

CHAPTER 25

NEW JERSEY HEMP PROGRAM RULES

SUBCHAPTER 1. GENERAL PROVISIONS

2:25-1.1 Authority and general provisions

(a) This chapter establishes the rules for participation in the New Jersey Hemp Farming Act pursuant to P.L. 2019 c. 238, N.J.S.A. 4:28-1 et seq., and the Federal Agriculture and Nutrition Act of 2018, Pub.L. 115-334 (2018 Farm Bill).

(b) This chapter applies to growers, processors, and handlers of hemp in this State, but shall not apply to transporters of hemp engaged in interstate commerce.

(c) No person shall grow, process, or handle hemp in this State, unless authorized by an annual license issued by the Department pursuant to this chapter.

(d) All moneys collected by the Department pursuant to the Program shall be deposited into the New Jersey Hemp Farming Fund. Moneys in the fund shall be used for the administration and enforcement of the Program.

2:25-1.2 Definitions

As used in this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Agent” means an employee or contractor of a hemp producer. “Applicant” means a person, or for a business entity or IHE, any person authorized to act on behalf of the business entity or IHE, who applies to the Department to be a hemp producer in this State.

“Approved seed” means hemp seed that is approved by New Jersey and labeled for cultivating hemp under the Federally defined THC level for hemp.

“Cannabis” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. 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.

“CBD” or “cannabidiol” is a phytocannabinoid found in cannabis, which does not produce psychoactive effects in users.

“Commercial sale” means the sale of a product in the stream of commerce at retail, at wholesale, or on the Internet.

“Controlled Substances Act” or “CSA” means 21 U.S.C. §§ 801 et seq.

“Conviction” means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. For purposes of this chapter, a conviction is expunged when the conviction is removed from the individual’s criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes.

for subsequent convictions. In addition, where an individual is allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently dismissed, the individual is no longer considered to have a conviction for purposes of this chapter.

“Corrective action plan” means a plan established by the Department for a hemp producer to correct a negligent violation or non-compliance with the Program.

“Culpable mental state greater than negligence” means to act intentionally, knowingly, willfully, or recklessly.

“Cultivate” means to plant, water, grow, or harvest a plant or crop.

“Decarboxylated” means the completion of the chemical reaction that converts THC-acid (THC-A) into delta-9THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9THC and (0.877) percent of THC-acid.

“Decarboxylation” means the removal or elimination of carboxyl group from a molecule or organic compound.

“Department” means the New Jersey Department of Agriculture.

“Drug Enforcement Administration” or “DEA” means the United States Drug Enforcement Administration.

“Dry weight basis” mean 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.

“Entity” means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

“Farm Service Agency” or “FSA” is an agency of the United States Department of Agriculture.

“Federally defined THC level for hemp” or “acceptable hemp THC level” Currently means a post-decarboxylation tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis for hemp or in a hemp product, or any other limit established by federal laws and regulations. Hemp will satisfy the standard of “Federally defined THC level for hemp” or “acceptable hemp THC level” if laboratory testing confirms a result within a measurement of uncertainty that includes the THC concentration level of 0.3 percent, unless altered by a Congressional decree. For example, if the reported Total potential delta-9 THC content concentration in a sample is 0.35 percent, and the measurement of uncertainty is +/- 0.099 percent, the hemp would be compliant, because 0.3 percent falls within the distribution range between .251 percent and .449 percent.

“Gas chromatography” or “GC” means a type of chromatography in analytical chemistry used to separate, identify, and quantify each component in a mixture. GC relies on heat for separating and analyzing compounds that can be vaporized without decomposition.

“Geospatial location” means a location designated through a global system of navigational satellites used to determine ground position of a place or object.

“Grower” means any person who cultivates hemp.

“Growing area” means any outdoor or indoor area used for cultivation in natural, rural or non-densely populated suburban areas that are a minimum of 1.0 contiguous acre (outdoor) or .25 acre (indoor) or more in size actively being used in hemp production. Indoor growing areas will not be allowed in residential structures, commercial storage units or community gardens.

“Handle” means to possess or store a hemp plant on premises owned, operated, or controlled by a hemp producer for any period of time or in a vehicle for any period of time other than during the actual transport of the plant between premises owned, operated, or controlled by hemp producers or persons or entities authorized to produce hemp pursuant to 7 U.S.C. §§ 1639o et seq., and any State law or rule adopted pursuant thereto. Examples of “handlers” include, but are not limited to, seed cleaners, analytical labs, traders, harvesting entities, brokers, and other service providers. “Handle” does not mean possession or storage of finished hemp products.

“Harvest” means the termination of the cultivation process, including taking cuttings, or the movement of hemp from a licensed growing area to another location or movement within a licensed growing area between indoor and outdoor planting areas.

“Hemp” means 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 post decarboxylation delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent, or the current federally acceptable hemp THC level, on a dry weight basis. Hemp and hemp-derived cannabinoids, including cannabidiol, shall be considered an agricultural commodity and not a controlled substance due to the presence of hemp or hemp-derived cannabinoids.

“Hemp extract” means the oil chemically extracted from hemp’s aerial plant part, such as seeds, stalks, or flowers, using chemical processes, containing a natural blend of phytocannabinoids, and includes cannabidiol, or “CBD” oil.

“Hemp oil” means oil obtained by physically pressing hemp seeds with a 3:1 ratio of omega-6 to omega-3 essential fatty acids and does not include cannabidiol or CBD.

“Hemp producer” means a person or business entity authorized by the Department to cultivate, process, or handle hemp in the State.

“Hemp product” means a finished product with a post decarboxylation delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale. The term includes cosmetics, personal care products, food intended for human or animal

consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol. Hemp products shall not be considered controlled substances due to the presence of hemp or hemp-derived cannabinoids. All synthetically derived tetrahydrocannabinols remain schedule I controlled substances per DEA regulations and are not allowable for production.

“High-performance liquid chromatography” or “HPLC” means a type of chromatography technique in analytical chemistry used to separate, identify, and quantify each component in a mixture. HPLC relies on pumps to pass a pressurized liquid solvent containing the sample mixture through a column filled with a solid adsorbent material to separate and analyze compounds.

“Information sharing system” means the database that allows the USDA to share information collected under state, tribal, and USDA plans with Federal, state, tribal and local law enforcement.

“Institution of higher education” or “IHE” means the same as that term is defined at 20 U.S.C. § 1001.

“Key participant” means a sole proprietor, a partner in partnership, 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, and chief financial officer. This definition does not include non-executive managers, such as farm, field, or shift managers.

“Law enforcement” means any Federal, State, or local agencies responsible for maintaining public order and enforcing the law.

“License” means written authorization by the Department for any person to grow, process, or handle hemp in the State.

“Licensed area” means a land area licensed by the Department on which a hemp producer plans to cultivate, process, or handle hemp. A licensed area may include, but is not limited to, growing areas or land and buildings that are not used for cultivation.

“Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis that was planted at the same time throughout the area.

“Marijuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. The term “marihuana” does not include hemp, as defined in section 297A of the Agricultural Marketing Act of 1946, and does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant that is incapable of germination (7 U.S.C. § 1639o).

“Marihuana” means all cannabis that tests as having a concentration level of THC on a dry weight basis of higher than 0.3 percent.

“Measurement of uncertainty” or “MU” 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.

“Negligence” means failure to exercise the level of care that a reasonably prudent person would exercise in complying with this chapter.

“Person” means an individual, firm, corporation, company, limited liability company, society, association, business, or other entity.

“Phytocannabinoid” means cannabinoid chemical compounds found in the cannabis plant, two of which are Delta-9 tetrahydrocannabinol (delta-9 THC) and cannabidiol (CBD).

“Plantlets” means young or small hemp plants or propagules.

“Post-decarboxylation” in the context of testing methodologies for THC concentration levels in hemp, means a value determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of the THC and THC- A content and reported on a dry weight basis. The post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat, gas chromatography, through which THC-A is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The post-decarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THC- A intact, and requires a conversion calculation of that THC-A to calculate total THC in a given sample.

“Principal investigator” means the research scientist or other individual in charge of the research program for an IHE.

“Process” means to convert hemp into a hemp product.

“Processors” include, but are not limited to, entities acquiring raw hemp materials and processing them into products.

“Program” means the New Jersey Hemp Program, which is the regulatory authority within the Department responsible for administering hemp production pursuant to the New Jersey Hemp Farming Act, P.L. 2019, c. 238, as amended and supplemented, and the Federal Agriculture and Nutrition Act of 2018, P.L. 115-334.

“Propagules” means any vegetative structure, typically a stem cutting, that can be detached from a hemp plant and used to propagate a new plant. “Research” means cultivation of hemp by an IHE under the Program and administered by the Department for purposes of agricultural or academic research in the development of growing hemp.

“Reverse distributor” means a person who is registered with the DEA in accordance with 21 CFR 1317.15 to dispose of marijuana under the Controlled Substances Act.

“THC” means tetrahydrocannabinol, which is a psychoactive component in cannabis plants.

“Total potential delta-9 THC” means the total potential delta-9 THC concentration levels in hemp, determined after the process of decarboxylation. It is derived from the sum of the delta-9 THC and THCA* 0.877 and reported on a dry weight basis.

“Transport” means the movement or shipment of hemp by a hemp producer, a person or entity authorized to produce hemp pursuant to 7 U.S.C. §§ 1639o et seq., and any State law or rule adopted pursuant thereto, or a hemp producer’s or authorized entity’s third-party carrier or agent. “Transport” shall not mean the movement or shipment of hemp products.

“USDA” means the United States Department of Agriculture. “Variety” means a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition.

“Volunteer plants” means hemp plants that grow on their own by natural regeneration rather than being deliberately planted.

2:25-1.3 Records designated as confidential

In addition to records designated as confidential pursuant to the provisions of the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., and any other law, rule, or Executive Order; the license application, supporting documentation, filed hemp producer reports, or any testing results shall not be considered government records subject to public access pursuant to OPRA. The only information that shall be considered public shall be the hemp producer’s name, e-mail address and mailing address.

2:25-1.4 Information submitted to U.S. Secretary of Agriculture

(a) The Department shall collect, maintain, and report to the U.S. Secretary of Agriculture relevant, real-time information for the following:

1. The contact information for each hemp producer operating under the Program.
2. A legal description of the land on which hemp is grown by each licensed hemp producer; and
3. The status and number of each hemp producer’s license or other required authorizations and any changes to that status.

(b) The Department shall maintain the records described in (a) above for a period of not less than three calendar years, and in compliance with records retention policies.

(c) Hemp producer report. The Department shall submit to the USDA, by the first of each month, a report providing the contact information and the status of the license or other authorization issued for each hemp producer. 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. The report shall be submitted using a digital format compatible with the USDA’s information sharing systems, whenever possible. The report shall contain the information set forth below:

1. As applicable, the information in either (c) i, ii, or iii below.
 - i. For each new hemp producer who is an individual, the report shall include the full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available).

- ii. For each new hemp producer that is an entity, the report shall include the full name of the entity, the principal business location address, license or authorization identifier, employer identification number, and the full name, title, and email address (if available) of each key participant for whom the entity is required to submit a New Jersey State Police criminal background check.
 - iii. For each producer that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information.
2. The status of each hemp producer's license or authorization.
 3. The period covered by the report; and

4. An indication that there were no changes during the current reporting cycle, if applicable.

(d) Hemp Disposal Report. The Department shall submit to USDA, by the first of each month, a report notifying USDA of any occurrence of non-conforming plants or plant material and providing a disposal record of those plants and materials. This report will include information regarding name and contact information for each hemp producer subject to a disposal during the reporting period, and the date when disposal was completed. If the first of the month falls on a weekend or holiday, reports are due by the first business day following the due date. The report shall contain the information set forth below:

1. The name and address of the hemp producer.
2. The producer license or authorization identifier.
3. The location information, such as lot number, location type, and geospatial location or other location descriptor for the production area subject to disposal.
4. The information on the agent handling the disposal.
5. The disposal completion date; and
6. The total acreage.

(e) Noncompliant hemp disposal notification. In addition to the Hemp Disposal Report required under (d) above, the Department shall promptly notify the USDA Agricultural Marketing Service (AMS) Administrator by certified mail, or electronically, of any occurrence of cannabis plants or plant material that do not meet the definition of hemp and attach the records demonstrating the appropriate disposal of all of those plants and materials in the lot from which the representative samples were taken.

(f) Annual report. The Department shall submit an annual report to the USDA. The report form shall be submitted by December 15 of each year and contain the information described in this subsection.

1. The total planted acreage.
2. The total harvested acreage; and
3. The total acreage disposed.

SUBCHAPTER 2. ANNUAL APPLICATION FOR LICENSE

2:25-2.1 Information required for annual license applications

- (a) Each person applying for a license under the Program shall annually submit a signed, complete, accurate, and typed application form.
- (b) Processors and handlers shall apply to the Department at least 30 days prior to the anticipated date of handling or processing hemp.
- (c) Growers shall apply to the Department at least 30 days prior to the anticipated date of planting.
- (d) All applications shall include the following:
 - 1. The name and address of the applicant.
 - 2. If applicable, the business name(s) and type of business entity, including the employer identification number.
 - 3. The legal description of the property on which the growing, processing, or handling area is proposed. This includes, but is not limited to, the county, municipality, and block and lot number(s).
 - 4. The geospatial location, including the global positioning system location coordinates taken at the approximate center of the proposed licensed area.
 - 5. A map of the licensed area on which the applicant plans to grow or process hemp showing the boundaries and dimensions of the growing area(s) in acres or square feet; and
 - 6. A criminal background check from the New Jersey State Police for the applicant and other key participants. The applicants are responsible for obtaining and paying for such background checks. The background checks are to be included with the application at the time of submission.
- (e) All applications must include a nonrefundable \$50.00 annual application fee and an annual licensing fee pursuant to (f) below. The Department shall refund the licensing fee for denied applicants but shall not refund the application fee.
- (f) Annual licensing fees are as follows:
 - 1. Growers \$300.00 fee, plus \$15.00 per each acre
 - 2. Grain and Fiber Processors \$450.00
 - 3. Floral, Hemp Seed Oil, Cannabinoid Extractions Processors each \$1,000
 - 4. Handlers \$450.00
- (g) Hemp growers who process or handle their own hemp are not required to pay additional processor or handler licensing fees. If a grower processes or handles hemp grown from at least one separate hemp producer, that grower shall pay processing or handling licensing fees, as applicable.
- (h) Hemp processors who produce multiple types of hemp products shall determine their annual fee based on the sum from the schedule above. For example, a hemp producer who processes grain (\$450.00), hemp oil (\$1,000), and CBD extracts (\$1,000), will pay a total licensing fee for the year of \$2,450.

2:25-2.2 Terms and conditions of licensure

- (a) All licenses shall be valid for each calendar year they are issued.
- (b) Any applicant who materially falsifies any information contained in an application shall be ineligible to participate in the Program as a hemp producer.
- (c) Any changes to hemp producer contact information must be provided to the Department within 10 days of the change.
- (d) Hemp producers shall comply with all applicable reporting and inspection requirements and any other provisions in this chapter.
- (e) Any person convicted of a felony relating to a controlled substance under State or Federal law before, on, or after the date of enactment of the Federal Agriculture and Nutrition Act of 2018, Pub.L. 115-334 (2018 Farm Bill), shall be ineligible to participate in the Program during the 10- year period following the date of the conviction.
- (f) Applicants and other key participants must undergo a criminal background check by the New Jersey State Police, the results of which must be mailed directly to the Department. The felony conviction restriction under (e) above shall not apply to any person growing hemp lawfully with a license, registration, or authorization under a program authorized pursuant to 7 U.S.C. § 5940 before the date of enactment of the 2018 Farm Bill and the conviction occurred before December 20, 2018.
- (g) Any information provided to the Department by the hemp producer under the Program may be provided to law enforcement agencies without further notice to the hemp producer.
- (h) The hemp producer and its employees shall fully cooperate and assist the Department with all aspects of the administration and enforcement of the Program, including, but not limited to, the application, license, reporting, inspection, and sampling processes.
- (i) The hemp producer shall pay for any laboratory analysis costs that the Department deems necessary within 30 days of the date of the invoice.
- (j) The hemp producer shall submit all required reports by the applicable due dates specified by the Department.
- (k) A hemp producer must provide documentation to show that he or she has the legal right to cultivate hemp on the licensed area and the legal authority to grant the Department access for inspection and sampling. Applicants shall provide proof of authorization to engage in hemp production along with their application, including deeds, leasing agreements, written agreements by a landowner, or other appropriate documentation.
- (l) Licenses shall not be assigned or transferred to any other individual, business or company under any circumstances.
- (m) No hemp plant shall be moved to or grown in an area other than the licensed growing area, without prior Departmental approval, and subject to a site modification fee pursuant to (r) below. All varieties must be separated and clearly marked,
- (n) Alterations to a licensed area that has already been approved and recorded by the Department shall require a site modification plan pursuant to (r) below.
- (o) No licensed area may contain cannabis plants or parts thereof that the hemp producer knows, or has reason to know, are of a variety that will produce a plant that, when tested, will produce hemp with a delta-9 THC concentration greater than the Federally defined THC level for hemp. No hemp producer shall use any such variety for any purpose associated with the cultivation of hemp.

(p) All hemp plant material must be planted, grown, and harvested under a valid license. Any volunteer plants that emerge during a subsequent license year must either be destroyed or included on the subsequent year's license application.

(q) Disposal and/or destruction shall be ordered by the Department of any materials or products licensed under the Program found to have a Total potential delta-9 THC content of more than 0.3 percent on a dry weight basis, as measured from samples collected pursuant to the Program. The cost of disposal and/or destruction shall be the sole responsibility and cost of the hemp producer.

(r) A hemp producer may alter the approved growing area if, at least 14 days prior to the proposed modification, the hemp producer shall submit a site modification plan, including:

1. An updated legal description of the land.
2. Geospatial location, including GPS coordinates.
3. Acreage or square feet of each variety planted.
4. A map detailing the boundaries of the growing area(s); and

5. Pay a site modification fee of \$300.00 plus \$15.00 per acre. The fee shall not apply to storage-only sites, but the Department must approve such sites prior to use. In the event the site modification is not approved, this fee will be refunded.

(s) Hemp may not be grown in an area other than the licensed area. This includes, but is not limited to, planting hemp in a field for which the geospatial location has not been approved by the Department or moving indoor-grown hemp to an outside location.

(t) Transporting live hemp plants and hemp materials to unlicensed areas, including trade shows, county fairs, or educational or other events is prohibited.

(u) Members of the public shall not have direct unsupervised access to hemp at any time.

(v) Any person transporting hemp or hemp materials shall maintain, and provide upon request by law enforcement, proof of authorization to engage in the commercial sale of hemp, either under a state plan pursuant to 7 U.S.C. § 1639p or the United States Department of Agriculture plan pursuant to 7 U.S.C. § 1639q in a state where a state plan has not been approved from the producer of hemp, as well as a travel manifest that lists the origin, destination, product description, and date of transport. Third-party carriers are not required to be authorized hemp producers in order to transport hemp.

(w) It is the responsibility of the hemp producer to understand and comply with all rules and regulations pertaining to their products and to obtain approval(s) from any other applicable local, State, or Federal authorities.

2:25-2.3 Institutions of Higher Education requirements

(a) A New Jersey IHE that plans to cultivate and study hemp in the State is required to obtain a license from the Department. The following information must be submitted to the Department:

1. A criminal background check from the New Jersey State Police is necessary for the applicants and other key participants. The applicant is responsible for obtaining and paying for such background checks. The background checks are to be included with the application at the time of submission.

2. Principal investigator's (PI) contact information and each additional person with authority to report hemp project activity to the Department.
3. Full names of each employee who will be primarily responsible for the growing, processing, or handling the hemp producer's hemp.
4. A detailed research plan;
5. Address of each location and geospatial location, including GPS coordinates of each licensed area, building, or site where hemp will be stored, processed, or handled.
6. Map(s) depicting each site where hemp will be grown, handled, processed, or stored, and designating entrances and specific points where GPS coordinates were taken.
7. The Department may request a letter of support from the department chair or any other authorized official from the IHE.
8. IHE hemp producers shall comply with all applicable reporting, inspection, and compliance conditions in this chapter.
9. IHE hemp producers shall report to the Department any changes to information provided in the license or any previously submitted reports, including any changes to the purchase agreement or statement of intended disposition, within 10 days of such change.
10. There is no application fee for an IHE; and
11. The Department may charge collection and testing fees in the amount of \$150.00 for each plot and/or variety sampled.

SUBCHAPTER 3. ACQUISITION OF HEMP SEEDS, PROPAGULES, OR PLANTLETS

2:25-3.1 Acquisition of hemp seeds, propagules, or plantlets

- (a) Hemp, including plants, seeds, propagules, or plantlets, may only be obtained by a hemp producer after written Departmental approval of the hemp variety.
- (b) The Department shall not approve a hemp seed, propagule, or plantlet request, unless the person affirms, in writing, that the requested seed acquisition plan shall not infringe on any intellectual property right.
- (c) Submission of a hemp seed, propagule, or plantlet acquisition plan to the Department shall include documentation showing that mature plants grown from that seed variety or strain have a floral material Total potential delta-9THC content of not more than 0.3 percent on a dry weight basis in compliance with the provisions of N.J.A.C. 2:25-5.2.
- (d) For seeds, propagules, or plantlets acquired from within the United States, tribal lands, or territories, documentation must be provided to verify that the hemp seed, propagule, or plantlet source is either an approved seed or has originated from a USDA-approved hemp program.
- (e) If hemp seeds, propagules, or plantlets are sourced from outside a USDA-approved hemp program, such as from a foreign nation, the hemp producer is responsible for any additional import requirements.

- (f) The Department may maintain a list of approved seed varieties or strains on its website.
- (g) All hemp shipments must be accompanied by:
 - 1. Proof of authorization to engage in the commercial sale of hemp; and
 - 2. A travel manifest that lists the origin, destination, product description, and date of transport.
- (h) Third-party carriers may transport hemp without obtaining a hemp producer license.

2:25-3.2 Prohibition of noncompliant hemp

The Department may prohibit from the Program any hemp plants, seeds, propagules, or plantlets in order to comply with Federal or State law and administer the Program efficiently.

SUBCHAPTER 4. REPORTING REQUIREMENTS FOR HEMP PRODUCERS

2:25-4.1 Pre-Planting Report

- (a) All growers and IHE hemp producers shall file a Pre-Planting Report on a form provided by the Department at least five days prior to planting that includes:
 - 1. A statement of verification that the hemp producer has reasonable grounds to believe that the crop the hemp producer will plant is of a type and variety of cannabis that will yield a Total potential delta-9THC concentration of no more than 0.3 percent on a dry weight basis.
 - 2. A description of the cannabis varieties, including hemp, to be planted on the licensed area, which shall include all plant material to be used for cultivation of cannabis within a licensed area.
 - 3. In order to avoid cross-pollination effects, hemp may not be grown at the same registered indoor growing location as non-hemp varieties of cannabis.
 - 4. A statement of intended end use for all parts of any cannabis plants, including hemp, grown within a licensed area; and
 - 5. The name and location of any hemp processing plant to be utilized.
- (b) The hemp producer shall not plant hemp in any form until the Pre-Planting Report has been approved by the Department.

2:25-4.2 Planting Report

- (a) Within 10 days after planting any hemp, and/or 10 days after emergence of any volunteer hemp plants in a licensed area, each grower or IHE hemp producer shall submit a Planting Report on a form provided by the Department that includes:
 - 1. A list or description of all varieties of hemp planted, or of volunteer hemp plants that have emerged and are not destroyed, within a licensed area; and
 - 2. The geospatial location, including global positioning system coordinates and a map showing the location and actual acreage or square feet of each variety of hemp planted, or of volunteer hemp plants that have emerged and are not destroyed, within a licensed area.

(b) A Planting Report must be submitted any time hemp is planted in, moved within, or moved into a licensed area, except for replanting into a larger container within the same indoor location.

2:25-4.3 Harvest/Disposal Report

(a) At least 30 days prior to harvest, each grower or IHE hemp producer shall file a Harvest/Disposal Report on a form provided by the Department that includes:

1. Documentation that the hemp producer has entered into a purchase agreement with a licensed hemp processor either in this State or under a USDA-approved hemp program. If the hemp producer has not entered into such an agreement, the hemp producer shall include a statement of intended disposition of the hemp crop; and

2. The harvest date(s) and location of each variety of hemp cultivated within a licensed area.

(b) A hemp producer 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 testing prior to harvest.

(c) A hemp producer is not required to document the removal of male hemp plants on a Harvest/Disposal Report provided that the male plants are destroyed, cultivated, or used for pollination purposes on the licensed area prior to filing a Harvest Report for the remaining hemp plants.

2:25-4.4 Production Report

(a) All hemp producers shall submit a completed Production Report form about the prior year's production on or before December 1 annually. The Production Report shall include:

1. The number of acres or square feet planted.

2. Varieties planted.

3. Production methods.

4. Production inputs/yields; and

5. Any other information requested by the Department.

(b) For IHE hemp producers, a research summary shall be submitted to the Department and the Farm Service Agency (FSA) annually on or before December 1.

2:25-4.5 Hemp Crop Acreage Report to Farm Service Agency (FSA)

(a) Hemp producers shall report hemp crop acreage to the FSA, and shall include with the report, at a minimum:

1. Street address and, to the extent practicable, geospatial location for each lot or greenhouse where hemp will be produced. If an applicant operates in more than one location, that information shall be provided for all production sites.

2. Acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the productions of hemp; and

3. License or authorization identifier.

SUBCHAPTER 5. INSPECTION, SAMPLING, AND TESTING

2:25-5.1 Right to enter and inspect

As a condition of licensure, hemp producers and/or their agents shall permit the Department, the Department of Law and Public Safety, and any other State or local law enforcement to enter onto all premises where hemp is cultivated, handled, or processed to conduct a physical inspection or otherwise ensure compliance with the Hemp Program. The Department may give notice to a hemp producer of an upcoming inspection during business hours and may require a hemp producer and/or agent to be present during any inspection.

2:25-5.2 Inspection, sampling, and testing procedures

(a) Inspections and sampling shall be as follows:

1. All hemp producers are subject to annual Departmental inspection and sampling to verify that the Total potential delta-9 THC concentration of the cannabis planted within a licensed area does not exceed 0.3 percent on dry weight basis.
2. The Department may sample and/or test any hemp or hemp products to verify compliance with this chapter.
3. The Department's inspectors or an authorized agent shall collect a minimum of two samples from each variety planted, once during the growing vegetative stage and another at the flowering stage before harvest to ensure compliance with the Federally defined THC level for hemp in the Program.
4. In addition to the annual inspection and sampling referenced in (a)1 above, the Department may inspect, and take samples from, any licensed area during normal business hours without advance notice. The Department may also conduct such additional inspections and sampling if there is reason to believe a violation of the Program may be occurring and to verify compliance with the reporting requirements of the Program.
5. If a hemp producer voluntarily surrenders any license, the Department may exercise its discretion to inspect and sample any licensed area prior to accepting the surrender.
6. The Department may require the hemp producer or the hemp producer's agent to be present during an inspection to provide the Department's inspector with complete and unrestricted access to all hemp and/or cannabis plants, parts, and seeds within a licensed area whether growing or harvested, and all land, buildings, and other structures used for the cultivation and storage of hemp. During a scheduled sample collection, the hemp producer or the hemp producer's agent shall be present at the growing site.
7. The Department may require access and/or copies of all documents and records pertaining to the hemp producer's business at any time. Such records shall be promptly produced, ample time for review shall be provided, and copies may be required.

8. Individual or composite samples of each variety of hemp may be sampled from the licensed area at the Department's discretion.

9. The method used for sampling from the flower material of the cannabis plant must be sufficient at a confidence level of 95 percent that no more than one percent of the plants in the lot would exceed the Federally defined THC level for hemp. The method used for sampling must ensure that a representative sample is collected that represents a homogeneous composition of the lot;

10. The Department or an authorized agent shall collect samples from the flower material within 15 days prior to the anticipated harvest of cannabis plants.

11. A hemp producer shall not harvest the cannabis crop prior to samples being taken; and reported.

12. Samples of hemp plant material from one lot shall not be commingled with hemp plant material from other lots.

(b) Testing procedures shall be as follows:

1. A quantitative laboratory determination of the post decarboxylation delta-9 THC concentration on a dry weight basis shall be performed by the Department or a third-party lab pursuant to this chapter.

2. The Department is not responsible for ensuring product quality or product compliance with other State or Federal regulatory authorities.

3. Test results must confirm that the final product batch contains no more than 0.3 percent total potential delta-9 THC on a dry weight basis using a measurement of uncertainty; and all such testing results must be retained by the participant and made available to the Department upon demand for a minimum of three years. Any material having more than the Federally defined THC level for hemp is prohibited. Possession or distribution of such products may be subject to Federal, State, and local law enforcement action.

4. The THC testing procedure must include a valid testing methodology that uses post-decarboxylation or other similarly reliable methods, including, but not limited to, gas or liquid chromatography with detection. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THC-A) in hemp into THC and the test result must measure total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting these requirements include, but are not limited to, gas or liquid chromatography with detection. The Total THC concentration level shall be determined and reported on a dry weight basis.

5. If any hemp product contains whole grains (seeds), the hemp producer may conduct a third-party seed germination test on each final product batch produced. Test results must confirm that the denatured seeds after exposure to high heat, often referred to as the "roasting or toasting method," renders the result of a zero percent germination level, and all such testing results must be retained by the hemp producer and made available to the Department upon demand for a minimum of three years.

Any material having a greater than zero percent germination level is prohibited. Possession or distribution of such products may in be in violation of State or Federal law; A sample test result with a total potential delta-9 THC concentration on a dry weight basis greater than the Federally defined THC level for hemp shall be conclusive evidence that the lot represented by the sample contains a total potential delta-9 THC concentration on a dry weight basis of more than 0.3 percent and that the hemp producer is therefore not in compliance with this chapter. Upon receipt of a failing test result, the Department may request resampling and retesting of the varieties in question. Upon subsequent retesting failure, the Department shall determine whether the failure constitutes a negligent violation or a violation with a culpable mental state greater than negligence and take appropriate action pursuant to N.J.A.C. 2:25-6;

6. Hemp from lots determined to be non-compliant with the Federally defined THC level for hemp may not be further handled, processed, or enter the stream of commerce. The hemp producer shall ensure the lot is disposed of in accordance with the CSA and the Drug Enforcement Agency (DEA) regulations found at 21 CFR 1317.15 as enforced by Federal, State, and local law enforcement. Hemp producers must notify the Department and USDA of their intent to dispose of non-conforming plants and verify disposal by submitting required documentation.

7. A \$150.00 fee shall be assessed for all Departmental testing of each non-contiguous growing area, variety, or cultivars present in an active growing area, including, but not limited to, retests and pesticide residue quantification tests. The Department may waive all inspection and/or sampling costs if no inconsistencies or violations are identified pursuant to this subsection.

8. Measurement of uncertainty (MU) must be estimated and reported with test results; and

9. Test results report. Each hemp producer must ensure that the DEA- registered laboratory that conducts the test of the sample(s) from its lots reports the test results for all samples tested to the Department and USDA. The test results report shall contain the information below for each sample tested:

- i. Hemp producer's license or authorization identifier.
- ii. Name of hemp producer.
- iii. Business address of hemp producer.
- iv. Location ID for the sample.
- v. Name and DEA registration number of laboratory.
- vi. Date of test and report.
- vii. Identification of a retest; and
- viii. Test result.

2:25-5.3 Labeling of hemp products by New Jersey processors

- (a) New Jersey processors shall label hemp products to distinguish between hemp extract, CBD, or hemp seed oil.
- (b) New Jersey processors shall label hemp products to include: the amount of oils or extract, the percentage of THC, and the percentage of CBD extract contained.
- (c) New Jersey floral processors shall submit current COA's (Certificate of Analysis) and receive program approval for out of state sourced material prior to importation and acceptance to verify compliance with the allowable federal total THC limit.

2:25-5.4 Third-party laboratory compliance

- (a) Hemp producers may utilize either the Department's laboratory or third-party laboratories to demonstrate compliance with the Federally defined THC level for hemp.
- (b) Third party laboratories shall apply to the Program annually as handlers.
- (c) Third-party laboratories shall:
 - 1. Be registered and accredited in accordance with State and Federal law, rules, and regulations.
 - 2. Be registered with the Program as a handler.
 - 3. Comply with the Department's testing procedures pursuant to this chapter.
 - 4. Transmit laboratory results directly to their client and the Department for all licensed New Jersey processors and growers submitting regulatory samples in order to receive final Departmental approval; and
 - 5. Submit to random quality assurance testing by the Department to validate the accuracy of testing results.
 - 6. Take and pass an annual Performance Test to ensure precision and accuracy of their results.
- (d) A hemp producer may test its own hemp for the purpose of providing information to the Department regarding THC levels and to certify labels for hemp or hemp products, provided the hemp producer's laboratory complies with the provisions in this subsection.

SUBCHAPTER 6. VIOLATIONS, PENALTIES, AND APPEALS

2:25-6.1 Negligent violations

- (a) The Department shall require a hemp producer to comply with a Corrective Action Plan for any negligent violation of this chapter. A Corrective Action Plan established by the Department to correct the negligent violation may include, but is not limited to:
 - 1. A date by which the hemp producer shall correct the negligent violation;
 - 2. The steps necessary to come into compliance; and

3. A requirement that the hemp producer shall periodically report its compliance measures to the Department for a period of not less than the next two calendar years from the date of the negligent violation. The Department shall perform inspections as necessary.
- (b) Negligent violations may include, but are not limited to:
 1. Failing to provide a legal description of land on which the producer produces hemp.
 2. Failing to obtain a license or other required authorization from the Department.
3. Producing *Cannabis sativa* L. with a delta-9 THC concentration of more than 1.0 percent on a dry weight basis or any revised limit established in 7 C.F.R. Part 990 et seq., or failing to make reasonable efforts to grow compliant hemp; and/or
 4. Failing to comply with any reporting requirements set forth in this chapter.
- (c) Hemp that is determined to have a Total potential delta-9THC concentration of greater than 0.3 percent on a dry weight basis, but equal to or less than 0.5 percent on a dry weight basis, must be destroyed in accordance with the CSA and Drug Enforcement Agency (DEA) regulations at 21 CFR 1317.15 as enforced by Federal, State, and local law enforcement, even though it does not constitute a negligent violation pursuant to (b) above.
 - (d) A hemp producer that is found to have negligently violated the Program shall not be subject to any criminal enforcement action by this State.
 - (e) A hemp producer that has been found to have negligently violated the Program three times in a five-year period shall be ineligible to produce hemp in this State for a period of five years beginning on the date of the third violation.
 - (f) The Department may issue civil administrative penalties for violations of this chapter pursuant to N.J.A.C. 2:25-6.3.
 - (g) A hemp producer may appeal any adverse determination rendered by the Department in accordance with N.J.A.C. 2:25-6.4.

2:25-6.2 Violations with a culpable mental state greater than negligence

- (a) If the Department determines that a person has violated the Program with a culpable mental state greater than negligence, the Department shall order the person to suspend all hemp growing, processing, and/or handling operations immediately.
- (b) A notice of violation with a culpable mental state greater than negligence shall be immediately referred to the United States Attorney General, New Jersey Department of Law and Public Safety, and any other applicable Federal, State, and/or local law enforcement.
- (c) A hemp producer may appeal any adverse determination rendered by the Department in accordance with N.J.A.C. 2:25-6.4.

2:25-6.3 Civil and civil administrative penalties

- (a) Every day upon which a violation occurs at the same location or by the same person shall be considered a separate violation for the purpose of calculating civil administrative penalties. Nothing in this section shall limit the applicability of any other penalties prescribed in this chapter, including the implementation of a Corrective Action Plan or of license suspension or revocation.
- (b) The Department may issue civil administrative penalties based upon the seriousness of the misconduct.

1. Any unlicensed person growing, processing, or handling hemp shall be subject to a civil administrative penalty of up to \$5,000 per day.

2. A person guilty of interfering, or refusing to cooperate, with any inspection or sampling procedures to be conducted by the Department shall pay a penalty of \$500.00 for the first offense, \$1,000 for the second offense, and \$2,000 for each subsequent offense.

3. A person who fails to submit timely reports or does not respond to the Department's communications within a reasonable amount of time shall pay a penalty of \$100.00 for the first offense, \$200.00 for the second offense, and \$300.00 for each subsequent offense.

4. No assessment shall be levied under this subsection until after the party has been notified by certified mail or personal service and has been provided an opportunity for a hearing in accordance with N.J.A.C. 2:25- 6.4.

(c) For a violation of this chapter, the Department may adjust or waive the civil administrative penalty after weighing the following non- exclusive factors:

1. The violator's compliance history.

2. The nature, timing, and effectiveness of measures the violator takes to mitigate the effects of the violation.

3. The nature, timing, and effectiveness of measures the violator takes to prevent future similar violations.

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation.

5. Whether the violator is growing, processing, or handling hemp while deliberately neglecting to obtain a license from the Department; and

6. Any other relevant circumstances.

2:25-6.4 Notice and appeals

(a) The Department shall provide a reasonable opportunity to amend an application that is insufficient or to resolve any minor violations of this chapter.

(b) The Department shall provide written notice via regular mail, certified mail, or personal service, to a hemp producer upon a finding of a violation. Such notice shall include:

1. The facts pertaining to the violation.

2. A reference to the rule(s) and/or statute(s) that have been violated.

3. A finding that the conduct constitutes a negligent violation or a violation with a culpable mental state greater than negligence.

4. A statement explaining whether the Department has informed law enforcement of the violation.

5. The basis for the civil administrative penalty issued, if any; and
6. A statement explaining the person's right to a hearing, and that he or she must file an appeal within 20 days of receiving notice.
 - (c) Any appeal to the Department for a violation of this chapter must be made no later than 20 calendar days after receipt of the notice of violation and be in writing. Appeals shall be sent to:

Director, Division of Plant Industry
New Jersey Department of Agriculture
P.O. Box 330
Trenton, NJ 08625-0330

- (d) If no hearing is requested after 20 days have elapsed, the notice shall become a final order on the 21st day.
 - (e) Contested cases shall be treated in accordance with N.J.A.C. 2:1- 3.10, the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Such disputes will be referred to the Office of Administrative Law for a hearing.



New Jersey Department of Agriculture- Hemp Sampling Protocol

Notes:

- All hemp varieties/fields must be clearly defined, labeled, and physically separated until all test results are confirmed.
- Visually identified diseased or pest-ridden plants in field shall not be sampled.
- Licensees must inform department thirty days before estimated harvest date and sampling must occur within 15 days prior to harvest.
- The following NJDA Hemp Program personnel have been trained on page 4.

Equipment and Supplies:

- Pruners, shears, or similar tool (cleaned before and after each lot, variety sampled)
- Disposable gloves (new pair per licensed establishment)
- Security Tape- Packing Tape
- Step stool or small ladder for larger plants if necessary
- Permanent marker
- GPS unit to verify lot location
- Orange flagging- for delineating lot boundaries and separating non-compliant sections of a field
- Alcohol wipes for cleaning equipment
- New, unused collection bags (paper or breathable cloth required)
- Coolers and Ice packs if necessary

Procedure:

The registered producer or an authorized representative can accompany the department sampler throughout the sampling process.

- Lot or Field Evaluation: Record GPS coordinates or verify lot by looking at producer's map. Record Lot# assigned from FSA on department sample form.
- Evaluate the growing area; identify boundaries of lot and any crop performance, pest issues to ensure relative homogeneity within the lot. Dead plants shall not be sampled.
- Plant and cutting selection: select plants across the entire area and walk in an overall W or Z pattern. Avoid plants within 10 feet of borders and plants that do not represent the health of the plot.

A: Plant sample#- Pick appropriate number of plants based on lot size and collect one cutting per plant.

i: Follow Tables 1 and 2 on next page to collect the minimum amounts of cuttings based on the acreage of the lot to form a composite sample. Lab requires minimum of 100 grams of hemp material for regulatory sample analysis. Female plants are to be selected over male plants. (see Fig. 1 page 3)

ii: collect samples 5-8 inches in length from the top 1/3 of the central flowering portions of the plant. Try to cut stem material as not to bruise residual flower and open large wound for pathogens to enter. Depends on size of plant and growth pattern in the field. (Fig. 2-3 page 3) Clean sampling equipment with alcohol wipes between varieties and Lot/Field#.

Table 1.

Number of acres	Sample Size
Less than 1	1
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10



Table 2.

NIDA 2020

Number of acres	Sample Size	Number of acres	Sample Size	Number of acres	Sample Size	Number of acres	Sample Size
11	11	40	36	75-76	61	119-120	86
12	12	41-42	37	77	62	121-122	87
13	13	43	38	78-79	63	123-124	88
14	14	44	39	80-81	64	125-126	89
15	15	45-46	40	82	65	127-128	90
16	16	47	41	83-84	66	129-130	91
17	17	48	42	85-86	67	131-132	92
18-19	18	49-50	43	87	68	133-134	93
20	19	51	44	88-89	69	135-136	94
21	20	52	45	90-91	70	137-138	95
22	21	53-54	46	92	71	139-140	96
23	22	55	47	93-94	72	141-143	97
24	23	56	48	95-96	73	144-145	98
25-26	24	57-58	49	97-98	74	146-147	99
27	25	59	50	99	75	148-149	100
28	26	60-61	51	100-101	76	150-152	101
29	27	62	52	102-103	77	153-154	102
30	28	63-64	53	104-105	78	155-156	103
31-32	29	65	54	106-107	79	157-157	104
33	30	66-67	55	108	80	159-161	105
34	31	68	56	109-110	81	162-163	106
35	32	69-70	57	111-112	82	164-166	107
36	33	71	58	113-114	83	167-168	108
37-38	34	72-73	59	115-116	84	169-170	109
39	35	74	60	117-118	85	171-173	110

iii: Samples should be taken and placed directly into the sample collection bag. Samples from separate lots shall not be commingled.

iv: Seal sample bag, weigh, and fill out sample collection chain of custody form creating a unique ID number made up of full license number ID, Inspector ID, and sample number in chronological order. Lot# or field number assigned by the Farm Service Agency shall be used on sample form. Hemp Acreage is reported by licensee on FSA-578 form annually.

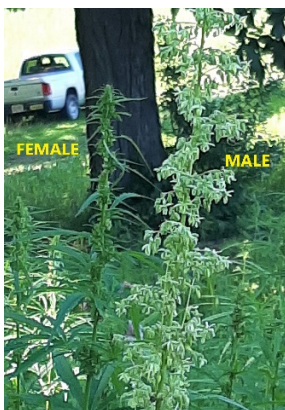
v: Samples shall be transported directly by department personnel to the NJ State PHEAL analytical lab via air-conditioned vehicle or iced pack cooler within 7 hours. No overnight storage of hemp samples in vehicle or field offices.

vi: Upon arrival at NJ State PHEAL DEA registered analytical lab the sample shall be recorded in the lab logbook and locked in a walk-in refrigerator before sample prep occurs by trained lab personnel.

Remediation:

- If the initial hemp sample fails, the NJ Lab will retest the extracted retained specimen already in possession for THC compliance within 24 hours.
- If the retention sample fails, the NJ Hemp Program will give the producer the option for department resampling of a homogenized uniform mix of biomass (flowers, buds, trichomes, leaves, stems, seed) or the producer can strip the floral material off the stalks, leaves, and seeds of the lot. All remediated material must meet the hemp definition. This process is witnessed by department personnel.
- Disposal- plowing under, mulching, disking, mowing, deep burial, and burning. USDA link- <https://www.ams.usda.gov/sites/default/files/media/HempRemediationandDisposalGuidelines.pdf>

Fig. 1 (Female only)



NJDA 2020

Fig. 2 (5-8 inches Floral)



NJDA 2020

Fig. 3



NJDA 2020



New Jersey Department of Agriculture Certified Hemp Samplers

All listed NJDA personnel have been trained with the New Jersey Hemp Sampling Protocol

1. Date Trained _____ Initial _____

2. Date Trained _____ Initial _____

3. Date Trained _____ Initial _____

4. Date Trained _____ Initial _____

5. Date Trained _____ Initial _____

Remediation and Disposal Guidelines for Hemp Growing Facilities
U.S. Domestic Hemp Production Program
Issued January 15, 2021

Purpose:

1. Standard Remediation and Disposal guidelines are specified for commercial indoor and outdoor production of hemp as well as the production of hemp for research purposes.
2. Remediation refers to any process by which non-compliant hemp (THC concentration $> 0.3\%$) is rendered compliant (THC concentration $\leq 0.3\%$). Remediation can be achieved by separating and destroying non-compliant flowers while retaining stalks, leaves, and seeds; or by shredding the entire hemp plant to create a homogenous “biomass” that can be retested for THC compliance.
3. Disposal means destroying non-compliant hemp or hemp for research purposes using one of the approved on-farm methods. Approved methods include plowing under, mulching / composting, disking, bush mowing, deep burial, and burning.

Scope:

1. Commercial lots shall be subject to remediation or disposal when a sample tests over the acceptable hemp THC level according to laboratory results obtained through, USDA approved State or Tribal sampling and testing protocols or USDA sampling and testing protocols.
2. Commercial lots that test above the acceptable hemp THC level shall be subject to either remediation or disposal.
3. Samples must be collected by a USDA-approved sampling agent, an approved state agency, or by a Federal, State, or Tribal law enforcement agent authorized by USDA to collect samples.
4. It is the responsibility of the licensed producer or researcher to pay any fees associated with resampling, remediation, and/or disposal.
5. Producers must verify disposal or remediation by submitting required documentation in accordance with 7 CFR §990.27. All records regarding disposal and remediation of all cannabis plants that do not meet the definition of hemp shall be made available for inspection by State, Tribal, or USDA inspectors, auditors, or their representatives during reasonable business hours in accordance with an applicable State or Tribal plan or §990.28.
6. Laboratories should have an effective disposal procedure as part of an internal SOP for non-compliant samples.

Summary of Practice:

1. This practice provides procedures for ensuring the disposal or remediation of non-compliant hemp. When a cannabis sample tests over the acceptable THC concentration level, all cannabis plants in the lot shall either be remediated to bring the lot under the acceptable THC concentration level, or all cannabis plants shall be disposed of. Both remediation and disposal

may be performed by the producer, researcher or an approved representative of the State, Tribe, or USDA.

In accordance with §990.3, the State or Tribal plan shall include methodologies for ensuring that non-compliant hemp is properly remediated or destroyed. 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. Hemp produced for research must be disposed of in accordance with the applicable State or Tribal plan or §990.21(d), for research conducted with a USDA producer license.

2. Non-compliant hemp plants may be remediated by separating and destroying non-compliant flowers, while retaining stalks, leaves, and seeds.

3. Non-compliant hemp plants may be remediated by shredding the entire hemp plant to create “biomass.” All flowers, buds, trichomes, leaves, stalks, seed, and all plant parts from a lot should be chopped or shredded in such a way as to create a homogenous, uniform blend of the lot called “biomass.” Lots should be kept separate and not be combined during this process. This biomass shall be resampled and retested to ensure the biomass material tests within an acceptable THC concentration level before it may enter the stream of commerce in accordance with §990.3(d) and §990.27(c). If the biomass tests above the acceptable THC concentration level is non-compliant hemp and must be destroyed through one of the disposal options provided herein.

4. Disposal means destroying non-compliant hemp by performing any one or combination of the following on-farm activities: plowing under, mulching / composting, disking, bush mowing, deep burial, and burning.

Equipment and Supplies:

1. Equipment for Remediation

1.2. Gloves

1.3 Shears, clippers, scissors, shredding equipment (to remove non-compliant flowers from stalks)

1.4 Striping, shredding, or mulching equipment

1.5 Large plastic bags or other containers to store shredded biomass

1.6 The bags and containers should be made from material known to be free from THC

1.7 Marking and labeling equipment (to mark and label hemp lots for remediation from other lots)

2. Equipment for Disposal

2.1. Plow or tractor (for plowing, mulching, composting, disking, bush mowing, deep burial)

2.2. Composter (for composting)

2.3 A burn area and fire equipment (for burning non-compliant lots)

3. Equipment for Resampling

3.1. Disposable gloves – Nitrile

3.2. Scoop with long handle (cleaned prior to and following each sample)

3.3 Bag to store resample

3.4. Permanent markers

3.5. The bags should be made from material known to be free from THC

3.6. A 750 mL or similar measuring instrument (cleaned prior to and following each sample)

Remediation Guidelines:

1. The licensee or designated employee; or an approved representative of the State, Tribe, or USDA shall remediate or destroy non-compliant hemp in accordance with §990.3(d) and §990.27(c). As part of a State or Tribal plan, a State or Tribe shall create procedures for ensuring that any non-compliant hemp parts or biomass that are non-compliant with the acceptable hemp THC level after remediation are properly destroyed and unable to enter the stream of commerce as set forth in 7 C.F.R. § 990.3(a)(6). A State or Tribal plan may require that State or Tribal officials be present during the remediation or disposal process.

2. Upon notification that a lot has tested above the acceptable hemp THC level, the licensee should notify the appropriate licensing authority of the licensee’s decision to either destroy or remediate the non-compliant lot in accordance with the State, Tribal, or USDA plan. The licensee shall notify the State, Tribe, or USDA of their decision to either remediate or dispose of the non-compliant lot. Additionally, the licensee should notify the State, Tribe, or USDA, of the remediation or disposal method set forth in §990.70 and §990.71.

3. If the licensee chooses to remediate the non-compliant lot, the licensee should select either to separate and remove all flowers from stalks, leaves and seeds of the lot or to shred the entire lot into “biomass.”

4. Separation and removal of the flowers from stalks, leaves and seeds:



4.1 The flowers, including buds, trichomes, “trim,” and “kief,” should be removed from the lot and destroyed. As part of a State or Tribal plan, State and Tribes should include acceptable methods for the removal of non-compliant flowers and floral material under this remediation strategy. Methods may include, but are not limited to, the removal, by hand, of non-compliant flowers and floral materials and the mechanical removal of non-compliant flowers and floral materials.

4.2 Until such time as the non-compliant flowers and floral material are disposed of, the stalks, leaves, and seeds should be separated from the non-compliant floral material and clearly labeled and demarcated as “hemp for remediation purposes.”

4.3 Seeds removed from non-compliant hemp during remediation should not be used for propagative purposes.

5. Creation of Biomass



5.1 The entire lot, as reported to the FSA, should be shredded to create a homogenous, uniform biomass. As part of a State or Tribal plan, State and Tribes shall include acceptable methods for the creation of biomass under this remediation strategy. Methods may include, but are not limited to, the shredding of hemp plants through shredders, composters, or specialty mechanical equipment.

5.2 The biomass created through this process shall be resampled and retested to ensure compliance before entering the stream of commerce in accordance with §990.3(a)(6) and §990.27(c). Biomass that fails the retesting is non-compliant hemp and shall be destroyed.

5.3. Remediated biomass should be separated from any compliant hemp stored in the area and clearly labeled and demarcated as “hemp for remediation purposes.” All lots subject to remediation should be stored, labeled and demarcated apart from each other and from other compliant hemp lots stored or held nearby.

5.4. Remediated biomass should not leave the labeled and demarcated area until a test result showing compliance with the acceptable hemp THC level is received or until the biomass will be destroyed.

Re-sampling Remediated Biomass:

1. Remediated biomass shall be resampled and retested to ensure compliance before entering the stream of commerce in accordance with §990.3(a)(6) and §990.27(c). Biomass that fails the retesting shall be destroyed.

2. The resample should be taken by sampling agent as described in the “Sampling Guidelines.”

3. A representative sample of the biomass should be taken for compliance purposes. When taking the resample, the sampling agent should take biomass material from various depths, locations, and containers in the labeled and demarcated area to collect a representative sample of the material. At minimum, ~750 mL or three (3) standard measuring cups of biomass material should be collected. Sampling agents may collect more biomass material based on the requirements of the testing laboratory. If ~750 mL of material is not available, the sampling agent should collect enough biomass material for a representative sample.

4. An original copy of the resample test results, or a legible copy, should be retained by the producer or an authorized representative and available for inspection for a period of three (3) years from the date of receipt.

5. Laboratories testing a resample should utilize the same testing protocols as when testing a standard sample as described in the “Laboratory Testing Guidelines.”

Disposal Guidelines:












Photo Example	Ag Production Activity	Compliant outcome	Photo Example
	<p>Plowing Under</p> <ul style="list-style-type: none"> • Curved plow blades rotate subsoil to surface and bury crop below 	<p>Plowing Under</p> <ul style="list-style-type: none"> • “Green Manure” • Amends soil directly from crop 	
	<p>Mulching / Composting</p> <ul style="list-style-type: none"> • Fields crops cut and blended with manure or other biomass material 	<p>Mulching / Composting</p> <ul style="list-style-type: none"> • “Green Manure” • Mulch mixed with manure or other biomass 	
	<p>Disking</p> <ul style="list-style-type: none"> • Leveling of field using tow-behind disk implement 	<p>Disking</p> <ul style="list-style-type: none"> • “Green Manure” • Amends soil directly from crop while leveling field 	

Photo Example	Ag Production Activity	Compliant outcome	Photo Example
	<p>Bush Mower / Chopper</p> <ul style="list-style-type: none"> Commercial lawn mower used to shred and mix thick vegetation 	<p>Bush Mower / Chopper</p> <ul style="list-style-type: none"> “Green Manure” Shredded biomass decomposes into soil 	
	<p>Deep Burial</p> <ul style="list-style-type: none"> Fields are trenched, surface soil is buried at depth of at least 12” 	<p>Deep Burial</p> <ul style="list-style-type: none"> Field biomass buried in trenches and covered with soil 	
	<p>Burning</p> <ul style="list-style-type: none"> Setting fire to specific production fields or biomatter piled on the field 	<p>Burning</p> <ul style="list-style-type: none"> Fields are cleared of all plant material 	

Note: In accordance with 7 CFR 1.901(e), the contents of this document does not have the force and effect of law and are not meant to bind the public in any way, and the document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.



State of New Jersey

DEPARTMENT OF AGRICULTURE
PO Box 330
TRENTON NJ 08625-0330

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DOUGLAS H. FISHER
Secretary

Sent Via Email

December 9, 2021

Ms. Emily Febles
U.S. Department of Agriculture
1400 Independence Avenue S.W.
Washington, DC 20250

Dear Ms. Febles:

You reached out to us to address several concerns regarding compliance issues in the New Jersey Hemp Program. We had an opportunity to discuss these issues in a Zoom conference on Friday, December 3, 2021. The meeting included the following people: Bill Richmond, Emily Febles, Graham Davis, Joseph Zoltowski, Wayne Prindle and Chris LaRegina. During the meeting, we came to the understanding that the New Jersey Hemp Program is compliant with USDA hemp regulations for the following reasons:

1. Harvesting Timeframe: Your office expressed concern over whether or not hemp producers would be allowed to harvest hemp more than 30 days after samples were taken. However, our hemp program requires that samples must be taken within 15 days of the harvest date. NJAC 2:25-5.2a 10 & 11:

“10. The Department or an authorized agent shall collect samples from the flower material within 15 days prior to the anticipated harvest of cannabis plants;

11. A hemp producer shall not harvest the cannabis crop prior to samples being taken; and reported.”

If someone misses our deadline or needs to change the harvest date, another sample will be taken and verified prior to harvest. To clarify any confusion over the 30/15-day timeframe- NJDA requires a harvesting report at least 30 days prior to the anticipated harvest date so that we can schedule the 15-day sampling/harvest window.

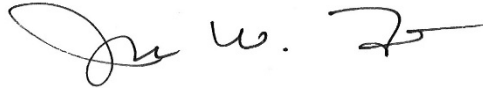
2. Hemp Disposal and Reverse Distributors: Although our plan still contains language referencing DEA reverse distributor regulations, our rules specifically state those rules must be complied with **“as enforced by federal, state, or local law enforcement.”** Since those rules are not enforced by any authorities, hemp producers are free to dispose of hemp in numerous other ways. It is unnecessary to draft additional regulations to permit these disposal activities in New Jersey. We began permitting these alternative disposal methods back in 2020 when USDA indicated it was proper to do so.

Our New Jersey Department of Agriculture website https://www.nj.gov/agriculture/divisions/pi/prog/nj_hemp.html will soon provide a link to the various proper disposal methods described on the USDA website at <https://www.ams.usda.gov/rules-regulations/hemp/disposal-activities>.

3. Remediation: The Hemp Program has drafted a remediation plan consistent with the remediation plan provided by USDA. We will soon post the remediation plan on the NJDA website. Similar to our allowance of various disposal methods, it is unnecessary for us to draft regulations to permit this activity. See Attachment.
4. Disposal of hemp with THC greater than .5% but less than 1%: Although there is one provision in our rules that seems to indicate that hemp with a THC level between .5% - 1% need not be destroyed, our definitions of “hemp” and “federally defined THC level for hemp” in fact require the disposal or remediation of any hemp that is determined to be over .3% (within the measurement of uncertainty). In the future, we will likely amend this for clarity. However, our existing regulatory framework clearly disallows the use or marketing of noncompliant hemp, which necessarily means that noncompliant hemp must be remediated or destroyed.
5. Certification: I certify that the Department has the necessary fiscal and personnel resources to conduct all the requirements of the New Jersey Hemp Program and conforms to the requirements of the USDA AMS Hemp Program.

Please let us know if you have any additional concerns.

Sincerely,



Joseph W. Zoltowski
Director, Division of Plant Industry

Encl. NJDA Remediation Methods

cc: Bill Richmond
Graham Davis
Wayne Prindle
Chris LaRegina