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An Audit Report on

Licensing and Permitting Processes of the Industrial Hemp Program at the Department of Agriculture

August 2022
Report No. 22-038



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Overall Conclusion

The Department of Agriculture (Department) established processes and controls to ensure that the Industrial Hemp Program issued licenses and permits in accordance with applicable requirements (see text box for more information). However, auditors identified certain weaknesses within those processes. Specifically:

- **Criminal History Checks.** The Department has a process to check criminal histories to determine applicants' eligibility for licenses, as required; however, it did not always maintain documentation to support its decisions for approving or denying licenses. Additionally, the Department did not document when it reviewed updates to criminal histories or whether any new felony convictions were identified during those reviews.
- **Application Review.** The Department issued the majority of new licenses within 60 days of receipt of a completed application, as required by statute, and collected the required fees for licenses and permits that auditors tested. However, the Department did not always collect the correct fee amount or ensure that applicants provided accurate location information.

Additionally, the Department should strengthen security controls over users' access to its licensing system to minimize the risk of inadvertent or deliberate alteration or deletion of data.

Table 1 on the next page presents a summary of the findings in this report and the related issue ratings. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Industrial Hemp Program

The Industrial Hemp Program was established by the 86th Texas Legislature with House Bill 1325, which was enacted in June 2019. That bill authorized the Department to oversee the production, manufacture, retail sale, and inspection of industrial hemp crops and products in Texas.

In accordance with the Texas Agriculture Code, the Department established licenses and permits that allow a license holder to cultivate or handle industrial hemp in Texas or to transport the product outside the state.

See Background Information beginning on page 1 for more details.

Sources: House Bill 1325 (86th Legislature) and Texas Agriculture Code, Section 122.101.

Table 1

Summary of Chapters and Related Issue Ratings		
Chapter	Title	Issue Rating ^a
1	The Department Approved Licenses Based on Criminal History Checks; However, It Should Strengthen Its Documentation of Approval Decisions and Its Monitoring of Licensees' Criminal Histories	Medium
2	The Department Collected Fees and Issued Licenses in Accordance with Applicable Requirements; However, It Should Consistently Ensure That It Receives Accurate Location Information for Facility and Lot Crop Permits	Medium
3	The Department Did Not Have Adequate Security Controls Over User Access for Certain Information Systems	High

^a A chapter is rated **Priority** if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

A chapter is rated **High** if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

A chapter is rated **Medium** if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

A chapter is rated **Low** if the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

Summary of Management's Response

At the end of each chapter in this report, auditors made recommendations to address the issues identified during this audit. The Department's management agreed with the recommendations.

Audit Objective and Scope

The objective of the audit was to determine whether the Department has processes and related controls to help ensure that it administers the Industrial Hemp Program's licensing and permit application process in accordance with applicable requirements. This audit was conducted in accordance with Rider 7, page X-7, of the General Appropriations Act (87th Legislature).

The scope of the audit covered applications to the Industrial Hemp Program for three types of licenses (producer, handler, and sampler) and two types of permits (facility and lot crop) that the Department received between March 2020, and February 2022. The scope also included a review of significant internal control components related to the licensing and permitting application process for the Industrial Hemp Program.

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Background Information

The Industrial Hemp Program

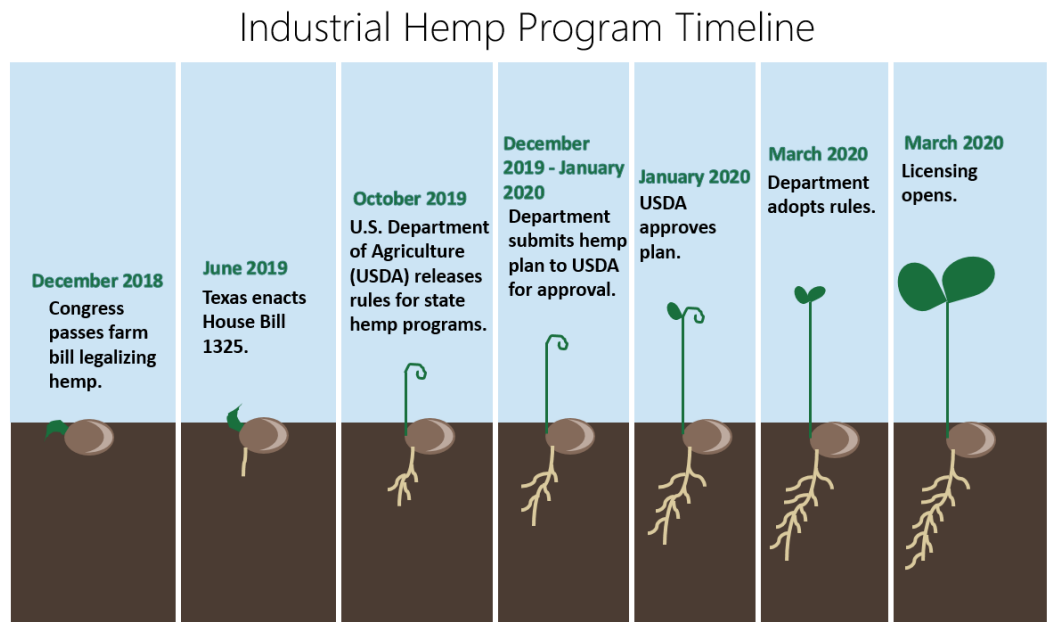
Industrial Hemp

- Defined as the plant species *Cannabis sativa* L. and any part of that plant with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis.
- Used in consumable and nonconsumable products, such as rope, textiles, food, and lotions.

Sources: Texas Agriculture Code, Section 121.001, and Texas Health and Safety Code, Section 443.01.

The Industrial Hemp Program was established by the 86th Texas Legislature with the passage of House Bill 1325, which was enacted in June 2019. That bill authorized the Department of Agriculture (Department) to oversee the production, manufacture, retail sale, and inspection of industrial hemp crops and nonconsumable products in Texas. Figure 1 shows milestones in the Department’s implementation of the Industrial Hemp Program.

Figure 1



Source: The Department.

The Department began accepting applications for licenses and permits for the Industrial Hemp Program in March 2020. Licenses and permits allow the holder to cultivate or handle hemp within Texas or to transport hemp outside the state.

How Does the Department Regulate Industrial Hemp?

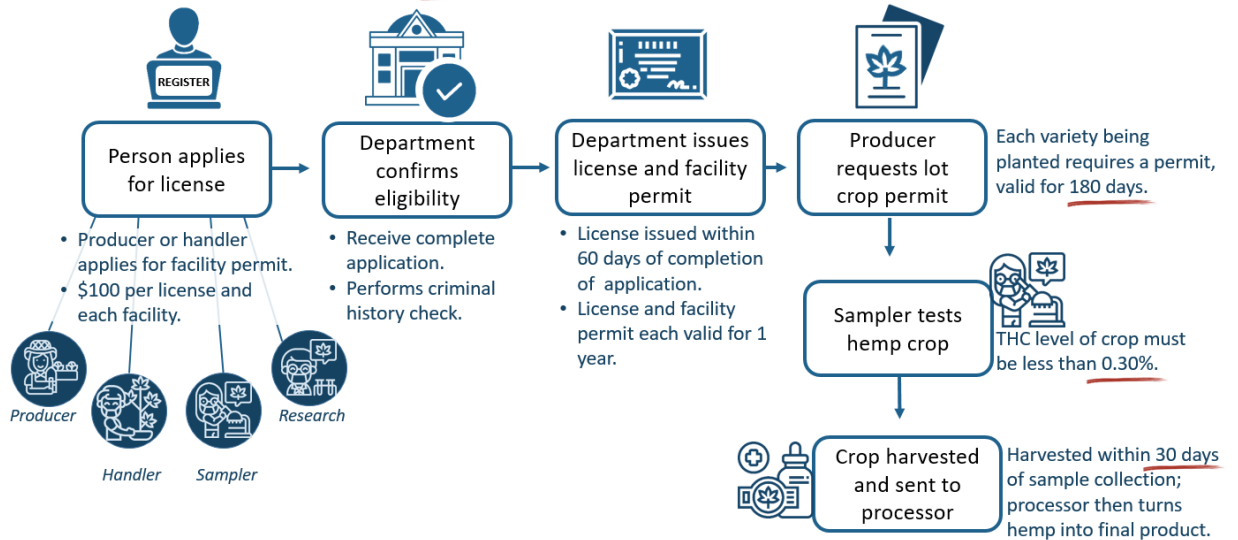
The Department adopted rules in its Texas Administrative Code for licensing, production, testing, and other program oversight activities.¹ Figure 2 on the next page summarizes the Department’s regulatory oversight of industrial

¹ The Department defines the rules for the Industrial Hemp Program in Title 4, Texas Administrative Code, Chapter 24.

hemp, from the initial license application to the delivery of the crop to a processor.

Figure 2

Oversight of Industrial Hemp: Application to Processing



Sources: The Department; Texas Agriculture Code, Chapter 122; and Title 4, Texas Administrative Code, Chapter 24.

What Types of Licenses Are Issued?

An individual must be licensed to produce or handle industrial hemp in Texas. The Industrial Hemp Program offers three types of role-based licenses for individuals:

- **Producer.** A person or entity who cultivates hemp. A producer includes an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm or facility, or would have shared in the crop had one been produced.
- **Handler.** A person or entity not employed by a producer who possesses or stores a hemp plant on premises owned, operated, or controlled by a license holder, or transports the plant. A handler harvests or stores hemp plants or hemp plant parts prior to their being delivered for further processing. In addition, a handler disposes of cannabis plants that are not hemp.
- **Sampler.** A person or entity authorized by the Department to sample and collect hemp plants. Before hemp can be harvested, a sample must be taken to verify that the crop does not exceed 0.30 percent concentration

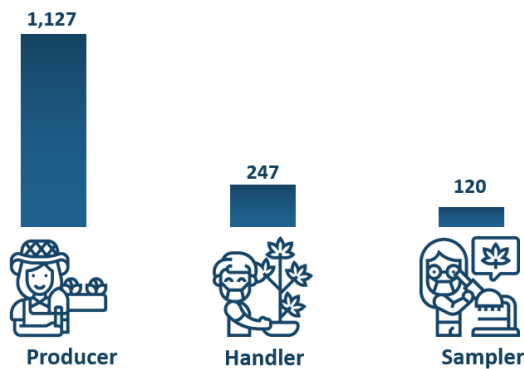
of THC. If the crop is within that percentage, the license holder has 30 days from when the sample is taken to harvest the hemp. If the hemp exceeds that percentage, the producer may request that the crop be sampled again, but a crop must be destroyed in accordance with United States Department of Agriculture (USDA) guidelines if it tests above 0.30 percent THC twice.

The Department also issues **research** licenses², which enable institutions of higher education to produce or handle hemp for agricultural or academic study.

Figure 3 summarizes the types of industrial hemp licenses (other than research licenses) that were active as of February 20, 2022.

Figure 3

Number of Licenses Issued by Type Active as of February 20, 2022



Source: The Department.

The application fee for industrial hemp licenses is \$100. Each license is valid for one year and can be renewed annually for \$100. The Department does not have a limit on the number of licenses it can issue for the Industrial Hemp Program.

What Types of Permits Are Issued?

The Department issues **facility permits** for locations where hemp is produced, as well as **lot crop permits** for each type of industrial hemp crop.

² The scope of this audit did not include the licensing process for research licenses because (1) five research licenses were issued between March 16, 2020, and January 4, 2022, and (2) the likelihood that the Department issued a license to an ineligible institution of higher education was considered low. The Department stated that the research licenses were issued to these five higher education institutions: the Soil, Plant and Water Analysis Laboratory at Stephen F. Austin State University; Texas Tech University; Prairie View A&M University; Texas A&M AgriLife Research; and Texas A&M AgriLife Extension.

Facility Permits. Facilities are locations where a license holder plans to produce hemp. A holder of a license must register at least one facility at the time of the initial application. License holders may request a facility permit for more than one facility. Each facility permit costs \$100 and is valid for one year. A facility permit can be annually renewed, contingent on renewal of the underlying producer or handler license, with payment of a \$100 fee.

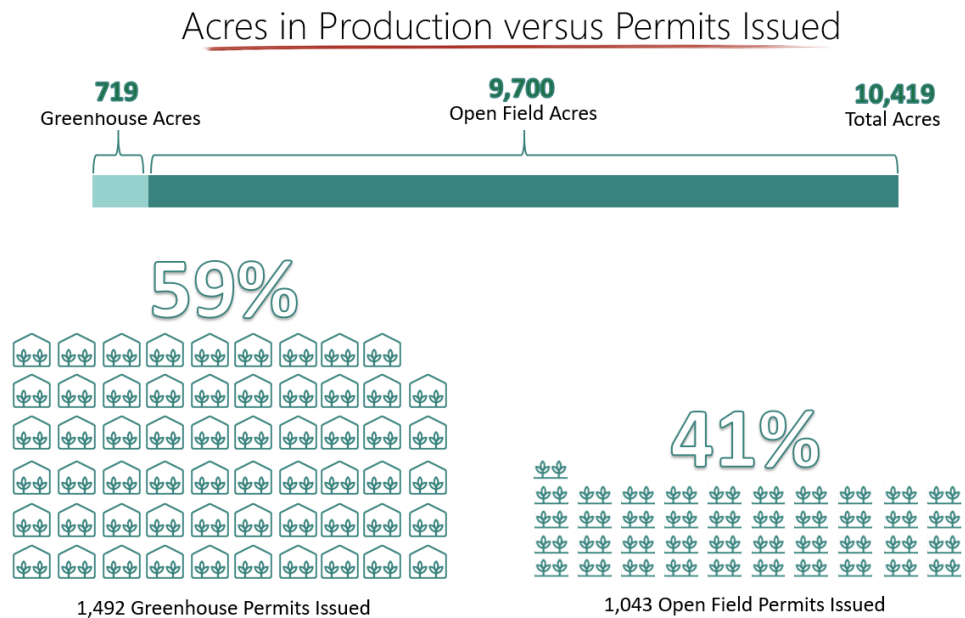
Lot Crop Permits. Within a facility, a license holder produces a variety of industrial hemp crops identified as allowable by the Department. Each variety of industrial hemp that the license holder produces must have a separate lot crop permit. Each lot crop permit costs \$100 and is valid for 180 days. When applying for a lot crop permit, an applicant must (1) identify the crop variety and (2) provide the GPS coordinates for the lot. A license holder has 180 days after receiving a lot crop permit to plant and harvest the specified crop.

Where Can Hemp be Produced?

Hemp lots can be a facility, field, greenhouse, or indoor growing structure. The Department has issued 2,081 facility permits and 2,535 permits for lot crops totaling 10,419 acres as of February 17, 2022.

Figure 4 shows that nearly 59 percent of lot crop permits issued were for greenhouses (or smaller spaces) between April 24, 2020, and February 17, 2022. A license holder will need a new permit for each lot harvested.

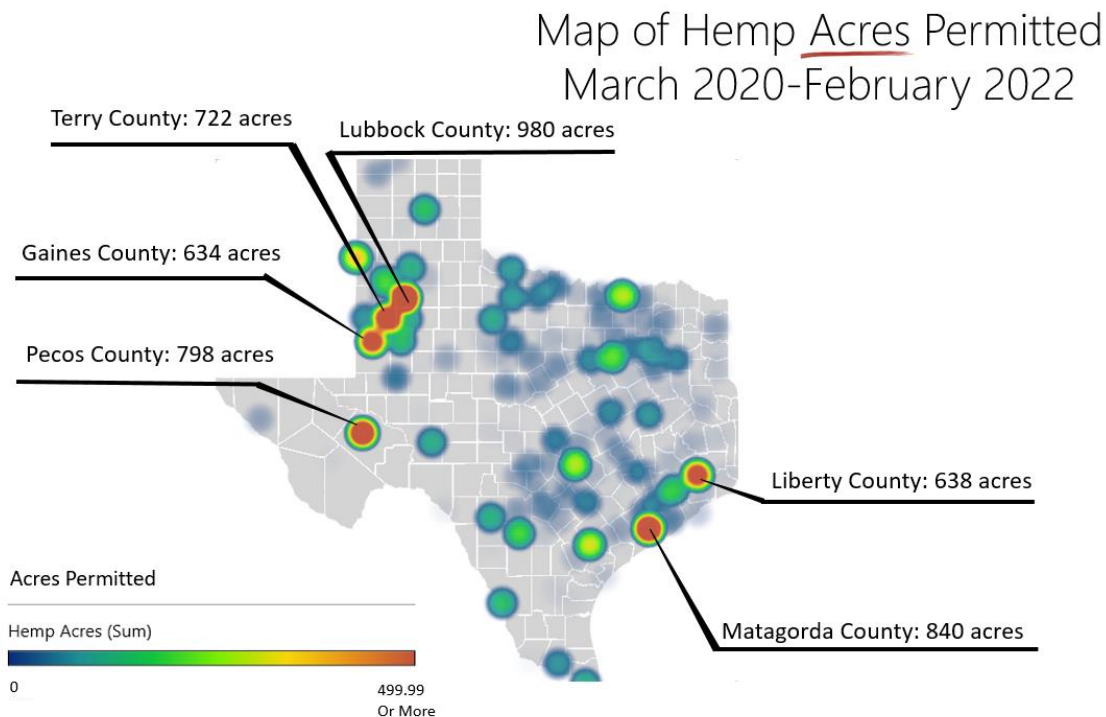
Figure 4



Source: The Department.

Figure 5 shows where hemp acres have been permitted in Texas and identifies the six counties with the most permitted acres.

Figure 5



Source: The Department.

What Other Types of Hemp Facilities Have to Register with the Department?

The Department also requires certain laboratories and processors that handle hemp to register, which adds them to a list posted on the Department's website.

- **Laboratories.** A laboratory conducts tests of samples of hemp for THC levels. The laboratory must be accredited by an independent accreditation body. Registration for a laboratory costs \$250.
- **Processors.** A processor takes harvested hemp and makes it into a marketable form. A processor pays \$100 to register with the Department.

What Requirements Must Be Met for an Applicant to Be Issued a License?

A person must apply for an industrial hemp license using the Department's online application system. Figure 6 shows the requirements that must be met in order for a person to be approved for an industrial hemp license.

Figure 6

License Requirements

- 1 The application is submitted online to the Department;
- 2 The application is complete and accurate^a;
- 3 The applicant has completed a Department mandatory orientation course, or an applicant for a sampler license has completed an additional Department sampling and collection training course;
- 4 The applicant has paid all required fees in the amounts established by the Department or statute;
- 5 The applicant is at least 18 years of age at the time the application is submitted to the Department;
- 6 The applicant's criminal history confirms the applicant and all key participants covered by the license have not been convicted of a felony, under state or federal law, relating to a controlled substance within the past ten years;
- 7 The applicant contains no false statements or misrepresentations and the applicant has not previously submitted an application with any false statements or misrepresentations^b; and
- 8 The applicant's hemp license in this state or another jurisdiction has not been terminated or suspended.

^a Texas Agriculture Code, Chapter 122.103(b) states that the Department shall issue a license to a qualified applicant not later than the 60th day after the date the Department receives the completed application and the required application fees.

^b The license application includes an affidavit for the applicant to certify that the information submitted is true and correct.

Sources: Texas Agriculture Code, Chapter 122,103(b), and Title 4, Texas Administrative Code, Rules 24.8(d) and 24.9

Detailed Results

Chapter 1

The Department Approved Licenses Based on Criminal History Checks; However, It Should Strengthen Its Documentation of Approval Decisions and Its Monitoring of Licensees' Criminal Histories

**Chapter 1
Rating:**
Medium³

The Department of Agriculture (Department) created processes and controls for its Industrial Hemp Program to ensure that its approval and denial of licenses was based on criminal history checks, as required (see text box for requirements). However, the Department should improve its documentation of the criminal history checks used to support its decisions to issue licenses and address weaknesses in its process for monitoring licensees' criminal histories.

The Department properly approved 56 (93 percent) of 60 license applications tested, based on the results of applicants' criminal history checks, as required by statute. In addition, the Department appropriately followed statute when it denied five other applications. However, while the Department was able to (1) document the date and whether an applicant "passed" or "failed" the criminal history check in its licensing system and (2) provide criminal history checks for purposes of the audit for 56 applications tested, it could not provide documentation to support its approval of the other four applications.⁴ Specifically:

- The Department could not provide the results of the criminal history checks for three license applications. When the Department conducted criminal history checks during the audit, no criminal history information was returned. The Department could not confirm whether the applicants' personal information was incorrect or whether the applicants did not

Criminal History Check Requirements

An individual who is or has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the 10th anniversary of the date of the conviction: (1) hold a license; or (2) be a governing person of a business entity that holds a license.

The Department may not issue a license to a person who materially falsifies any information contained in an application submitted to the Department for the Industrial Hemp Program.

Source: Texas Agriculture Code, Section 122.102.

³ The risk related to the issues discussed in Chapter 1 is rated as Medium because they present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

⁴ The Department retains the results of criminal history checks for six months after processing an application in accordance with its record retention schedule. For the purposes of the audit, the Department conducted criminal history checks on the individuals associated with the issued licenses tested in April 2022 to show auditors that the results of applicants' criminal history checks did not disqualify them from being issued a license.

have criminal histories. The Department could not provide any other information to support its decisions to approve the three licenses.

- A criminal history check for the remaining applicant returned an undisclosed criminal charge in another state. The Department could not provide documentation to show how it verified that the criminal offense did not disqualify the applicant.

Retaining documentation supporting approval decisions for applications helps ensure that applicants met requirements for issuance.

Monitoring licensees' criminal histories. The Department uses a third-party vendor to identify updates in licensees' criminal histories (see text box for additional information). However, the Department did not document when those updates to criminal histories were reviewed or whether any new criminal charges were identified during those reviews.

By not documenting its reviews, the Department increases the risk that active licensees with new criminal charges might not be identified, which could result in the Department renewing a license held by an ineligible applicant.

In addition, the Department acknowledged that it did not consistently remove from its monitoring list people whose licenses have expired. The Department indicated during the audit that it had not updated the monitoring list in the past 6 to 10 months. By continuing to monitor the criminal histories of people whose licenses have expired, the Department increases the risk that it will improperly receive confidential information about those individuals.

Criminal History Monitoring

When an individual applies for a license, the Department's third-party vendor performs a criminal history check. The vendor automatically adds the applicant to a list for monitoring of changes in criminal history.

The vendor provides weekly reports to the Department with any changes in criminal history for a licensee on its list. The Department asserted that it would review changes in criminal history to determine if any were for felony drug convictions. The Department would revoke a license if a licensee were convicted of a felony relating to a controlled substance.

Sources: The Department and Texas Agriculture Code, Section 122.105.

Recommendations

The Department should develop, document, and implement processes to:

- Ensure that the results of criminal history checks are sufficiently documented. This documentation should include any actions taken after the initial criminal history check to verify that applicants with criminal charges qualify for new or renewed licenses.
- Remove licensees with expired licenses from its monitoring process in a timely manner to ensure that only active licensees are monitored.

Management's Response

Views of responsible officials: Management agrees with the observations and recommendations of the SAO as stated in Chapter 1 regarding the criminal background review subject matters. The issues of documentation, confirmation and updates identified in the SAO report will be tasked to a specific TDA Program/Legal Division FTE to implement, monitor, and report under the direction and in coordination with the Hemp Program Director and the Deputy General Counsel who oversees the criminal background reviews for the TDA Industrial Hemp Program. The FTE's job description will be updated to reflect the duties and compliance will be overseen by the Deputy General Counsel.

Corrective action plan:

About ensuring that the results of criminal history checks are sufficiently documented, TDA proposes the following corrective actions:

1. The TDA Licensing division will document in TDA' regulatory application, BRIDGE, the review of the criminal history and the forwarding of the criminal history to the Legal Division.
2. Legal will document the review of the criminal history in BRIDGE and include a determination of granting or denying of the application.
3. If denied, Licensing will keep a copy of the letter informing applicant of the denial on file.
4. Due to the confidentiality of information of criminal histories TDA proposes to limit documentation to these measures.

Concerning actions taken after the initial criminal history check to verify that applicants with criminal charges qualify for renewed licenses:

1. TDA would propose to discontinue weekly monitoring at this time. In support of this proposal TDA would state that all applicants and license holders are required by rule to report any controlled substance arrest or conviction to TDA. If the individual does not do so then TDA could use the violation of this rule as a means of revoking, denying, or suspending a license. Furthermore, TDA is required to run an additional background check for any individual renewing their license. If the individual does not report an arrest or conviction TDA has additional reasons for denying the renewal application. TDA is confident that any arrest or conviction

occurring during an individual's licensed period would be discovered in the renewal criminal history check.

- 2. Should TDA continue weekly monitoring TDA proposes to implement a similar procedure to that proposed for reviewing initial applications and the criminal history reports.*
- 3. Licensing will document in BRIDGE the review of the criminal history and of their forwarding of the criminal history to the Legal Division when an arrest or conviction is found through the monitoring and/or when discovered in the renewal application process.*
- 4. Legal will document the review of the criminal history in BRIDGE and include a determination of revoking or suspending the license and/or granting/denying of a renewal application.*
- 5. If a license is revoked, suspended, or denied, Licensing will keep a copy of the letter informing applicant of the denial on file.*

Concerning removing licensees with expired licenses from its monitoring process in a timely manner to ensure that only active licensees are monitored, TDA proposes the following:

Interim Solution:

- Discontinue weekly monitoring (reasons stated previously).*

Long-Term Solution:

- TDA's IT Department will coordinate with the third-party vendor on a procedure to remove licensees with expired license from the monitored list.*

Implementation dates: *ASAP, no later than September 1, 2022.*

Responsible persons: *Deputy General Counsel for Enforcement in Legal Services, Director for Agricultural Commodity Programs, Director Consumer Product Protection, and SPC Licensing Operations Specialist*

The Department Collected Fees and Issued Licenses in Accordance with Applicable Requirements; However, It Should Consistently Ensure That It Receives Accurate Location Information for Facility and Lot Crop Permits

Chapter 2 Rating:
Medium⁵

The Department created processes and controls for its Industrial Hemp Program to ensure that required application fees for industrial hemp licenses and permits were collected and that licenses and permits were issued in a timely manner. However, the Department’s application review process did not always ensure that applicants submitted accurate location information for facility and lot crop permits, as required.

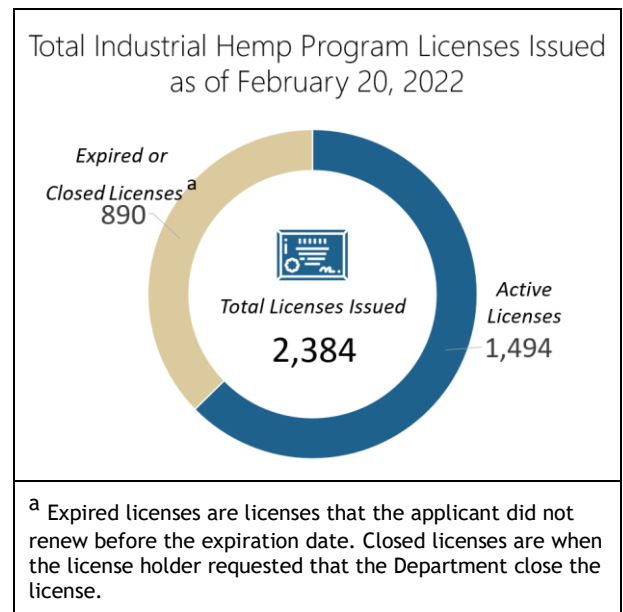
The Department issued the majority of new licenses within 60 days of receiving completed applications.

The Department issued 2,382 (99 percent) of 2,384 licenses within 60 days of receiving a completed license application, as required by Texas Agriculture Code, Section 122.103 (b). Figure 7 shows the status of licenses issued by the Industrial Hemp Program for applications received between March 16, 2020, and February 20, 2022.

The Department collected the required fees for licenses and most permits issued.

The Department collected a \$100 application or renewal fee before processing each of the 60 license applications tested, in accordance with statutory requirements.⁶ It collected a \$100 participation fee for each of the 25 facility permits tested, as specified by Title 4, Texas Administrative Code, Rule 24.5.

Figure 7



Source: The Department.

Total Revenue Collected
(March 2020 through February 2022)
\$1,042,950

⁵ The risk related to the issues discussed in Chapter 2 is rated as Medium because they present risks or effects that if not addressed could moderately affect the audited entity’s ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.

⁶ Texas Agriculture Code, Section 122.052, states that the Department shall set and collect an application fee for an initial license in an amount not to exceed \$100 and a license renewal fee in an amount not to exceed \$100.

The Department collected the required \$100 participation fee for 24 (96 percent) of the 25 lot crop permits tested. For the remaining permit tested, the applicant received three permits but paid for only two permits. After auditors notified the Department of the discrepancy, the Department identified five additional permits that were issued to applicants even though no payment had been received.

The Department did not ensure that applicants consistently provided accurate location information for the facilities and lots used for producing hemp.

While the Department's application review process generally ensured that applicants provided a completed application for issuing an industrial hemp license and permit (see text box for more information on permits), it did not consistently ensure that applicants provided accurate GPS coordinates for the perimeter of each location where the applicant intended to cultivate or handle hemp, as required by statute.⁷ Specifically:

- For 3 (12 percent) of 25 facility permits tested, the applicants submitted location information that was inaccurate or incomplete.
- For 2 (8 percent) of 25 lot crop permits tested, the applicants submitted location information that was inaccurate or did not meet the Department's definition of a lot. The GPS coordinates for one lot did not match the facility address, and the coordinates for the other lot described a location that did not meet the definition of a lot.

Applying for Permits

The Department requires applicants to provide the following information for facility and lot crop permits:

- To obtain a facility permit, the applicant for a producer or handler license provides location information related to each requested facility where hemp will be cultivated or stored in the Department's online application for each license.
- To obtain a lot crop permit, the license holder submits the GPS coordinates for the lot variety or type of hemp crop, the facility location of the lot, the anticipated dates of cultivation of the variety, and the license number of the applicant. If an application is missing the required information, it is subject to denial. A change in the GPS coordinates of a lot where the hemp variety will be planted will be considered a new lot.

Source: Title 4, Texas Administrative Code, Rules 24.8 and 24.17.

Without accurate location information for each lot, the Department may not be able to provide decision makers responsible for the oversight of production with accurate information to (1) track the variety or type of hemp being grown within the state or (2) respond to complaints⁸ regarding a facility or lot.

⁷ Texas Agriculture Code, Section 122.103, states that an application must be accompanied by (1) a legal description of each location where the applicant intends to cultivate or handle hemp and the GPS coordinates for the perimeter of each location; (2) written consent from the applicant or the property owner if the applicant is not the property owner allowing the Department of Agriculture, the Department of Public Safety, and any other state or local law enforcement agency to enter onto all premises where hemp is cultivated or handled to conduct a physical inspection or to ensure compliance with statute and rules; (3) the application fee; and (4) any other information required by Department rule.

⁸ The Department is responsible for ensuring that license holders comply with rules and statutes. The Department will conduct inspections of hemp facilities if it receives a complaint. Complaints can be filed through an email to the Industrial Hemp Program or by phone.

Recommendations

The Department should develop and implement processes to:

- Periodically reconcile the application fees collected for lot crop permits to the number of lot crop permits issued.
- Ensure that facility and lot crop permit applications provide accurate GPS coordinates.

Management's Response

Views of responsible officials: *Management agrees with the observations and recommendations of the SAO as stated in Chapter 2 regarding the collected fees and issued licenses in accordance with applicable requirements and the finding that TDA should consistently ensure that it receives accurate location information for facility and lot crop permits. TDA Licensing will be working with Hemp program to ensure GPS coordinates, technical reviews and the periodic reconciliation of the lot crop permits are complete and accurate.*

Corrective action plan:

About ensuring that facility and lot crop permit applications provide accurate GPS coordinates, TDA proposes the following corrective actions:

- *The agency will begin a process to conduct technical review on applications received to verify GPS coordinates for facility and lot crop permits.*
- *TDA inspectors will also verify lot crop locations when they conduct inspections beginning FY 2023.*
- *Technical review for lot crop permits will be conducted within Hemp program for program staff to verify GPS coordinates.*
- *Licensing and Hemp program will coordinate to ensure that program staff timely receive facility applications to begin their technical review.*

Concerning actions taken to periodically reconcile the application fees collected for lot crop permits to the number of lot crop permits issued:

- *Issue previously found during the audit concerning the issuance of lot crop permits were found to be a glitch within the BRIDGE system and were corrected immediately.*

- *Licensing will work with program to reconcile the application fees collected for lot crop permits to the number of lot crop permits issued quarterly by utilizing TDA's Pentaho software interactive reporting.*

Implementation dates: *September 1, 2022.*

Responsible persons: *Director for Agricultural Commodity Programs, Director Consumer Product Protection, and Manager of Seed Quality*

The Department Did Not Have Adequate Security Controls Over User Access for Certain Information Systems

**Chapter 3
Rating:
High⁹**

The Department did not ensure that access rights and security settings for the information systems used by its Industrial Hemp Program complied with its information security standards. The issues identified were previously reported in *An Audit Report on Financial Reporting and Contracting at the Department of Agriculture* (State Auditor's Office Report No. 16-019, March 2016).

The Department did not ensure that access rights were appropriate for all active user accounts.

Certain active user accounts had inappropriate access to the information systems that manage licensing information for the Industrial Hemp Program. Those user accounts were assigned to employees who no longer had a business need for this access. The Department's information security policies require that employees be assigned user accounts with access appropriate for their business roles.

The Department should ensure that security settings comply with its information security standards.

Security settings for user accounts in selected information systems did not meet the Department's information security policies. To minimize security risks, auditors communicated additional details about the weaknesses identified separately to the Department in writing.

Recommendations

The Department should:

- Perform periodic reviews of user accounts to verify each user's business need for access to information systems.
- Ensure that all user access settings comply with its information security policies.

⁹ The risk related to the issues discussed in Chapter 3 is rated as High because they present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.

Management's Response

Views of responsible officials: *We agree with the findings, and TDA has an exceptional item request to replace this obsolete technology.*

For the existing BRIDGE system, we will review the user access rights granted to ensure they are in compliance with roles and responsibilities. In addition, we will evaluate the BRIDGE system settings and the security policies to determine next steps.

Corrective action plan:

- 1)** *TDA's ISO performs quarterly reviews of BRIDGE access rights and works with program managers to verify each user's access is appropriate for their roles.*
- 2)** *TDA IT agrees that the published security policy should align with the settings of the BRIDGE system and will take action to identify an appropriate solution.*

Implementation dates: *September 30, 2022*

Responsible persons: *Chief Information Officer, Information Security Officer, and Administrator for Regulatory Affairs*

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of the audit was to determine whether the Department of Agriculture (Department) has processes and related controls to help ensure that it administers the Industrial Hemp Program's licensing and permit application process in accordance with applicable requirements. This audit was conducted in accordance with Rider 7, page X-7, of the General Appropriations Act (87th Legislature).

Scope

The scope of the audit covered applications to the Industrial Hemp Program for three types of licenses (producer, handler, and sampler) and two types of permits (facility and lot crop) that the Department received between March 2020, and February 2022. The scope also included a review of significant internal control components related to the licensing and permitting application process for the Industrial Hemp Program (see Appendix 3 for more information about internal control components).

Methodology

The audit methodology included reviewing relevant criteria and the Department's process for issuing licenses and permits; performing data analysis; and testing selected general controls of its licensing systems. In addition, during the audit, matters not required to be reported in accordance with *Government Auditing Standards* were communicated to Department management for consideration.

Data Reliability and Completeness

Auditors (1) observed the Department staff extract requested data populations, (2) reviewed data queries and report parameters, and (3) analyzed the populations for reasonableness and completeness. Auditors determined that the following populations were sufficiently reliable and complete for purposes of this audit:

- Population of applications for licenses the Department received from March 16, 2020, through February 11, 2022.
- Population of facility permits and lot crop permits the Department issued from April 24, 2020, through February 17, 2022.

- Population of related milestones for each industrial hemp license issued from March 1, 2020, through February 17, 2022.
- Population of closed requests for programming changes to the Department’s licensing system related to the Industrial Hemp Program from March 16, 2020, through March 10, 2022.

Auditors also requested the population of weekly reports for the monitoring of licensees’ criminal histories. Based on the Department’s record retention schedule, weekly reports that covered the audit scope were available from October 2, 2021, through January 31, 2022. Auditors determined that the population of weekly reports was sufficiently reliable and complete for purposes of this audit.

Sampling Methodology

Auditors selected the nonstatistical samples described in the following two tables for tests of compliance and controls. Table 2 identifies the sampling methodologies used for licenses and permits; Table 3 identifies the sampling methodologies for other tests. Both tables include determinations of whether or not the samples were representative. If a sample was representative, it would be appropriate to project those test results to the population, but the accuracy of the projection could not be measured. If a sample was not representative, it would not be appropriate to project those test results to the populations.

Table 2

Total Populations and Samples Selected for Testing Licenses and Permits for the Industrial Hemp Program				
Description	Population	Sample Size	Sampling Methodology ^a	Representative Determination
Applications for licenses issued by the Department	2,371	60	Random selection	Representative
Facility permits issued by the Department	2,049	25	Random selection	Representative
Incomplete applications closed by the Department	30	7	6 random selection; 1 risk-based item for an application that should have been closed due to being incomplete	Not Representative
Lot crop permits issued by the Department	2,505	25	Random selection	Representative
Applications for licenses issued between October 2, 2021, and January 31, 2022	123	27	Random selection	Not Representative ^b

Total Populations and Samples Selected for Testing Licenses and Permits for the Industrial Hemp Program				
Description	Population	Sample Size	Sampling Methodology ^a	Representative Determination
<p>^a Random sample was chosen to ensure that the sample included a cross section of license types and issued permits. Risk-based sample was chosen to address specific risk factors identified in the population; the selected items had a high potential for error.</p> <p>^b Auditors generated an initial sample of 38 from a population of 189 applications issued from September 1, 2021, through January 31, 2022, to test criminal history checks. However, after submitting the sample to the Department, auditors were notified that criminal history records were not available for September 2021. Auditors modified the population and sample to those available.</p>				

Table 3

Total Populations and Samples Selected for Other Tests Performed for the Industrial Hemp Program				
Description	Population	Sample Size	Sampling Methodology ^a	Representative Determination
System change management tickets related to the Industrial Hemp Program	304	25	Random selection	Representative
Weekly criminal history reports of licensees	17	4	Directed sample - selected 4 weeks within a limited time period (October 2, 2021, to January 31, 2022) to test weekly background monitoring reports for control testing	Not Representative
<p>^a Random sample was chosen to ensure that the sample included a cross section of system changes related to the Industrial Hemp Program. Directed sample was chosen to ensure that the sample included items with specific characteristics.</p>				

Information collected and reviewed included the following:

- Populations of applications for licenses and permits.
- Documentation supporting the approval and denial of license and permit applications, including the Department’s communications with applicants and payment information.
- Documentation on criminal history checks.
- Daily reports from the licensing system and spreadsheets used to generate and issue licenses and permits.
- Logical access data including password requirements, user accounts, roles, and permissions for selected systems.

- A population of changes made to the licensing system.
- A population of scheduled jobs for the licensing system.

Procedures and tests conducted included the following:

- Interviewed Department management and staff to identify the Department's license and permit application processes, including internal controls and the information that supports those processes.
- Tested whether producer, handler, and sampler licenses were issued or denied in compliance with requirements.
- Tested whether facility and lot crop permits were issued in compliance with requirements.
- Performed data analysis to determine timeline of applications and approvals.
- Tested selected general controls of the Department's licensing and application systems.
- Tested whether access to criminal history check information stored on the Department's network drive was appropriately restricted.

Criteria used included the following:

- Texas Agriculture Code, Chapters 121 and 122.
- Texas Occupations Code, Chapter 53.
- Title 4, Texas Administrative Code, Chapter 24.
- Title 1, Texas Administrative Code, Chapter 202.
- The Department's information technology policies and procedures.

Project Information

Audit fieldwork was conducted from December 2021 through July 2022. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Jennifer Brantley, MS, CPA (Project Manager)
- Chase Dierschke, MAcy, CIA (Assistant Project Manager)
- Justin Brister
- Gabrielle Magadia, MAcy
- Minh Trang
- Jeremy Wong
- Mary Ann Wise, CPA, CFE (Quality Control Reviewer)
- Michelle Ann Duncan Feller, CPA, CIA (Quality Control Reviewer)
- Willie Hicks, CIA, MBA, CGAP (Audit Manager)
- Sonya Tao, CPA, CFE (Audit Manager)

Issue Rating Classifications and Descriptions

Auditors used professional judgment and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 4 provides a description of the issue ratings presented in this report.

Table 4

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

Internal Control Components

Internal control is a process used by management to help an entity achieve its objectives. The U.S. Government Accountability Office's *Government Auditing Standards* require auditors to assess internal control when internal control is significant to the audit objectives. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) established a framework for 5 integrated components of internal control, which are listed in Table 5.

Table 5

Internal Control Components	
Component	Component Description
Control Environment	The control environment sets the tone of an organization, influencing the control consciousness of its people. It is the foundation for all other components of internal control, providing discipline and structure.
Risk Assessment	Risk assessment is the entity's identification and analysis of risks relevant to achievement of its objectives, forming a basis for determining how the risks should be managed.
Control Activities	Control activities are the policies and procedures that help ensure that management's directives are carried out.
Information and Communication	Information and communication are the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities.
Monitoring Activities	Monitoring is a process that assesses the quality of internal control performance over time.

Source: Internal Control - Integrated Framework, Committee of Sponsoring Organizations of the Treadway Commission, May 2013.

Related State Auditor's Office Report

Table 6

Related State Auditor's Office Report		
Number	Report Name	Release Date
16-019	<i>An Audit Report on Financial Reporting and Contracting at the Department of Agriculture</i>	March 2016

Copies of this report have been distributed to the following:

Legislative Audit Committee

The Honorable Dan Patrick, Lieutenant Governor, Joint Chair

The Honorable Dade Phelan, Speaker of the House, Joint Chair

The Honorable Joan Huffman, Senate Finance Committee

The Honorable Robert Nichols, Member, Texas Senate

The Honorable Greg Bonnen, House Appropriations Committee

The Honorable Morgan Meyer, House Ways and Means Committee

Office of the Governor

The Honorable Greg Abbott, Governor

Department of Agriculture

The Honorable Sid Miller, Commissioner

Mr. Jason Fearneyhough, Deputy Commissioner



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