

Alaska Department of Natural Resources Division of Agriculture

USDA Industrial Hemp Program Alaska State Plan

Date of Submission: December 28, 2021

Effective Date: January 1, 2022

Submitted by: David W. Schade, MPA, Director

History / Status of Alaska's Industrial Hemp Program

In April 2018, then Governor Bill Walker signed into law Senate Bill 6 which established an industrial hemp pilot program in Alaska (Chapter 5, SLA 2018). The new law authorized the Alaska Department of Natural Resources (DNR), through the Division of Agriculture to create an Industrial Hemp Pilot Program to research the growth, cultivation, and marketing of industrial hemp. The pilot program was also directed to increase the knowledge of how industrial hemp production, cultivation, and marketing may increase agricultural production in Alaska and contribute to our economy

On April 4, 2020, the Department of Natural Resources, Division of Agriculture (DoAg) implemented the Alaska Industrial Hemp Pilot Program which followed the guidelines of Section 7606 of the 2014 Farm Bill and State Statutes, (Senate Bill 6; CH 5, SLA 2018). Regulations promulgated by the DoAg provided Alaskans and Alaskan businesses a legal avenue to produce, process, and market industrial hemp and industrial hemp products. (See 11 AAC 40.010 – 11 AAC 40.910)

In September 2021 Governor Mike Dunleavy signed SB27 into law. SB27 established a permanent program. Key elements in the bill were that it added subsections authorizing the Commissioner of the Department of Natural Resources to include the manufacturing and retail sales of products made from industrial hemp, as well as registration and renewal procedures in the regulations for the industrial hemp program.

State Statutes were amended so that Alaska is in alignment with the requirements of the 2018 farm bill, including language that a registrant for the industrial hemp program is not eligible if they had been convicted of a felony involving a controlled substance within the last ten years and it changes the statutory definition of industrial hemp to match the 2018 federal definition. It directly authorized the Department of Natural Resources to develop an industrial hemp program that complies with federal requirements and submit this plan for the program to USDA for approval.

Requirements for State and Tribal Hemp Plans and License Numbering Scheme

1. Plan to maintain relevant producer and land information

- Collect, maintain, and provide to USDA contact information for each hemp producer licensed or authorized in the state or territory of the tribal government (whichever applicable). [990.3 (a) (1)]

The Alaska Division of Agriculture (DoAg) will collect and maintain relevant producer information by requiring each applicant to complete an industrial hemp grower registration and a Criminal History Report. See 11 AAC 40.030, 11 AAC 40.040 and AS 03.05.076(a)(3).

- Provide contact information for each hemp producer covered under the plan including name, address, telephone number, and email address (if available). If the producer is a business entity, the information must include the full name of the business, address of the principal business location, full name and title of the key participants, an email address (if available), and EIN number of the business entity. This information can be provided via the AMS-23 form via mail, fax, or email. [990.3 (a) (1) (i)]

The DoAg will collect and maintain relevant information of land used for hemp production by requiring each new or renewal application to submit the “(5) the address, global position system coordinates, and a map of the area to be used to produce” industrial hemp.

- Provide a legal description of the land where hemp is produced in the state or tribal territory. [990.3 (a) (1) (ii)]

The DoAg requires that completed application and fees be filed electronically, mailed, or hand delivered to the division. Approved registrations are good for the remainder of the calendar year. Renewal Applications must be received before December 15th and upon approval are valid for the following calendar year. However, prior year registrations are valid until the timely filed subsequent year application is acted upon.

The Alaska Division of Agriculture will provide to the USDA in the State HeMP website, contact information for each licensed producer, including business entities, covered under the Alaska Industrial Hemp Producer Registrations. The Division will submit this report to the USDA at the first of each month; as required. Information will include:

Name

Address

Telephone number

Email address (if available)

If the applicant is a business entity, the information will also include:

Name of the business

Address of the principal business location

Full name and title of the key participants

An email address (if available)

EIN number of the business entity

- Maintain and report to USDA status of licensed producers (and any changes) and license or authorization numbers of producers. [990.3 (a) (1) (iii)]

The DoAg will forward a legal description for production registrants to the FSA. The DoAg will correspond quarterly; or as necessary to keep the FSA with current information.

The DoAg will maintain and report to USDA the status of registered producers, including the registration numbers of producers, and any changes. The Department will report to the USDA using the HeMP program. This will include all new registrations made under 11 AAC 40.050; 11 AAC 40.060, Denials made under 11 AAC 10.080.

Planting reports are required of the producers under 11 AAC 40.250. Pre-harvest reports are due to the DoAg 30 days prior to harvest and post-harvest reports are due 60 days after receiving sampling results from the DoAg.

The registrant shall maintain a planting report for a period of three years from the date or dates of planting. The DoAg will also keep all records according to the State of Alaska's retention schedule of 3 to 7 years.

2. Plan for accurate and effective sampling and testing using post-decarboxylation or similarly reliable methods [990.3 (a) (2)]:

- Standard sampling and performance-based sampling procedures must be sufficient at a confidence level of 95 percent that no more than one percent of the plants in each lot would exceed the acceptable hemp THC level and ensure that a representative sample is collected that represents a homogeneous composition of the lot.
- All samples must be collected from the flowering tops of the plant by cutting the top five to eight inches from the "main stem" (that includes the leaves and flowers), "terminal bud" (that occurs at the end of a stem), "or "central cola" (cut stem that could develop into a bud) of the flowering top of the plant.

A. Procedures to sample all lots:

1. Sampling all lots [990.3 (a) (2) i-iii]:

- The standard sampling method must be used by all producers, except for producers operating under a State or Tribal plan that includes a performance-based sampling requirement.
- Every lot and every single growing location must be sampled and tested.

The DoAg or its appointed state agents will conduct all sampling of industrial hemp. The DoAg will schedule with the registered grower a time for the division or an authorized representative of the division to conduct pre-harvest sample collections. 11 AAC 40.275

The DoAg collects and retains control of all samples until submitted to an accredited approved Laboratory. Sampling protocols have been developed by program staff which meet the USDA testing requirements. (See Attachment C)

B. Procedures on sampling agents:

- Procedures to conduct sampling and testing within 30 days prior to the anticipated harvest date; samples must be collected by a sampling agent producers may not collect samples from their own growing facilities. [990.3 (a) (2) (i)]

A registered grower shall inform the division by mail or electronic mail of a projected harvest date for an industrial hemp crop at least thirty calendar days prior to the projected harvest. 11 AAC 40.265

- Procedures for collecting samples from the flowering tops of plants. [990.3 (a) (2) (ii)]

DoAg employees or agents will collect samples in compliance with federal and state regulations. This sampling will be which shall be approximately 12 inches in length from the “main stem” (that includes the leaves and flowers), “terminal bud” (that occurs at the end of a stem), or “central cola” (cut stem that could develop into a bud) even if the harvest lot is not is flower.

- Procedures to ensure the sampling method used represents a homogenous composition of the lot. [990.3 (a) (2) (iii)]

DoAg employees and agents are trained in obtaining statistically valid collection techniques. Depending on the area of the registered production, total quantity of samples will vary, but each sample will represent a homogenous composition of each unit being sampled.

- Procedure/statement/allowance to require the producer or an authorized representative of the producer to be present at the growing site during sample collection. [990.3 (a) (2) (iv)]

The registrant or the registrant’s agent shall be present at the grow site during sample collection by the division or may waive in writing the right to be present. The registrant will provide to the division complete access to all hemp, whether growing or stored, and all structures and locations listed on the registrant’s application. 11 AAC 40.275

- Procedures to allow for representatives of the sampling agency to have complete and unrestricted access during business hours to all hemp and other cannabis plants and all land, buildings, etc. used for cultivation, handling, and storage. [990.3 (a) (2) (v)]

The registrant will provide to the division complete access to all hemp, whether growing or stored, and all structures and locations listed on the registrant’s application. 11 AAC 40.275

- Procedures to ensure that a producer does not harvest any cannabis prior to samples being taken. [990.3 (a) (2) (vi)]

As noted, Alaska’s regulations required a 30 day notice prior to harvest of any industrial hemp. Failure follow directives of the DoAg can result in revocation of the grow registration, destruction of any industrial hemp harvested without authorization, and other civil and/or criminal penalties as prescribed by law. In addition to other remedies provided under 11 AAC 40.800, the division may also elect to

immediately quarantine industrial hemp if the division or an authorized representative of the division finds after investigation that a registered producer has violated any section of State regulation.

- Procedures to ensure sampling agents are trained using USDA, state, or tribal training and the information is maintained by the state or tribal government. [990.3 (a) (2) (vii)]

As the DoAg or authorized state agents collect all samples of Industrial Hemp, Alaska's agents will have state training and supervision.

C. Procedures on testing:

- Provides a definition for "acceptable hemp THC level." [990.1]

All industrial hemp grown in the State of Alaska shall be tested by the division or an authorized testing facility for delta-9 THC, and must test at or below 0.3 percent. 11 AAC 40.630.

The division will notify the registered processor in writing of test results:

For products with test results greater than 0.3 percent delta-9-THC but not greater than 1.0 percent delta-9-THC, the division will issue a notice of violation.

If the sample taken from a batch is greater than 1.0 percent delta-9-THC, the division will issue a notice of violation and order the destruction of the batch and products derived from the batch. 11 AAC 40.325.

- Procedures to require testing for delta-9 THC concentration. The procedures must require accurate identification of the acceptable hemp THC level. Testing methods must include but are not limited to: 1) Post decarboxylation or other similarly reliable method; 2) Consideration of potential conversion of delta-9 THCA into THC and test result measure total available THC (THC + THCA); 3) Use of gas or liquid chromatography with detection; 4) Procedures to determine total THC concentration on a dry weight basis. [990.3 (a) (3)]

Testing procedures by the DoAg are established by regulation. See Article 6 of the Industrial Hemp regulations attached and incorporated by reference. See also the definitions used by the State of Alaska which establish the testing methods and procedures which are following the USDA Industrial Hemp testing requirements.

(15) "decarboxylated" means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

(16) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxication component of cannabis).

(17) "delta-9-THC content of not more than 0.3 percent" means delta-9-tetrahydrocannabinol concentration or not more than 3,000 parts per million on a dry weight basis. (15) "decarboxylated" means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

(61) "THC" means total composite tetrahydrocannabinol, including delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

- Procedures to ensure the hemp plant material from one lot not be commingled with hemp plant material from other lots. [990.3 (a) (3) (ii)]

Any industrial hemp produced in State, prior to being offered for compensation or offered without charge shall have samples drawn from the entire harvest lot as applicable and submitted to the division or an authorized testing facility as one test sample. 11 AAC 40.610

Any hemp that has failed any required test must be physically separated from all other hemp, shall not be transported, and shall not be further processed beyond its harvested form or added to a non-hemp product. 11 AAC 40.650

- Procedures to require hemp testing laboratories to adhere to standards of performance for detecting THC concentration, including Measurement of Uncertainty (MU). [990.3 (a)(3) (iii) (A through G)]

The division will establish a minimum weight, volume, and testing method directly to the designated testing facilities to apply those standards, including measurement of uncertainty. After January 1, 2022, only testing facilities which can establish and report the Measurement of Uncertainty will be used.

The division will also establish a standard number of samples required to be included in each batch of hemp for every type of test conducted in compliance with 11 AAC 40.630 – 11 AAC 40.640.

An authorized testing facility shall not accept a sample that is smaller than the standard minimum amount, unless the sample was collected by the division, an authorized representative of the division, or a registrant pursuant to division written direction.

- Requirement to only use DEA registered labs after December 31, 2022. [990.3 (a) (3) (iii)(H)]

DoAg currently selects and provides samples directly to reputable labs that adhere to ISO 17025 standards. After December 31, 2022 those labs will be registered with the DEA. If they are not registered and listed on the USDA AMS hemp analytical testing laboratories website, they will no longer be used for compliance testing.

- Procedures requiring testing laboratories to report test results to USDA for determining compliance with this part. [990.3 (a) (3) (iii) (H) (4)]

Upon approval of Alaska's plan, all testing laboratories or DoAg staff will be required to report test results to the USDA.

3. Plan for disposal procedures

- Procedures for the disposal or remediation of cannabis plants if the sample representing that plant tests above the acceptable hemp THC level. [990.3 (a) (6)]

DoAg regulations have set requirements for the storage and disposal of industrial hemp waste, including non-compliant plant materials:

- a) a registrant shall store, manage, and dispose of any solid or liquid waste, including wastewater generated during industrial hemp production in compliance with applicable federal, state, and local statutes, ordinances, regulations, and other law.
- b) Disposal must be conducted in a manner consistent with federal, state and local laws, regulations, rules and other requirements. This may include, but is not limited to, the disposal of pesticides or agricultural chemicals used in production.
- c) Industrial hemp waste must be made unusable for any purpose for which it was grown or produced and unrecognizable prior to leaving the registered premises. Industrial Hemp waste includes:

- (1) industrial hemp plant waste, including stalks, leaves, stem, and flowers.

- (d) Industrial hemp may be made unusable and unrecognizable through mowing, grinding, or compacting the hemp or hemp product and incorporating the industrial hemp or industrial hemp product with at least an equal amount of other compostable or non-compostable materials listed below, such that the resulting mixture cannot be easily separated and sorted:

- (1) food waste;
 - (2) yard waste;
 - (3) vegetable-based grease or oils;
 - (4) paper waste;
 - (5) cardboard waste;
 - (6) plastic waste;
 - (7) oil;
 - (8) soil, or

- (9) other wastes approved by the division or a representative of the division that will render the industrial hemp or industrial hemp products unusable and unrecognizable.

- (f) A registrant shall give notice to the division, on a form prescribed by the division, of the disposal of the industrial hemp within ten business days of disposal.

- (g) If industrial hemp found by or surrendered to a peace officer, the officer may dispose of the industrial hemp or industrial hemp products as outlined in this section or by any method allowed under any applicable local ordinance.

- (h) Notwithstanding paragraph c of this section, a registrant may request written authorization from the division to utilize industrial hemp waste, such as spent floral material, for another purpose.

11 AAC 40.665

- Procedures to notify USDA of non-compliant plants and disposal of those plants from the lot where representative samples were taken. Test results must be included. [990.3 (a) (6)]

The DoAg has not tested any plants that exceeded the .3 percent delta-9-THC levels limits during the last two years of the pilot program. After approval of the State's plan, if any non-compliant plants are identified, after the conclusion of enforcement actions, the DoAg will notify the USDA of the actions taken, including the test results and destruction report. Quarterly reporting of industry status changes is discussed in (1).

4. Plan for remediation procedures

- Procedures to ensure effective disposal or remediation of plants produced in violation of part 990; only those successfully remediated crops will be allowed to enter the stream of commerce, and all other remaining non-compliant crops must then be disposed. [990 (a) (6) (i - iii); 990 E. Disposal and Remediation of Non-Compliant Plants]

Future remediation regulations will follow USDA requirements. Otherwise, all production produced in violation of part 990 will be destroyed under the supervision of the DoAg.

5. Plan for inspection procedures

- Procedure for conducting annual inspections of random sample of licensed producers to verify that hemp is not produced in violation of this part. [990.3 (a) (7)]

All industrial hemp producers will be inspected twice annually.

Further, during the usual hours of a business, or at any time if the division determines there is an immediate threat to the health or safety of the general public, enter and inspect premises where industrial hemp are produced, handled, stored, dried or transported. 11 AAC 40.800

6. Plan for collection of information

- Procedure for submitting the information described in 990.70 to the Secretary not more than 30 days after the date on which the information is received. [990.3 (a) (8)]

The DoAg staff will report all required information to the USDA using the HeMP program, as necessary.

- Procedure for producers licensed under state and tribal government plans to share information with USDA, Agricultural Marketing Service (AMS), and Farm Service Agency (FSA) including: 1) hemp crop acreage; 2) reporting total acreage of hemp planted, harvested, and disposed; 3) license or authorization number; 4) street address; 5) geospatial location(s) of each lot or greenhouse where hemp will be produced; 6) acreage of greenhouse or indoor square footage dedicated to the production of hemp. [990.3 (a) (10) and 990.7]

The DoAg will provide the information to the USDA AMS on behalf of all producers. The State will inform registered producers at the time of application that they must also provide the above information 1-6 to the local FSA office within Alaska.

7. Plan to comply with enforcement procedures

- Procedures to contain provisions relating to negligent producer violations as defined under this part; producers shall not receive more than one negligent violation per growing season. [990.6 (b)]
- Provides for corrective action plan for negligent violations: 1) failure to provide legal description of land; 2) failure to obtain a license; 3) produces cannabis with THC exceeding 1.0 percent. [990.6 (b)]

A registered grower may not grow industrial hemp outside the authorized grow area identified by GPS coordinates and identified on the approved application. The registrant must destroy any industrial hemp that grows outside the authorized grow area. 11 AAC 40.235

A registered grower must submit to the division, by mail or electronic mail, a planting report on a form prescribed by the division, no later than 20 days after seeding, direct sowing, or replanting of hemp seeds and propagules. 11 AAC 40.250

If a sample tests in excess of 1.0 percent delta-9-THC levels, the division will issue a notice of violation, order the destruction of the harvest lot in compliance with 11 AAC 40.565, and notify the Department of Public Safety and the Marijuana Control Board of the notice of violation. 11 AAC 40.290 and the USDA AMS hemp program.

Under 11 AAC 40.800, the division may also elect to immediately quarantine industrial hemp in the following circumstances:

- (1) the division or an authorized representative of the division finds after investigation that a registered grower has violated this chapter;
- (2) the hemp produced by a person not registered with the Alaska Industrial Hemp Pilot Program or a person not registered or licensed with an industrial hemp pilot program created in accordance with section 7606 of the Agricultural Improvement Act of 2014 (7 U.S.C. § 5940).

The division may temporarily suspend a permit or registration issued under this chapter for up to 60 days if registrant is alleged to have:

- (1) violated any provision of AS 03.05.010, AS 03.05.076 – AS 03.05.079 or this chapter;
- (2) made any false statement to the division or the division's representatives;
- (3) failed to comply with any agreement signed by the registrant or permittee at the time the registration or permit was issued;
- (4) failed to comply with any orders of the division to enforce this chapter; or
- (5) failed to pay any fines issued in connection with notices of violation. 11 AAC 40.810

- Procedures to provide for the correction of negligent violations: 1) a reasonable date to correct the violation; 2) reporting requirements for 2 years from date of the negligent violation; 3) violations are not subject to federal, state, tribal, or local government criminal enforcement action; 4) provides that a negligent violation 3 times within a 5- year period is ineligible to produce hemp for a period of 5 years from the date of the 3rd violation; 5) state or tribal government shall conduct inspections to determine if corrective action plan has been implemented. [990.6 (c)]

All violations of the Industrial Hemp Statute now require the DoAg to issue a citation to the violator.
See AS 03.07.076

In addition to temporary suspension, the division may revoke a registration, permit, or endorsement and prohibit participation in the industrial hemp pilot program for a period of up to five years if the registrant:

- (1) has planted, grown, cultivated, or replicated industrial hemp seeds or propagules from a hemp plant of wild, landrace, or unknown origination without advance written approval from the division;
- (2) has harvested industrial hemp without a harvest report and pre-harvest sample taken by the division, without advance written approval of the division;
- (3) as ordered, failed to destroy a harvest lot the sample of which has tested at greater than 1.0 percent delta-9-THC;
- (6) fails to submit any report required under this chapter; or
- (7) violates this chapter three separate occasions in a one-year period.

11 AAC 40.820

The DoAg does not have criminal jurisdiction and all actions taken will be in civil court. The DoAg will notify law enforcement when acts of a negligent or criminal nature are observed.

As described earlier in the plan, the DoAg has complete oversight and control over all production of any industrial hemp within the state.

- Procedures for producer violations made with a culpable mental state greater than negligence: Producer shall be reported to the U.S. Attorney General and the chief law enforcement officer of the state or tribal government. [990.6 (d)]

All producer violations will be reported to the Alaska Attorney General. Other actions made with a “culpable mental state greater than negligence” will be reported to the US Attorney General by the DoAg legal counsel.

- Procedures for addressing felonies: 1) provides for a 10-year ineligibility restriction for persons with a State or Federal conviction relating to a controlled substance; 2) provides for controlled substance felony conviction exception for participants in state hemp pilot program authorized under the 2014 Agricultural Act before December 20, 2018; 3) procedures for business entities to determine which participants are considered to be “key” or have executive managerial control. [990.6 (e)]

Industrial hemp is an agricultural crop in the state. An individual who produces industrial hemp shall apply to the department for registration under this section. Registration is valid for one year but may be renewed. An application for registration or renewal must be on a form prescribed by the department that include

- 1) the name and address of the applicant;
- (2) the address and global positioning system coordinates of the area to be used for the production of industrial hemp; and
- (3) a signed statement by the applicant, made under the penalty of perjury, affirming that the applicant (A) has not been convicted of a felony related to a controlled substance in this or another jurisdiction within the 10 years immediately preceding the date of application; or (B) was

lawfully growing hemp before December 20, 2018, and was not convicted of a felony related to a controlled substance in this or another jurisdiction after that date.

- Procedures stating that any persons who materially falsify any information in their application shall be deemed ineligible to participate in the program. [990.6 (f)]

The division will deny an application for a new registration if the division finds the signatory is not authorized to sign the application or is ineligible to participate in the program under 11 AAC 40.030.(b)

The division may deny an application for a renewal registration if the division finds:

- (1) that an applicant is not responsive to a request for additional information.
- (2) a renewal application for a registration is not postmarked or received by the division no later than December 15th of the calendar year prior to the registration term as required under 11 AAC 40.060(a);
- (3) a registration has been suspended or revoked under 11 AAC 40.830; or
- (4) any action taken under 11 AAC 40.800 prohibits renewal of the registration.

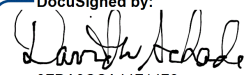
If the division denies an application, the division will furnish a written statement to the applicant, explaining the reasons for the denial.

The DoAg is drafting an update to regulations. Changes will include restrictions on felony convictions by program participants. Until said time the regulations are in place, the DoAg will use our statutory authority to assure the Division operates within all USDA guidelines.

8. Certification that the state or tribal government (whichever applicable) has resources and personnel to carry out required Farm Bill practices and procedures. [990.3 (a) (9)]

I, David W. Schade, Director of the Alaska Division of Agriculture hereby certify that the state of Alaska has the Statutory Authority under AS 03.07.076 (f) to develop an industrial hemp program that complies (or will comply with authorized changes to state regulation) with federal requirements and may submit a program plan to the United States Department of Agriculture for approval.

I also hereby certify that Governor Mike Dunleavy and the Alaska State Legislature have allocated adequate resources and the personnel necessary to carry out the practices and procedures described in Alaska's Industrial Hemp Plan pursuant to Section 297B(a)2(A)(i-vii) of the Agriculture Improvement Act of 2018, as implemented in the Hemp Interim Final Rule (7 CFR Part 990: Establishment of a Domestic Hemp Production Program).

DocuSigned by:

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David W. Schade, MPA
Director

9. Plan may include other practices or procedures as long as consistent with this part and the Act. Plan may include requirements more stringent than this part or the Act. [990.3 (a) (10) (b) (1) and (2)]

Alaska's permanent Industrial Hemp program will follow or exceed the minimum requirements of the USDA Industrial Hemp Regulations. Alaska will operate the industrial hemp program according to the statutes and regulations adopted by the State and Department of Natural Resources.

Alaska also regulates the processing and retail sales of Industrial Hemp products, and requires additional regulation of sites, testing of industrial hemp products, etc. as the Alaska's program primary goal is to assure public safety. These regulations are incorporated by reference and will be used to operate Alaska's program until updated permanent program regulations can be promulgated. See attachment A.

License Numbering Schemes for State and Tribal Hemp Production Plans States must use the following format when assigning license or authorization numbers:
[ANSI/FIPS State Code_State License #]

Alaska Code is 2, and will be added to Alaska's numbering scheme so that the reporting complies with the Federal regulations.

Attachment A: Alaska Industrial Pilot Program Regulations
Attachment B: Enrolled CSSB27 (Resources) Chapter 32 SLA 21
Attachment C: Industrial Hemp Sampling SOP

Certificate Of Completion

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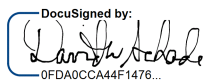
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Director

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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

Please read this Electronic Records and Signature Disclosure (ERSD). It concerns your rights regarding electronically undertaking, and the conditions under which you and the State of Alaska agree to electronically undertake, the transaction to which it relates (the “TRANSACTION”).

Consent to Electronically Undertake the TRANSACTION

You can electronically undertake the TRANSACTION only if you confirm that you meet the following requirements by selecting the box next to “I agree to use electronic records and signature” (the “AGREE BOX”):

1. you can fully access and have read this ERSD;
2. you can fully access all of the information in the other TRANSACTION records;
3. you can retain all of the TRANSACTION records in a form that you will be able to fully access for later reference;
4. you consent to undertake the TRANSACTION electronically; and
5. you are authorized to undertake the TRANSACTION. (Please note that falsely undertaking the TRANSACTION may subject you to civil liabilities and penalties and/or to criminal penalties.)

If you cannot or are not willing to confirm each of these five things, do not select the AGREE BOX.

Withdrawing Consent

If you select the AGREE BOX, you can withdraw your consent to electronically undertake the TRANSACTION at any time before you complete the TRANSACTION: simply do not finalize it. The only consequence of withdrawing your consent is that you will not finalize the TRANSACTION.

If you select the AGREE BOX, your consent will apply only to this TRANSACTION. You must separately consent to electronically undertake any other transaction with the State of Alaska.

Paper Option for Undertaking the TRANSACTION

You may undertake the TRANSACTION with the State of Alaska using paper records. (State of Alaska employees who want to undertake the TRANSACTION in paper should contact the agency responsible for the TRANSACTION.) Print the paper records on the website of the State of Alaska agency responsible for the TRANSACTION, or request them from the agency. The State of Alaska homepage is at <http://alaska.gov/>.

Copies of TRANSACTION Records

After completing the TRANSACTION but before closing your web browser, you should download the TRANSACTION records. Or you can download the records within 30 days after

completing the TRANSACTION using the link in the DocuSign email sent to the email address you used to complete the TRANSACTION. The State of Alaska will not provide a paper copy of the TRANSACTION records as part of the TRANSACTION. Under the Alaska Public Records Act (APRA), AS 40.25.100–.295, you can request a copy from the agency responsible for the TRANSACTION, but if too much time has passed, the agency may no longer have the records when you make your request. If required under the APRA, the agency will charge a fee.

Required Hardware and Software

For the minimum system requirements to electronically undertake the TRANSACTION, including accessing and thereby retaining the TRANSACTION records, visit <https://support.docusign.com/guides/signer-guide-signing-system-requirements>. These requirements may change. In addition, you need access to an email account.

How to Contact the State of Alaska

To ask a question on this ERSD or the DocuSign document generated after you complete the TRANSACTION or on using DocuSign to electronically undertake the TRANSACTION, contact the Alaska Department of Administration at either of the following addresses:

State of Alaska
Department of Administration
550 West 7th Avenue
Suite 1970
Anchorage, AK 99501
Reference: DocuSign

doa.commissioner@alaska.gov
Subject: DocuSign

To ask any other question on the TRANSACTION records or to update the information for contacting you electronically, contact the State of Alaska agency responsible for the TRANSACTION using the contact information in the TRANSACTION records or, if those records contain no contact information, using the contact information on the agency's website. Again, the State of Alaska homepage is at <http://alaska.gov/>.

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Mary Kay Ryckman
Department of Natural Resources

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: March 5, 2020

RE: Filed Permanent Regulations: Department of Natural Resources

Department of Natural Resources regulations re: growing, harvest, processing,
endorsement, and retail sale of industrial hemp and industrial hemp and industrial help
products (11 AAC 40)

Attorney General File:	2019200330
Regulation Filed:	3/5/2020
Effective Date:	4/4/2020
Print:	234, July 2020

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF NATURAL RESOURCES

The attached 72 pages of regulations, dealing with industrial hemp, are adopted and certified to be a correct copy of the regulation changes that the Department of Natural Resources adopts under the authority of AS 03.05 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Natural Resources paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 2/20/20


Corri A. Feige, Commissioner

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on MARCH 5th, 2020, at 1:36 P.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


Kevin Meyer, Lieutenant Governor

Effective: April 4, 2020.

Register: 234, July 2020.

11 AAC is amended by adding a new chapter to Part 4 to read:

Chapter 40. Industrial Hemp.

Article

1. Purpose; Registration; Application; Procedures for Approval; Denials; Modification; Fees
(11 AAC 40.010 - 11 AAC 40.100)
2. Grower Registration (11 AAC 40.200 - 11 AAC 40.295)
3. Processor Registration (11 AAC 40.300 - 11 AAC 40.335)
4. Hemp Product Endorsement and Labeling (11 AAC 40.400 - 11 AAC 40.420)
5. Retailer Registration (11 AAC 40.500 - 11 AAC 40.530)
6. Sampling, Testing, Quarantines, and Destruction (11 AAC 40.600 - 11 AAC 40.665)
7. Requirements Common to All Registrations (11 AAC 40.700 - 11 AAC 40.710)
8. Enforcement; Appeals (11 AAC 40.800 - 11 AAC 40.830)
9. General Provisions (11 AAC 40.910)

**Article 1. Purpose; Registration; Application; Procedures for Approval; Denials;
Modification; Fees.**

Section

10. Purpose
20. Registration required
30. Registration restrictions
40. Original registration term, renewals, and submission dates
50. Application for new registration

- 60. Application for renewal of registration
- 70. Procedure for action on applications and endorsements
- 80. Denial of registration application and renewal application
- 90. Modification of registration
- 100. Fee schedule

11 AAC 40.010. Purpose. (a) Industrial hemp, including a product derived from industrial hemp, is an agricultural crop subject to regulation by the division.

(b) The purposes of this chapter are to

(1) promote the research of and study methods for the growth, cultivation, and marketing of industrial hemp; and

(2) regulate the production of industrial hemp and industrial hemp products consistent with public health and safety. (Eff. 4 / 4 / 2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.050	AS 03.05.077
	AS 03.05.030	AS 03.05.076	AS 03.05.100

11 AAC 40.020. Registration required. (a) A person may not produce industrial hemp in the state unless the person has obtained an industrial hemp registration from the division to participate in the Alaska Industrial Hemp Pilot Program. The division will issue the following classes of industrial hemp registrations for participation in the program under this chapter:

- (1) an industrial hemp grower registration;
- (2) an industrial hemp processor registration; and

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(3) an industrial hemp retailer registration.

(b) A person may hold a single registration or any combination of classes of registrations. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.078
AS 03.05.076

11 AAC 40.030. Registration restrictions. A registration may be held by an individual at least 18 years of age or a business entity that is in good standing within the state and other jurisdictions, as applicable. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.090
AS 03.05.030 AS 03.05.077

11 AAC 40.040. Original registration term, renewals, and submission dates. (a) Except as set out in 11 AAC 40.060, an industrial hemp registration is valid from the date it is issued until January 1 of the following year.

(b) An industrial hemp registration may be renewed for unlimited, additional one-year terms. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.050. Application for new registration. (a) An applicant for registration in the Alaska Industrial Hemp Pilot Program must file an application on a form that the division prescribes.

(b) An application for a new industrial hemp registration must include

(1) the full legal name of the applicant; if the applicant is a business entity, the application must contain

(A) the name of the business entity, including its designation as corporation, partnership, association, limited liability company, or other permissible business formation;

(B) the names of its officers, members, and partners, as applicable;

(C) proof that the business entity is authorized by and in good standing with the state, and other jurisdictions, as applicable; and

(D) documentation validating the authority of the signatory to bind the entity;

(2) the business name the applicant will use for its industrial hemp operations, along with any applicable business licenses issued under AS 43.70;

(3) the physical address of the applicant;

(4) the mailing address and an electronic mailing address of the applicant; and

(5) the address, GPS coordinates, and a map of the area to be used to produce, process, or offer, with or without compensation, to a consumer industrial hemp.

(c) An application for registration in the Alaska Industrial Hemp Pilot Program must be signed by

(1) the applicant, if the applicant is an individual; or

(2) an authorized representative of a business entity, if the applicant is a business entity.

(d) Each signatory to an application for an industrial hemp registration must declare under penalty of unsworn falsification that

- (1) the application is true, correct, and complete;
- (2) the signatory has authority to bind the applicant; and
- (3) the applicant has read and is familiar with AS 03.05.010,

03.05.076 - 03.05.100, and this chapter.

(e) The completed application and fees may be filed electronically, mailed, or hand-delivered to the division.

(f) All fees, including non-refundable application fees, registration fees, and, if applicable, industrial hemp product endorsement fees set out in 11 AAC 40.100 must be paid at the time of submittal of an application.

(g) If an applicant applies for more than one class of registration, a separate application and all required fees must be submitted for each class of registration. (Eff. 4/4/2020,

Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.060. Application for renewal of registration. (a) An application for renewal of an industrial hemp registration must be filed on a form that the division prescribes, with the information and documents described in this section. A renewal application for a registration must be postmarked or received by the division not later than December 15 of the calendar year before the registration term.

(b) An industrial hemp renewal application must

- (1) identify the class of registration to be renewed;
- (2) provide detail of any change of information set out in 11 AAC 40.050(b) on the original application; and
- (3) report for each registration held by the applicant any notice of violation that has been issued under this chapter.

(c) Until the division makes a decision on a timely filed renewal application, the prior year registration remains valid after January 1.

(d) Each signatory to a renewal application for an industrial hemp registration must declare under penalty of unsworn falsification that

- (1) the renewal application is true, correct, and complete;
- (2) the signatory has authority to bind the applicant; and
- (3) the applicant has read and is familiar with AS 03.05.010, 03.05.076 - 03.05.100, and this chapter.

(e) All fees, including non-refundable application fees, registration fees, and, if applicable, industrial hemp product endorsement fees set out in 11 AAC 40.100 must be paid at the time of submittal of a renewal application.

(f) If an applicant applies for renewal of more than one class of registration, a separate application and all required fees must be submitted for each class of registration. (Eff.

4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.070. Procedure for action on applications and endorsements. (a) The

division will make a determination as to the completeness of the original or renewal application and will notify each applicant in writing that the application is complete, or of any additional information or submittals necessary to complete the application.

(b) Not later than 30 days after receipt of the request, an applicant must submit any additional information requested by the division.

(c) Upon a determination of the receipt of all requested additional information, the division will notify each applicant in writing that the application is complete.

(d) The division will grant or deny an application for registration or endorsement subject to 11 AAC 40.400 - 11 AAC 40.420 not later than 60 business days after sending an applicant written notice that the application is complete. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.080. Denial of registration application and renewal application. (a) The division will deny an application for a new registration if the division finds that the signatory is not authorized to sign the application or is ineligible to participate in the program under 11 AAC 40.030.

(b) The division may deny an application for a renewal registration if the division finds that

(1) an applicant is not responsive to a request for additional information;

(2) a renewal application for a registration is not postmarked or received by the division not later than December 15 of the calendar year before the registration term as required under 11 AAC 40.060(a);

(3) a registration has been suspended or revoked under 11 AAC 40.830; or

(4) any action taken under 11 AAC 40.800 prohibits renewal of the registration.

(c) If the division denies an application, the division will furnish a written statement to the applicant, explaining the reasons for the denial.

(d) The aggrieved applicant may appeal the denial in compliance with 11 AAC 40.830.

(Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.090

AS 03.05.076 AS 03.05.079

11 AAC 40.090. Modification of registration. (a) To request a modification to a registration, a registrant must submit a modification request on a form prescribed by the division and pay the required fee set out at 11 AAC 40.100.

(b) In the event of a registrant's death, incapacity, or dissolution, the registration may be modified to transfer the registration to an authorized transferee. The applicant for a modification must provide information required under 11 AAC 40.050(b)(1) - (4) and make the declarations required under 11 AAC 40.050(d). Modification requests under this subsection shall be filed with the division not later than 60 calendar days after the death, incapacity, or dissolution of the original registrant.

(c) If the request is to change the site of operations, the registrant must file a modification request that provides the information for the replacement sites specified in 11 AAC 40.050(b)(5). Site modifications for new locations must comply with all land use restrictions established in 11 AAC 40.240.

(d) Any registrant may submit multiple registration modification requests, but separate fees are required for each requested modification.

(e) Each registrant shall comply with the all terms of the original registration, until the division approves the modification request in writing. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.100. Fee schedule. The division will charge fees as follows:

- (1) non-refundable application fee for a registration: \$100;
- (2) non-refundable application fee for a renewal registration: \$50;
- (3) annual registration fee for a grower: \$200;
- (4) annual registration fee for a processor that creates a product not intended for human or animal consumption: \$250;
- (5) annual registration fee for a processor that creates a product intended for human or animal consumption: \$750;
- (6) annual registration fee for a retailer: \$300;
- (7) endorsement fee for each industrial hemp product subject to 11 AAC 40.400 - 11 AAC 40.420: \$100;
- (8) transportation permit issued under 11 AAC 40.710: \$50;
- (9) modification of product endorsement: \$100;
- (10) modification of registration: \$50;
- (11) sampling fee under 11 AAC 40.275(e) and 11 AAC 40.290(b) for the division or the division's representative to collect samples from harvest of industrial hemp: \$200;

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(12) testing of seeds of wild, landrace, or unknown origin under 11 AAC 40.220:

\$1,200. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

Article 2. Grower Registration.

Section

- 200. Grower registration required
- 205. Grower registration, privileges, and prohibited acts
- 210. Authorized seed and propagules
- 215. Compliance with plant health and quarantine regulations
- 220. Seeds or propagules of wild, landrace, or unknown origin
- 225. Industrial hemp propagules
- 230. Documentation of seed and propagule source and distribution
- 235. Grow areas
- 240. Land use restrictions
- 245. Signage
- 250. Planting reports
- 255. Pesticides
- 260. Testing
- 265. Initial pre-harvest report
- 270. Division response
- 275. Pre-harvest testing

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- 280. Post-harvest testing
- 285. Sampling and harvesting of industrial hemp within delta-9-THC limitations
- 290. Sample results in excess of delta-9-THC limitations
- 295. Post-harvest reports

11 AAC 40.200. Grower registration required. A person may not grow industrial hemp unless the person has obtained a grower registration from the division in compliance with this chapter or is operating under a registration subject to 11 AAC 40.200 - 11 AAC 40.295. (Eff.

4/4/2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.205. Grower registration, privileges, and prohibited acts. (a) A registered grower is authorized to do the following, in compliance with this chapter:

- (1) grow industrial hemp;
- (2) store industrial hemp, hemp seed, and propagules;
- (3) receive compensation for raw industrial hemp from a registered processor or other registered grower, if the hemp has been sampled and tested by the division to prove that the raw hemp contains less than 0.3 percent delta-9-THC;
- (4) receive compensation for raw industrial hemp from persons who are not required to be registered by this chapter, including consumers in the state, if the hemp will not be further processed and the lot of industrial hemp from which it is sourced has been sampled and tested by the division to prove that the raw hemp contains less than 0.3 percent delta-9-THC;

(5) provide samples of industrial hemp to the division or testing facility authorized by the division;

(6) conduct in-house testing;

(7) store industrial hemp at the locations identified in the application for registration; and

(8) transport industrial hemp in compliance with 11 AAC 40.710.

(b) A registered grower may not

(1) purposefully grow any cannabis that is not industrial hemp unless the grower also holds a marijuana cultivation facility license issued under 3 AAC 306;

(2) grow industrial hemp in a structure used primarily for a residential purpose;

(3) store or handle leaf or floral materials from industrial hemp in any structure that is primarily used for residential purpose;

(4) process industrial hemp without a processor registration;

(5) receive compensation for processed industrial hemp or industrial hemp products without an industrial hemp retailer registration. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.090

AS 03.05.076 AS 03.05.079

11 AAC 40.210. Authorized seed and propagules. (a) The division will publish and update on an annual basis a list of accepted and prohibited varieties of industrial hemp seed or propagules.

(b) In addition to seeds and propagules received as an approved variety, a registered

grower may

(1) grow approved varieties of industrial hemp seeds or propagules received from registered growers in the Alaska Industrial Hemp Pilot Program, without written approval from the division;

(2) grow varieties of industrial hemp seeds or propagules received from out-of-state sources, after the division approves the use in writing; in order to approve the out-of-state sources, the division will use the same analyses and testing used for inclusion on the qualified list;

(3) acquire, but may not grow wild, landrace, or seeds of unknown origin until the division has grown and sampled the seeds in accordance with 11 AAC 40.220 and the division concludes the seed is not a prohibited variety.

(c) A registered grower may not acquire or grow industrial hemp seeds or propagules that are on the division's prohibited varieties list. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.215. Compliance with plant health and quarantine regulations. (a)

Industrial hemp seed varieties from approved sources under this section that are offered for sale or acquisition in quantities of one pound or more must comply with the provisions of 11 AAC 34.

(b) Industrial hemp seed varieties from approved sources under this section that are offered for sale or acquisition in quantities less than one pound are exempt from the provisions of 11 AAC 34, but are sold or acquired at the purchaser's risk. (Eff. 4 / 4 / 2020, Register 234)

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Authority: AS 03.05.010 AS 03.05.040 AS 03.05.076
AS 03.05.027 AS 03.05.050 AS 03.05.077
AS 03.05.030

11 AAC 40.220. Seeds or propagules of wild, landrace, or unknown origin. (a) A registrant may not grow or replicate industrial hemp seeds or propagules of wild, landrace, or unknown origin without first obtaining written permission from the division and complying with this section.

(b) Before a registrant receives written permission from the division, industrial hemp seeds or propagules subject to this section must first be grown and tested by the division after the registrant pays the fee established under 11 AAC 40.100(12). A registrant must coordinate with the division for the division's receipt of the seeds or propagules and arrange for replication and testing of mature plants grown from those seeds or propagules.

(c) Following replication and testing of mature plants from industrial hemp seeds or propagules subject to this section, the division will notify the registrant whether the matured plants have passed required testing described in 11 AAC 40.600 - 11 AAC 40.665 and will approve or deny in writing the registrant's further use of the seeds or propagules, based on the results of testing. (Eff. 4/4/2020, Register 234)

Authority: AS 03.05.010 AS 03.05.040 AS 03.05.076
AS 03.05.027 AS 03.05.050 AS 03.05.077
AS 03.05.030

11 AAC 40.225. Industrial hemp propagules. (a) A registered grower importing industrial hemp propagules from outside the state and in compliance with 11 AAC 40.210 must ship the propagules to the division for inspection at the registered grower's expense.

(b) The division will test the imported industrial hemp propagules for compliance with 11 AAC 34. Any propagule received by the division that fails to comply with all applicable regulations will be destroyed by the division with written notice to the registrant.

(c) The division will arrange for pickup of or ship the industrial hemp propagules that passed division inspection to the registered grower at the registrant's expense. (Eff.

4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.040 AS 03.05.076
AS 03.05.027 AS 03.05.050 AS 03.05.077
AS 03.05.030

11 AAC 40.230. Documentation of seed and propagule source and distribution. (a) A registered grower must document all sources of industrial hemp seeds and propagules and the registrant's distribution of those seeds and propagules.

(b) The documentation must contain

- (1) the name of the person from whom the seeds or propagules were acquired;
- (2) proof that the person identified in (1) of this subsection is either

(A) a registered grower with the Alaska Industrial Hemp Pilot Program;

(B) a source registered or licensed with a different industrial hemp pilot program operating in accordance with 7 U.S.C. 5940 (sec. 7606 of the Agricultural

Improvement Act of 2014) or a United States Department of Agriculture approved industrial hemp program authorized under 7 U.S.C. 1639p (sec. 10113 of the Agricultural Improvement Act of 2018); or

(C) a lawful international source authorized in writing by the division;

(3) the date of acquisition;

(4) if applicable, identification of any trademark, patent, or other proof of intellectual property for the seeds or propagules; and

(5) identification of all registered growers or other persons to whom the registrant distributed the seeds or propagules.

(b) A registered grower shall keep and maintain records required by this section for a period of three years from the date of acquisition or distribution of the seed or propagule.

(c) A registered grower must provide documents required by this section to the division upon request. (Eff. 4 / 4 / 2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.040	AS 03.05.076
	AS 03.05.027	AS 03.05.050	AS 03.05.077
	AS 03.05.030		

11 AAC 40.235. Grow areas. A registered grower may not grow industrial hemp outside the authorized grow area identified by GPS coordinates and identified on the approved application. The registrant must destroy any industrial hemp that grows outside the authorized grow area. (Eff. 4 / 4 / 2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.076	AS 03.05.077
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11 AAC 40.240. Land use restrictions. (a) The isolation distance between two or more varieties of the plant Cannabis for the purpose of keeping all seed pure is 3,230 feet (1,000 meters).

(b) In addition to an isolation distance, planted hemp shall also be separated from other planted forms of cannabis by a barrier that plainly distinguishes hemp from another form of cannabis.

(c) Hemp may not be grown in a grow area smaller than one-quarter acre and no fewer than 200 plants may be planted in a grow area, unless approved in writing by the division.

(d) Hemp may not be grown on property owned by or leased from a person who is ineligible to participate in the Alaska Industrial Hemp Pilot Program under 11 AAC 40.030 or whose registration is suspended or revoked. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.245. Signage. If a grow area is one acre or less, the registered grower shall post readable signage no smaller than a total area of 144 square inches at the grow area and visible to the public that includes the following information:

- (1) the title, "Alaska Industrial Hemp Pilot Program";
- (2) the registration holder's registration number; and
- (3) contact information for the Alaska Industrial Hemp Pilot Program in the

Division of Agriculture. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.250. Planting reports. (a) Not later than 20 days after seeding, direct sowing, or replanting of hemp seeds and propagules, a registered grower must submit to the division, by mail or electronic mail, a planting report on a form prescribed by the division.

(b) If the planting is outdoors, the planting report must contain

- (1) the name of the variety, strain, or cultivar of seed or propagule planted;
- (2) the field location by cross streets and GPS coordinates;
- (3) a statement of intended use of crop harvested for each planting;
- (4) the date of planting;
- (5) the total amount of seed or propagules planted; and
- (6) the total number of acres or square feet planted.

(c) If the planting is indoors, the planting report must contain

- (1) the name of the variety, strain, or cultivar of seed or propagule planted;
- (2) the indoor production location by street address and GPS coordinates;
- (3) a statement of intended use of crop harvested for each planting;
- (4) the date of planting; and
- (5) the total amount of seed or propagules planted.

(d) If no planting has occurred before July 31 of a registered year, a registered grower shall withdraw the grower's registration or submit a planting report that designates the dates the registered grower intends to plant industrial hemp during the registered year.

(e) The registrant shall maintain a planting report for a period of three years from each date of planting. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

11 AAC 40.255. Pesticides. (a) Only a pesticide applicator certified under AS 46.03.320 and 18 AAC 90 may apply pesticides to industrial hemp.

(b) Before planting any hemp, a registered grower shall comply with the longest pre-planting interval listed on the pesticide product label. (Eff. 4 / 4 / 2020 Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.260. Testing. A registered grower may not harvest industrial hemp until the division, or an authorized representative of the division has

(1) collected and tested one or more samples from the harvest in compliance with 11 AAC 40.285 or 11 AAC 40.290(b), and also in compliance with 11 AAC 40.600 - 11 AAC 40.665, and provided a written statement that the crop is eligible to be moved to market; or

(2) provided written permission to harvest the lot before sampling or testing; the harvest lot must be stored on the registered premises of the grower and may not be transferred to another person until the division completes post-harvest sampling and testing and provides a written statement that the crop is eligible to be moved to market. (Eff. 4 / 4 / 2020 Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.090
AS 03.05.076 AS 03.05.079

11 AAC 40.265. Initial pre-harvest report. A registered grower shall inform the division by mail or electronic mail of a projected harvest date for an industrial hemp crop at least 30 calendar days before the projected harvest. (Eff. 4 / 4 / 2020 Register 234)

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Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

11 AAC 40.270. Division response. The division will collect and test samples from the harvest lot before the projected harvest date or will inform the registered grower in writing that the division is unable to collect the samples for testing before the projected harvest date. (Eff.

4 / 4 / 2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

11 AAC 40.275. Pre-harvest testing. (a) The division will schedule with the registered grower a time for the division or an authorized representative of the division to conduct pre-harvest sample collections.

(b) The registrant or the registrant's agent shall be present at the grow site during sample collection by the division or may waive in writing the right to be present. The registrant shall provide to the division complete access to all industrial hemp, whether growing or stored, and all structures and locations listed on the registrant's application.

(c) Based upon the availability of division personnel the division or representatives of the division will sample grow areas identified in a registrant's pre-harvest report and may sample other portions of the grow areas randomly.

(d) The division or representatives of the division collecting or transporting the samples from a harvest lot or random sampling area have the legal right to possess and retain the sample and to transport it to a laboratory for analysis.

(e) The registrant shall be responsible for the cost of sampling, as set out in 11 AAC

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40.100(11), and for the cost of testing. Any sample taken by the division for testing is property of the division. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

AS 03.05.040

11 AAC 40.280. Post-harvest testing. (a) If the registered grower is informed in writing that the registrant may harvest industrial hemp from a harvest lot before division sampling and testing, the registrant may proceed with the harvest.

(b) The division will schedule with the registrant a time for the division or an authorized representative of the division to conduct post-harvest sample collections.

(c) The registrant or the registrant's agent shall be present during sample collection by the division or may waive in writing the right to be present. The registrant shall provide to the division complete access to all industrial hemp, whether growing or stored, and all structures and locations listed on the registrant's application. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.285. Sampling and harvesting of industrial hemp within delta-9-THC limitations. (a) If pre-harvest testing confirms delta-9-THC levels in the harvest lot of not more than 0.3 percent, the registered grower may harvest each tested lot from which the sample was derived and further store or transport the industrial hemp for compensation or processing in compliance with 11 AAC 40.710. A harvest is subject to the following requirements:

(1) a registered grower shall harvest a tested lot not later than 15 days after the

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division's sample collection date;

(2) if conditions do not allow the registrant to harvest not later than 15 days after the sample collection, the division may order additional testing of the lot or provide written authorization to harvest the crop by a specific date, with or without further testing being required.

(b) If post-harvest sampling and testing confirms delta-9-THC levels in the harvest lot of not more than 0.3 percent, the registrant is authorized to receive compensation for the raw industrial hemp from the harvest lot in compliance with 11 AAC 40.205. (Eff. 4/4/2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.079
AS 03.05.076

11 AAC 40.290. Sample results in excess of delta-9-THC limitations. (a) If a pre- or post-harvest sample tests greater than 0.3 percent delta-9-THC, the tested lot must be destroyed, unless reconditioning is permitted under (b) of this section.

(b) If a sample tests greater than 0.3 percent delta-9-THC but not greater than 1.0 percent delta-9-THC, the division will issue a notice of violation. The registered grower may elect to recondition the failing lot with another lot within testing levels in an attempt reduce the delta-9-THC of the reconditioned lots to not more than 0.3 percent. The registrant is responsible for sampling costs, set out in 11 AAC 40.100(11), and testing costs of the reconditioned lots. If the reconditioned lots still exceed the 0.3 delta-9-THC or if the registrant chooses not to recondition the lot, the registrant shall destroy the hemp in compliance with 11 AAC 40.665.

(c) If a pre- or post-harvest sample tests in excess of 1.0 percent delta-9-THC levels, the division will issue a notice of violation, order the destruction of the harvest lot in compliance with 11 AAC 40.665, and notify the Department of Public Safety and the Marijuana Control Board of the notice of violation. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.090
AS 03.05.076 AS 03.05.079

11 AAC 40.295. Post-harvest reports. (a) A registered grower must submit to the division, by mail or electronic mail, a post-harvest report on a form prescribed by the division, not later than 60 days after receiving sampling results from the division.

(b) The report must include the following information:

- (1) identification of the lot and grow area harvested by cross streets and GPS coordinates, as applicable;
 - (2) the quantity of the industrial hemp harvested or destroyed;
 - (3) the testing results for the sample of the harvest lot;
 - (4) the disposition of the harvest lot, including if the lot is being stored on site;
- and

(5) documentation of all persons who provided compensation for the harvested lot, of all persons who were offered the harvested lot free of charge, or of each registered processor to whom the harvested lot was provided.

(c) For lots stored on site, the disposition information described in (b)(4) and (5) of this section must be submitted not later than 60 days after disposition. (Eff. 4 / 4 / 2020, Register

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Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

Article 3. Processor Registration.

Section

- 300. Processor registration required
- 305. Processor registration; privileges and prohibited acts
- 310. Processor registration application
- 315. Extraction methods
- 320. Testing
- 325. Test results
- 330. Records
- 335. Production reports

11 AAC 40.300. Processor registration required. A person may not process industrial hemp from its raw form into any other form, unless the person has obtained a processor registration from the division in compliance with this chapter or is operating under a registration subject to 11 AAC 40.300 - 11 AAC 40.335. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

11 AAC 40.305. Processor registration; privileges and prohibited acts. (a) A registered processor is authorized to do the following, in compliance with this chapter:

- (1) purchase and store raw industrial hemp for processing at the locations identified in the processor registration;
 - (2) process industrial hemp;
 - (3) receive compensation for raw industrial hemp as permitted for registered growers under 11 AAC 40.205(a)(4);
 - (4) provide samples of processed industrial hemp or industrial hemp products to the division for sampling and testing;
 - (5) conduct in-house testing for the processor's own use;
 - (6) store processed hemp or hemp products at the locations identified in the processor registration;
 - (7) transport industrial hemp or industrial hemp products in compliance with 11 AAC 40.710; and
 - (8) receive compensation for processed industrial hemp or industrial hemp products from a processor or retailer registered under 11 AAC 40.300 - 11 AAC 40.335 or 11 AAC 40.500 - 11 AAC 40.530.
- (b) A registered processor must
- (1) comply with all applicable occupational health and safety standards;
 - (2) use registered scales in compliance with AS 45.75.080 and 17 AAC 90.920 - 17 AAC 90.935;
 - (3) permit inspection by the division or division's representatives in compliance with AS 03.05.040 or 03.05.076(e);
 - (4) permit inspection by local safety officials, including local fire departments,

building inspectors, or regulatory code enforcement officers as required by other law; and

(5) upon request of the division and not later than three business days after notice of the request, provide a copy of the registration and inspection reports of the registered scales to the division.

(c) A registered processor may not

(1) receive compensation for processed industrial hemp or industrial hemp products from consumers without an industrial hemp retailer registration;

(2) process or store industrial hemp in a structure that is primarily used for residential purposes;

(3) purchase for processing any industrial hemp or industrial hemp product from a person who is not

(A) registered with the division;

(B) registered or licensed by other states or qualifying entities that have implemented an industrial hemp pilot program in accordance with 7 U.S.C. 5940 (sec. 7606 of the Agricultural Improvement Act of 2014), or a United States Department of Agriculture approved industrial hemp program, authorized under 7 U.S.C. 1639p (sec. 10113 of the Agricultural Improvement Act of 2018); or

(C) a lawful international source authorized in writing by the division.

(Eff. 4 / 4 / 2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.050	AS 03.05.077
	AS 03.05.040	AS 03.05.076	

11 AAC 40.310. Processor registration application. In addition to the information set out under 11 AAC 40.050, an applicant for a processor registration must submit the following:

- (1) a physical description of the processing facility;
- (2) a depiction on the map required under 11 AAC 40.050(b)(5) of where industrial hemp will be stored or processed;
- (3) if available at the time of application, a list of sources of raw industrial hemp;
- (4) for applicants who intend to extract cannabinoids and terpenoids from hemp, a description of the proposed extraction processes and of safety measures provided to protect employees, agents, and the public from the dangers associated with the extraction process; and
- (5) a statement of the intended end use or of the disposal of the hemp plant or plant parts not used for processing. (Eff. 4/4/2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.315. Extraction methods. (a) A registered processor may only create hemp-based extracts utilizing the following methods:

- (1) the following non-hydrocarbon extractions:
 - (A) cold or hot potable water filtration;
 - (B) isopropanol;
 - (C) ethanol;
 - (D) carbon dioxide;
 - (E) dry ice;
 - (F) dry shifting or sieve; or

(G) another method, only when preapproved in writing by the division; or

(2) the following hydrocarbon extractions:

(A) n-butane;

(B) isobutane;

(C) propane;

(D) heptane; or

(E) another method, only when preapproved in writing by the division.

(b) A registered processor shall only use solvents in the extraction process that are food grade or at minimum 99 percent or greater in purity. Solvent-based extractions must be completed in a commercial, professional grade, closed-loop system capable of recovering the solvent used for extraction.

(c) Each individual batch of processed hemp must meet or exceed the testing requirements set out in 11 AAC 40.600 - 11 AAC 40.665 before the processed industrial hemp or industrial hemp product may be offered with or without compensation to a person or transported from the processing sites. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.050 AS 03.05.077

AS 03.05.040 AS 03.05.076

11 AAC 40.320. Testing. (a) For any processed hemp product intended for human or animal consumption, each batch of product shall be tested in accordance with 11 AAC 40.600 - 11 AAC 40.665, for

(1) cannabinoid concentration and profile;

- (2) residual solvents;
- (3) microbials;
- (4) pesticides; and
- (5) heavy metal concentrations.

(b) The testing under (a) of this section must be completed by the division or by a testing facility authorized by the division at the expense of the registered processor before packaging, transporting, or making the hemp product available for sale.

(c) The division or authorized representatives of the division may also conduct random sampling and testing of industrial hemp products or sampling of suspected materials unannounced, at any time during the normal business hours of the registered processor. Any sample taken by the division under this section is the property of the division. At the time of inspection, the division or the division's authorized representative will have complete and unrestricted access to all industrial hemp, industrial hemp materials, and industrial hemp products and all land, buildings, and structures listed on the application or registration used to process or store hemp or hemp products. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.050 AS 03.05.077
AS 03.05.030 AS 03.05.076 AS 03.05.079
AS 03.05.040

11 AAC 40.325. Test results. (a) The division will notify the registered processor in writing of test results.

(b) For products with test results greater than 0.3 percent delta-9-THC but not greater

than 1.0 percent delta-9-THC, the division will issue a notice of violation. The registered processor may elect to recondition the failing batch with another batch within testing levels or re-extract the failing batch in an attempt reduce the delta-9-THC of the reconditioned batches to not more than 0.3 percent. The registered processor is responsible for sampling and testing costs of the reconditioned or re-extracted batch. If the reconditioned or re-extracted batch still exceeds the 0.3 delta-9-THC or if the registered processor chooses not to recondition the batch, the registered processor shall destroy the batch in compliance with 11 AAC 40.665.

(c) If the sample taken from a batch is greater than 1.0 percent delta-9-THC, the division will issue a notice of violation, order the destruction of the batch and products derived from the batch, and notify the Department of Public Safety and the Marijuana Control Board of the notice of violation.

(d) The division will notify the registrant of any solvents, heavy metals, microbials, or pesticides found during testing. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.079
AS 03.05.040 AS 03.05.077 AS 03.05.090
AS 03.05.050

11 AAC 40.330. Records. (a) A registered processor shall keep records of all industrial hemp obtained for the purpose of processing for each registered year, including

- (1) the date the industrial hemp was received;
- (2) the quantity received;
- (3) an identifying harvest lot number;

(4) the name, telephone number, mailing address, and electronic mail address of the seller or supplier of the hemp; and

(5) the cross streets, if applicable, and GPS coordinates of the grow site for the supplied hemp.

(b) A registered processor shall keep all records for each batch of processed industrial hemp, including

(1) the date of processing;

(2) the lot number coordinated with each batch of processed hemp;

(3) the total amount processed;

(4) the type and method of processing; and

(5) any tests or test results conducted on the hemp in original or processed form, identified by lot and batch number of the tested hemp.

(c) All reports and records identified in this section must be maintained for a minimum of three years and shall be made available for review by the division or authorized representatives of the division not later than three business days after the division's request. (Eff.

4 / 4 / 2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

11 AAC 40.335. Production reports. (a) A registered processor shall submit a completed production report for each registration term on or before March 1 of the following registration year.

(b) The report must contain

(1) the quantity of the industrial hemp processed;

(2) the type and quantity of products produced;

(3) identification of the lot and batch numbers processed;

(4) the disposition of all raw and processed industrial hemp; and

(5) documentation of all persons who acquired raw industrial hemp or processed industrial hemp or industrial hemp products, either with or without compensation, from the registrant. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

Article 4. Hemp Product Endorsement and Labeling.

Section

400. Endorsement

405. Application for endorsement

410. Testing standards

415. Hemp product sizing.

420. Labeling

11 AAC 40.400. Endorsement. (a) Before being transported in the state or offered with or without compensation to a consumer, any industrial hemp product processed beyond its raw form and intended for human or animal consumption must be endorsed by the division.

(b) Endorsements for each hemp product or product line subject to 11 AAC 40.400 - 11 AAC 40.420 are valid and will not expire if

- (1) the registrant holds a valid registration;
- (2) the product process has been approved and then renewed annually;
- (3) each product batch meets the approved product process standards;
- (4) each product batch passes all testing requirements; and
- (5) an approved label is affixed on each product.

(c) The division will provide a written endorsement for each approved product or product line. (Eff. 4 / 4 / 2020 Register 234)

Authority:	AS 03.05.010	AS 03.05.076	AS 03.05.090
	AS 03.05.030	AS 03.05.077	AS 03.05.100

11 AAC 40.405. Application for endorsement. (a) An application for endorsement of an introductory hemp product intended for human or animal consumption must be on a form prescribed by the division and must include

- (1) a color copy of the product's proposed label;
- (2) a copy of the laboratory test results, if applicable, of each product or batch of product;

- (3) a copy of

- (A) the processor's registration under this chapter;

- (B) proof that the hemp product was grown under an industrial hemp pilot program operating under 7 U.S.C. 5940 (sec. 7606 of the Agricultural Improvement Act of 2014) or under a United States Department of Agriculture approved industrial hemp program, authorized under 7 U.S.C. 1639p (sec. 10113 of the Agricultural Improvement

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Act of 2018); or

(C) a lawful international source's written authorization from the division;

(4) a copy of the terpene analysis if required under 11 AAC 40.630(c); and

(5) submission of the endorsement fee set out in 11 AAC 40.100(7).

(b) A written request for modification of the endorsement and the fee set out in 11 AAC 40.100(9) is required for any change to the labeling requirements of 11 AAC 40.420. (Eff.

4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.410. Testing standards. (a) Processed industrial hemp products intended for human or animal consumption must meet or exceed the requirements of 11 AAC 40.600 - 11 AAC 40.665.

(b) Processed industrial hemp products intended for human or animal consumption may not be offered with or without compensation to a consumer if failing any requirement in 11 AAC 40.600 - 11 AAC 40.665. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

AS 03.05.050

11 AAC 40.415. Hemp product sizing. A processed industrial hemp product intended for human or animal consumption may not contain more than 50 milligrams of delta-9-THC per individual product. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.100

11 AAC 40.420. Labeling. (a) Processed industrial hemp products intended for human or animal consumption must be labeled with the following:

- (1) the product name;
- (2) a batch number for the product;
- (3) an expiration date;
- (4) the total quantity of the product by weight or volume;
- (5) the serving size or recommended dose;
- (6) a list of all ingredients;
- (7) the industrial hemp pilot program or authorized international industrial hemp source from which the industrial hemp originated; and
- (8) if the product contains any delta-9-THC, the statement "warning: contains THC".

(b) Processed industrial hemp products intended for human or animal consumption may not contain health or medical claims on the label, packaging, advertisement, or any other marketing material. (Eff. 4 / 4 / 2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.076	AS 03.05.079
	AS 03.05.030	AS 03.05.077	AS 03.05.100

Article 5. Retailer Registration.

Section

- 500. Retailer registration required
- 505. Retailer registration; privileges and prohibited acts
- 510. Retailer registration application
- 515. Incorporation of a processed hemp product into a non-hemp product intended for human or animal consumption
- 520. Inspection and testing
- 525. Records
- 530. Retailer reports

11 AAC 40.500. Retailer registration required. A person may not receive compensation for processed industrial hemp or processed industrial hemp products from a consumer in the state, unless the person has obtained a retailer registration from the division in compliance with this chapter or is operating under a registration subject to 11 AAC 40.500 - 11 AAC 40.530. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.505. Retailer registration; privileges and prohibited acts. (a) A registered retailer is authorized to do the following, in compliance with this chapter:

- (1) import processed industrial hemp or industrial hemp products;
- (2) receive compensation for processed industrial hemp or industrial hemp

products;

(3) store processed industrial hemp or industrial hemp products for the purposes of receiving compensation at the retail locations identified in the registration;

(4) conduct in-house testing for the registrant's own use; and

(5) transport processed industrial hemp or industrial hemp products in compliance with this chapter.

(b) A registered retailer shall

(1) ensure that industrial hemp products intended for human or animal consumption and offered for compensation are free from prohibited substances and appropriately labeled in compliance with applicable law;

(2) display, in an area visible in or outside each retailer location, the official Alaska Industrial Hemp Pilot Program placard provided by the division;

(3) not later than three business days after a request, provide to the division a list of the processors of any processed industrial hemp or industrial hemp product offered for compensation; and

(4) permit inspection of the retail locations identified in the application for registration and of the processed industrial hemp or industrial hemp product by the division or division's representatives in compliance with AS 03.05.040 or 03.05.076(e).

(c) A registered retailer may submit an endorsement application for an industrial hemp product intended for human or animal consumption, in the absence of a processor having done so, but shall identify the processor who did not apply for an endorsement for the product in compliance with this chapter.

(d) Unless a registered retailer is also a registered grower, the registrant may not transfer or receive compensation for live industrial hemp plants, viable industrial hemp plants, or viable seed. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.050 AS 03.05.077
AS 03.05.040 AS 03.05.076

11 AAC 40.510. Retailer registration application. In addition to the information set out under 11 AAC 40.050, an applicant for a retailer registration must submit the following:

- (1) a description of the type of store or operations of the retailer;
- (2) a location or list of locations of the retailer where industrial hemp will be offered for retail sales; and
- (3) a list of industrial hemp product types intended to be sold by the retailer. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.515. Incorporation of a processed hemp product into a non-hemp product intended for human or animal consumption. (a) A registered retailer who adds, mixes, or incorporates a processed industrial hemp product intended for human or animal consumption into non-hemp products shall use only processed hemp products endorsed under 11 AAC 40.400 - 11 AAC 40.420.

(b) A registered retailer who adds, mixes, or incorporates a processed industrial hemp product intended for human or animal consumption into a non-hemp product shall use registered

scales or other instruments that are in compliance with AS 45.75.080 and 17 AAC 90.920 - 17 AAC 90.935 to determine the appropriate serving size of the hemp product and shall maintain current registration and inspection reports for the scales or other instruments as required under AS 45.75.080 and 17 AAC 90.920 - 17 AAC 90.935.

(c) Not later than three business days after the division's request, copies of registration and inspection reports required under (b) of this section shall be provided to the division. (Eff.

4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.050 AS 03.05.077
AS 03.05.030 AS 03.05.076

11 AAC 40.520. Inspection and testing. (a) The division or an authorized representative of the division shall be granted access to all industrial hemp products available at any retail location during normal business hours in order to inspect, test, and sample any hemp products available for sale.

(b) The division may issue a notice of violation and a stop order for any processed hemp product intended for human or animal consumption from a registered retailer if the hemp product

(1) does not hold a current endorsement from the division issued in compliance with 11 AAC 40.400 - 11 AAC 40.420;

(2) is not packaged as required by 11 AAC 40.415 or labeled as required by 11 AAC 40.420;

(3) contains greater than 0.3 percent delta-9-THC; or

(4) has failed the permissible level of contaminants as provided in 11 AAC

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40.640. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.050 AS 03.05.079
AS 03.05.030 AS 03.05.076 AS 03.05.090
AS 03.05.040 AS 03.05.077

11 AAC 40.525. Records. (a) A registered retailer shall keep records of processed industrial hemp or processed industrial hemp products obtained for the purpose of retail for each registered year, including

(1) the date the processed industrial hemp or processed industrial hemp products were received;

(2) the quantity received;

(3) identifying lot and batch numbers for processed industrial hemp or processed industrial hemp products; and

(4) identification of the supplier of processed industrial hemp or processed industrial hemp products.

(b) All reports and records identified in this section shall be maintained for a minimum of three years and shall be made available for review by the division or the division's representative not later than three business days after the division's request. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.530. Retailer reports. (a) A registered retailer shall submit a retailer report

on a form prescribed by the division not later than March 1 of the year following the registration year.

(b) The report must include the following information:

(1) identification of the processed industrial hemp or industrial hemp products offered for compensation during the registration term;

(2) the quantity of processed industrial hemp or industrial hemp products for which the registrant received compensation;

(3) the percentage of processed industrial hemp or processed industrial hemp products offered for retail that is intended for human or animal consumption; and

(4) documentation of consumer complaints. (Eff. 4/4/2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

Article 6. Sampling, Testing, Quarantines, and Destruction.

Section

600. Compliance with 11 AAC 40.600 - 11 AAC 40.665

605. Laboratory testing of hemp and hemp products

610. Sampling required

615. Sample size for a processed hemp batch

620. Samples for test batches of pre-packaged hemp products

625. Test batch, standards for authorized testing facilities

630. Cannabinoid and terpene potency

635. Methodology for testing delta-9-THC levels in raw industrial hemp

- 640. Contaminants
- 645. Exceeding contaminant testing levels
- 650. Failed test results for hemp products
- 655. Retests
- 660. Quarantine
- 665. Waste disposal, including hemp destruction

11 AAC 40.600. Compliance with 11 AAC 40.600 - 11 AAC 40.665. (a) A registered hemp grower may not sell, give, distribute, transfer, or offer to sell, give, distribute, or transfer any raw industrial hemp until the requirements of 11 AAC 40.270 - 11 AAC 40.295 have been completed and the division has issued a written statement that the crop is eligible to be moved to market.

(b) A registered industrial hemp processor may not sell, give, distribute, transfer, or offer to sell, give, distribute, or transfer any processed industrial hemp until each batch of processed hemp product has satisfied the requirements of 11 AAC 40.600 - 11 AAC 40.665.

(c) A registered hemp retailer may not sell, give, distribute, transfer, or offer to sell, any industrial hemp product unless the product has satisfied the requirements of 11 AAC 40.600 - 11 AAC 40.665. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.078
AS 03.05.076

11 AAC 40.605. Laboratory testing of hemp and hemp products. (a) The division or

a testing facility authorized by the division shall test industrial hemp and industrial hemp products to verify compliance with this chapter, perform investigations, compile data for the Industrial Hemp Pilot Program, and address public health and safety concerns.

(b) The division may require industrial hemp or industrial hemp products to undergo a second independent third-party review to verify that the industrial hemp or industrial hemp products do not pose a threat to public health and safety, when the division has reason to believe and finds, upon investigating, one or more of the following:

(1) the industrial hemp or industrial hemp product being distributed contains one or more contaminants at levels known to cause harm; or

(2) the industrial hemp or industrial hemp product contains one or more contaminants that could be toxic as consumed or applied in accordance with the intended use as stated on the product label.

(c) The division may quarantine industrial hemp or industrial hemp products as set out under 11 AAC 40.660. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.078
AS 03.05.076

11 AAC 40.610. Sampling required. (a) Any industrial hemp or industrial hemp product, before being offered for compensation or offered without charge, must have samples drawn from the entire harvest lot or processing batch, as applicable, and submitted to the division or an authorized testing facility as one test sample.

(b) To comply with (a) of this section, a registrant shall permit samples submitted for

testing to be collected by the division or a representative of the division.

(c) A registrant may not

(1) attempt to influence the samples selected by the division or an authorized representative of the division;

(2) adulterate, alter, or attempt to adulterate or alter, any samples taken from the production batch for the purpose of circumventing contaminant testing limits or potency testing requirements. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.078
AS 03.05.076

11 AAC 40.615. Sample size for a processed hemp batch. The division or the division's representative shall collect a minimum number of representative samples per processed batch for testing in the following amounts:

(1) for processed batches weighing up to one pound, a minimum of eight separate 0.50-gram samples must be combined into a four-gram sample and submitted as one test sample;

(2) for processed batches weighing more than one pound and less than two pounds, a minimum of 12 separate 0.50-gram samples must be combined into one six-gram sample and submitted as one test sample;

(3) for processed batches weighing two pounds or more but less than three pounds, a minimum of 15 separate 0.50-gram samples must be combined into one 7.5-gram sample and submitted as one test sample;

(4) for processed batches weighing three pounds or more but less than four

pounds, a minimum of 18 separate 0.5-gram samples must be combined into one nine-gram sample and submitted as one test sample;

(5) for processed batches weighing four pounds or more but less than 10 pounds, a minimum of 23 separate 0.50-gram samples must be combined into one 11.5-gram sample and submitted as one test sample; or

(6) for processed batches weighing 10 pounds or more, a minimum of 29 separate 0.50-gram samples must be combined into one 14.5-gram sample and submitted as one test sample. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.078
AS 03.05.076

11 AAC 40.620. Samples for test batches of pre-packaged hemp products. (a) If not tested and approved by the division under a processing registration, a sample of a product of processed hemp or hemp products must be submitted to the division or as directed by the division to an authorized testing facility. Each sample shall be submitted in its packaged form.

(b) The number of samples required for testing is as follows:

- (1) for up to 100 units, a minimum of two separate samples must be submitted;
- (2) for up to 500 units, a minimum of five separate samples must be submitted;
- (3) for up to 1,000 units, a minimum of 10 separate samples must be submitted;
- (4) for up to 5,000 units, a minimum of 50 separate samples must be submitted;
- (5) for up to 10,000 units, a minimum of 100 samples must be submitted; or
- (6) for more than 10,000 units, a minimum of one percent of samples must be

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submitted. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.078

AS 03.05.076

11 AAC 40.625. Test batch, standards for authorized testing facilities. (a) The division will establish a minimum weight or volume of processed industrial hemp or industrial hemp products and direct the designated testing facilities to apply those standards for every type of test conducted.

(b) The division will also establish a standard number of samples required to be included in each batch of processed hemp or hemp products for every type of test conducted in compliance with 11 AAC 40.630 - 11 AAC 40.640.

(c) An authorized testing facility may not accept a sample that is smaller than the standard minimum amount, unless the sample was collected by the division, an authorized representative of the division, or a registrant under division direction. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.078

AS 03.05.076

11 AAC 40.630. Cannabinoid and terpene potency. (a) All industrial hemp grown, processed, or made available for retail sales will be tested by the division or an authorized testing facility for delta-9-THC, and must test at or below 0.3 percent.

(b) All processed industrial hemp products intended for human or animal consumption

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must also undergo a cannabinoid potency test that must at least determine the concentration of tetrahydrocannabinol, cannabidiol, cannabichomene, cannabigerol, cannabichromene, and cannabidivarin, including acid forms.

(c) Terpene analysis is not required for any industrial hemp or industrial hemp product unless terpene content is listed on the label, the packaging, or an advertisement. In those cases, a terpene analysis must be performed and submitted to the division. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.078
AS 03.05.030 AS 03.05.077

11 AAC 40.635. Methodology for testing delta-9-THC levels in raw industrial hemp.

Raw industrial hemp collected by the division or an authorized representative of the division for sampling will be tested for a quantitative determination of delta-9-THC by a method to be approved in writing by the division. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.078
AS 03.05.030 AS 03.05.077

11 AAC 40.640. Contaminants. (a) Industrial hemp products intended for human or animal consumption shall be tested or screened for the contaminants listed and may not exceed the following permissible levels:

(1) residual solvents:

Solvent	Parts Per Million (ppm)	Product to be tested
Acetone	< 500	Extracted concentrates
Benzene	0	
Butanes	< 500	
Chloroform	< 1	
Cyclohexane	< 500	
Heptane	< 500	
Hexane	0	
Isopropanol	< 500	
Methanol	< 500	
Pentanes	< 500	
Propane	< 500	
Toluene	0	
Xylenes (m, p, o-xylenes)	< 217	

(2) microbials (bacterial, fungus):

Substance	Acceptable limits per gram	Product to be tested
Shiga Toxin Escherichia coli (STEC) – bacteria	Less than 1 colony forming unit (CFU/g)	Hemp or hemp products intended for human consumption; water and food-based concentrates
Total Yeast and Mold Count (TYMC)	Less than 10,000 colony forming unit (CFU/g)	
Salmonella species – bacteria	Less than 1 colony forming unit (CFU/g)	
Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger-fungus, Aspergillus terreus	Less than 1 colony forming unit (CFU/g)	

(3) mycotoxins:

Substance	Acceptable limits per gram	Product to be tested
Total Aflatoxin B1, B2, G1, G2	< 20 parts per billion (PPB)	Hemp or hemp products intended for human consumption; water and food-based concentrates
Ochratoxin A	< 20 parts per billion (PPB)	

(4) pesticides:

Substance	Detection Limits (Parts Per Million, PPM)	Product to be tested
Abamectin	< 0.07	Hemp or hemp products intended for human consumption; water and food-based concentrates
Azoxystrobin	< 0.02	
Bifenazate	< 0.02	
Etoxazole	< 0.01	
Imazalil	< 0.04	
Imidacloprid	< 0.02	
Malathion	< 0.05	
Myclobutanil	< 0.04	
Permethrin	< 0.04	
Spinosad	< 0.06	

Spiromesifen	< 0.03	
Tebuconazole	< 0.01	

(5) metals:

Substance	Acceptable Limits Per Gram Based on Intended Use	Product to be tested
Metals (Cadmium, Arsenic, Lead, Mercury)	Inhaled or Audited Product: smoke hemp flowers or vape concentrates Lead – Max Limit: < 0.5 ppm Arsenic – Max Limit: < 0.02 ppm Cadmium – Max Limit: ,0.02 ppm Mercury – Max Limit: <0.1 ppm)	Hemp or hemp products intended for human consumption; water and food-based concentrates

	Topical and/or Transdermal Lead – Max Limit: < 10 ppm Arsenic – Max Limit: < 3 ppm Cadmium – Max Limit < 3 ppm Mercury – Max Limit < 1 ppm	
	Oral Consumption or Audited Product: rectal or vaginal administration Lead- Max Limit: < 1 ppm Arsenic – Max Limit: < 1.5 ppm Cadmium – Max Limit: < 0.5 ppm	

	Mercury – Max Limit: < 1.5 ppm	
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(b) Notwithstanding the permissible levels established in (a) of this section, the division may conclude, upon good cause and reasonable grounds, that an industrial hemp product meeting these levels still presents a risk to the public health or safety and therefore will be considered to have failed a contaminant test. (Eff. 4/4/2020, Register 234)

Authority: AS 03.05.010 AS 03.05.050 AS 03.05.077
AS 03.05.030 AS 03.05.076 AS 03.05.078

11 AAC 40.645. Exceeding contaminant testing levels. (a) If industrial hemp or an industrial hemp product is found to have a contaminant in levels exceeding those established as permissible under 11 AAC 40.640, the industrial hemp or industrial hemp product has failed contaminant testing.

(b) If industrial hemp or an industrial hemp product has failed a contaminant test, the testing facility must immediately notify in writing the division and the retailer or processor that submitted the test batch for testing of the failure. (Eff. 4/4/2020, Register 234)

Authority: AS 03.05.010 AS 03.05.050 AS 03.05.077
AS 03.05.030 AS 03.05.076 AS 03.05.078

11 AAC 40.650. Failed test results for hemp products. (a) Any registrant that is

notified by the division or the division's representative that a test batch failed a contaminant or potency test shall immediately discontinue offering for sale any industrial hemp products associated with the failed test batch.

(b) Any industrial hemp products that have failed a contaminant or potency test must be physically separated from all other hemp inventory, may not be transported, and may not be further processed or added to a non-hemp product. (Eff. 4 / 4 / 2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.050	AS 03.05.077
	AS 03.05.030	AS 03.05.076	AS 03.05.078

11 AAC 40.655. Retests. (a) A registrant whose industrial hemp product has failed initial testing under 11 AAC 40.630 or 11 AAC 40.640 may submit a written request, on a form provided by the division, for a retest of the industrial hemp product. The division will authorize a request for a retest, but the registrant requesting the retest shall pay all costs of testing and validation.

(b) If electing to retest, a registrant must either

(1) submit new test samples complying with 11 AAC 40.600 - 11 AAC 40.665 from the same failing batch to the division or authorized testing facility that performed the original test; or

(2) submit the new test samples complying with 11 AAC 40.600 - 11 AAC 40.665 from the same failing batch to a different testing facility approved by the division and available to conduct the retest.

(c) If the sample passes the potency or a required contaminant testing under (b) of this

section, the division may elect to submit the industrial hemp product for a third testing at the division's expense. If the division does not elect a third testing, the lot or batch from which the sample came must have the identifying number modified with the addition of the letter "X" at the end or the previous identifier. Afterwards, the hemp or hemp products associated with each test batch may be transferred or further processed in compliance with this chapter.

(d) In the event the division has elected to test the industrial hemp product a third time, two passing results means the product passes and the product may continue to be offered for retail, subject the addition of the letter "X" to the identifying number, as described in (c) of this section. Two failing results means the product fails and must be destroyed in accordance with (e) of this section.

(e) If the sample fails and is not retested, or is retested and fails under (c) or (d) of this section, the division may direct the registrant to destroy all industrial hemp products affiliated with the failed test and require proof of destruction, or seize and destroy the hemp products as permitted under AS 03.05.010(a)(7) and 03.05.076(d)(4). (Eff. 4 / 4 / 2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.050	AS 03.05.077
	AS 03.05.030	AS 03.05.076	AS 03.05.078

11 AAC 40.660. Quarantine. (a) In addition to other remedies provided under 11 AAC 40.800, the division may also elect to immediately quarantine industrial hemp or an industrial hemp product in the following circumstances:

(1) the division or an authorized representative of the division finds after investigation that a registered processor or retailer has violated this chapter;

(2) the industrial hemp or industrial hemp product was processed by a person who is not

(A) registered with the Alaska Industrial Hemp Pilot Program under this chapter;

(B) registered or licensed by other states or qualifying entities that have implemented an industrial hemp pilot program in accordance with 7 U.S.C. 5940 (sec. 7606 of the Agricultural Improvement Act of 2014), or a United States Department of Agriculture approved industrial hemp program, authorized under 7 U.S.C. 1639p (sec. 10113 of the Agricultural Improvement Act of 2018); or

(C) a lawful international source authorized in writing by the division.

(3) the industrial hemp or industrial hemp product presents a potential threat to public health or safety;

(4) the division has received reports of an adverse event related to the use of industrial hemp or an industrial hemp product.

(b) Any industrial hemp or industrial hemp product quarantined may be returned to the registrant if the division finds there is no potential threat to public health or safety and the person whose industrial hemp was quarantined is otherwise in compliance with this chapter. The division will destroy quarantined industrial hemp or an industrial hemp product if an allegation identified in (a) of this section is substantiated.

(c) In this section, "adverse event" includes any unfavorable or unintended physical symptom or disease, hospitalization, emergency room visits, doctor's visits, abnormal laboratory findings, or any other negative medical consequence associated with the use of industrial hemp

or an industrial hemp product. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077
AS 03.05.050

11 AAC 40.665. Waste disposal, including hemp destruction. (a) A registrant shall store, manage, and dispose of any solid or liquid waste, including wastewater generated during industrial hemp or industrial hemp product production, processing, testing, or retail sales, in compliance with applicable federal, state, and local statutes, ordinances, regulations, and other law.

(b) Industrial hemp waste or industrial hemp product waste must be made unusable for any purpose for which it was grown or produced and must be made unrecognizable before leaving the registered premises. Industrial hemp waste or industrial hemp product waste includes

- (1) industrial hemp plant waste, including stalks, leaves, stem, and flowers that have not been processed with solvent;
- (2) industrial hemp or industrial hemp products that has been found unfit for sale or consumption;
- (3) expired industrial hemp or industrial hemp products; or
- (4) industrial hemp or industrial hemp products that failed testing under 11 AAC 40.600 - 11 AAC 40.665.

(c) Industrial hemp, industrial hemp product waste, and failed industrial hemp processing batches may be made unusable and unrecognizable through mowing, grinding, or compacting the hemp or hemp product and incorporating the industrial hemp or industrial hemp product with at

least an equal amount of other compostable or non-compostable materials listed as follows, such that the resulting mixture cannot be easily separated and sorted:

- (1) food waste;
- (2) yard waste
- (3) vegetable-based grease or oils;
- (4) paper waste;
- (5) cardboard waste;
- (6) plastic waste;
- (7) oil;
- (8) soil; or

(9) other wastes approved by the division or a representative of the division that will render the industrial hemp or industrial hemp products unusable and unrecognizable.

(d) A registrant shall give notice to the division, on a form prescribed by the division, of the disposal of the industrial hemp or industrial hemp products not later than 10 business days after disposal.

(e) If industrial hemp or industrial hemp products are found by or surrendered to a peace officer, the officer may dispose of the industrial hemp or industrial hemp products as set out in this section or by any method allowed under any applicable local ordinance.

(f) Notwithstanding (b) of this section, a registrant may request written authorization from the division to utilize industrial hemp waste, such as spent floral material, for another purpose. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

Article 7. Requirements Common to All Registrations.

Section

700. Notification

705. Hemp storage

710. Transportation

11 AAC 40.700. Notification. (a) The division will submit a list of registrants and information about approved grower, processor, and retail registrants to the Marijuana Control Board and the Department of Public Safety on at least an annual basis and to any peace officer upon request.

(b) The division will submit all notices of violation specific to industrial hemp or industrial hemp products in excess of 1.0 percent of delta-9-THC to the Marijuana Control Board and the Department of Public Safety. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077

11 AAC 40.705. Hemp storage. (a) Under any registration issued under this chapter, a registrant may store industrial hemp or industrial hemp products on the same property and at the same address or GPS coordinates listed on the registrant's application and registration.

(b) A registrant under 11 AAC 40.200 - 11 AAC 40.295 may store seeds, hemp, and hemp parts in raw form or industrial hemp in a processed form, but to sell industrial hemp in a

processed from the registered grower must also hold a retailer registration.

(c) Industrial hemp and industrial hemp products shall be stored securely with reasonable physical containment and security measures.

(d) The division may inspect stored industrial hemp or industrial hemp products as set out in 11 AAC 40.275(b), 11 AAC 40.320(c), or 11 AAC 40.520(a). (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.076 AS 03.05.077
AS 03.05.040

11 AAC 40.710. Transportation. (a) Except as described in (b) of this section, a person subject to or registered under this chapter may not transport industrial hemp or industrial hemp products without a transportation permit issued by the division. A transportation permit only authorizes industrial hemp to be transported from one registrant to another registrant or from one property of a registrant to another property of a registrant.

(b) A transportation permit is not required

(1) for a registrant under 11 AAC 40.200 - 11 AAC 40.295 to transport industrial hemp on property listed on its registration for storage, drying, or testing in advance of a pre-harvest report;

(2) to transport industrial hemp seed or propagules to a registered grower; or

(3) to transport an industrial hemp product holding a valid endorsement under 11 AAC 40.400 - 11 AAC 40.420 to or from a registered retail location.

(c) A transportation permit will be issued to a registered grower or registered processor

only after sampling has validated that that hemp is no more than 0.3 percent delta-9-THC.

(d) A registrant shall apply to the division for a transportation permit and pay the required fee under 11 AAC 40.100.

(e) The division will process the application for a transportation permit not later than five business days from the date of receipt of the application. A single transportation permit may be approved by the division for multiple days or methods of transportation, if determined practicable or necessary by the division.

(f) A transportation permit will contain

- (1) the name of the permittee;
- (2) the address and the GPS coordinates from where the industrial hemp will depart;
- (3) the name of the registrant to whom the industrial hemp will be transported;
- (4) the address and the GPS coordinates at which the industrial hemp will be delivered;
- (5) the amount of industrial hemp being transported;
- (6) a physical description of the vehicle transporting the industrial hemp, including the registration plate number; and
- (7) the name of the person operating the vehicle transporting the industrial hemp.

(g) A registrant shall maintain all transportation permits for three years and make them available to the division for inspection not later than three business days after the division's request.

(h) The operator of the vehicle transporting industrial hemp shall have a copy of the

applicable registration and the transportation permit in the operator's immediate possession at all times while transporting industrial hemp. When transporting industrial hemp, a person shall present a copy of the registration and permit upon demand to a peace officer, the division, or the division's representative. (Eff. 4 / 4 / 2020, Register 234)

Authority: AS 03.05.010 AS 03.05.077 AS 03.05.078
AS 03.05.076

Article 8. Enforcement; Appeals.

Section

- 800. Enforcement authority
- 810. Suspension
- 820. Revocation
- 830. Appeals

11 AAC 40.800. Enforcement authority. To carry out the provisions of this chapter, the division may

- (1) sample and test industrial hemp, cannabis, industrial hemp products, and cannabis products for the presence of delta-9-THC, prohibited contaminants, or pesticide residue and for proper labeling and distribution;
- (2) control, seize, quarantine, embargo, or direct destruction of industrial hemp or industrial hemp products not in compliance with this chapter;
- (3) during the usual hours of a business, or at any time if the division determines

that there is an immediate threat to the health or safety of the general public, enter and inspect premises where industrial hemp or industrial hemp products are produced, handled, or transported;

(4) with three days' notice to the registrant, inspect records documenting the sale or transfer of industrial hemp or industrial hemp products;

(5) declare as a public nuisance injurious to the public interest

(A) any industrial hemp or industrial hemp product found to violate a provision of this chapter; or

(B) any cannabis or cannabis product with delta-9-THC over 0.3 percent, subject to this chapter, and found to violate a condition of this chapter;

(6) direct the movement, reconditioning, or destruction of any industrial hemp, industrial hemp product, or cannabis or cannabis products with delta-9-THC over 0.3 percent declared to be a public nuisance as permitted by AS 03.05.050 or 03.05.076;

(7) issue notices of violations and civil fines, or issue stop orders for violations of this chapter, including to persons who are not registered or permitted to participate in the Alaska Industrial Hemp Pilot Program;

(8) as permitted under AS 03.05.090, refer violations of this chapter to a peace officer for criminal prosecution;

(9) suspend, revoke, or deny registrations, endorsements, or permits issued under this chapter;

(10) cooperate and communicate with the Marijuana Control Board, the Department of Public Safety, or any other peace officers; and

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(11) undertake any other action not listed here, but permitted under AS 03.05.

(Eff. 4/4/2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.076	AS 03.05.079
	AS 03.05.040	AS 03.05.077	AS 03.05.090
	AS 03.05.050	AS 03.05.078	AS 03.05.100

11 AAC 40.810. Suspension. The division may temporarily suspend, for up to 60 days, a registration, endorsement, or permit issued under this chapter if the registrant is alleged to have

- (1) violated any provision of AS 03.05.010, 03.05.076 - 03.05.079, or this chapter;
- (2) made any false statement to the division or the division's representatives;
- (3) failed to comply with any agreement signed by the registrant or permittee at the time the registration or permit was issued;
- (4) failed to comply with any orders of the division to enforce this chapter; or
- (5) failed to pay any fines issued in connection with notices of violation. (Eff.

4/4/2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.076	AS 03.05.077
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11 AAC 40.820. Revocation. In addition to temporary suspension, the division may revoke a registration, permit, or endorsement and prohibit participation in the Alaska Industrial Hemp Pilot Program for a period of up to five years if the registrant

- (1) has planted, grown, cultivated, or replicated industrial hemp seeds or

propagules from a hemp plant of wild, landrace, or unknown origin without advance written approval from the division;

(2) has harvested industrial hemp without a harvest report and pre-harvest sample taken by the division, without advance written approval of the division;

(3) failed to destroy, as ordered, a harvest lot the sample of which has tested at greater than 1.0 percent delta-9-THC;

(4) processes industrial hemp that is greater than 1.0 percent delta-9-THC;

(5) utilizes an extraction method under 11 AAC 40.310 determined by the division to pose a risk to human or animal health or safety;

(6) fails to submit any report required under this chapter; or

(7) violates this chapter on three separate occasions in a one-year period. (Eff.

4 / 4 / 2020, Register 234)

Authority: AS 03.05.010

AS 03.05.076

AS 03.05.077

11 AAC 40.830. Appeals. (a) Except as described in (b) of this section, appeals of decisions of the division under this chapter must be in accordance with 11 AAC 02.040 - 11 AAC 02.900.

(b) The automatic stay provisions of 11 AAC 02.060 do not apply to permit any industrial hemp or industrial hemp product testing in violation of 11 AAC 40.630 or 11 AAC 40.640 to be sold or transferred to another registrant or a consumer. Hemp or a hemp product violating those standards are subject to quarantine under 11 AAC 40.660. The quarantine may only be lifted if the commissioner reverses on appeal the decision of the division. (Eff.

Article 9. General Provisions

910. Definitions

11 AAC 40.910. Definitions. In this chapter,

(1) "Alaska Industrial Hemp Pilot Program" means the pilot program operated by the division to study the growth, cultivation, or marketing of industrial hemp as permitted under AS 03.05.077;

(2) "applicant" means a person who submits an application to participate as a registrant in the Alaska Industrial Hemp Pilot Program;

(3) "batch" means

(A) a quantity of hemp or hemp parts from a harvest lot; or

(B) a quantity of hemp extract from a process lot;

(4) "business day" means a day other than Saturday, Sunday, or a state holiday;

(5) "business entity" means a not-for-profit or for-profit corporation, partnership, limited liability company, or other business association that is not a natural person;

(6) "calendar day" means a day, including Saturday, Sunday, or a state holiday;

(7) "cannabinoid" means any of the chemical compounds that are the active constituents of the cannabis plant;

(8) "cannabis" means all parts of the cannabis plant, whether growing or not,

including its seeds, resin, compounds, salts, derivatives, and extracts;

(9) "CBD" means cannabidiol;

(10) "commissioner" means the commissioner of natural resources;

(11) "compensation" means money, bartered objects or services, or anything else of value, whether given as a payment or voluntarily as a donation, when accepted by a person who gives, distributes, or delivers industrial hemp to another;

(12) "consumer" has the meaning given in AS 45.50.561, but excludes registrants or persons who should be registered, but are not, in the Alaska Industrial Hemp Pilot Program;

(13) "consumption" means any method of ingestion of or application to the body, including eating, drinking, inhaling, absorbing, or injecting;

(14) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration, the primary intoxication component of cannabis;

(15) "delta-9-THC content of not more than 0.3 percent" means delta-9-tetrahydrocannabinol concentration or not more than 3,000 parts per million on a dry weight basis;

(16) "department" means the Department of Natural Resources;

(17) "destroy" means to make incapable of being

(A) harvested;

(B) processed; or

(C) offered, with or without compensation, to a consumer;

(18) "division" means the division of agriculture within the department;

(19) "extraction" means the act of using a solvent or mechanical means to process

raw hemp plant parts by means of hydrocarbon, non-hydrocarbon, or mechanical extraction;

(20) "fibrous waste" means any roots, stalks, stems or flowers from hemp, not used or intended for use in making a product;

(21) "GPS" means global positioning system;

(22) "grow" means to plant, propagate, cultivate, or harvest industrial hemp;

(23) "grow area" means a contiguous area where industrial hemp is grown or is intended to be grown, that may consist of field, greenhouses, or other buildings, and that is described from a single GPS coordinate within the grow area;

(24) "grower registration" means a document authorizing the person to grow, handle, and store hemp at one or more specified locations in the state;

(25) "harvest" means to remove industrial hemp plants, plant parts, grain, or seeds from a grow area;

(26) "harvest lot"

(A) means a quantity of industrial hemp that is

(i) harvested in a distinct timeframe; and

(ii) grown in one contiguous production area within a grow area, or grown in one or more portions of one contiguous production area within a grow area;

(B) does not include a quantity of industrial hemp grown in noncontiguous production areas;

(27) "hemp seed" means cannabis seed

(A) that is sold to or intended to be sold to registered growers for

planting; or

(B) that remains in unprocessed or partially processed condition that is capable of germination;

(28) "individual" means a natural person;

(29) "industrial hemp" or "hemp" has the meaning given in AS 03.05.100, whether the plant is growing or not;

(30) "industrial hemp product" or "hemp product" means an item derived from all parts and varieties of the plant *Cannabis sativa* L. containing not more than 0.3 percent delta-9-THC;

(31) "isolation distance" has the meaning given in AS 03.05.010(a)(7)(D);

(32) "label" means the display of all written, printed, or graphic matter upon the immediate container or statement accompanying an industrial hemp product;

(33) "landrace" means not systematically selected and marketed and not developed by plant breeders;

(34) "marketing" includes

(A) promoting or selling a product within the state, in another state, or outside of the United States; and

(B) efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;

(35) "peace officer" has the meaning given in AS 01.10.060;

(36) "person" has the meaning given in AS 01.10.060;

(37) "plant part" or "part" includes

- (A) whole or partial unprocessed plants, including stalk, leaf, seed, floral, root materials, oils, resin, or wax;
 - (B) raw roots;
 - (C) fresh, unprocessed, dried, or ground leaves or floral material;
 - (D) rooted plants, cuttings, propagules, or clones; or
 - (E) any other portion of an industrial hemp plant;
- (38) "ppm" means parts per million;
- (39) "processing" means all means of converting, extracting, refining, altering, manufacturing, or turning industrial hemp into finished industrial hemp or an industrial hemp product ready for market;
- (40) "process lot" means any amount of hemp, hemp concentrate, or extract of the same type that is processed at the same time using the same extraction methods, standard operating procedures, and batches from the same or a different harvest lot;
- (41) "produce industrial hemp," as set out in AS 03.05.076(b)(1),
- (A) includes growing, harvesting, possessing, transporting, processing, selling or buying industrial hemp or an industrial hemp product;
 - (B) does not include a consumer's provision of compensation to a registrant for industrial hemp or an industrial hemp product;
- (42) "prohibited variety" means a variety or strain of cannabis excluded from the Alaska Industrial Hemp Pilot Program;
- (43) "propagation" means the reproduction of hemp plants by seed, cutting, grafting, or in vitro;

(44) "propagule" means a plant or plant part that can be utilized to grow a new plant;

(45) "quarantine" means, at the election of the division, either

(A) keeping industrial hemp or an industrial hemp product segregated, but in place and in the custody of the registrant; or

(B) removing industrial hemp or an industrial hemp product to a location designated by the division and in the division's custody;

(46) "registered grower" means a person in the state authorized by the division to cultivate, plant, grow, handle, harvest, condition, store, distribute, or transport industrial hemp, plants, plant parts, grain, or seed in the state;

(47) "registered processor" means a person in the state authorized by the division to process, handle, store, or process industrial hemp plants, plant parts, or grain and take part in any aspect of turning raw, harvested industrial hemp into an industrial hemp product in the state;

(48) "registered retailer" means a person in the state authorized by the division to receive compensation for, or offer for free, industrial hemp or an industrial hemp product after registration, and, if applicable, a product endorsement, to a consumer;

(49) "registrant" means a person possessing one or more industrial hemp registrations issued by the division under the authority of this chapter and AS 03.05.077;

(50) "registration" means an instrument permitting an applicant to participate in the Alaska Industrial Hemp Pilot Program subject to its terms and the provisions of this chapter;

(51) "sample" means an amount of industrial hemp or industrial hemp product selected for testing;

(52) "seed" means an industrial hemp plant's unit of sexual reproduction intended to be planted for germination;

(53) "solvent" means a substance that is capable of dissolving or dispersing one or more other substances;

(54) "signing authority" means the permissibility for an adult individual or an officer or agent of a legal entity to validly enter a binding agreement;

(55) "test batch" means a group of samples submitted collectively for testing;

(56) "THC" means total composite tetrahydrocannabinol, including delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid;

(57) "variety" means a subdivision of a species that is

(A) uniform, in the sense that the variations in essential and distinctive characteristics are describable;

(B) stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(C) distinct, in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties;

(58) "wild" means growing in the natural environment, not domesticated or cultivated. (Eff. 4 / 4 / 2020, Register 234)

Authority:	AS 03.05.010	AS 03.05.050	AS 03.05.077
	AS 03.05.030	AS 03.05.076	AS 03.05.100



LAWS OF ALASKA

2021

Source
CSSB 27(RES)

Chapter No.

AN ACT

Relating to industrial hemp; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to industrial hemp; and providing for an effective date.

2 _____
3 * **Section 1.** AS 03.05.010(a) is amended to read:

4 (a) The commissioner of natural resources shall

5 (1) direct, administer, and supervise promotional and experimental
6 work, extension services, and agricultural projects for the purpose of promoting and
7 developing commercial and noncommercial agricultural industry in the state,
8 including horticulture, dairying, cattle raising, fur farming, grain production, vegetable
9 production, and agricultural products;

10 (2) procure and preserve all information pertaining to developing the
11 agricultural industry in the state and disseminate that information to the public;

12 (3) assist prospective settlers and others to engage in the agricultural
13 industry in the state by providing information about activities and programs essential
14 to developing the agricultural industry and areas in the state that are suitable for
15 agriculture;

1 (4) review the marketing, financing, transportation, and development
2 of agricultural products in the state, with special emphasis on local production, and
3 negotiate for the marketing of agricultural products of the state with federal and state
4 agencies operating in the state;

5 (5) regulate and control the entry in the state and the transportation,
6 sale, or use in the state of plants, seeds, vegetables, shell eggs, fruits and berries,
7 nursery stock, animal feeds, remedies and mineral supplements, fertilizers, and
8 agricultural chemicals to prevent the spread of pests, diseases, or toxic substances
9 injurious to the public interest and protect the agricultural industry against fraud,
10 deception, and misrepresentation; for purposes of this paragraph, the commissioner
11 may require registration, inspection, and testing [,] and may establish procedures and
12 fees;

13 (6) regulate the farming of elk in a manner similar to the manner in
14 which the commissioner regulates domestic animals and livestock, to the extent that is
15 appropriate;

16 (7) adopt regulations relating to industrial hemp, including regulations
17 that

18 (A) specify approved sources or varieties of hemp seed to be
19 grown, sold, or offered for sale by an individual registered to produce
20 industrial hemp;

21 (B) require testing, paid for by the registrant, for delta-9-
22 tetrahydrocannabinol concentration following harvest of the industrial hemp;

23 (C) provide for general production practices to avoid the
24 unintended distribution of industrial hemp seeds by registrants into
25 nonagricultural land;

26 (D) establish isolation distances for the production of industrial
27 hemp; in this subparagraph, "isolation distance" means the minimum
28 separation required between two or more varieties of the plant (genus)
29 Cannabis for the purpose of keeping the seed pure;

30 **(E) permit manufacturing and retail sale of industrial hemp**
31 **and products made from industrial hemp;**

1 **(F) establish a registration and renewal procedure for a**
2 **participant in the industrial hemp program developed under**
3 **AS 03.05.076;**

4 (8) submit a list of individuals registered to produce industrial hemp
5 under AS 03.05.076 and the expiration dates of the registrations to the Marijuana
6 Control Board and the Department of Public Safety;

7 (9) regulate the labeling of seed that does not comply with the
8 requirements of AS 03.20.130.

9 * **Sec. 2.** AS 03.05.010(c) is amended to read:

10 (c) **The commissioner of natural resources shall notify the Marijuana**
11 **Control Board and the Department of Public Safety when the commissioner**
12 **issues a stop order.** The commissioner of natural resources

13 **(1)** shall issue a stop order to **a** [ANY] person

14 **(A) not registered under AS 03.05.076** who is found to be
15 producing a plant [PRODUCT] with delta-9-tetrahydrocannabinol; **or**

16 **(B) registered under AS 03.05.076 who is found to be**
17 **producing a plant with delta-9-tetrahydrocannabinol over one percent;**
18 **and**

19 **(2) may issue a stop order to a person registered under**
20 **AS 03.05.076 who is found to be producing a plant with delta-9-**
21 **tetrahydrocannabinol between 0.3 percent and one percent** [OVER 0.3
22 PERCENT, REGARDLESS OF WHETHER THE PERSON IS REGISTERED
23 UNDER AS 03.05.076. THE COMMISSIONER OF NATURAL RESOURCES
24 SHALL NOTIFY THE MARIJUANA CONTROL BOARD AND THE
25 DEPARTMENT OF PUBLIC SAFETY WHEN THE COMMISSIONER ISSUES A
26 STOP ORDER].

27 * **Sec. 3.** AS 03.05.076(a) is amended to read:

28 (a) Industrial hemp is an agricultural crop in the state. An individual who
29 produces industrial hemp shall apply to the department for registration under this
30 section. Registration is valid for one year but may be renewed. An application for
31 registration or renewal must be on a form prescribed by the department that includes

1 (1) the name and address of the applicant;
2 (2) the address and global positioning system coordinates of the area to
3 be used for the production of industrial hemp; **and**

4 **(3) a signed statement by the applicant, made under the penalty of**
5 **perjury, affirming that the applicant**

6 **(A) has not been convicted of a felony related to a**
7 **controlled substance in this or another jurisdiction within the 10 years**
8 **immediately preceding the date of application; or**

9 **(B) was lawfully growing hemp before December 20, 2018,**
10 **and was not convicted of a felony related to a controlled substance in this**
11 **or another jurisdiction after that date.**

12 * **Sec. 4.** AS 03.05.076(e) is amended to read:

13 (e) The department [MAY]

14 (1) **shall** issue a stop-sale order and issue a violation notice to a person
15 who is producing industrial hemp without a current registration;

16 (2) **may** adopt regulations regarding approved shipping documentation
17 for the transportation of industrial hemp;

18 (3) **may** conduct random tests and inspections of industrial hemp for
19 delta-9-tetrahydrocannabinol concentration produced by an individual registered under
20 this section.

21 * **Sec. 5.** AS 03.05.076 is amended by adding a new subsection to read:

22 (i) The department may develop an industrial hemp program that complies
23 with federal requirements and submit a program plan to the United States Department
24 of Agriculture for approval.

25 * **Sec. 6.** AS 03.05.079 is amended to read:

26 **Sec. 03.05.079. Production in violation of delta-9-tetrahydrocannabinol**
27 **limit.** Notwithstanding AS 11.71.040 - 11.71.060, an individual registered under
28 AS 03.05.076 to produce industrial hemp whose product has a delta-9-
29 tetrahydrocannabinol content between 0.3 percent and one percent **may retain and**
30 **recondition the product as provided in AS 03.05.076(b)(4)** [IS GUILTY OF A
31 VIOLATION].

1 * **Sec. 7.** AS 03.05.079 is amended by adding a new subsection to read:

2 (b) An individual who retains but fails to recondition an industrial hemp
3 product described in (a) of this section is guilty of a violation.

4 * **Sec. 8.** AS 03.05.100(5) is amended to read:

5 (5) "industrial hemp" means [ALL PARTS AND VARIETIES OF] the
6 plant Cannabis sativa L. **and any part of that plant, including its seeds and all**
7 **derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,**
8 **whether growing or not, with a delta-9-tetrahydrocannabinol concentration of**
9 [CONTAINING] not more than 0.3 percent **on a dry-weight basis** [DELTA-9-
10 TETRAHYDROCANNABINOL].

11 * **Sec. 9.** AS 03.05.077 is repealed.

12 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 CONDITIONAL EFFECT; NOTIFICATION TO REVISOR OF STATUTES. (a)
15 Section 9 of this Act takes effect only if the United States Department of Agriculture approves
16 an industrial hemp program plan submitted by the Department of Natural Resources under
17 AS 03.05.076(i) before January 1, 2030.

18 (b) If the United States Department of Agriculture approves an industrial hemp
19 program submitted under AS 03.05.076(i), the commissioner of natural resources shall notify
20 the revisor of statutes not later than 30 days after receiving notice of the approval.

21 * **Sec. 11.** If, under sec. 10(a) of this Act, sec. 9 of this Act takes effect, it takes effect on the
22 day after the date on which the revisor of statutes receives notice from the commissioner of
23 natural resources under sec. 10(b) of this Act.



Alaska Division of Agriculture Hemp Program

Raw Hemp Sampling Guidance

Sampling Guidelines for Sampling Agents Only.

A registered grower of industrial hemp in the State of Alaska shall have all industrial hemp produced, sampled by Division of Agriculture Staff or authorized representative of the Division only. A registered grower may not harvest industrial hemp until the Division, or an authorized representative collected and tested one or more samples from the harvest lot in compliance with 11 AAC 40.85 or 11 AAC 40.290 and is in compliance with 11 AAC 40.600 – 11 AAC 40.665. The Division shall sample each harvest lot no greater than 30 days before harvest.

- The Division shall collect the minimum number of samples from each harvest lot in accordance with Table 1.
- The Division will collect samples from the top 12 inches of each plant.
- All samples shall be collected will contain the central inflorescence of each sampled plant.
- If no floral material is visible during the sampling period, the top 12 inches of each sampled plant shall be taken from the dominate central leader.
- Each plant sample from each harvest lot shall be collected, bagged, sealed and labeled prior to leaving the production area or beginning the sampling process for another noncontiguous harvest lot.
- Each sampled harvest lot collected shall be sealed in a kraft bag and labeled with permanent marker with the following;
 - Grower registration number
 - Sample Identification Number
 - Dated and Time of sample completion.
 - And the initials of the sampler.
- All sampling agents will wear new nitrile gloves while sampling each harvest lot.
- Harvest devices will be cleaned with ethanol between each harvest lot.

Table 1.

Harvest Lot Sample Size			
Production Area (Outdoors)	Number of Samples	Production Area (Indoor/GH)	Number of Samples
Up to one Acre	5	Up to 3K sqft	3
1-5 Acres	20	3K - 20K sqft	7
5-10 Acres	35	20K - 45K sqft	10
> 10 Acres	35*	> 45K sqft	10*
* one additional random sample per acre.		* one additional sample per 22.5K square feet	