



**NORTH DAKOTA  
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL  
600 E. BOULEVARD AVE. – DEPT. 602  
BISMARCK, ND 58505-0020

## **North Dakota State Hemp Plan**

The North Dakota Legislature passed a bill in 1999 that recognized the difference between hemp and marijuana – sixteen years later the first hemp seeds were planted. This new hemp law classified hemp as an oilseed and allowed the production, processing and marketing of cannabis that contained no more than 0.3% tetrahydrocannabinol (THC). Since that time, the state Legislature has passed several bills requiring the North Dakota Department of Agriculture (NDDA) to oversee hemp production and processing within the state.

NDDA began issuing licenses to hemp producers in 2007; however, these producers were unable to obtain the correct permits from the Drug Enforcement Agency (DEA). This changed with the passage of the 2014 Farm Bill. NDDA has been working under federal guidelines to oversee an Industrial Hemp Pilot Research Program with active producers since 2015. The program initially started with academic institutions only, then expanded to over 3,000 acres of private producers researching the commercial viability and market potential of hemp within North Dakota.

Hemp production in North Dakota is currently authorized by North Dakota Century Code Chapter 4.1-18.1.

The following state plan meets the requirements laid out in federal law for hemp production set forth in Section 297B(a)(2)(A) as well as 7 CFR Part 990.

### **A. Producer Information**

NDDA will continue to license producers to grow hemp. Anyone desiring to grow hemp in North Dakota must obtain a license before purchasing any seeds or propagative materials. The application for license collects information including the physical address and contact information for the applicant, the legal description of all fields or buildings where they are planning to grow hemp, and pertinent GPS coordinates. If the producer is a business entity, the

application must include the full name of the business, address of the principal business location, and full name and title of the key participants.

The applicant is also required to submit documents for a criminal history records check. North Dakota Bureau of Criminal Investigation performs the record check using the Federal Bureau of Investigation's Identity History Summary and trained NDDA staff verify that the applicant has not had a state or federal felony relating to a controlled substance in the previous 10-year period. North Dakota Century Code precludes anyone with a controlled substance felony in the previous 10-year period from obtaining a hemp license.

Businesses that wish to apply for a hemp license need to select an individual who is considered "key" to the business or have executive managerial control. "Key" individuals can be CEO, COO, owner, head manager or other executive. This "Key" individual will submit the documents for a criminal history record check for the business's hemp license application. The results of these checks are kept confidential and will be kept on file until updated or for 3 years past their last issued license. North Dakota institutions under the control of the state board of higher education shall ensure that the primary investigators meet the criminal history background restrictions.

License numbers are assigned in a format prescribed by United States Department of Agriculture USDA and expire annually on December 31. Licensed producers are required to submit their hemp crop acreage to the local Farm Service Agency (FSA) office.

NDDA reports the following information for each producer: full name of the individual, license number, address, telephone number, and email address (if available). NDDA will notify producers that if they have an Employer Identification Number (EIN), they should report the EIN directly to USDA. NDDA will report any changes to the contact information and the status of each licensee. This information is sent on the first of each month outlining the reporting period, using a USDA approved format.

### ***B. Sampling and testing***

NDDA trains all persons collecting hemp samples on procedures involving inspection and hemp sampling. Only NDDA trained samplers can perform inspections and sample hemp. NDDA

conducts random inspections on licensed operations. Producers will be required to allow NDDA unrestricted access during business hours to all hemp and all land, buildings, etc. used for cultivation and/or handling of hemp. Producers or an authorized representative of the producer are recommended to be present for inspections.

NDDA samples hemp lots within 30 days of harvest. Producers are required to notify NDDA when lots are ready for sampling. Hemp may not be harvested without NDDA authorization. Producers must report back the final harvest date to ensure compliance with the 30-day harvest window.

NDDA uses a performance-based sampling protocol on certain varieties and producers of hemp. NDDA uses a list of hemp varieties that are classified as low risk. This list is maintained on the NDDA webpage. Low risk hemp varieties must meet the following criteria:

- The variety of hemp has a history of THC compliance with NDDA; and,
- The hemp lot was planted from Certified Seed that was certified by the authorized seed certifying agency of the state or province where the seed was produced

Lots of low-risk variety hemp may not be subject to testing if the producer growing the lots has:

- Had a minimum of two consecutive years of compliant fields with NDDA; and,
- The Agricultural Commissioner has deemed the producer to be eligible for performance-based sampling.

Producers are notified of lots that will not require sampling after the lot has been planted.

NDDA may pull samples on any hemp lots. NDDA will perform random tests on low-risk varieties to monitor compliance with NDDA policies. NDDA will inspect 10% of lots subject to Performance-based Sampling annually. Any variety that is not on the low-risk list is sampled.

All hemp grown for research purposes by a North Dakota institution under the control of the state board of higher education will utilize a performance-based sampling protocol:

- Researchers or research institutions are required to notify NDDA of the researcher's intent to plant hemp. Researchers must provide NDDA with contact information of the lead researcher and location where hemp will be planted.

- The research institution must certify to NDDA that a Criminal History record check has been completed and the researcher has not had a controlled substance felony in the previous 10-year period.
- Hemp for research must be disposed of at the end of the research utilizing one of the methods listed in this plan. Hemp that longer qualifies as research must be tested for compliance before it can enter commerce.
- NDDA reserves the right to inspect or audit researchers subject to Performance-based Sampling.
- Researchers must report lots to FSA.
- Researchers not affiliated with a North Dakota institution under the control of the state board of higher education will be subject to standard licensing and sampling requirements.

For all samples taken, a representative sample will be collected from the flower material of the plant for each lot for the purpose of determining the lot's acceptable THC level. For the purposes of this plan "Acceptable Hemp THC" is defined as: The 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 North Dakota hemp plan is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. The number of plants that will form a homogenous composite sample will be selected to ensure, at a confidence level of 95%, that no more than 1% of the plants in the lot would exceed the acceptable hemp THC level. Samples will be cut from the top five to eight inches of the main stem of selected plants. The producer or an authorized representative is encouraged to be present at the growing site during inspection or be available by phone prior to and during the inspection. If neither the producer or an authorized agent can be present during the inspection/sampling event, prior communications with the license holder will occur to assure both the licensee and the inspector are aware of the lots to be sampled, the location of lots, and any other information pertinent to the inspection process.

Hemp will be tested using High Performance Liquid Chromatography (HPLC) or other USDA approved methodology. Results will be reported to NDDA showing the total THC concentration

that accounts for the conversion of tetrahydrocannabinolic acid (THCA) into d9-THC. Total THC will be calculated on a dry weight basis. Results will also include a measurement of uncertainty to determine acceptable THC results. After December 31st, 2022, hemp will only be tested at a DEA registered lab. Hemp testing labs performing regulatory samples for NDDA will report results only to NDDA. NDDA will report THC results to USDA on an approved format and kept on file for at least 3 years.

Hemp material cannot be commingled with material from other lots until allowable THC results are issued. Hemp does not meet the acceptable hemp THC level cannot enter the stream of commerce.

### ***C. Disposal***

Remediation will be allowed on non-compliant lots where the Total THC is less than 1%. Remediation can be accomplished by hand or mechanical removal and disposal of flower material leaving only stalk and seed. Remediation can also be achieved by shredding flower material with leaf and stalk to create a biomass. Any remediated material must be retested and fall below the acceptable hemp THC level. NDDA will work with producers to dispose of non-compliant products. NDDA staff will witness and verify destruction to render plants and material unusable. Method of destruction can be any one or combination of the: plowing under, mulching/composting, disking, bush mowing, deep burial, and burning. NDDA will notify USDA the test results for non-compliant plants and method used for disposal. All hemp grown for research by a North Dakota institution under the control of the state board of higher education, cannot not enter the stream of commerce.

### ***D. Violations***

NDDA will address negligent violations such as failing to provide legal description of land, failing to obtain a license, or producing cannabis with THC exceeding 1.0 percent, by setting a reasonable deadline for the producer to become compliant. Hemp producers do not commit a negligent violation under this paragraph if they make reasonable efforts to grow hemp and the hemp does not have a total delta-9 tetrahydrocannabinol concentration of more than 1.0 percent on a dry weight basis. Negligent violations will not be subject to federal, state, or local government criminal enforcement actions. NDDA will require additional reporting, monitoring,

and inspections of that producer for no less than 2 years from the date of the negligent violation. If a producer has 3 negligent violations in a 5-year period they will be unable to produce hemp for 5 years from the date of the 3<sup>rd</sup> violation. NDDA will conduct inspections to determine if corrective action plan has been implemented. If the violation is made with a culpable mental state greater than negligence or otherwise criminal, the alleged violation and matter will be referred to the appropriate State's Attorney, ND Attorney General, and the US Attorney General, for whatever action they may deem appropriate. Any persons who materially falsify any information in their application shall be deemed ineligible to participate in the program.



STATE OF NORTH DAKOTA  
DEPARTMENT OF AGRICULTURE  
600 E BOULEVARD AVE, DEPT 602  
BISMARCK, ND 58505-0020

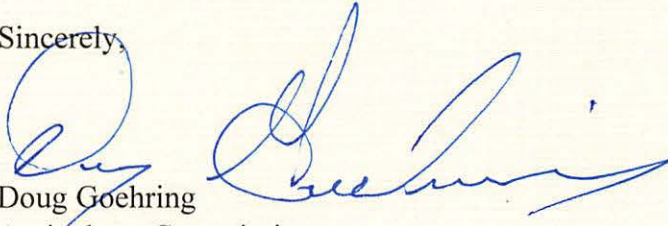
DOUG GOEHRING  
COMMISSIONER

Hemp Program Certification

September 7, 2020

Pursuant to Section 297B (a)(2)(A)(vii) of the Agriculture Improvement Act of 2018, I certify that the North Dakota Department of Agriculture has the resources and personnel necessary to carry out each of the practices and procedures identified in Section 297B(a)(2) of the Act.

Sincerely,

  
Doug Goehring  
Agriculture Commissioner

COMMISSIONER  
DOUG GOEHRING



[ndda@nd.gov](mailto:ndda@nd.gov)  
[www.nd.gov/ndda](http://www.nd.gov/ndda)

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600 E. BOULEVARD AVE. – DEPT. 602  
BISMARCK, ND 58505-0020

## **North Dakota State Hemp Plan Supplemental Documents**

The following documents are supplemental to the North Dakota Department of Agriculture (NDDA) Hemp Plan. All documents and forms will be updated periodically. The most up to date forms and data can be requested from the department.

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**Low Risk List**

The below listed varieties are considered low risk by NDDA. This list will be used as part of sampling under a performance-based plan. This data will be updated annually.

<b>Variety</b>	<b>Number of Samples</b>	<b>Maximum Recorded % THC</b>	<b>Minimum Recorded % THC</b>	<b>Average THC Levels</b>
<b>Canda</b>	13	0.024	0.009	0.016
<b>CFX-1</b>	11	0.043	0.009	0.026
<b>CFX-2</b>	38	0.260	0.008	0.086
<b>CRS-1</b>	10	0.029	0.020	0.025
<b>X-59</b>	26	0.093	0.003	0.020



**APPLICATION FOR HEMP GROWER LICENSE**  
 NORTH DAKOTA DEPARTMENT OF AGRICULTURE  
 PLANT INDUSTRIES DIVISION  
 SFN 58476 (11-2021)

**Return to:**  
 North Dakota Department of Agriculture  
 600 E Boulevard Ave, Dept 602  
 Bismarck ND 58505-0020  
 Telephone: 701-328-4128

**PLEASE TYPE OR PRINT CLEARLY** (Incomplete or illegible forms will be returned)

**North Dakota Department of Agriculture will not process this application until an approved background check is on file.**

The undersigned is applying for a Hemp License under provisions of the laws of the State of North Dakota.

Check One:			
<input type="checkbox"/> Initial license application		<input type="checkbox"/> Renewal license application	
Applicant Name (Last, First) (no initials)			
Physical Address	City	State	ZIP Code
Mailing Address	City	State	ZIP Code
Email Address	Home Telephone Number		Cell Phone Number

Legal description of each field is required. Use attachment if more space is needed.

**HEMP PRODUCTION INFORMATION**

	Acres	Variety	County	Township	Range	Section/Quarter	Are you the property owner?
Field 1							<input type="checkbox"/> Yes <input type="checkbox"/> No
Field 2							<input type="checkbox"/> Yes <input type="checkbox"/> No
Field 3							<input type="checkbox"/> Yes <input type="checkbox"/> No
Field 4							<input type="checkbox"/> Yes <input type="checkbox"/> No
Field 5							<input type="checkbox"/> Yes <input type="checkbox"/> No
TOTAL ACRES							

The term "lot" refers to a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout.

Number of Lots	License Fee
1	\$100.00
2	\$200.00
3	\$300.00
4+	\$350.00

**Based on the total number of lots across all hemp fields, please use the table to calculate the total licensing fee.**

<b>TOTAL AMOUNT ENCLOSED</b>	\$
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**Application fees: License fees are non-refundable once a license is issued. Make checks payable to the North Dakota Department of Agriculture.**

1. I will abide by all applicable laws and regulations related to the growth, cultivation, or marketing of hemp.
2. I will allow, upon request, federal, state, or local authorities to inspect and/or sample, at any time, the on-site hemp growing area, plants, plant materials, seeds, equipment, or facilities related to the growth, cultivation, or marketing of hemp, without subpoena or any other authorization.
3. I will complete and submit all reports and/or statements requested by NDDA relative to my production of hemp and acknowledge and agree that a failure to submit any required or requested report may result in immediate suspension or revocation of my hemp grower license.
4. I will report all planted hemp acres to the proper USDA: Farm Service Agency (FSA) Service Center, I will provide NDDA with a copy of the FSA map showing planted hemp acres.
5. I will report hemp acres to NDDA no later than 14 days after planting, using approved forms.
6. I will notify the Hemp Program Coordinator 15 days prior to anticipated harvest and at least 1 week prior to desired testing date.
7. I acknowledge NDDA will charge additional fees for official NDDA samples.
8. I will not harvest hemp without approval from NDDA and understand the harvesting without approval could result in the destruction of my crop.
9. I understand that harvesting any hemp prior to receiving results from the official NDDA sample with legal THC levels means that NDDA will not be able to retest any harvested lots.
10. I understand that the Total THC of the plants grown must measure at or below 0.3% Total THC based on the official sample and test conducted by the NDDA.  $\text{Total THC} = \text{THCa} * 0.877 + \Delta 9\text{-THC}$ .
11. I acknowledge that I am responsible any costs associated with the destruction and/or confiscation of non-compliant hemp.
12. I acknowledge it is recommended to test and monitor Total THC levels using the same protocol utilized by NDDA.
13. I certify that I have not been convicted of a felony relating to a controlled substance since the submission of my background check.

I, the undersigned applicant, understand and agree to all the above-listed statements.

Signature of Applicant	Date
------------------------	------



## CRIMINAL HISTORY RECORD CHECK REQUEST PURSUANT TO NDCC 12-60-24

OFFICE OF ATTORNEY GENERAL BUREAU  
OF CRIMINAL INVESTIGATION SFN 60688 (09-  
2019)

FOR BCI USE ONLY

Check Number

Amount

Receipt Number

Receipt Date

SID

### INSTRUCTIONS

1. Please type or print legibly and ensure that all information is complete. **Incomplete or illegible requests will be returned.**
2. If requesting Federal Bureau of Investigation (FBI) check, attach two (2) completed fingerprint cards containing the fingerprints of the subject of the record check and remit appropriate fees.

### TO BE COMPLETED BY AGENCY

Mail to Attention of	Telephone Number
Agency Name	Originating Agency Identifier (ORI)
Address	Email Address
City	State      ZIP Code
Comments/Miscellaneous	

### AGENCY USE ONLY

Please Check One and Remit Appropriate Fees

#### Record Checks for Employees/Others

- ND only, remit \$15.00 FBI  
 only, remit \$26.25 ND and  
 FBI, remit \$41.25

#### Record Checks for Volunteers

- ND only, remit \$15.00 FBI  
 only, remit \$24.25 ND and  
 FBI, remit \$39.25

Process Control Number (PCN)

### TO BE COMPLETED BY SUBJECT OF RECORD CHECK

Last Name	First Name (no initials)	Middle Name
Last Name(s) (AKA/Maiden/Former)	First Name	Middle Name
Date of Birth	Social Security Number	
Current Address		
City	State	ZIP Code

Your fingerprints will be used to check the criminal history records of the FBI in accordance with Title 28 CFR 50.12. You have the opportunity to review or challenge the accuracy of the information contained in the FBI identification record. The procedure for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28 CFR 16.34.

I understand the Applicant Rights provided on the following page and hereby authorize the North Dakota Bureau of Criminal Investigation to release my state and FBI criminal history records to the requester listed above.

A photocopy of this signed release shall have the same force and effect as the original release.

Signature	Date
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Your social security number is requested to permit the North Dakota Bureau of Criminal Investigation to conduct a criminal history record check under N.D.C.C. § 12-60-16.6. Disclosure of your social security number is voluntary, however, if you choose not to disclose it, you will be required to provide alternative information or documentation, which may delay the criminal history record check.

## APPLICANT RIGHTS

**APPLICANT: Please review and retain for your records.**

### Privacy Act Statement

As of 03/30/2018

This privacy act statement is located on the back of the FD-258 fingerprint card.

**Authority:** The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

**Principal Purpose:** Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

**Routine Uses:** During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

### 28 CFR 50.12(b)

Officials at the governmental institutions and other entities authorized to submit fingerprints and receive FBI identification records under this authority must notify the individuals fingerprinted that the fingerprints will be used to check the criminal history records of the FBI. The officials making the determination of suitability for licensing or employment shall provide the applicants the opportunity to complete, or challenge the accuracy of, the information contained in the FBI identification record. These officials should not deny the license or employment based on information in the record until the applicant has been afforded a reasonable time to correct or complete the record, or has declined to do so. Those officials making such determinations must advise the applicants that procedures for obtaining a change, correcting, or updating of an FBI identification record are set forth in 28 CFR 16.34. A statement incorporating these use-and-challenge requirements will be placed on all records disseminated under this program. This policy is intended to ensure that all relevant criminal record information is made available to provide for the public safety and further, to protect the interests of the prospective employee/ licensee who may be affected by the information or lack of information in an identification record.



## HEMP PLANTING REPORT

NORTH DAKOTA DEPARTMENT OF AGRICULTURE  
PLANT INDUSTRIES  
SFN 61979 (4-2021)

**This form must be emailed or sent hard copy no later than 2 weeks after planting. A separate form must be filled out for each variety and field location.**

Failure to fill out this report in its entirety can cause future ineligibility for hemp licensure.

Name	Telephone Number	License Number
<input type="checkbox"/> Check here if you did not plant or do not plan to plant any hemp, sign form and return to our office		

### FIELD LOCATIONS

**Provide a map outlining the field and include a GPS point of the field access:**

Field Access Latitude	Field Access Longitude
Date(s) of Planting	Total Acreage or Square Footage Planted
Seed, Clone or Seedling Supplier	Variety Planted

### Planting Information

Plant to Plant Distance		Row Spacing	
Number of Clones or Seedlings Planted		Average Height of Clone or Seedling Planted	
Seed Count (seeds per pound)	Germination Percentage	Purity Percentage	Amount of Seed Planted (weight)
Seeding Rate (lbs/acre)	Planting Depth	Soil Temperature at Planting Depth (degrees Fahrenheit)	
Previous Crop	Soil <input type="checkbox"/> Dry <input type="checkbox"/> Moist <input type="checkbox"/> Wet		Depth to Moisture at Planting
Herbicide	Rate of Application		Date of Application

Describe method and equipment used for tillage and planting:

I verify that to the best of my knowledge, the above information is accurate.

Licensesee Signature	Date
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Email or send form to:  
North Dakota Department of Agriculture  
Attn: Hemp Program  
600 E Boulevard Ave, Dept 602  
Bismarck, ND 58505-0020  
[jmortenson@nd.gov](mailto:jmortenson@nd.gov) Phone:  
701-328-4128



**HEMP NON-COMPLIANCE RECORD**  
 NORTH DAKOTA DEPARTMENT OF AGRICULTURE  
 PLANT INDUSTRIES DIVISION  
 SFN 61975 (3-2021)

Name	
Business Name	License Number
License Type <input type="checkbox"/> Grower <input type="checkbox"/> Processor <input type="checkbox"/> Other (specify):	
Violation Type <input type="checkbox"/> Failure to provide legal description of land on which the hemp is being produced <input type="checkbox"/> Failure to obtain a hemp license before engaging in hemp production <input type="checkbox"/> Producing cannabis exceeding the acceptable hemp THC level <input type="checkbox"/> Producing hemp products exceeding the acceptable hemp THC level <input type="checkbox"/> Other (specify): _____	

Date of Violation	Location of Violation
Description of Violation	
Corrective Action Plan	
Date to Complete Corrective Action Plan	

Additional Reporting Requirements
Date Additional Reporting Requirements End

Authorized State Official	Signature of State Official
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SFN 61975 (3-2021)  
Page 2 of 2

Description of Actions Performed (attach additional documentation as necessary)	
Date Corrective Action Plan Completed	

Failure to complete the corrective action plan and any additional reporting requirements can lead to revocation of hemp license and denial of future licensure.

Printed Name	Signature
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Send Completed Plan to:

North Dakota Department of Agriculture  
Plant Industries Division  
600 E Boulevard Ave Dept 602  
Bismarck ND 58505-0020

Telephone: 701-328-4128



## CHAPTER 4.1-18.1 HEMP

### 4.1-18.1-01. Definitions.

1. "Hemp" means the plant *cannabis sativa* L. and any part of the plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total tetrahydrocannabinol concentration in an amount determined by the commissioner. The term does not include any commodity or product using hemp which exceeds the allowable amount of total tetrahydrocannabinol determined by the commissioner.
2. "Tetrahydrocannabinol" means delta-9 tetrahydrocannabinol and any structural, optical, or geometric isomers of tetrahydrocannabinol, including:
  - a. Delta-7 tetrahydrocannabinol;
  - b. Delta-8 tetrahydrocannabinol; and
  - c. Delta-10 tetrahydrocannabinol.
3. "Total tetrahydrocannabinol" means the sum of the percentage, by weight, of tetrahydrocannabinolic acid multiplied by eight hundred seventy-seven thousandths plus the percentage of weight of tetrahydrocannabinol.

### 4.1-18.1-02. Hemp - Licensure.

Any person desiring to grow or process hemp shall apply to the agriculture commissioner for a license on a form prescribed by the commissioner. A license must be obtained before a person purchases or obtains hemp material for planting or propagation. The applicant is responsible for anyone working under the applicant's license for all sections of this chapter.

1. The application for a license must include the name and address of the applicant, and the legal description of the land area to be used to produce or process hemp.
2. The commissioner shall require each applicant for initial licensure to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. All costs associated with the criminal history record check are the responsibility of the applicant.
3. Criminal history records provided to the commissioner under this section are confidential. The commissioner may use the records only in determining an applicant's eligibility for licensure.
4. The commissioner shall deny licensure to any person convicted of a felony relating to a controlled substance under state or federal law in the last ten years.
5. If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner shall issue the license. A license issued under this chapter expires December thirty-first.
6. An application for a license under this subsection may be submitted to the commissioner anytime before the purchase of hemp seed or viable propagation material.

### 4.1-18.1-03. License fee.

The commissioner shall assess each producer and processor a fee not to exceed three hundred fifty dollars. The commissioner shall deposit fees collected under this chapter in the commissioner's operating fund which are appropriated to the commissioner on a continuing basis for the purpose of enforcing this chapter.

### 4.1-18.1-04. License - Grounds for denial.

1. The agriculture commissioner may deny or revoke a license to any person who:
  - a. Repeatedly violates this chapter;
  - b. Provides false or misleading information in connection with any application required by this chapter; or

- c. Has been convicted of a felony, as described in section 4.1-18.1-02, since the most recent criminal history background check.
2. Any person denied a license under this section may request a hearing before the commissioner within thirty days after the date of the denial.

#### **4.1-18.1-04.1. Commissioner - Authority - Tetrahydrocannabinol concentration.**

The commissioner shall determine the total tetrahydrocannabinol concentration under this chapter up to an amount not to exceed the federal Agriculture Improvement Act of 2018 [Pub. L. 115-334; 132 Stat. 4490] and federal domestic hemp production program regulations under title 7, Code of Federal Regulations, part 990.

#### **4.1-18.1-04.2. Hemp testing - Fee - Exemption.**

1. The commissioner may charge a fee of up to one hundred twenty-five dollars to inspect, sample, and test hemp under this chapter.
2. The commissioner shall deposit fees collected under this section in the commissioner's operating fund.
3. The provisions of chapter 54-44.4 do not apply to hemp testing under this section.

#### **4.1-18.1-04.3. Prohibited acts.**

A licensee may not:

1. Engage in the isomerization of cannabinoids to create isomers of tetrahydrocannabinol, including delta-8, delta-9, and delta-10 tetrahydrocannabinol; and
2. Sell hemp or hemp products that were created using the isomerization of cannabinoids to create isomers of tetrahydrocannabinol, including delta-8, delta-9, and delta-10 tetrahydrocannabinol.

#### **4.1-18.1-05. Violations.**

1. A producer found in violation of this chapter for negligently failing to provide the legal description of the land where the producer is growing hemp, failing to obtain a license, or by producing hemp with a total tetrahydrocannabinol concentration greater than the amount determined by the commissioner is subject to:
  - a. Meeting a deadline set by the commissioner to come into compliance with this chapter; and
  - b. Additional reporting requirements set by the commissioner for a period of no less than two years.
2. An applicant or person licensed to grow hemp under this chapter found in violation of the chapter with a culpable mental state greater than negligence must be reported to the attorney general.

#### **4.1-18.1-06. Confiscation and disposal.**

1. Any hemp found to be in violation of this chapter is subject to confiscation and disposal by the commissioner.
2. Any disposal-related costs will be the responsibility of the producer, owner, or person responsible for the hemp.
3. The commissioner is not liable for any destruction of hemp or hemp products carried out under this chapter.

#### **4.1-18.1-07. Commissioner powers.**

The commissioner may enter on any land or areas where hemp is grown, stored, or processed for the purposes of inspections, sample collection, testing, or investigation for the purposes of enforcing this chapter.

**4.1-18.1-08. Hemp - Research.**

1. Any researcher associated with or operating under an institution under the control of the state board of higher education is exempt from obtaining a license described under section 4.1-18.1-02 to grow hemp. A researcher shall notify the commissioner of the researcher's intent to plant hemp and provide the following information to the commissioner:
  - a. The name and contact information of the primary investigator; and
  - b. The legal description of all land where hemp will be grown as part of the project.
2. The research institution shall ensure the primary investigator and all other project participants meet the criminal history background restrictions in section 4.1-18.1-02.

## **NDDA Hemp Sampling Protocol**

### **Inspection Selection and Notification**

All registered producers are subject to routine inspection and sampling to verify that the delta-9 THC concentration of the hemp planted within a certified site does not exceed 0.3% on a dry weight basis.

In addition to any routine inspection and sampling, NDDA may inspect and take samples from any registered site without notice if they have reason to believe a violation of the program rules is occurring.

Registered producers must inform NDDA 15 days prior to planned harvest date. Harvest shall take place within 30 days of a NDDA sampling, product may not be processed or leave producer's property until issuance of passing report of analysis from NDDA. If harvest has not taken place in the 30-day window, hemp may not be harvested until a second test is taken and NDDA issues a passing report of analysis.

During the inspection, the producer or an authorized representative are recommended to be present at the registered growth site, but it is not required. Inspectors must be provided complete and unrestricted access to all hemp plants, parts, and seeds within a registered site whether growing or harvested, all land, buildings and other structures used for the cultivation and storage of hemp, and all documents and records. Growers are required to provide an access point to each growing area.

### **Equipment Used**

- Clippers (Sterilized before sampling each new field)
- Sampling Bags (cloth or paper required)
- Cooler
- NDDA Sampling Form or Hemp Inspection Survey App
- Lysol spray or other disinfectant for cleaning tools between fields

### **Observation Notes which must be recorded by the Inspector at Time of Sampling**

- Time and date of inspection/sampling
- Name of registrant and name of any individuals present on site during inspection/sampling
- Location of grow site sampled (Field GPS points)

### **Sample Volume and Composition**

Most of the samples should be collected in the *interior* of the field, to avoid edge effect. To collect samples, inspectors will walk the entire field in such a way to collect a representative sample, depending on the field size and shape. The number of samples taken from each field will be based on the following table:

Acres	Minimum Number of Plants Sampled
0-8	5
8-12	7
13-17	8
17-26	10
27-45	12
46-100	13
100+	14

Samples will be taken from the top 5 to 8 inches of the female plants only. This ensures that the plant material contains the highest concentration of THC and creates consistency across all samples and for all growers.

Inspectors will cut and place the samples in a breathable paper or cloth bags. Samples will be kept in a cooler during transport to prevent degradation. Sampling pruners should be sterilized between samples

Samples will be assigned a unique ID number.

#### **Sample Invoicing-**

Growers are subject to testing fees up to \$125 for each lot tested. Prior to leaving the site, NDDA staff will complete the hemp sampling invoice and have the producer or authorized representative sign the form, if no representative is on site other arrangements will be made. The producer or authorized representative keeps the original invoice to send in with payment.

#### **Sample Handling and Testing-**

Samples will be shipped via United States Postal Service within 48 hours to the current hemp testing lab.