Environment (CDPHE) [Approved Source List](#); OR
- A copy of the registration letter from CDA or CDPHE (provided by the employer).

For unregistered hemp businesses, please refer to the resources in Section I.

C. Job Orders

Staff entering or approving job orders from businesses in the hemp industry must follow the standard policy and procedures for job orders in PGL [WP-2016-04, A Comprehensive Approach to Business Services](#).

For all H-2A and H-2B job orders, CDLE's Labor Certification Unit is responsible for verifying that hemp businesses are registered with the appropriate agency to cultivate or process hemp legally in Colorado.

D. Services to Jobseekers

Individuals may receive classroom-based training to prepare for employment in the hemp industry, and may be placed in work experiences, On-The-Job training (OJT), apprenticeships, and other opportunities with hemp businesses using federal funds. In addition to the work experience and OJT requirements in the relevant policies, the pre-evaluation or pre-award review of a hemp business must include verifying that the business is registered with the appropriate oversight agency to legally cultivate, process, sell, or distribute hemp in Colorado.

1. Businesses cultivating hemp: [Verify registration](#) with the Colorado Department of Agriculture.
2. Businesses processing, selling, and distributing hemp-based products for human use/consumption (this includes cosmetics, foods, food additives, herbs, supplements): Verify registration on the [Approved Source List](#) with the Colorado Department of Public Health and Environment
3. There is currently no state regulation for businesses that are processing, selling, and distributing hemp products that are NOT cosmetics, foods, food additives, herbs, and supplements for human use/consumption.

Documentation of the employer's registration status is required for #1 and #2 above and must be included in the participant case file if the participant is engaged in any activity supported by federal funds at that worksite. The registration status must also be included in the participant notes in Connecting Colorado. Hemp businesses may be registered with one or both agencies, depending on their business activities (cultivation, processing, sale, and distribution).

Acceptable documentation includes one of the following:

- A screenshot of the business name and [certificate number](#) from the Colorado Department of Agriculture (CDA) website;
- A screenshot of the company listing on the Colorado Department of Public Health & Environment (CDPHE) [Approved Source List](#); OR
- A copy of the registration letter from CDA or CDPHE (provided by the employer).

For unregistered hemp businesses, please refer to the resources in Section I.

E. Services to Migrant Seasonal Farmworkers

Under the Migrant Seasonal Farmworker (MSFW) Program, outreach workers will provide Pesticide Safety Training to workers that are planting, cultivating, and harvesting hemp, and conduct field safety and sanitation visits. They will also provide information on the complaint process and the jobseeker services available through the local workforce center.

F. H-2A Housing Inspections

Housing inspections for hemp businesses shall be conducted in the same manner as for other agricultural employers.

G. Monitoring and Risk Management

Participant case files will be monitored by the state and must contain documentation of the employer's registration status with the appropriate oversight agency if the participant is engaged in any activity supported by federal funds at that worksite.

H. Using State Funds to Support Hemp Businesses

In addition to federal funds, local areas may use Employment Support Funds (ESF) to provide services to hemp businesses. State-funded grants may also provide services to hemp businesses, and provide training or referrals to participants seeking employment in the hemp industry.

I. Resources for Unregistered Hemp Businesses

Please refer hemp businesses that are not registered to the following websites:

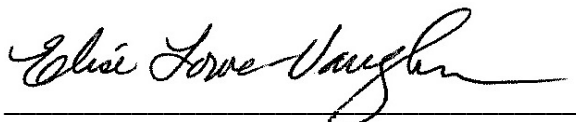
- Growing/cultivating hemp (commercial registration application) - <https://www.colorado.gov/pacific/agplants/forms-reports>
- Processing, selling, and distributing hemp-based products for human use/consumption (register as a manufactured food/storage facility) - <https://www.colorado.gov/pacific/cdphe/food-manufacturing-and-storage>

V. IMPLEMENTATION DATE:

Upon receipt of this PGL.

VI. INQUIRIES:

If you have any questions regarding this PGL, please contact Tom Morgan, tom.morgan@state.co.us or (303) 318-8191.



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