



DATE: July 6, 2023

To: U.S. Domestic Hemp Production Program
Specialty Crops Program
USDA Agricultural Marketing Services

From: Sarah Pickel, Hemp Program Coordinator
Bureau of Plant Industry
PA Department of Agriculture

RE: Pennsylvania State Hemp Plan submission: Revisions for 2023

This proposed revision to the Pennsylvania state hemp plan makes two small amendments to the plan previously approved by USDA (*June 11, 2021*), fulfilling all requirements of the USDA Final Rule on hemp, published 1/19/2021. There is also a proposed addition to the performance-based sampling documents for PA, which had been previously approved as supplemental documents not included in the published PA state plan, but rather available on the PA Department of Agriculture's website.

The PA State Hemp Plan operates under the authority of the state's [Act relating to Controlled Plants and Noxious Weeds](#). Most of the required elements are in the form of a controlled plant general permit, published under that Act. The PA Hemp General Permit, which has had two changes in 2023, is included with this memo.

The changes made to the General Permit include:

- 1) Under *Article II.b.2.iv.D* (General Permit, pg. 8), the section specifying permit *Location Restrictions* – There has been a change to the minimum planting requirement from 150 plants outdoor/100 plants indoor to 50 plants in both situations. (*This is a PA requirement, not related to a USDA requirement.*)
- 2) Under *Article IV.e.2* (General Permit, pg. 18), the *THC Testing Laboratory Standards and Methods* section - There has been a change to specify that the Department will follow USDA's lead in delaying enforcement of the DEA-registration requirement for laboratories until the date specified on USDA's website. The most recent USDA announcement changed the date of enforcement from 12/31/2022 to 12/31/2023.

There has also been an update to the Department's performance-based sampling guidance for producers. In addition to the previously approved performance-based sampling plans for researchers and growers of micro-greens, greens and transplants, the Department will be adding a performance-based sampling plan for grain and fiber varieties. The guidance documents are made

available through the Department's website (Hemp Program [Growing & Processing page](#)), and are included with this memo.

Lastly, several plan elements required in the USDA Final Rule are not directly referenced in the PA Hemp General Permit. These are addressed here:

- 1) Section 990.3 (a) (1) of the Final Rule includes a requirement for the state to provide to USDA all contact information for each hemp producer licensed or authorized in the state.
 - a) General Permit Article II, Procedure for Application and Permitting mentions the collection of information but does not describe reporting to USDA, with no mention of forms or timing. The Department will submit USDA-requested producer data using USDA AMS template "Producer_Report_Bulk_Upload_Template" and will submit this monthly to USDA's Hemp eManagement Platform (HeMP), on the first day of each month. The Department will also submit required annual data via the "DHPP_XX_Year_AMS_25" template on December 15th. The Department will adjust format as requested by USDA. The data submitted in the USDA reporting forms is maintained by the Department on our in-house computer system, www.PAPlants.pa.gov, as well as all information required by federal law for hemp production.
- 2) Section 990.3 (a) (1) (iii) of the Final Rule requires for the state to maintain the status of licensed producers (and any changes) and license or authorization numbers of producers.
 - a) When the Department receives a change to producer contact information, the PA Hemp program staff will follow a two-step process: 1) update the Department's PA Plants computer system and 2) update the producer information under USDA's HeMP online system.
- 3) Section 990.3 (a) (2) (v) of the Final Rule requires sampling agency representatives 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.
 - a) The Department has updated the *Sampling & Harvest Details for Growers* document (2nd ¶, p. 1), to clarify that certified hemp sampling agents in addition to PDA inspectors/program employees have unrestricted access to all hemp/cannabis plants and the land, buildings, etc. used for cultivation, handling, and storage. This document is included in the annually mailed permit certificate packet and also provided on the PDA Hemp webpage.
- 4) Section 990.3 (a) (3) (iii) (H) (4) of the Final Rule requires testing laboratories to report test results to USDA for determining compliance with this part.
 - a) In the Department's document specifying [Requirements for Hemp Sample Compliance Testing](#) which is provided to any laboratory registered with the Department to conduct compliance sampling and also available on the Department's website, the Department requires all registered laboratory to report compliance results to the USDA.
- 5) Section 990 (a) (6) (i - iii) of the Final Rule requires that a state plan provides procedures to ensure effective disposal or remediation of plants produced in violation of part 990.

- a) In the Department's document specifying *Sampling & Harvest Details for Growers*, the Department has specified in the (6th ¶, p. 2), the Department has provided a description of the USDA's two approved methods of remediation of above-compliance crops, as well as the methods of crop destruction for above-compliance crops which were not remediated (Reference: [Remediation and Disposal Guidelines for Hemp Growing Facilities](#)).
- 6) Section 990.3 (a) (7) of the Final Rule requires that a state plan provide a procedure for conducting annual inspections of a random sample of licensed producers to verify that hemp is not produced in violation of this part.
 - a) The Department has developed a *Hemp Permit Audit Inspections Standard Operating Procedures*. These are provided to PDA Inspectors and available to hemp permittees. This document specifies the percentage of producers inspected, the selection process and the process of what should take place during an inspection.
- 7) Section 990.3 (a) (8) of the Final Rule requires a 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.
 - a) Page 21, Article V, (e)(3) describes the reporting of disposals to USDA but does not mention the 30-day timeframe. The Department will submit USDA requested hemp crop disposal data using the USDA's Hemp eManagement Platform (HeMP) to submit disposal/remediation reports and will submit these reports every 30 days, or on the first day of each month.
- 8) Section 990.3 (a) (9) requires certification that the state has resources and personnel to carry out required Farm Bill practices and procedures.
 - a) In a letter dated January 22, 2019, submitted to USDA by Secretary Russell C. Redding of the PA Department of Agriculture for the first Pennsylvania hemp plan under the USDA Interim Final Rule for hemp, the Secretary provided this statement:

"I certify that Pennsylvania has the resources and personnel to carry out the practices and procedures described in clauses (i) through (vi) of Sec. 297B(2)(A) of the Agricultural Marketing Act of 1946 as amended in Sec. 10113 of the 2018 Farm Bill."
- 9) Section 990.6 (c) of the Final Rule provides procedures for the correction of negligent violations and includes a specification that negligent violations are not subject to federal, state, tribal or local government criminal enforcement action.
 - a) In Article XI, section (g) of the PA Hemp General Permit guidelines (pg. 24), when the Department states that "Negligent violations are not subject to criminal enforcement," it is intended that the Department shall not report negligent violations to local, state, tribal or federal governments for criminal enforcement action.
- 10) Section 990.6 (e) of the Final Rule provides procedures for addressing felonies, including the specification that individuals with a felony conviction relating to a controlled substance are not

eligible to participate in a hemp permit for 10 years. This should include an exemption for participants in a hemp pilot program under the 2014 Agricultural Act before December 20, 2018, and shall provide procedures for business entities to determine which participants are considered “Key Participants.”

- a) In Article II, section (b)(4)(iii & iv) of the PA Hemp General Permit guidelines (pg. 9), the Department states that a key participant with a disqualifying criminal history background will result in rejection of a hemp permit application and that the disqualifying criminal history shall be a state or federal felony conviction related to a controlled substance for a period of 10 years prior to the date of report submission (within 60-days of application).
- b) Although the Final Rule allows a provision for exemption for participants in a hemp pilot program under the 2014 Agricultural Act before December 20, 2018, the PA state legislation under which PA operated its hemp pilot program, [PA Act 92 of July 20, 2016](#), had been more restrictive than the 2014 Agricultural Act. The Act had disqualified any person with a felony drug conviction within the past 10 years from contracting with the Department to grow or cultivate industrial hemp. While the Department would allow for the exemption provided in Section 990.6 (e) of the Final Rule, there would not have been any PA hemp pilot program permits issued which required exemption.
- c) For the purpose of business entities determining who would be considered a “key participant,” the Department has provided an [Application Instructions](#) document to permit applicants which provides examples of key participants beyond the description located in Article II, section (b)(4)(I & ii) of the PA Hemp General Permit guidelines (pg. 8-9).

11) The USDA guidance document [Sampling Guidelines for Hemp](#) provides specification of how many samples will be taken per acre or sq ft.

- a) The Department has specified a chart of sample numbers which must be collected per acre of planted lots. This chart is provided to all sampling agents, inspectors and program staff in the [PDA Hemp Sampling Protocol](#) document (pg. 2) and also referenced in the [PDA Hemp Sampling Agent Training](#) (slides 41 & 42), both available on the PDA Hemp webpage.

12) For the Performance-based sampling provisions for grain and fiber varieties, USDA was looking for details regarding inspection, audit sampling and timeframe of sampling exemption for qualified producers.

- a) The Department updated the proposed GUIDANCE ON REQUIRED REPORTING AND PERFORMANCE-BASED SAMPLING FOR GROWERS OF FIBER AND GRAIN VARIETIES document to specify that the Department will sample ≈5% of qualified permittees for compliance, that any approved permittees will be subject to inspection and permittees must apply annually to qualify for performance-based sampling (pg. 2, 2nd ¶, 2nd & 3rd bullet).

13) Regarding hemp produced for Research, according to the USDA Farm Service Agency’s memo regarding Hemp License Numbers and Acreage Reporting, the FSA afforded researchers some reporting leniencies, including reporting an average planting date and not being required to report by varieties by lots.

- a) The Department updated the GUIDANCE ON REQUIRED REPORTING AND PERFORMANCE-BASED SAMPLING FOR RESEARCH PERMITS document to note that, while research permittees are still required to report to FSA, they can report an average planting date and the planting does not have to be broken down into lots (pg. 1, 1st ¶).

Pennsylvania has demonstrated, through administration of the state hemp plans previously approved by USDA, that we have the capability to administer a hemp production regulatory program with the integrity and oversight that is needed.

Thank you!

ATTACHMENTS:

- PA Hemp General Permit, signed February 1, 2023
- APPENDIX A. Guidance on Required Reporting and Performance-Based Sampling
- APPENDIX B. PDA Hemp Program Documents

NOTICES

DEPARTMENT OF AGRICULTURE

General Permit Standards and Requirements for Hemp

Recitals.

This Notice amends and replaces the previous Notice “General Permit Standards and Requirements for Hemp” published in the April 3, 2021 *Pennsylvania Bulletin* [51 Pa.B. 1831, Saturday, April 3, 2021].

A. The Act relating to Controlled Plants and Noxious Weeds (“Act”)(3 Pa.C.S.A. § 1501 *et seq.*) authorizes the Department of Agriculture (Department) through the Controlled Plant and Noxious Weed Committee (Committee) to establish a controlled plant list and to add plants to or remove plants from the controlled plant list (3 Pa.C.S.A. § 1511(b)(3)(ii)(iii)).

B. The Act provides for publication of the noxious weed and the controlled plant list and additions or removals or changes thereto to be published as a notice in the *Pennsylvania Bulletin* and for such additions or removals to become effective sixty (60) days from publication (3 Pa.C.S.A. § 1511(b)(3)(iv)).

C. Pursuant to that authority, the Committee acted to add hemp to the Controlled Plant List and published such Notice in the *Pennsylvania Bulletin* on April 6, 2019 (49 Pa.B. 1667, Saturday April 6, 2019).

D. Section 1513 of the Act authorizes the Department to issue General Permits, on a Statewide or Regional basis, for the research, marketing, retail, wholesale, transport, storage, warehousing, display, distribution, cultivation or propagation of controlled plants, where the controlled plants have similar characteristics and are capable of being cultivated, propagated, processed and controlled or eradicated in a similar fashion (3 Pa.C.S.A § 1513(1)).

E. General Permits and applications for General Permits must address at least those requirements set forth at section 1514(5)(i)-(viii)(3 Pa.C.S.A. § 1514(5)(i)-(viii)), but may include and address additional requirements as established by the Department herein (3 Pa.C.S.A. § 1513(3)).

F. General permits shall be published in the *Pennsylvania Bulletin* and become effective upon publication (3 Pa.C.S.A. § 1513(2)).

G. Hemp is also regulated on the federal level by the United States Department of Agriculture (USDA) as authorized by the Agricultural Improvement Act of 2018 (115-334), (2018 Farm Bill).

H. The 2018 Farm Bill defined “hemp” as the plant species *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

I. The 2018 Farm Bill directed USDA to establish guidelines for states to follow in establishing plans to allow for state primacy in the regulation of growing or cultivation of hemp plants.

J. With the designation of hemp as a Controlled Plant under the authority of the Act, persons are required to obtain a permit from the Department prior to cultivating, propagating, growing or processing hemp.

K. Hemp has been designated a controlled plant in Pennsylvania and its propagation, cultivation, testing, transportation, warehousing and storage, processing, distribution and sale is of a statewide concern.

L. This General Permit establishes rules and requirements for the distribution and sale of hemp planting materials, and for the propagation, cultivation, testing, transportation, warehousing, storage, and processing of hemp as authorized by the Act.

M. This General Permit does not and may not abrogate the provisions of the act related to industrial hemp research, at 3 Pa.C.S.A. §§ 701-710, including, permitted growers must still submit fingerprints to the Pennsylvania State Police for the purpose of obtaining criminal history record checks. The Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.

General Permit.

With the forgoing recitals incorporated into this General Permit by reference, the Department hereby establishes a General Permit, under the authority of the act related to controlled plants and noxious weeds (Act)(3 Pa.C.S.A. § 1501 *et seq.*), for the Controlled Plant, hemp. The terms of the General Permit are as follows:

Article I. General Provisions and Definitions.

(a) *Establishment of the Hemp General Permit.* A General permit is hereby established for the Controlled Plant, hemp, defined as the plant *Cannabis sativa L.* and any viable part of that plant, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis. This General Permit covers the entire Commonwealth.

(b) *Purpose of the General Permit.* The purpose of this general permit is as follows:

(1) To establish provisions to control the planting, growing, propagation and cultivation of hemp.

(2) To establish requirements under which persons may apply to plant, grow, propagate or cultivate hemp in the Commonwealth for the purpose of research or commercial production.

(3) To establish requirements detailing where hemp may be planted, grown, propagated and cultivated in the Commonwealth.

(4) To establish requirements for sale and distribution of hemp nursery stock.

(5) To establish requirements under which persons may apply to process hemp in the Commonwealth.

(6) To establish requirements for tetrahydrocannabinol (THC) testing of hemp planted, grown, propagated, cultivated or processed in the Commonwealth.

(7) To establish requirements for the transportation of hemp planted, grown, propagated and cultivated in the Commonwealth.

(8) To establish requirements for storage and warehousing of hemp planted, grown, propagated and cultivated in the Commonwealth.

(9) To establish requirements for the disposal of a permitted crop where the THC concentration exceeds 0.3 percent on a dry weight basis.

(c) *Definitions*

Acceptable hemp THC level. When a laboratory tests a sample, it must report the total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level for the purpose of compliance with the requirements of this General Permit is when the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3 percent or less. For example, if the reported total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35 percent and the measurement of uncertainty is ± 0.06 percent, the measured total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29 percent to 0.41 percent. Because 0.3 percent is within the distribution or range, the sample is within the acceptable hemp THC level for the purpose of plan compliance.

Act. The act of October 30, 2017, P.L. 774, No. 46, at 3 Pa.C.S.A. §§ 1501- 1562, related to controlled plants and noxious weeds.

Agent or inspector. A representative of the Department of Agriculture duly appointed by the Secretary of Agriculture to carry out the provision of the Act and this General Permit.

Applicant. A person(s) signing and submitting a hemp application and responsible for ensuring compliance with the terms of the application and permit.

Committee. The Controlled Plant and Noxious Weed Committee established in section 1511 (relating to designation of noxious weeds and controlled plants).

Control order. A written order issued by the department to a person detailing required treatment measures to control noxious weeds or controlled plants.

Controlled plant. A plant species or subspecies that has been designated by the Committee as a controlled plant and is regulated to prevent uncontained growth and to negate undesirable characteristics.

Controlled Substances Act (CSA). The Federal statute codified in 21 U.S.C. 801-971, establishing federal U.S. drug policy under which the manufacture, importation, exportation, possession, use and distribution of certain substances is regulated.

Conviction. Any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged.

Culpable mental state greater than negligence. To act intentionally, knowingly, willfully or recklessly.

Decarboxylation. The removal or elimination of carboxyl groups from a molecule or organic compound. Refers to the completion of the chemical reaction that converts THCA into delta-9 THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a molecular mass conversion ratio that sums delta-9 THC and eighty-seven and seven tenths (87.7) percent of THC-acid ((delta-9 THC) + (0.877*THCA)).

Delta-9 tetrahydrocannabinol. Also referred to as “Delta-9 THC” or “THC” is the primary psychoactive component of cannabis. For the purposes of this General Permit, delta-9 THC and THC are interchangeable.

Department. The Department of Agriculture of the Commonwealth.

Distribute or distribution. To barter, consign, exchange, give away, import, in any way transfer, offer for sale, sell or otherwise supply or transport a noxious weed or controlled plant in this Commonwealth.

Drug Enforcement Administration (DEA). A federal law enforcement agency under the United States Department of Justice, and the lead agency for domestic enforcement of the Controlled Substances Act.

Dry weight basis. The ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

Eradication. The elimination or removal of a noxious weed or controlled plant so that no further growth occurs for at least three consecutive years.

Farm Service Agency (FSA). An agency of the United States Department of Agriculture that provides services to farm operations.

General permit. A Statewide or regional permit that is issued by the department for a controlled plant and specifies terms and conditions for distribution, cultivation or propagation of the controlled plant.

Hemp. The plant *Cannabis sativa L.* and any viable part of that plant, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis.

Key participants. A sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

Landowner. A person in whom is vested the title of property or with any rights in real property that permit possession or control of surface activities on the real property. The term includes a department, board, commission, agency and instrumentality of the Federal Government and the Commonwealth and any of its political subdivisions.

Lessee. A person who has entered into a contract granting the person occupation or use of property during a certain period of time in exchange for a specified rent.

Lot. The term “lot”, as defined in the Agricultural Marketing Service Final Rule (FR) on the Establishment of a Domestic Hemp Production Program (86 FR 5596), refers to a contiguous area in a field, greenhouse or indoor growing structure containing the same variety or strain of cannabis throughout the area. In addition, “lot” refers to the batch of contiguous, homogeneous whole of a product being sold to a single buyer at a single time. To be defined by the producer in terms of farm location, field acreage and variety (i.e. cultivar) and to be reported as such to the Department and the FSA.

Negligence. Failure to exercise the level of care that a reasonably prudent person would exercise in complying with the regulations and standards established.

Permit. A document issued by the Department authorizing a person to perform functions and activities related to hemp which require adherence to the rules and requirements established by this General Permit.

Person. An individual, corporation, association, partnership, municipality or any other entity.

Processor. Any person who converts hemp material from its form while in the field into a different form or product, as well as any person who receives viable hemp material from a secondary supplier, to further convert into a different form or product

Propagate. To increase, multiply or spread a plant or crop through planting, cultivation or any means of reproduction.

Remediation. The process of rendering non-compliant cannabis, compliant. Remediation can occur by removing and destroying flower material while retaining stalk, stems, leaf material, and seeds. Remediation can also occur by shredding the entire plant into a bio-mass like material, then re-testing the shredded biomass material for compliance.

School Property. Any property used by students that is under the jurisdiction of a public school district, intermediate unit, area vocational-technical school, charter school or non-public school.

THC. The chemical delta-9 tetrahydrocannabinol. For the purposes of this General Permit, THC shall include total potential delta-9 tetrahydrocannabinol in a plant or product. THC value is determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expresses the potential total delta-9

tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis. This post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat, such as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The total THC can also be calculated by using a liquid chromatograph technique, which keeps the THCA intact. This technique requires the use of the following conversion: [Total THC = (0.877 x THCA) + THC] which calculates the potential total THC in a given sample.

USDA. The United States Department of Agriculture.

Article II. Procedure for Application and Permitting.

(a) *Permit Application Process.* The following rules and requirements apply to permitting and the application for a permit.

(1) To produce, process or research hemp under the Pennsylvania Hemp General Permit, a person must apply for and be issued a Permit from the Department.

(2) No permit shall be issued to grow, cultivate or propagate hemp for personal use.

(3) Research permits shall only be issued to Institutions of Higher Education or established research institutes.

(4) Conditions and terms of this General Permit may change upon future conditions, including requirements imposed by USDA in acceptance of the Pennsylvania State Hemp Plan, legal standards imposed by another federal agency, statutory or regulatory changes or changes in other legal requirements.

(5) Application periods will be announced by the Department and published at <https://agriculture.pa.gov/hemp>. Persons anticipating late season or indoor planting must submit their applications during published application periods.

(6) The permit application will be available for download from the Department's Hemp Program website at <https://agriculture.pa.gov/hemp>. At that website, there will also be announcements of availability of the hemp application process online through PA Plants. Applications may also be requested by contacting The Bureau of Plant Industry Hemp Program at 223-666-2561 or by mail at:

Hemp Program
Pennsylvania Department of Agriculture
2301 North Cameron Street, Harrisburg, PA 17110.

(7) Applications shall be submitted with the application fee and supporting documents. The completed application along with all required reporting constitutes a written plan as required by the Act. Incomplete applications will not be processed.

(8) Any persons who materially falsify any information in their application shall be deemed ineligible to participate in the program.

(9) Upon successful review of completed applications, the Department will issue permit documents to approved applicants.

(b) *Application Contents.* All applications shall comply with the requirements established herein.

(1) *Contact Information.* Set forth contact information including at a minimum, legal name, address, day and evening telephone numbers, and email address (if available). If the applicant is a business entity, the applicant shall provide 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 an EIN number of the business entity.

(2) *Location Information.* Provide the physical location, including a detailed plot map and description of the site to be planted or the site where the hemp will be propagated, cultivated, stored or processed. A separate “Permit Location Information” page is required and shall be submitted for each physical address (individually titled property) of a growing, cultivating, propagating, researching or processing location. Storage location information is optional at time of application but must be provided before any hemp is moved into storage.

(i) The description of the location shall include the county and municipality.

(ii) Contain a legal description of the land, plot map and geospatial location of the overall site and each separate field, greenhouse, building or other site where hemp will be produced, warehoused or processed. The plot map must show the name of each road bordering the physical location.

(iii) If the address/facility is not owned by the applicant:

(A) The applicant must attest to the fact that the property is completely controlled by this applicant.

(B) A lease shall be executed between the property owner and the permit holder for the land on which hemp will be planted, propagated, cultivated, stored or processed and must be retained by the applicant and provided to the Department upon request. This lease shall specifically grant access to the property by the Department during the entirety of the lease agreement.

(C) With the application, the applicant must provide an agreement signed by both the property owner and the lessee granting the Department access to the property for up to 3 years following the termination of the lease and allowing for the destruction of any hemp plants found on the property (at the expense of the hemp permit holder) in that time. A template of this access agreement is available on the Department’s website.

(iv) *Location Restrictions:*

(A) Given the potential of hemp pollen to interfere with medical marijuana crops, hemp may not be planted within three miles of an approved medical marijuana growing facility.

(B) Hemp may not be grown, cultivated, propagated or planted in or within 200 feet of any structure that is used for residential purposes, without prior written approval from the Department. Any written approval may establish additional requirements set forth by the Department therein.

(C) A person shall not handle, process, warehouse or store leaf or floral material from hemp in a facility or field location that is in or within 200 feet of any structure that is used for residential purposes, without prior written approval from the Department. Any written approval may establish additional requirements set forth by the Department therein.

(D) A person may not plant less than 50 hemp plants in any outdoor location nor less than 1,000 square feet and 50 hemp plants in any indoor facility, unless prior written approval is provided by the Department. Any written approval may establish additional requirements set forth by the Department therein.

(E) A person shall not grow, plant, cultivate or propagate hemp within 1,000 feet of a pre-kindergarten through 12th grade school property or a public recreational area, unless prior written approval is provided by the Department. Any written approval may establish additional requirements set forth by the Department therein.

(F) A person shall not include on application or Site Modification Request any property for growing, planting, cultivating or propagating hemp that is not owned or completely controlled by the applicant or permitted grower.

(G) Hemp shall be physically segregated from other crops unless prior written approval is obtained in writing from the Department. Any written approval may establish additional requirements set forth by the Department therein.

(H) Each hemp lot planted must be distinct and separate from any other planted hemp lot, so that plants from separate lots are not co-mingled and may be clearly distinguished for sampling purposes.

(I) The use of land, properties and facilities shall comply with all laws, regulations and requirements of any governmental agency or other regulating authority, including building, commercial, environmental, zoning and other regulated categories.

(3) *Hemp Variety Information.* Applicants shall list the type and amount of seed, clones, propagules or cuttings they have acquired or intend to acquire and hemp varieties they intend to plant, propagate and cultivate. (The Planting Report Form will provide a field to report changes to this information at the time of planting.)

(i) For all hemp seed, clones, propagules or cuttings which will be grown, cultivated, propagated or planted the source, including the legal name and address, shall be listed.

(ii) The anticipated acreage or indoor sq. footage for each type or variety of hemp shall be listed.

(iii) The type of product(s), (such as fiber, seed, dried flower, CBD or other) to be produced or processed.

(4) *Criminal History Information.* Applications shall be accompanied by proof of completed criminal history reports for the applicant and any other key participants in hemp program activities. This shall include a Federal Bureau of Investigation (FBI) background check. These must be dated no more than sixty (60) days prior to the date the application is received by the Department in the initial year the information is submitted.

(i) Key participants are a person or persons who have a direct or indirect financial interest in the entity producing hemp, such as a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation.

(ii) Key participant does not include other management positions like farm, field or shift managers.

(iii) Any key participant having a disqualifying criminal history background, such as a disqualifying felony as provided for by section 297B(e)(3)(B)(i) of the 2018 Farm Bill, will not meet the requirements of this General Permit and may not participate in the Hemp Program. A disqualified key participant will result in rejection of the Hemp Program application.

(iv) The criminal history reports must indicate that the applicant and key participants have not been convicted of a State or Federal felony related to a controlled substance for a period of 10 years prior to the date when the report was completed.

(v) FBI background checks are valid for 3 years. Directions for obtaining FBI background checks meeting the Hemp Program requirements are available on the Department's website at <https://agriculture.pa.gov/hemp>.

(5) *Attestations*. The applicant shall attest to all the following:

(i) That subject to the criminal penalties for unsworn falsifications to authorities, at 18 Pa. C.S.A. § 4904, they have not had a felony drug conviction in the past 10 years, and that during the time period of the application, this permit and the General Permit, they will immediately report to the Department any key participant of the permit that is convicted of a state or federal controlled-substance-related felony.

(ii) That subject to the criminal penalties for unsworn falsification to authorities, at 18 Pa.C.S.A. § 4904, the plant materials shall be selected from apparently disease-free and pest-free sources.

(iii) That in growing, propagating, cultivating, harvesting, transporting and processing of hemp, all biosecurity safeguards will be utilized in order to assure isolation from the domestic environment outside of permitted locations.

(iv) That subject to the criminal penalties for unsworn falsification to authorities, at 18 Pa.C.S.A. § 4904, the approved applicant and permit holder will continue to comply with the permit and General Permit requirements for the duration of time the hemp plants, plant parts or hemp materials are in the permit holder's possession, including any regrowth of the hemp.

(c) *Hemp Permit Approval and Renewal*. Once a Permit application has been approved by the Department, the Department will issue a Permit to the applicant for the approved site. Permits are issued and renewed on a calendar year basis. All the following rules and requirements apply.

(1) Permits are not transferrable in any manner.

(2) An applicant whose application has been approved will not be considered permitted under this General Permit and shall not commence any activities, including purchase or planting of any hemp seeds, hemp plants, hemp plant parts, hemp materials or hemp products until the applicant is issued a Permit by the Department for that year.

(3) Permits are issued on a calendar year basis, do not renew automatically and must be renewed every calendar year

(4) Applications for renewal will be subject to the same terms, conditions and approval process as set forth in the General Permit and application for initial or new permits.

(5) Permits will be valid until December 31 of each calendar year. Extensions may be announced, at the discretion of the Department, if application and renewal processes do not allow for continuity of operations.

(d) Permit Holder Responsibilities.

(1) An approved applicant and permit holder, or any person propagating, cultivating, transporting, storing, warehousing, distributing, retailing, wholesaling, processing or researching hemp and required to have a permit, shall comply with all the provisions of this General Permit.

(2) *Compliance.* The approved applicant and permit holder shall continue to comply with the permit requirements established in this General Permit for the duration of time the hemp or hemp materials are in the permit holder's possession, including any regrowth of the hemp.

(3) Upon receipt of a Hemp Program permit, the permit holder shall provide their unique Department hemp permit number and associated hemp production locations and acreage information to the Farm Service Agency (FSA).

(4) *Change in Information or Status.* The following rules and requirements apply to any change in Permit information.

(i) A Permit holder must notify the Department immediately should there be any change in the contact information provided on the Permit application or any change in ownership of the permitted land, via a Hemp Permit Change form provided by the Department.

(ii) A Permit holder must report changes to hemp varieties and/or sources, hemp plant part planted, type of hemp cultivated and/or size of plantings to the Department via the Hemp Planting Report form.

(iii) If at any time, there is a change to the information submitted in the permit application, a permit modification is required. FSA must also be notified of changes.

(iv) Any change to the growing, planting, cultivating or propagation location or control of the location shall require a new permit and must be submitted during the permit submission time period for that calendar year.

(5) *Abandonment or closure of permitted hemp site.* The permitted hemp grower shall, prior to abandonment or closure of the permitted site, notify the Department in writing of his intent to close or abandon the site. Failure to do so will result in the permitted grower being charged and responsible for any destruction costs, including destruction of hemp that may have escaped the boundaries of the permit location and may result in the assessment of other penalties as allowed under the Act.

(6) Permit holders, including all key participants, are responsible for and shall immediately notify The Department of any drug related convictions they receive during the time period of a permit.

Article III. Propagation and Cultivation.

The following rules and requirements apply to the propagation and cultivation of hemp.

(a) *Hemp Source Materials*. The permit holder is responsible for sourcing, purchasing, and acquiring the hemp seed, clones, propagules or cuttings which they will be growing, planting, cultivating or propagating and shall ensure that this complies with all the requirements of this general permit.

(1) *Prohibited Hemp Varieties and Varieties of Concern*. A permit holder shall check the Department's website or request a list of Prohibited Hemp Varieties and Varieties of Concern.

(i) Prohibited Hemp Varieties. Prohibited Hemp Varieties have consistently tested higher than 1.0% THC in previous years and resulted in required crop destruction.

(A) Prohibited Hemp Varieties and the seed thereof, listed by the Department, shall not be approved for planting, propagation, cultivation, sale, transfer, retail, wholesale, distribution, transportation, storage or warehousing in the Commonwealth.

(B) Prohibited Hemp Varieties and the seed thereof shall be illegal in the Commonwealth and shall be subject to a Control Order, ordering its destruction, a stop-sale order or a seizure and condemnation order or any combination of the above and the imposition of penalties as allowed under the Act.

(ii) *Hemp Varieties of Concern*. Hemp Varieties of Concern are varieties that have tested higher than 0.3% THC in some Pennsylvania planting locations in previous years, or have tested high in other states, resulting in crop destruction. Hemp Varieties of Concern are listed by the Department as an aid to growers making variety choices, since these varieties may present greater risk for loss. There is, however, no prohibition on planting, propagation, cultivation, sale, transfer, retail, wholesale, distribution, transportation, storage, warehousing, or processing of Hemp Varieties of Concern in the Commonwealth.

(2) *Hemp seed source*. All the following requirements shall be met:

(i) The permit holder shall be responsible for sourcing and purchasing all hemp seed and shall assure the seed, whether internationally or domestically sourced, meets all phytosanitary requirements for movement of seed.

(ii) *Hemp seed labeling*. All seed shall meet the labeling requirements of the PA Seed Act (3 Pa.C.S.A. § 7101 *et seq.*). A summary of these requirements is available on the Department's Hemp Program webpage: <https://agriculture.pa.gov/hemp>.

(iii) The permit holder shall obtain a statement from the licensed producer or guarantor supplying the seed that the variety has a THC content equal to or less than 0.3% on a dry weight basis, as determined by an independent third-party laboratory.

(iv) *Reuse of hemp seed*. Seed produced by a permit holder may only be saved or used for future planting under the following conditions:

(A) The original seed source holding rights to the seed grants such permission to the permit holder and provides written approval and documentation of their authority to grant that permission.

(B) The permit holder has registered with the Department's certified seed program and met the requirements of the Seed Act (3 Pa.C.S.A. § 7101 *et seq.*) and its attendant regulations.

(C) Any seed produced from a permit holder's hemp breeding may only be sold/planted for production upon the variety's acceptance by AOSCA Variety Review Board or USDA's Plant Variety Protection Office.

(v) *Sale of hemp seed.* The provisions of the Seed Act (3 Pa.C.S.A. § 7101 *et seq.*), its attendant regulations and this General Permit shall apply to the sale of hemp seeds.

(3) *Hemp nursery stock:* Hemp clones, cuttings and seedlings for planting, propagation and cultivation are permitted under the following conditions:

(i) Hemp clones, cuttings and propagules being shipped into the Commonwealth for planting, propagation, cultivation or sale or transfer shall be accompanied by a Federal Phytosanitary certificate, a state of origin-issued health certificate or certification that the plants were grown at a state licensed and inspected nursery.

(ii) Any permit holder receiving hemp nursery stock, whether for propagation of additional nursery stock or for production planting, shall obtain a statement from the licensed producer or guarantor supplying the hemp clones, cuttings or propagules that mature plants from the variety have a THC content of less than 0.3% on a dry weight basis, determined by an independent third-party laboratory.

(iii) Production of hemp nursery stock is permitted under the following conditions:

(A) Any permit holder who is vegetatively propagating plant material must have documentation verifying that the person holding rights to the source material has granted permission to the permit holder for this activity.

(B) Permit holders who intend to sell or distribute hemp nursery stock

1. shall hold a Pennsylvania Nursery License under the Plant Pest Act (PPA)(act of December 16, 1992, P.L. 1228, No. 162)(3 P.S. § 258.1 *et seq.*), and make all transactions in accordance with provisions of the PPA and its attendant regulations.

2. Shall only sell hemp stock plants to permit holders within Pennsylvania or to out-of-state persons that meet the requirements of the hemp program rules in their state, which may be verified by requesting visible proof of state permit or referencing a state listing of permit or license holders.

3. *Records of planting material sales:* Records of the sale or distribution of hemp nursery stock shall be maintained for a minimum of three (3) years and shall contain the following information for each sale or distribution.

(aa) Date of the sale or distribution.

(bb) Date of shipment.

(cc) Name, Address, telephone number, license or permit number of the purchaser and final grower, cultivator or propagator if different.

(dd) Quantity of plants in shipment, by variety and stage of development (cutting, seedling, rooted cutting, etc.)

(ee) Source of mother plants for nursery stock.

(ff) Seed information including a seed tag for plants started from seed.

(gg) The Federal Phytosanitary certificate, state of origin-issued health certificate or certification that the plants were grown at a state licensed and inspected nursery for each sale, distribution or shipment.

(hh) A copy of all attestations required above for seeds, clones, cuttings and propagules.

(ii) A copy of all Reports required for seeds, clones, cuttings and propagules.

(jj) A copy of all written grants of permission required for seeds, clones, cutting and propagules.

(b) *Inspection.* The Department may conduct unannounced inspections during normal business hours. The permit holder shall grant Department inspectors unrestricted access, during normal business hours, to all permitted sites or sites required to be permitted under the provisions of the Act and this General Permit, including all growing, planting, cultivation and propagation locations and adjacent areas, buildings, storage and processing areas and all other grounds, structures, and facilities involved in the hemp production.

(1) Where practicable the Department will notify the permit holder of an inspection.

(2) Where the permit holder is given notice of an inspection the permit holder, or a designated representative thereof, shall be present to accompany the Department inspector.

(c) *Reporting and Recordkeeping.* Permit holders shall comply with the following.

(1) *Reports.* The following reports are required from Permit Holders:

(i) *Report of production acreage, filed with FSA; FSA Report detail.* Permitted growers are required to report their hemp crop acreage with the Farm Service Agency (FSA), and to provide FSA with specific information regarding field acreage, greenhouse, or indoor square footage of hemp planted. Information reported to FSA shall include all the following:

(A) Name, street address, geospatial location or other comparable identification method specifying where the hemp will be produced, and the legal description of the land.

(B) Geospatial location or other methods of identifying the production locations.

(C) The information shall be provided for each field, greenhouse, building, or site where hemp will be grown, planted, cultivated or propagated.

(D) Follow the specific procedures for reporting hemp acreage to FSA which will be posted on the USDA Domestic Hemp Production Program website.

(ii) *Planting Report, filed with the Department* – The permit holder shall submit to the Department on forms provided by the Department, within 10 days after planting. The Report shall set forth all the following:

(A) Date planted.

(B) Stage of development at the time of planting (seed, cutting, etc).

(C) Variety and quantity of each variety planted.

(D) The plot map and geospatial location where each lot was planted including each separate field, greenhouse, building or other site and the square footage, acreage or plot dimensions of each.

(iii) *Inactive Permit report, filed with the Department.* The permit holder shall submit this report to the Department on a form provided by the Department, when the permit holder determines that there will be no activity under the permit.

(iv) *Crop Loss Report, filed with the Department.* The permit holder shall submit this report to the Department on a form provided by the Department, if the crop is not suitable for harvest and rendered useless at the planting, cultivation, propagation or growing site. To be submitted within ten (10) business days of destruction of any surviving hemp plants.

(iv) *Harvest Report, filed with the Department.* The permit holder shall submit this report to the Department on a form provided by the Department. The report shall include harvested quantities and disposition of crop, by lot.

(2) *Recordkeeping Requirements.* Permitted growers shall maintain copies of all records and reports necessary to demonstrate compliance with the permit program. These records include those that support, document, or verify the information provided in the forms submitted to the Department, including:

(i) For each permitted location.

(A) The information provided on the application for a permit

(B) Permit document received from the Department

(C) A detailed map of the permitted site meeting all the requirements of subsection above [Article II(b)(2)].

(D) For each leased location, a copy of the fully-executed lease.

(E) At least one label from every different lot of seed or nursery stock, along with any Material Transfer Agreements or THC testing documentation received from the source.

(F) Invoice(s) showing the amount of seed and hemp plants, hemp parts, hemp material and hemp products purchased and the name and address of the source of the material. This information shall cross reference the Permit number under which the materials were procured.

(G) The specific field and location where the seed, hemp plants, hemp parts, hemp material and hemp products were planted, cultivated and propagated (site map with planting sites indicated) and the corresponding permit for each.

(ii) For each individual lot

(A) Acreage (outdoor) or square footage (indoor)

(B) Variety name and amount planted, cultivated and propagated and the corresponding permit number.

(C) Type of Hemp- Fiber, Grain, Seed, CBD

(D) Planting Date

(E) Harvest Date

(F) THC test date and results (copy of analysis report(s))

(G) The yield of the site at harvest

(H) Any factors impacting harvest, including seed pressure, irrigation, storm damage, flooding, drought or any other issue arising)

(3) All records, reports and documents shall be kept and maintained for a minimum of three years and made available to the Department for inspection upon request.

(d) *General Responsibilities.*

(1) Assure all hemp plants and products are within the boundaries of the legal description of the land, plot map and geospatial location submissions made to the Department as required by subsection (ii) above. Cannabis plants found planted, cultivated, propagated or growing outside of the boundaries will not be covered by the permit, will constitute a violation of this General Permit and will be subject to destruction.

(2) *Cessation of propagation.* If the permit holder intends to stop planting, growing, propagating or cultivating hemp, the permit holder shall notify the Department and implement all measures ordered by the Department to destroy the hemp, including all regrowth, seeds, plantings, cultivars and parts of the hemp plant.

(3) *Abandonment.* If the permit holder abandons, relinquishes possession or ownership of, control over or responsibility for the hemp in a manner inconsistent with the provisions of this General Permit, all plant material, regrowth, seeds, plantings, cultivars and parts of the hemp plant shall be destroyed in a manner ordered and approved by the department.

(4) *Continued responsibility.* The original permit holder shall continue to be responsible for the hemp and hemp materials, seeds, regrowth, plantings, cultivars and parts of the hemp plant and the cost of destruction and eradication thereof.

(5) *Penalties.* The original permit holder shall continue to be subject to the penalties imposed under the Act and this General Permit.

Article IV. Sampling and Testing for THC.

(a) *Sampling and testing for THC.* All hemp planted, cultivated, propagated or growing in Pennsylvania shall be sampled and tested to determine THC concentration levels.

(1) *Sampling*

(i) Official samples must be collected by a Department-certified sampling agent and in accordance with the sampling procedures and requirements established by the Department and set forth on the Department's Hemp Program webpage: <https://agriculture.pa.gov/hemp>.

(ii) The sampling procedures shall assure a representative sample of each variety and lot is procured for testing and address the process and procedures to be followed from entering a growing area and collecting the minimum number of plant specimens necessary to accurately represent the THC content, through laboratory testing of the samples and reporting results. At a minimum samples shall be obtained from the flowering tops of plants when flowering tops are present, and shall be approximately five to eight 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) of the flowering top of the plant.

(iii) The method used for sampling 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. Alternatively, the Department may adopt a performance-based alternative sampling procedure following the standard in parts (A) through (E) below:

(A) Detailed description of the performance-based sampling procedure will be published on the Department's Hemp Program webpage: <https://agriculture.pa.gov/hemp>, and will be subject to USDA approval.

(B) The performance-based sampling method will have the potential to ensure, at a confidence level of 95 percent, that the lots subject to this alternative sampling will not test above the acceptable hemp THC level.

(C) Performance based sampling will be considered for situations in which material obtained from a single source has been planted in non-contiguous areas that may be identified and tracked independently from other source materials. In this case, a composite sample across multiple lots may be allowable.

(D) Performance based sampling will be considered for lots for which a seed certification process has consistently demonstrated the variety represented in that lot to be compliant, or when the Department can demonstrate the variety to have tested compliant on a consistent basis in previous years.

(E) Alternative sampling will be considered when a permittee is conducting research on hemp.

(iv) Samples must be collected no more than thirty (30) days prior to harvest. If THC results are returned within the THC compliance level, but the permittee fails to complete harvest within thirty (30) days of sample collection, a second pre-harvest sample of the lot shall be required to be submitted for testing.

(v) A Chain of Custody Form developed by the Department shall be utilized by all persons authorized to take official samples.

(vi) A sample receipt shall be completed by the certified sampling agent or Department employee conducting the sampling and signed by the hemp permit holder or an authorized representative thereof, who must be present at the growing site.

(vii) No sample(s) may be removed from the permitted site prior to the chain of custody form and sample receipt being completed and signed.

(2) It shall be the responsibility of the hemp permit holder to assure that each hemp lot described in their permit is sampled and tested according to the standards established in this Order, including any alternative standards as allowed above.

(i) The hemp permit holder shall hire a Department-certified sampling agent to take a representative sample of each lot of hemp planted, cultivated, propagated or grown, to submit for testing.

(ii) It is the responsibility of the permit holder to schedule official sampling and testing prior to harvest and to be present or have an authorized representative present at the growing site at the time of sampling.

(iii) The permit holder shall designate the specific laboratory where samples will be sent for THC testing. The laboratory shall be an independent laboratory approved by the Department and

able to meet all requirements for testing and reporting outlined in Article IV sections (e) and (f) below.

(iv) The hemp permit holder shall pay any fees charged and costs associated with sampling and testing.

(v) A permit holder may request that the laboratory run a second test on an official sample retained by the laboratory, if the grower questions the results of that first test. The permitted grower shall pay the fees and costs of retesting.

(vi) A permit holder may request a second official pre-harvest sampling and testing if it is believed that the original results were in error. The permittee may choose to use the same or a different laboratory for the test. No more than two official samples per lot will be considered by the Department; only the final official sample will be considered by the Department when determining compliance. The permitted grower shall pay the fees and costs of resampling and retesting.

(vii) The permitted grower shall agree to the release of all official test results from the laboratory directly to the Department.

(3) The Department may conduct random audits of hemp permit holders and take its own samples for testing.

(i) A Department employee may take official samples to audit samples taken by a certified sampling agent. Such audits will be done on a random basis and may be done at the Department's discretion.

(ii) The Department may also take official samples pursuant to an investigation, as the result of a complaint or where an official sample tests above the 0.3% THC concentration threshold.

(b) Prohibition Against Harvest Prior to Testing.

(1) Hemp may not be harvested prior to an official sample being taken by the Department or a Department certified sampling agent.

(2) Any sample taken after harvest shall not be accepted, the crop will no longer be compliant, a notice of violation may be issued, and the harvested material may be required to be destroyed. Limited exceptions may be made, at the discretion of the Department, if errors in the process of sampling and testing rendered an official sample suspect or untestable, and the permit holder had already begun legal harvest before a second sample could be obtained.

(c) Movement Prohibition. The following rules and requirements shall apply to the movement of hemp plants, parts and products. No hemp plants, plant parts or products are permitted to be removed from the permitted growing site until all the following rules and requirements have been met:

(1) THC testing has been completed on all samples by the Department or an independent laboratory able to meet all requirements for testing and reporting outlined in Article IV sections (e) and (f) below.

(2) The testing confirms acceptable THC level(s) at or below 0.3% on a dry weight basis for all samples from each representative lot.

(d) THC Testing.

(1) THC levels in representative samples must test at or below a THC level of 0.3% on a dry weight basis.

(2) Hemp plant, plant parts or products testing above 0.3% may be subject to a control order and may be required to be destroyed.

(3) Harvested plants and plant parts must be separated and stored separately from each other according to lot, in a manner that maintains identity sufficient to associate that harvested material with specific THC test results, such as signage on bays of a storage facility, or tags on bales or packages, that provide lot or sample information.

(e) *THC Testing Laboratory Standards and Methods.* All the following shall comprise the rules and requirements for THC testing.

(1) Testing shall be done at the Department laboratory or an independent laboratory approved by the Department and able to meet all requirements for testing and reporting outlined in Article IV sections (e) and (f). The Department's approval process for laboratories will be published on the Department's Hemp Program webpage: <https://agriculture.pa.gov/hemp>.

(2) USDA has required that all testing of samples for THC potency be conducted by DEA-registered laboratories, however, enforcement of this requirement will be delayed until a date specified on the USDA AMS Hemp Production website: <https://www.ams.usda.gov/rules-regulations/hemp>. The Department will delay its enforcement of this requirement until the date specified by USDA.

(3) Sample preparation shall include grinding of entire sample to ensure homogeneity of plant material prior to testing.

(4) Testing for THC will be conducted using post-decarboxylation or other similarly reliable method approved by the Department and by USDA where the THC concentration level measured includes the potential to convert tetrahydrocannabinolic acid (THCA) into THC. Testing methodologies currently meeting these requirements include those using gas or liquid chromatography with detection. The Department will provide additional instructions to laboratories on approved procedures via posting on the Department's hemp website.

(5) Testing shall be done and reported on a dry weight basis, determined either through testing of dried samples or calculation using moisture content analysis of samples.

(6) The laboratory must report a Measurement of Uncertainty (MU) with each hemp test result. The laboratory must be able to provide documentation for derivation of the measurement of uncertainty if requested by the Department. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

(7) If through audit sampling, records review or other means the Department determines that a laboratory is not meeting an acceptable standard of quality in required hemp testing, it may prohibit permittees from using that laboratory for the purpose of the regulatory testing required under this General Permit.

(f) *Test Results.*

(1) Laboratories performing THC testing for hemp produced under this program shall submit certified electronic copies of all test results to the Department.

(2) The Department will provide instructions, to all laboratories performing testing for Pennsylvania permitted growers, on the information required to be included on the test report and the manner to electronically submit test results to the Department.

(3) Permitted growers shall receive and be able to provide a copy of all test results to the Department at the Department's request.

(4) Permitted growers shall be responsible for maintaining a copy of all test results for a period of 3 years and making them available to the Department upon request.

Article V. Disposal or Remediation of Non-compliant Products.

(a) Where test results evidence THC levels exceeding the acceptable hemp THC level of 0.3%, the laboratory conducting the test shall promptly notify the permitted grower and the Department and provide a copy of the test results.

(b) All non-compliant hemp plants, plant parts and products shall be subject to destruction or remediation measures. The Department will issue a control order outlining options for destruction and remediation, as well as procedures the Department will use for verification of crop destruction or remediation.

(c) If the permittee opts to destroy the crop, that non-compliant crop shall be held for disposal in a manner that complies with the provisions of the control order. The disposal must be conducted either on site at the farm or hemp production facility, or by using a DEA-registered reverse distributor or law enforcement.

(d) If a producer elects to perform remediation activities, only those remediation activities outlined in the control order may be considered. An additional official sampling and testing of the post-remediated crop must occur to determine THC concentration levels, with results sent directly from the laboratory to the Department. Any non-compliant material resulting from the remediation process shall be disposed of in a manner established by the Department in the control order.

(e) If testing of a remediated lot results in a THC level above 0.3% (with the measurement of uncertainty taken into account), then that lot would be considered non-compliant and will receive a control order for crop destruction.

(f) Prior to the disposal of non-compliant hemp plants, plant parts or products, the permit holder must provide the following information and obtain approval from Department. Information shall include all the following.

(1) DEA or USDA issued order of destruction, if any.

(2) Anticipated date of removal, if any.

(3) Anticipated date of destruction.

(4) Method of destruction.

(g) Documentation of removal and destruction of the non-compliant hemp plants, hemp parts and hemp products. Documentation shall be submitted to the Department within five (5) business days of completion of the removal and destruction and shall include:

(1) Removal and destruction shall be performed by an entity approved by the Department.

(2) The permittee shall provide the Department with a copy of the documentation, including verification statements, pictures, videos or other proof approved by the Department, of disposal provided by the approved entity performing the removal and destruction; and

(3) Compliance with the reporting requirements established by the Department and USDA.

Article VI. Transportation.

(a) All hemp plants, hemp parts and hemp products being transported in the Commonwealth shall be packaged in a manner that complies with and allows for all the following:

(1) Conspicuous marking and individual identification of each package, bale, or load.

(2) Provides permit information to the transporter that can be utilized by law enforcement to verify the material is hemp, sets forth the manner of packaging, variety(s) and quantity and variety of material in each package.

(3) Provides information setting forth each variety of hemp plant, hemp part and hemp product in the shipment.

(4) Provides test results for all hemp, hemp parts and hemp product being transported, verifying they meet the THC standards established by law and regulation.

(b) All movement of hemp plants, plant parts and hemp products from a planting, cultivation, propagation or growing site or initial processing site shall be conducted in a manner to prevent any release of viable plant material to the environment and to maintain the identification of the producer, permit number and lot information.

(c) All shipments must be accompanied by shipping documents produced by the permit holder that shall include the following information (excluding samples being submitted for laboratory analysis):

(1) Shipping date

(2) Origin of the shipment

(3) Permit holders name, address, phone number,

(4) Growing location address (if different),

(5) Permit number,

(6) Variety information,

(7) Copy of the certificate(s) of THC analysis covering all material in the shipment, (not required for seedlings)

(8) Number of packages included in the shipment by variety

(9) Description of the plant or plant parts in the packaging (Ex. Seedlings, mature whole plants, buds, leaf, retted stems)

(10) Destination of the shipment.

(11) For seedlings and clones, variety information and producers permit number shall be available for each tray or box, and accompanying documentation shall also include permit number of the person receiving the shipment.

(12) For harvested material in packaging of any weight, each container shall be individually identified by a label secured to the package with the following information.

- (i) Permit holders name, address, phone number,
- (ii) Growing location address (if different),
- (iii) Permit number,
- (iv) Variety information.

(13) For harvested material shipped in bulk, including bales, in addition to the accompanying documentation listed above, the shipping documents shall include the approximate weight of the shipment and if baled the number of bales and a description of the plant material included in the shipment.

Article VII. Warehousing and Storage.

(a) *Movement Off the Permitted Site Prior to Results.* Hemp harvested prior to receiving THC test results, including hemp plants, hemp parts, hemp materials and hemp products, may not be moved from the permitted site until testing of an official sample at or below the acceptable THC level of 0.3% is received by the permit holder.

(b) *Movement Upon Notification of Acceptable Test Results.* Once documentation of acceptable test results are received, movement of hemp, including hemp plants, hemp parts, hemp materials and hemp products to an offsite storage location, buyer, processor or any other location shall be accompanied by all required transportation and shipping documents required under this General Permit, Article VI.

(c) *Containment.* All transportation, warehousing and storage of hemp plants, hemp parts, hemp materials and hemp products shall be conducted in a manner to prevent any release of viable plant material to the environment and to maintain the identification of the producer, permit number and varietal information for the material in storage.

(d) *Off-site Storage or Warehousing Location.* The permitted grower shall provide the Department with the following information for storage or warehousing locations that are not on the permitted growing site but where the hemp crop shall remain under the permit holder's control/possession. If not provided directly on the initial application, this information shall be provided either on a form provided by the Department or via the PaPlants web application.

- (1) The legal name of the entity owning the storage location or warehouse.
- (2) The physical address and GPS location of the facility.
- (3) Date of each delivery.
- (4) Quantity, type, variety and amount of each, shipped to the facility.
- (5) Total amount of hemp in storage at each off-site location.
- (6) Permit number under which each separate load was shipped.

Article VIII. Processing

(a) Hemp processors located in the Commonwealth are required to obtain a permit before receiving hemp materials at their facility. Some examples of processing hemp material include drying, grinding, trimming, bucking, extracting, etc. Further guidance for processing permits can be found on the Department's Hemp Program webpages.

(1) No separate processing permit is required if all hemp being processed is from a growing permit under the same permittee and address.

(2) If hemp is received from another address, a processing permit must be obtained. A processing permit is required if receiving hemp material from other permittees or moving hemp from sites with separate permits, but all under the same permittee.

(3) No permit is required for secondary or tertiary processors that do not receive any potentially viable hemp material.

(b) A permitted processor may not accept hemp plants or plant parts unless they are

(1) From a permitted or licensed grower; and

(2) Accompanied by a certificate of analysis from a laboratory confirming the THC level of the material is not above the 0.3% limit.

(3) Hemp material received from out-of-state must meet the same sampling and testing requirements required for Pennsylvania hemp growers, as described in Article IV of this General Permit.

(c) A permit holder shall keep and make available to the Department upon request, at a minimum, the following records and documentation:

(1) Information on all shipments of hemp plants and plant parts received from all in-state and out-of-state hemp growers, including

(i) Permit or license number of the grower

(ii) Name address and phone number of the permitted or licensed grower

(iii) Certificate of analysis evidencing compliance with THC levels for each lot received

(iv) Date of delivery

(v) Amount and description of materials received.

(2) Processors shall document procedures used to render all plant material non-viable, and how that non-viable material leaves the facility (whether as usable product or waste).

(d) Processors are required to notify the Department of any attempt to sell or distribute hemp or cannabis material to them by a person who does not hold a valid permit or license from the state of origin of the shipment. The documentation shall include, if known, the name, address, phone number, amount of material offered, source of the material, and varieties.

(e) Processors are required to report to the Department any shipment of material that does not contain all the information required by section (b) of this Article VIII (related to processing).

Article IX. Distribution and Sale.

(a) *Legal Responsibility.* Growers, cultivators or propagators of hemp and processors of finished hemp products shall meet all laws, regulations, orders and requirements of all authorities that regulate any produced, marketed, labeled, or distributed hemp plant, plant part or product or such material that is sold as part of the permitted hemp program.

(b) *Branding.* The name, symbols, and logos of the Commonwealth of Pennsylvania or any of its agencies, including the Pennsylvania Department of Agriculture, may not in any way be used in the labeling, promotion or marketing of any hemp products associated with the permit without explicit written permission from the Department.

Article X. Hemp Permit Denial, Revocation and Suspension.

(a) *Denial, Suspension or Revocation of Hemp Permit.* A hemp permit may be suspended or revoked if the Department or its representative receives credible information that a permittee has done any of the following:

- (1) Violated a provision of the Act, the General Permit or the Department-issued Permit,
- (2) Failed to comply with a written order of the Department.

(3) Failed to comply with a statutory or regulatory requirement of the USDA or other federal agency with jurisdiction over the growing, planting, cultivation, propagation, distribution, sale, transportation, processing, warehousing, storage or marketing of hemp.

(b) *Action Upon Suspension, Revocation or Denial.* Upon suspension, revocation or denial of a permit the permit holder shall cease all activities, including planting, cultivation, propagation, selling, distribution, transportation, harvesting, and handling of any hemp plant, hemp plant part, hemp product or hemp material and shall not remove hemp or cannabis from the permitted site or location where hemp or other cannabis was located at the time when the Department issued the suspension, revocation or denial order.

Article XI. Violations and Effective Date.

(a) The Department will carry out all enforcement provisions of the Act.

(b) When the Department determines that a negligent violation has occurred, the Department may issue a Notice of Violation and require a corrective action plan to be developed and implemented.

(c) Negligent violations include (but are not limited to):

- (1) failure to provide a legal description of the land on which the hemp is produced;
- (2) failure to obtain a permit before engaging in production or processing;

(3) production of plants exceeding the acceptable hemp THC level. The Department will not consider hemp producers as committing a negligent violation if they produce plants exceeding the acceptable hemp THC level if they use reasonable efforts to grow hemp and the lot does not have a THC concentration of more than 1.0 percent on a dry weight basis.

(4) Failing to file required reports with the Department in a timely manner.

(i) Planting Report or Inactive Permit Report must be submitted to the Department by September 1 of the permit year. Extensions may be granted at the discretion of the Department.

(ii) Harvest Report or Crop Loss Report must be submitted to the Department by November 15 of the permit year. Extensions to filing deadline may be granted at the discretion of the Department.

(d) Producers shall not receive more than one negligent violation per growing season in respect to part XI (c)(3) above. The Department may assign more than one negligent violation in a growing season, when violations include more than one type described in Section XI (c) (1-4).

(e) A corrective action plan shall include a reasonable date by which the permit holder will correct the violation and requirements for reporting back to the Department on its compliance with the plan, for a period of not less than the next two calendar years.

(f) The Department shall approve and review a corrective action plan with the permittee and its implementation may be verified during a future audit or site visit.

(g) A permit holder who has received three negligent violations in a five-year period is ineligible to produce hemp for a period of five years from the date of the third violation. Negligent violations are not subject to criminal enforcement.

(h) If the Department determines that a violation is made with a culpable mental state greater than negligence, the Department shall report the violation to the Attorney General and the chief law enforcement officer of the commonwealth, as applicable, in addition to its own enforcement action.

Effective date. This General Permit shall become effective upon signature and publication in the *Pennsylvania Bulletin* and shall remain in effect until rescinded by subsequent order.



RUSSELL C. REDDING,

Secretary