

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Rule making related to hemp

The Agriculture and Land Stewardship Department hereby rescinds Chapter 96, “Hemp,” Iowa Administrative Code, and adopts a new Chapter 96 with the same title.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 204.3(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 204.

Purpose and Summary

This rule making is in response to additional requirements requested by the United States Department of Agriculture (USDA) to ensure compliance with the Agriculture Improvement Act of 2018, which amended the Agricultural Marketing Act of 1946, and to ensure compliance with further restrictions found in 2019 Iowa Acts, Senate File 599.

Fulfillment of these changes is necessary for the Department to receive USDA approval of the state plan to administer an industrial hemp program.

*Reason for Adoption of Rule Making Without
Prior Notice and Opportunity for Public Participation*

Pursuant to Iowa Code section 17A.4(3)“a,” the Agriculture and Land Stewardship Department finds that notice and public participation are unnecessary or impractical because statute so provides.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Agriculture and Land Stewardship Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on February 24, 2020, because Iowa Code section 204.3 requires the Department to prepare a state plan to be submitted to the United States Secretary of Agriculture under the federal hemp law. The Department may prepare any number of amended state plans or any number of amendments to an existing state plan to be submitted for approval by the United States Secretary of Agriculture. The Department shall prepare the state plan, any amended state plan, or any amendment to an approved state plan by adopting rules pursuant to Iowa Code chapter 17A. The Department may adopt the rules on an emergency basis as provided in Iowa Code sections 17A.4(3) and 17A.5(2), and the rules shall be effective immediately upon filing unless a later date is specified.

Adoption of Rule Making

This rule making was adopted by the Department on February 24, 2020.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as **ARC 4988C** to allow for public comment.

Fiscal Impact

2019 Iowa Acts, Senate File 599, increases expenditures for the Department by an estimated \$304,000 in FY 2020 and \$209,000 in FY 2021. The fee income that will be deposited into the hemp fund cannot be estimated, because it is unknown how many persons will participate in the manufacturing of industrial hemp.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on February 24, 2020.

The following rule-making action is adopted:

Rescind 21—Chapter 96 and adopt the following **new** chapter in lieu thereof:

CHAPTER 96 HEMP

21—96.1(204) Definitions.

“*Acceptable hemp THC concentration*” means when an official laboratory tests a sample, the laboratory must report the delta-9 tetrahydrocannabinol (THC) content concentration on a dry weight basis and the measurement uncertainty. The acceptable hemp THC concentration is for the purpose of compliance when the application of the measurement uncertainty to the reported THC concentration on a dry weight basis produces a distribution or range that includes 0.3 percent or less. For example, if the reported THC concentration on a dry weight basis is 0.35 percent and the measurement uncertainty is +/- 0.06 percent, the measured THC concentration 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 concentration for the purpose of compliance. This definition of “acceptable hemp THC concentration” affects neither the statutory definition of hemp, 7 U.S.C. 1639o(1), in the 2018 Farm Bill nor the definition of “marihuana,” 21 U.S.C. 802(16), in the CSA.

“*Applicant*” means any of the following:

1. An individual with 5 percent, or more, legal or equitable interest in the hemp crop.
2. An individual applying as a member of a business entity, if that individual's legal or equitable interest in the business entity is 5 percent or more.
3. Key participants in a corporate entity at the executive levels including chief executive officer, chief operating officer and chief financial officer.
4. If an applicant is acting on behalf of an institution governed by the state board of regents, as defined in Iowa Code section 262.7, or a community college, as defined in Iowa Code section 260C.2, “applicant” means the individual, or individuals, appointed by the president or chancellor of

the institution to obtain hemp permits from the department. Other institutions of higher learning may also apply by designating an appropriate authorized representative.

5. If an applicant is acting on behalf of an association, the association shall designate an authorized representative.

“Authorized representative” means an individual designated by an applicant to act on behalf of and represent the applicant in communicating with the department for the purposes of applying for a license, submitting reports, receiving documents and information from the department, and acting as the sole primary contact pertaining to the license. An applicant may only have one authorized representative. An authorized representative shall not be a business entity.

“Business entity” means an organization created or operated by one or more individuals to carry on a trade or business.

“Cannabis” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. Cannabis refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

“Certificate of analysis” means the certificate issued by the department following the official preharvest inspection, sampling and testing for total tetrahydrocannabinol (THC) concentration if the THC concentration is 0.3 percent or less by dry weight matter. The certificate of analysis shall contain the results of the department’s official laboratory test of the postdecarboxylation value concentration of the officially sampled hemp crop following the preharvest report. The certificate of analysis shall be combined with a certificate of crop inspection.

“Controlled Substances Act” or *“CSA”* means the Controlled Substances Act as codified in 21 U.S.C. 801, et seq.

“Crop site” or *“site”* means a single contiguous parcel of land suitable for the planting, growing, or harvesting of hemp, if the parcel does not exceed 40 acres. All the area within the contiguous parcel is part of the crop site. Unplanted areas, including spacing between planted rows, are part of the crop site for purposes of determining the size of a parcel. The crop site shall not be a dwelling.

“Cultivar” means a group of cultivated plants that are not necessarily true to type, or plants whose seed will yield the same type of plant as the original plant. A cultivar may originate as a mutation or may be a hybrid of two plants. To further develop into a variety, or propagate true-to-type clones, cultivars must be propagated vegetatively through cuttings, grafting, and even tissue culture.

“Decarboxylated” means the completion of the chemical reaction that converts THC-acid (THCA) into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums up delta-9-THC and 87.7 percent of THCA.

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

“Department” means the Iowa department of agriculture and land stewardship.

“Destruction” means the procedure to render unusable by burning, incorporating with other materials, or other methods approved by the department.

“Destruction report” means the report and notice that shall be submitted to the department on the required departmental form, no more than 48 hours after the crop has been destroyed, as ordered by the department.

“Drug felony conviction report” means a mandatory report submitted within 14 days of the conviction to the department on the required departmental form by any authorized representative or applicant who is convicted of a disqualifying felony offense.

“Dry weight basis” means the ratio of the amount of dry solid in a sample after drying to the total mass of the sample before drying, including the moisture in a sample. Dry weight basis is 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.

“Dwelling” means a residence and all permanent or temporary structures attached to the residence.

“*Entity*” means a corporation, joint-stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization participating in the production of hemp, including but not limited to as a partner, joint venture, or other relationship.

“*Farm Service Agency*” or “*FSA*” means the Farm Service Agency of the United States Department of Agriculture.

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

“*Hemp*” means:

1. The plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of 0.3 percent or less on a dry weight basis when tested using postdecarboxylation or other similarly reliable methods.

2. A plant of the genus *Cannabis* other than *Cannabis sativa* L., with a delta-9 tetrahydrocannabinol concentration of 0.3 percent or less on a dry weight basis when tested using postdecarboxylation or other similarly reliable methods, but only to the extent allowed by the department in accordance with applicable federal law, including the federal hemp law.

“*Hemp bill of lading*” means a document of title evidencing the receipt of hemp for shipment issued by an individual engaged in the business of directly or indirectly transporting or forwarding hemp. The term does not include a warehouse receipt. The term does not include hemp transported within the state of Iowa by a person for that person’s sole use. A hemp bill of lading shall include the following:

1. The name and address of the owner of the hemp;
2. The point of origin;
3. The point of delivery, including name and address;
4. The kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and
5. The date of shipment.

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

“*Individual*” means a single human being. An entity is not an individual.

“*Indoor crop site*” means:

1. A structure covered with transparent material, such as glass or polyurethane, which is specifically designed, constructed and used for the culture and propagation of hemp. Common industry terms for indoor crop sites include, but are not limited to, greenhouse, glasshouse, and hothouse; or
2. A structure, or a room within a structure, used for the culture and propagation of hemp.

“*License*” means a license granted by the department to grow hemp in Iowa.

“*License application*” means the department’s form submitted to obtain a license to grow hemp in Iowa.

“*Lot*” means a contiguous area in a field, greenhouse, or indoor crop site containing the same variety, cultivar, or strain of cannabis throughout. No plant within a lot shall be planted more than 14 days after the initial plant or seed was planted. In addition, “lot” is a common term in agriculture that refers to the batch or contiguous, homogeneous whole of a product being sold to a single buyer at a single time. For the purpose of this chapter, “lot” is to be defined by the producer in terms of farm location, field acreage, variety, cultivar or strain and to be reported as such to the FSA.

“*Map*” means a diagram depicting all borders of the crop site including the nearest roads to aid in orientation, the cardinal direction north, and the boundaries of the legally described parcel in which the crop site is located. A map designating an outdoor crop site shall clearly indicate the names, or lot numbers, of all lots and planting locations. If multiple varieties, cultivars, or strains are planted, or if the crop site shall be subdivided into separate lots for the official laboratory test, the map shall indicate the lots and sub-lots with names of the varieties, cultivars, or strains.

“*Measurement uncertainty*” or “*MU*” means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could be reasonably attributed to the particular quantity subject to measurement.

“*Official laboratory test*” means a test of postdecarboxylation value concentration performed by the department. The laboratory quantitative determination of the THC concentration shall use postdecarboxylation and be measured using gas chromatography with flame ionization detector (GS-FID), high performance liquid chromatography (HPLC) or another acceptable method as determined by the department.

“*Official sample*” means the preharvest hemp sample collected by the department, in accordance with department policy, which is used to assess the THC concentration of a single lot of hemp.

“*Order of destruction*” means the order furnished to the licensee by the department, in consultation with the department of public safety, ordering the destruction of cannabis that exceeds the acceptable hemp THC concentration.

“*Outdoor crop site*” means any crop site that is not an indoor crop site.

“*Planting report*” means the report and notice submitted to the department on the required departmental planting report form. Planting reports are required for both indoor and outdoor hemp crops.

“*Postdecarboxylation value,*” in the context of testing methodologies for THC concentration in hemp, means a value determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol (THC) content derived from the sum of the THC and delta-9-tetrahydrocannabinolic acid (THCA) content and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatographic technique using heat, 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 postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact and requires a conversion calculation of that THCA to calculate total potential THC in a given sample.

“*Postharvest report*” means the report and notice that the licensee shall deliver to the department on the required departmental postharvest report form, no more than 30 days after the harvest of a lot is complete.

“*Preharvest inspection*” means the inspection to collect one or more official samples for official laboratory testing.

“*Preharvest report*” means the report and notice that the licensee shall deliver to the department on the required departmental preharvest form in order to request a preharvest inspection. The licensee shall submit the preharvest report no less than 30 days prior to the expected harvest date of any hemp crop.

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

“*Strain*” means variations of a cultivar, generally from breeding techniques or genetic mutations.

“*Sub-lot*” means an area divided from a larger lot. A lot may be divided into multiple sub-lots.

“*Temporary harvest and transportation permit*” means a temporary and limited permit issued by the department when the official sample is taken, allowing the harvest and transportation of the officially tested crop prior to the completion of official laboratory sampling.

“*THC*” means total tetrahydrocannabinol as determined by an official laboratory test postdecarboxylation.

“*Variety*” means a plant grouping within a single botanical taxon of the lowest known rank that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one characteristic and considered as a unit with regard to the suitability of the plant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other matter.

21—96.2(204) Licensing. A license to grow hemp shall be obtained from the department. In order to obtain and maintain a license, an applicant shall submit a license application, receive approval from the department, and comply with the standards contained in Iowa Code chapter 204 and these rules.

96.2(1) A license is nontransferable unless approved by the department.

96.2(2) In 2020, the license application for an outdoor crop site shall be submitted to the department on or before May 15. Indoor crop site applications may be submitted at any time.

96.2(3) In 2021 and thereafter, the license application for an outdoor crop site shall be submitted to the department on or before April 15. Indoor crop site license applications may be submitted at any time.

96.2(4) Failure to include all applicants shall preclude the license application from consideration.

96.2(5) Applicants shall submit an application form. A complete application form shall include, at a minimum, the following:

- a.* The authorized representative's full name and mailing address.
- b.* A legal description and map of each crop site where the applicant proposes to produce hemp.
- c.* The geospatial location of the center of the crop site.
- d.* The number of crop acres intended for hemp production. For fractions of acres, round to the next whole number.
- e.* The name of the hemp varieties, cultivars or strains proposed to be grown by the applicant.
- f.* The intended hemp crop to be grown by the applicant; this includes grain, seed, fiber, cannabidiol (CBD), clones, cuttings, plantlets, or other identifying information.
- g.* The type of crop site (indoor or outdoor).
- h.* All parties with an ownership interest in the crop site or hemp crop. If the crop site is leased, the name and contact information of all lessors and lessees with any interest in the crop site or hemp crop shall be provided.
- i.* The destruction method the applicant intends to use to destroy the cannabis if the crop fails to meet the acceptable hemp THC concentration. The destruction method must be approved by the department prior to actual destruction.

96.2(6) The authorized representative and all applicants shall submit official fingerprints to the department as a part of the application process. All national criminal history record check fees shall be paid to the department.

96.2(7) All license applications shall be submitted to the department electronically via the online license application portal. An authorized representative may request a waiver from the department to submit an application through an alternative format.

96.2(8) Real-time information, including but not limited to the status and number of the producer's license, shall be accessible via the department's online license application portal. Information submitted to the department via the online license application portal shall be collected, maintained, and reported to the USDA as required by the USDA in 7 CFR Part 990, Subpart C.

96.2(9) A license expires on December 31 of the year the license is issued.

96.2(10) An applicant with a state or federal felony conviction relating to a controlled substance is subject to a ten-year ineligibility from the date of the conviction.

96.2(11) Any applicant who materially falsifies any information contained in an application shall be ineligible for a license.

96.2(12) The department may implement additional reasonable licensing requirements at its discretion.

21—96.3(204) National criminal history record check.

96.3(1) Disqualifying offenses.

a. An applicant shall not be convicted of, or plead guilty to, a disqualifying felony offense. All applicants shall be subject to a background investigation conducted by the department of public safety, including but not limited to a national criminal history record check.

b. The department or the department of public safety may request additional information to complete a background investigation and national criminal history background check. An applicant

or authorized representative shall respond within 30 days to any request for additional information. Failure to timely respond shall result in a denial of the license application.

c. The department may deny any application for good cause.

96.3(2) An applicant and authorized representative shall provide fingerprints to the department. The department shall provide the fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation.

96.3(3) The applicant shall pay the actual cost of conducting any national criminal history record check to the department.

96.3(4) The results of a national criminal history check may be valid for three consecutive license years unless a drug-related felony conviction occurs after the issuance of the national criminal history record check results.

21—96.4(204) Licensee reports.

96.4(1) *Planting report.*

a. Outdoor planting report. Within 14 days after planting an outdoor hemp crop, the authorized representative shall submit a planting report to the department. The planting report does not constitute the required preharvest report. The planting report shall be on a form prepared and distributed by the department that shall include, but is not limited to:

- (1) The authorized representative's full name and contact information.
- (2) The license number.
- (3) The anticipated harvest date.
- (4) An updated detailed map depicting any changes.

b. Indoor planting report. On the first day of the month following any planting activity in the immediately preceding month, the authorized representative shall submit a planting report. The planting report does not constitute the required preharvest report. The planting report shall be on a departmental form prepared and distributed by the department. The planting report form shall include, at a minimum, the following:

- (1) The authorized representative's full name and contact information.
- (2) The license number.
- (3) The anticipated harvest date.

96.4(2) *Preharvest report.* The authorized representative shall submit a preharvest report to the department no less than 30 days prior to the expected harvest date of the hemp crop produced at the licensee's crop site. The licensee shall be entirely responsible for determining the expected harvest date for the hemp crop. The preharvest report shall be on a departmental form prepared and distributed by the department. The preharvest report form shall include, at a minimum, the following:

- a.* The authorized representative's full name and contact information.
- b.* The license number.
- c.* The anticipated date range for initiating and completing harvest, recorded by lot.

d. A map of the outdoor crop site. If more than one harvest date is being reported for the lots within the crop site, the map shall designate the locations of the lots, and the intended harvest dates, which are to be harvested under the preharvest report.

96.4(3) *Postharvest report.* The licensee shall deliver the postharvest report to the department no less than 14 days after the harvest of a lot is complete. If any lots within a crop site are harvested at different times, each harvest date shall be independently recorded by lot. The postharvest report shall be on a departmental form prepared and distributed by the department. The postharvest report form shall include, at a minimum, the following:

- a.* The authorized representative's full name and contact information.
- b.* The license number.
- c.* The harvest date(s).
- d.* The independent harvest date of each lot.

96.4(4) Destruction report. The licensee shall deliver a destruction report no more than 48 hours after crop destruction, or as ordered by the department. The destruction report shall be on a form prepared and distributed by the department. The destruction report shall include, but is not limited to:

- a. The authorized representative’s full name and contact information.
- b. The license number.
- c. The destruction date(s).
- d. The method of destruction.
- e. The independent destruction date of each lot.

96.4(5) Drug felony conviction report. Any authorized representative or applicant who is convicted of, or pleads guilty to, a disqualifying felony offense must report the disqualifying offense to the department and any co-licensees within 14 days of the conviction. The offender shall immediately forfeit the license. In the case of multiple licensees holding a single license, the offender’s interest in the license shall be immediately terminated. Failure to report the disqualifying offense may result in an order of destruction. The drug felony conviction report shall be on a form prepared and distributed by the department that shall include, but is not limited to:

- a. The license number(s).
- b. The name and contact information for the individual reporting the individual’s conviction.
- c. The date of conviction.
- d. An acknowledgement that all co-licensees have been informed of the disqualifying offense, if applicable, and the co-licensees have assumed full responsibility for the hemp crop.

96.4(6) Hemp acreage report to the FSA. Within 30 days after the completion of planting of an outdoor crop site, or within 30 days after the first planting of hemp in the calendar year in an indoor crop site, the authorized representative shall report the hemp acreage to the FSA. At a minimum, the following information shall be reported:

- a. Street address and geospatial location for each crop site.
- b. Acreage for each crop site.
- c. The license number.

96.4(7) Voluntary destruction report. If a licensee chooses to destroy a lot prior to harvest, the authorized representative shall notify the department of the licensee’s intent to destroy the crop within seven days prior to the destruction. The hemp crop shall not be destroyed unless the department or local law enforcement either is present during the destruction or has authorized destruction to occur unwitnessed. The voluntary destruction report shall be on a form prepared and distributed by the department that shall include, but is not limited to:

- a. The authorized representative’s full name and contact information.
- b. The license number.
- c. The date(s) and method of destruction for each lot.
- d. The identification number or name of the lot(s).
- e. The reason for destruction.

21—96.5(204) Fees. The department shall impose, assess, and collect fees, which shall be paid by a licensee. All fees shall be collected by the department before the department takes any action for which the fee is applicable. All fees are nonrefundable.

96.5(1) The license fee shall be paid prior to acceptance of a license application. License fees shall be based on the number of acres in a crop site, as follows:

TABLE 1
LICENSE FEES PER CROP SITE

Acres	Fee	
0 - 5	\$500 + \$5 per acre	Paid at application
5.1 - 10	\$750 + \$5 per acre	
10.1 - 40	\$1,000 + \$5 per acre	

96.5(2) A primary base fee shall be paid prior to acceptance of a license application. Payment of a primary base fee shall secure the preharvest inspection. The preharvest inspection shall include the collection of an official sample and an official test of that sample. Prior to, or during, the preharvest inspection, a licensee may request official sampling of additional lots and sub-lots. A primary supplemental fee shall be charged for each additional official sample and official test. All primary supplemental fees shall be paid prior to performance of any official test, as follows:

TABLE 2
PRIMARY FEES

Primary Base Fee	Primary Supplemental Fee
\$1,000 per sample	\$500 per sample
Paid at application	Paid prior to official sampling

96.5(3) A licensee may request one or more secondary preharvest inspections. Payment of a secondary base fee shall secure a secondary preharvest inspection. The secondary preharvest inspection shall include the collection of an official sample and an official test of that sample. Prior to, or during, any sampling, a licensee may request official sampling of additional lots and sub-lots. A secondary supplemental fee shall be charged for each additional official sample and official test. All secondary supplemental fees shall be paid prior to performance of any official test, as follows:

TABLE 3
SECONDARY FEES

Secondary Base Fee	Secondary Supplemental Fee
\$1,000 per sample	\$500 per sample
Paid prior to official sampling	Paid prior to official sampling

96.5(4) A licensee may request a single retest of a sample collected for a lot or sub-lot if the licensee believes the original official laboratory test result was in error. The licensee may not request the collection of a new sample. The licensee requesting the retest of the sample shall pay the retest fee prior to performance of official retest. The retest fee shall be \$500.

21—96.6(204) Annual review of licensees to ensure licensure compliance.

96.6(1) The authorized representative shall certify the licensee has operated and will continue to operate in accordance with Iowa Code chapter 204 by executing a certification of compliance as part of the harvest report, by answering the following questions:

- a. Have you operated in accordance with all license requirements?
- b. Has any of the following information changed?
 - (1) The authorized representative and all individual applicants' full names, titles, residential addresses, phone numbers, or email addresses.
 - (2) Key participant title in the business entity.
 - (3) The structure of or ownership interests in the business entity.
- c. Were the hemp acres at the crop site reported to the FSA?
- d. Have any hemp plants been harvested or removed from the crop site prior to official sampling and official testing?

96.6(2) Crop sites that do not harvest hemp and solely propagate cuttings and clones shall be inspected at least annually.

21—96.7(204) Sampling procedures for official testing of hemp for THC content.

96.7(1) The licensee shall submit a preharvest report to the department at least 30 days prior to the anticipated harvest date.

96.7(2) Official samples for official testing shall be collected by the department or a third-party sampler designated by the department.

96.7(3) The authorized representative, or licensee, shall be present at any preharvest inspection and official sampling of the crop site.

96.7(4) The department inspector will verify the geospatial location coordinates submitted to the department.

96.7(5) The licensee must allow complete and unrestricted access to the crop site. If the licensee fails to provide unrestricted access, an official sample will not be collected.

a. If cannabis plants are observed outside of the crop site boundaries, the department shall notify law enforcement.

b. If the department inspector suspects that the licensee harvested hemp plants prior to official sampling, the department inspector will immediately cease official sampling and notify the Iowa hemp program administrator. The Iowa hemp program administrator shall determine how to proceed with an investigation, seeking law enforcement assistance as necessary.

96.7(6) A separate official sample shall be taken for each lot and sub-lot. In accordance with the fee schedule established by the department, a supplemental fee shall be charged for every sample after one sample.

96.7(7) If the licensee chooses to have official samples taken from sub-lots within a lot, the boundary between sub-lots shall be discernable. In an outdoor crop site, the minimum row space between lots and sub-lots shall be twice the normal row spacing, but no less than 36 inches.

96.7(8) The department inspector shall take a representative official sample of each lot and sub-lot, walking at right angles to the rows if possible. The department inspector may take more cuttings than the minimum listed in Table 4 if necessary to obtain an adequate official sample.

96.7(9) The official sample collected by the department shall consist of approximately 2-inch cuttings of flowering material, meaning inflorescences (the flower or bud of plant), from the top one-third of the plant, based on the following table:

TABLE 4
NUMBER OF PLANTS SAMPLED, BASED ON LOT AND SUB-LOT ACREAGE SIZE

Number of acres	Number of plants sampled	Number of acres	Number of plants sampled	Number of acres	Number of plants sampled	Number of acres	Number of plants sampled
1	10	11	11	21	20	31	29
2	10	12	12	22	21	32	29
3	10	13	13	23	22	33	30
4	10	14	14	24	23	34	31
5	10	15	15	25	24	35	32
6	10	16	16	26	24	36	33
7	10	17	17	27	25	37	34
8	10	18	18	28	26	38	34
9	10	19	18	29	27	39	35
10	10	20	19	30	28	40	36

96.7(10) The plants and plant material selected for official sampling shall be determined solely by the department.

96.7(11) All samples shall become the property of the department and are nonreturnable.

96.7(12) The department inspector will place the official composite representative sample in a properly labeled paper bag. The labeled bag will be sealed with security tape, and the following information shall be placed on the paper bag:

- a.* License number;
- b.* Name and contact information of the sampling agent;
- c.* Name and contact information of the licensee;
- d.* Date sample was taken;

- e.* Sample identification number for the lot or sub-lot;
- f.* Parcel identification number from the FSA; and
- g.* Any other information that may be required by the department.

96.7(13) The official sample and sampling report shall be hand-delivered or placed in a box, sealed with security tape, and overnight shipped to the department laboratory.

21—96.8(204) Approved testing methods of hemp for THC content.

96.8(1) The department laboratory shall be the only official laboratory for analyzing official samples from licensed crop sites in Iowa.

96.8(2) An appropriate chain of custody will be maintained at all times, and the information from the sampling form will be input into the department laboratory information management system.

96.8(3) The official samples will be dried, the stem and seed will be separated from floral material and discarded, and the floral material will be ground.

96.8(4) The ground floral material will be tested for THC content.

a. Any remaining floral material will be retained by the department for three months.

b. If a licensee requests a single retest of a lot or sub-lot, the department shall retest any remaining floral material.

96.8(5) The THC concentration will be determined by gas-liquid chromatography (GC) or other acceptable method as determined by the department.

96.8(6) The department will utilize MU in determining acceptable hemp THC concentration.

96.8(7) If the official laboratory test results in the acceptable hemp THC concentration the department shall issue a certificate of analysis, as provided in Iowa Code section 204.8, and immediately send the certificate of analysis to the authorized representative.

21—96.9(204) Harvesting timing.

96.9(1) A licensee shall not harvest any portion of a hemp crop unless the department has officially sampled the lot to be harvested.

96.9(2) The licensee may begin harvesting the corresponding lots and sub-lots upon receiving a temporary harvest and transportation permit. The temporary harvest and transportation permit will expire once a certificate of analysis, or destruction order, is issued.

a. Prior to receiving the temporary harvest and transportation permit, the licensee shall designate a storage site for the hemp crop. The licensee shall ensure that the department has unrestricted access to the crop at all times, including, if necessary, to fulfill an order of destruction. The harvested crop shall remain at the designated storage site until a certificate of analysis, or order of destruction, is issued.

b. The designated storage site must be within the state of Iowa.

c. All harvested lots and sub-lots shall be stored in a manner that preserves identity, regardless of the form, condition, or location of the crop. There shall be no commingling of separate harvested hemp lots.

96.9(3) Until the certificate of analysis is received, ownership of the hemp crop shall not change.

a. The licensee shall harvest an officially sampled hemp lot no later than 15 days after the lot was officially sampled. If the licensee has not completed harvest within 15 days and still desires to harvest any remaining crop, the licensee shall contact the department and request supplemental official sampling and official laboratory tests.

b. The day the crop site is officially sampled shall be considered day 0. The next day is considered day 1 after sampling, and so on, until day 15.

21—96.10(204) Order of destruction.

96.10(1) If the official laboratory test does not result in an acceptable hemp THC concentration, the department shall order the destruction of the hemp crop to occur as ordered by the department.

96.10(2) If any official test exceeds acceptable hemp THC concentration, the department shall notify the department of public safety, local law enforcement, and the United States Department of Agriculture (USDA) hemp administrator.

96.10(3) If any official test exceeds 0.5 percent THC on a dry weight basis, the department shall notify the department of public safety, local law enforcement, the USDA hemp administrator, and the United States attorney general.

96.10(4) If any official test result exceeds 2.0 percent THC on a dry weight basis, the department shall notify the department of public safety, local law enforcement, the USDA hemp administrator, the United States attorney general, the county attorney, and the Iowa attorney general.

96.10(5) Failure to harvest any portion of a hemp lot 15 or more days after the lot was officially sampled may result in the issuance of an order of destruction.

96.10(6) The department may require the licensee to utilize a reverse distributor for destruction.

96.10(7) The department shall notify the USDA hemp administrator when the destruction is complete.

21—96.11(204) Negligent violations.

96.11(1) Negligent violations shall include but are not limited to:

a. The production of hemp that exceeds the acceptable hemp THC concentration but is less than 0.5 percent THC on a dry weight basis.

b. Failure to submit required reports within mandated submission deadlines.

c. Failure to provide a legal description of the land on which the licensee produces hemp.

The department may determine additional negligent violations as needed.

96.11(2) All licensees associated with the license shall receive the negligent violation.

96.11(3) The failure to obtain a license is not a negligent violation.

21—96.12(204) Negligent violation program.

96.12(1) The department shall require the completion of a corrective action plan for negligent violations. A licensee shall submit a corrective action plan to the department for consideration and approval. A corrective action plan shall consist of the following:

a. A reasonable time period, approved by the department, for correcting a negligent violation. Failure to correct a negligent violation within the reasonable time period shall be considered an additional negligent violation.

b. A proposed schedule for the licensee to submit periodic compliance reports to the department, when applicable. The duration for the ongoing compliance reports shall not be less than two calendar years following the violation.

c. Any other requirement established by the department.

96.12(2) The department may conduct any inspection, review, or other action to determine if the corrective action plan has been implemented as approved by the department.

96.12(3) The department shall issue a certificate of completion to the licensee upon the successful completion of the corrective action plan.

96.12(4) A licensee who is participating in, or who successfully completes, the corrective action plan shall not be subject to any criminal enforcement action pertaining to the negligent violations by the federal, state, tribal, or local government.

21—96.13(204) State plan. The department has adopted a state plan, as prescribed by the United States Department of Agriculture, in order to assume primary regulatory authority over the production of hemp in Iowa.

These rules are intended to implement Iowa Code section 204.3.

March 17, 2020

Chief Bill Richmond
Chief, U.S. Domestic Hemp Production Program
Specialty Crops Program, AMS, USDA
1400 Independence Avenue SW, Stop 0237
Washington, DC 20250-0237

RE: State Plan of Iowa: Iowa Administrative Code chapter 96 (21 IAC 96.11(3))

Mr. Richmond,

The United States Department of Agriculture (USDA) requested a letter explaining how the Iowa Department of Agriculture and Land Stewardship (IDALS) will administer and apply Iowa Administrative Code 21—96.11(3), which states: “[T]he failure to obtain a license is not a negligent violation.” This language was included in the negligent violation section of the State Plan of Iowa at the request of USDA. USDA has since requested further clarification regarding 21—IAC 96.11(3). Specifically, USDA requested responses to the following questions:

1. What happens if an individual is found to be growing hemp without a license?
2. How and to whom is such individual reported?
3. When does the reporting occur?

IDALS is not aware of any specific citations in the 2018 Farm Bill or 7 CFR Part 990 where these above questions appear. Therefore, this letter should not be construed or interpreted in any manner to reduce, limit, or restrict the ability of the state of Iowa to implement those portions of the state plan which meet and conform to the 2018 Farm Bill and 7 CFR Part 990.

What happens if an individual is found to be growing hemp without a license?

Currently, Iowa law defines marijuana as “all parts of the plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including tetrahydrocannabinols” Iowa Code § 124.101(20) (emphasis added). Marijuana is a schedule I controlled substance in Iowa. See Iowa Code § 124.204. Under Iowa law, anyone growing any “parts of the plants of the genus Cannabis” without a hemp license issued by IDALS would be growing an illegal substance.

In order to legally grow cannabis in Iowa, producers must first receive a hemp license from IDALS. See Iowa Code Chapter 204 (*Iowa Hemp Act*). If cannabis plants are observed outside the boundaries of a licensed crop site, IDALS shall notify law enforcement. See 21—IAC 96.7(5)(a). As such, if an individual is found to be growing cannabis without a license, IDALS will notify law enforcement that said individual is growing an illegal substance. Any subsequent investigation and response, if any, shall be at the discretion of law enforcement.

How and to whom is such individual reported?

IDALS will report individuals found to be growing cannabis without a license to law enforcement. IDALS will make such reports immediately, or as soon as reasonably possible, upon discovery that the individual is growing cannabis without a license. Types of law enforcement IDALS may report to, include, but are not limited to, the appropriate county sheriff, the appropriate county attorney, the department of public safety, the Iowa Attorney General, or other appropriate enforcement as the specific facts and circumstances may warrant.

When does the reporting occur?

As indicated above, such reporting will occur immediately, or as soon as reasonably possibly, upon discovery that an individual is growing cannabis without a license.

Regards,



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Iowa Hemp Administrator

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