

# INDUSTRIAL HEMP GROWERS ACT (EXCERPT)

## Act 220 of 2020

### CHAPTER IV

#### Sampling, Testing, and Disposal

#### **333.29401 Harvesting of industrial hemp crop; sampling requirements.**

Sec. 401. (1) A grower that intends to harvest an industrial hemp lot shall contact the department not more than 30 days or less than 20 days before the grower's anticipated harvest to collect an official hemp sample of each lot of industrial hemp grown. A designated sampling agent shall collect an official hemp sample before the grower's anticipated harvest, and the grower or the grower's authorized representative must be present.

(2) When a designated sampling agent collects an official hemp sample, the grower shall provide the designated sampling agent with complete and unrestricted access to both of the following during normal business hours:

(a) All cannabis.

(b) All acreage, greenhouses, indoor square footage, fields, buildings, or other locations, including any location listed in the application under section 201, where cannabis is growing or stored.

(3) The department shall transport or cause to be transported an official hemp sample collected under this section to a regulatory testing facility for total delta-9-THC testing under section 403.

(4) A grower that requests the collection of an official hemp sample under this section must be in good standing. An official hemp sample will not be collected until any outstanding fee or fine under this act is paid.

(5) A grower may collect an unofficial hemp sample and submit the unofficial hemp sample to a compliance monitoring testing facility for compliance monitoring at any time to determine whether the industrial hemp is in compliance with this act.

(6) The department may use performance-based sampling that allows for reduced or no regulatory sampling of specific certified seed, varieties yielding consistently compliant hemp, lots used for academic research by a college or university, historical performance of the grower, or other factors, which have the potential to ensure at a confidence level of 95% that no more than 1% of the plants in each lot would be noncompliant.

**History:** 2020, Act 220, Imd. Eff. Oct. 16, 2020;—Am. 2021, Act 4, Imd. Eff. Mar. 24, 2021.

#### **333.29403 Regulatory testing facility or compliance monitoring testing facility; requirements; duties; report.**

Sec. 403. (1) A regulatory testing facility that performs total delta-9-THC testing must do all of the following:

(a) Adopt a laboratory quality assurance program that ensures the validity and reliability of the total delta-9-THC test results.

(b) Adopt an analytical method selection, validation, and verification procedure that ensures that the total delta-9-THC testing method is appropriate.

(c) Demonstrate that the total delta-9-THC testing ensures consistent and accurate analytical performance.

(d) Adopt method performance selection specifications that ensure that the total delta-9-THC testing methods are sufficient to detect the total delta-9-THC as required under this act.

(e) Report the measurement of uncertainty on the certified report of the total delta-9-THC test.

(f) Adopt a total delta-9-THC testing method that includes a postdecarboxylation test or other similar method.

(2) A compliance monitoring testing facility or regulatory testing facility that performs total delta-9-THC testing shall do both of the following:

(a) Ensure that an official hemp sample or unofficial hemp sample is not commingled with any other official hemp sample or unofficial hemp sample.

(b) Assign a sample identification number to each official hemp sample or unofficial hemp sample.

(3) A regulatory testing facility or compliance monitoring testing facility shall report all of the following information to the grower for each test performed:

(a) The grower's full name and mailing address.

(b) The grower's registration number.

(c) Each sample identification number assigned under subsection (1)(h).

(d) The testing facility's name and DEA registration number, if applicable.

(e) The date the total delta-9-THC testing was completed.

(f) The total delta-9-THC.

(4) The requirement for regulatory testing facilities and compliance monitoring testing facilities to be registered with the DEA is effective on December 31, 2022.

**History:** 2020, Act 220, Imd. Eff. Oct. 16, 2020;—Am. 2021, Act 4, Imd. Eff. Mar. 24, 2021.

**Compiler's note:** In subsection (3)(c), the reference to “subsection (1)(h)” evidently should read “subsection (2)(b)”.

### **333.29405 Testing results; certified report; harvesting timeline.**

Sec. 405. (1) If the results of the total delta-9-THC test of an official hemp sample indicate a total delta-9-THC concentration of not more than the acceptable THC level, the regulatory testing facility shall provide to the grower and the department a certified report that states the results of the total delta-9-THC test.

(2) If the results of the total delta-9-THC test of an official hemp sample indicate a total delta-9-THC concentration that is greater than the acceptable THC level, the regulatory testing facility shall provide the grower and the department a certified report that states the results of the total delta-9-THC test, and the grower must dispose of or remediate the noncompliant industrial hemp lot under section 407.

(3) A grower shall harvest an industrial hemp lot within 30 days after an official hemp sample is collected under section 401. If the grower is unable to harvest the industrial hemp lot within the 30-day period because of any of the following, the grower may submit a request to the department to collect a second official hemp sample under section 401:

- (a) Weather.
- (b) Agricultural practices.
- (c) Equipment failure.
- (d) Any other reason approved by the department.

(4) A second official hemp sample collected under subsection (3) must be tested under section 403, and the grower must harvest the remaining industrial hemp lot within 30 days after the second official sample is collected under section 401. A grower shall not request the department to collect a second official sample for testing under subsection (3) unless both of the following apply:

- (a) The grower is in good standing with the department.
- (b) The request to collect a second official sample is not for the purpose of delaying the harvest to increase cannabinoid concentration.

**History:** 2020, Act 220, Imd. Eff. Oct. 16, 2020;—Am. 2021, Act 4, Imd. Eff. Mar. 24, 2021.

### **333.29407 Destruction or remediation of noncompliant hemp; timeline; methods; grower duties; exceptions.**

Sec. 407. (1) A grower that receives a certified report under section 405(2) shall, within 30 days after receiving the certified report, dispose of the noncompliant hemp lot under subsection (2) or remediate the noncompliant industrial hemp lot under subsection (3).

(2) Except as provided in subsection (8), a grower shall dispose of a noncompliant industrial hemp lot using 1 of the following methods:

- (a) Plowing under using a curved plow blade to rotate the subsoil to the surface and bury the industrial hemp below the subsoil.
- (b) Mulching, disking, or composting the industrial hemp and blending the industrial hemp with existing soil, manure, or other biomass material.
- (c) Mowing, deep burial, or burning.

(3) Except as provided in subsection (8), a grower shall remediate a noncompliant industrial hemp lot using 1 of the following methods:

- (a) Removing all of the floral material and disposing of the floral material under subsection (2).
- (b) Shredding the industrial hemp plant into a biomass-like material.

(4) If a grower remediates a noncompliant industrial hemp lot under subsection (3), the grower shall contact the department to collect an official hemp sample of the industrial hemp lot under section 401. The official hemp sample must be tested by a regulatory testing facility under section 403. If the results of the total delta-9-THC test indicate a total delta-9-THC concentration of not more than the acceptable THC level, the grower must harvest the industrial hemp lot within 30 days after the official hemp sample is collected under section 401. If the results of the total delta-9-THC test indicate a total delta-9-THC concentration that is greater than the acceptable THC level, the grower must dispose of the industrial hemp lot under subsection (2). The regulatory testing facility shall provide the grower and the department a certified report that states the results of any total delta-9-THC test completed under this subsection.

(5) The industrial hemp disposed of under subsection (2) must be rendered nonretrievable or noningestible.

(6) A grower that disposes of industrial hemp under subsection (2) shall do both of the following:

- (a) Submit a notice of intent to dispose to the department at least 48 hours before disposing of the

industrial hemp. The grower shall submit the notice of intent to dispose on a form and in a manner provided by the department.

(b) Submit a notice of disposal to the department within 48 hours after the industrial hemp is disposed of under subsection (2) that contains all of the following information:

- (i) The date of the disposal.
- (ii) The method of disposal.
- (iii) The total acreage or square footage disposed of.
- (iv) The reason for disposal.
- (v) Photographic or video evidence of the disposal.

(7) The grower shall allow an agent of the department to be present during any disposal or remediation activities conducted under this section.

(8) Industrial hemp that is disposed of for any of the following reasons is not subject to the disposal requirements under this section:

- (a) Poor health.
- (b) Pests.
- (c) Disease.
- (d) Weather.
- (e) To prevent cross-pollination of male or hermaphrodite industrial hemp plants.

**History:** 2020, Act 220, Imd. Eff. Oct. 16, 2020;—Am. 2021, Act 4, Imd. Eff. Mar. 24, 2021.

### **333.29409 Effective date of Chapter IV.**

Sec. 409. The provisions of this chapter are effective beginning November 1, 2020.

**History:** 2020, Act 220, Imd. Eff. Oct. 16, 2020.