

In Title 3, California Code of Regulations, Division 4, Chapter 8, adopt:

Article 2. Regulations for Industrial Hemp Cultivation

§ 4935 Planting Report for Industrial Hemp

- (a) In order to confirm that industrial hemp was planted at a registered cultivation site, registrants shall submit a signed planting report to the commissioner within 72 hours following the completion of the planting. A separate planting report shall be completed for each planting. The planting report shall include the:
- (1) registrant's registration number,
 - (2) name and contact information of the registrant,
 - (3) planting date(s),
 - (4) name(s) of the cultivar(s) and the quantity planted,
 - (5) physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage of the planting, and
 - (6) planned growing period for the planting.
- (b) The Department shall make a template of a planting report form available on the Department's website.
- (c) The commissioner may confirm the planting of the crop by conducting field inspections. The commissioner shall be provided with complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations registered as a cultivation site.

Note: Authority cited: Sections 407, 81003, 81004, and 81006, Food and Agricultural Code
Reference: Sections 81006, Food and Agricultural Code

§ 4940 Sampling Timeframe and Pre-Harvest Notification for Industrial Hemp

- (a) Sampling Timeframe.
- (1) Sampling shall occur as follows:
 - (A) If the anticipated harvest start date of a crop occurs before October 17, 2020, samples shall be collected no later than 11 calendar days prior to the anticipated harvest start date listed on the pre-harvest report.
 - (B) If the anticipated harvest start date of a crop occurs on or after October 17, 2020, samples shall be collected no more than 6 calendar days prior to the anticipated harvest start date listed on the pre-harvest report.
 - (2) Any changes to the harvest date may require additional sampling for THC concentration prior to harvest.
- (b) Sampling Request and Pre-Harvest Report.
- (1) In order to request sampling, registrants shall submit a signed pre-harvest report as follows:
 - (A) If the anticipated harvest start date of a crop occurs before October 17, 2020, registrants shall submit a signed pre-harvest report to the commissioner at least 45 calendar days before harvest to initiate the sampling process.
 - (B) If the anticipated harvest start date of a crop occurs on or after October 17, 2020, registrants shall submit a signed pre-harvest report to the commissioner at least 30 calendar days before the anticipated harvest start date to initiate the sampling process.
 - (2) A separate pre-harvest report shall be completed for each planting to be harvested. The pre-harvest report shall include the:

- (A) registrant's registration number,
 - (B) name and contact information of the registrant,
 - (C) anticipated harvest start date,
 - (D) name(s) of the cultivar(s) to be harvested,
 - (E) physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage of the planting to be harvested, and
 - (F) name and contact information of the laboratory to conduct the testing for THC concentration.
- (3) The pre-harvest report shall be accompanied by a sample analysis request form for each composite sample to be taken. The sample analysis request form shall be used to record the:
- (A) name, contact information, and signature of the sample analysis requester,
 - (B) registration number,
 - (C) name and contact information of the commissioner,
 - (D) physical address, general description of the planting location, and total acreage or square footage of the planting sampled,
 - (E) lot identification number as provided by U.S. Department of Agriculture Farm Service Agency,
 - (F) name of the cultivar sampled,
 - (G) description of the planting to be sampled including estimated average height, appearance, approximate density, homogeneity, condition of the plants, and degree of maturity of flowering material,
 - (H) unique sample identification number for the composite sample,
 - (I) number of the samples taken,
 - (J) date and time of the sample collection,
 - (K) name and signature of the sampler,
 - (L) name and contact information of the approved laboratory conducting the THC testing,
 - (M) name and signature of the person testing the sample,
 - (N) date and time of the sample testing,
 - (O) testing instrumentation used to analyze the sample for THC concentration,
 - (P) laboratory determination of THC concentration in accordance with Section 4942(c) and limit of detection (LOD), and
 - (Q) chain of custody information including the name and signature of the person who received and delivered the sample, and the date, time, and location of each possession or transfer of the sample.
- (4) The Department shall make a template of a pre-harvest report and sample analysis request form available on the Department's website.
- (5) The sampler, as described in Section 4941(a)(1), shall schedule a sampling date.
- (6) Registrants shall notify the commissioner of any changes to the above information as follows:
- (A) If the anticipated harvest start date of a crop occurs before October 17, 2020, registrants shall notify the commissioner of any changes to the above information no less than five calendar days prior to the scheduled sampling date.
 - (B) If the anticipated harvest start date of a crop occurs on or after October 17, 2020, registrants shall notify the commissioner of any changes to the above information no less than two calendar days prior to the scheduled sampling date.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code Reference: Section 81006, Food and Agricultural Code

§ 4941 Sampling Procedures for Testing Industrial Hemp for THC Concentration

(a) Collection of Samples.

- (1) Samples for THC testing shall be collected by the commissioner, an USDA-approved sampling agent, or a federal, state, or tribal law enforcement agent authorized by USDA to collect samples.
- (2) The sampler as described in Section 4941(a)(1) shall verify that the planting to be sampled corresponds to the registered cultivation site using the physical address, Global Positioning System coordinates, general description, and total acreage or square footage provided on the pre-harvest report and registration application, prior to the collection of the samples.
- (3) The registrant shall be present to observe the collection of samples and allow the sampler as described in Section 4941(a)(1) complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations registered as a cultivation site.

(b) Sample Volume and Composition

- (1) Each sample shall be collected from different plants. Each sample shall include the terminal eight inches from the top of the plant. If the plant is less than eight inches tall, the whole plant above ground shall be taken.
- (2) A composite sample shall consist of the following:
 - (A) six samples for plantings that are less than or equal to six acres.
 - (B) one sample from each acre for plantings that are greater than six acres but less than 10 acres.
 - (C) for plantings equal to or greater than 10 acres, the number of samples shall be calculated using the following formula where n is the number of plants to be selected and N is the planting acreage:
$$n = 299 / (1 + (298 / N))$$
- (3) A separate composite sample shall be taken for:
 - (A) each cultivar within each contiguous planting, and
 - (B) indoor and outdoor growing areas shall be treated as separate plantings.

(c) Handling of Samples.

- (1) All plant material collected for a composite sample shall be placed together in a permeable bag, and kept in a manner not conducive to mold growth.
- (2) The bag containing the composite sample shall be sealed and labeled in a manner to detect tampering and ensure chain of custody. Sample labels shall be signed by both the registrant and the sampler as described in Section 4941(a)(1).
- (3) Samples shall be labeled with a unique sample identification number as assigned on the sample analysis request form and accompanied by the following documentation:
 - (A) registrant's proof of registration,
 - (B) pre-harvest report,
 - (C) sample analysis request form containing information outlined in Sections 4940(b)(3)(B) through 4940(b)(3)(L) provided by the commissioner and Section 4940(b)(3)(A) provided by the registrant.
- (4) Samples shall be delivered to the testing laboratory within 24 hours of collection.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code Reference: Section

§ 4942 Approved Testing Method for Testing Industrial Hemp for THC Concentration

(a) Sample Preparation.

- (1) The laboratory shall maintain chain of custody upon receiving the samples by documenting the chain of custody information on the sample analysis request form. The laboratory shall provide the information outlined in Sections 4940(b)(3)(M) through 4940(b)(3)(Q) on the sample analysis request form.
- (2) Each composite sample shall be maintained and tested separately for THC concentration.
- (3) All parts of the plants included in the composite sample shall be processed and tested as a single sample.
- (4) All plant material included in the composite sample shall be dried until the weight of the composite sample remains constant after drying intervals. Drying temperature shall not exceed 90 degrees Celsius.
- (5) All of the dried plant material included in the composite samples shall be milled to a homogenous powder-like consistency and combined before analysis. All of the dried plant material included in the composite sample shall be manicured through a wire screen no larger than 1.5 mm x 1.5 mm to remove all mature seeds and larger twigs and stems.

(b) Suitable analytical instrumentation used to determine THC concentration in industrial hemp includes the following:

- (1) Gas chromatography with flame ionization detector,
- (2) Gas chromatography coupled with mass spectrometry,
- (3) Liquid chromatography coupled with mass spectrometry, or
- (4) Liquid chromatography coupled with diode-array or variable wavelength detector.

(c) “THC concentration” or “percentage concentration of THC” means the post-decarboxylated value of the percentage of delta-9 THC on a dry weight basis to the nearest thousandth, or 3 decimal places. The percentage concentration of THC may be measured by using either:

- (1) a suitable analytical instrumentation described in Section 4942(b) that results in the decarboxylation of THC-acid to delta-9 THC, or
- (2) a calculated value using a conversion formula of the percentage concentration of delta-9 THC plus eighty-seven and seven tenths (87.7) percent of the percentage concentration of THC-acid when a suitable analytical instrumentation described in Section 4942(b) does not result in the decarboxylation of THC-acid to delta-9 THC.

(d) “Acceptable hemp THC level” means a THC concentration that falls within the distribution or range that includes three-tenths of one percent or less that is produced when the measurement of uncertainty is applied to the reported THC concentration. For example, if the reported THC concentration of a sample is 0.35% and the measurement of uncertainty is $\pm 0.06\%$, the measured THC concentration would range from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level.

(e) Sample Retention.

- (1) If the laboratory test report indicates a percentage concentration of THC that is within the acceptable hemp THC level, the laboratory shall retain the sample for a minimum of 30 calendar days from the testing date.
- (2) If the laboratory test report indicates a percentage concentration of THC that exceeds the acceptable hemp THC level, the laboratory shall retain the sample for a minimum of 60 calendar days from the testing date.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code Reference: Section 81006, Food and Agricultural Code

4943 Approved Laboratory for Testing Industrial Hemp for THC Concentration

- (a) Testing of industrial hemp for THC concentration shall be conducted by a laboratory with International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) 17025 accreditation using a validated method in accordance with Sections 4942, 4944, and 4945 for THC analysis on plant material.
 - (1) Laboratories testing industrial hemp for THC concentration on or after October 17, 2020 shall be registered with U.S. Drug Enforcement Administration (DEA) to handle controlled substances under the Controlled Substances Act (21 CFR part 1301.13).
- (b) Beginning May 1, 2020, a laboratory shall obtain written approval from the Department in order to test industrial hemp for THC concentration. A laboratory shall submit a signed laboratory approval application with the following information to the Department for review and approval:
 - (1) name and contact information of the applicant.
 - (2) name and physical address of the testing laboratory.
 - (3) a copy of the testing laboratory's DEA registration certificate, if applicable.
 - (4) a copy of the testing laboratory's ISO/IEC 17025 certificate of accreditation, and
 - (5) a copy of the testing laboratory's standard operating procedures for THC testing.
- (c) If the Department determines that the requirements outlined in this section are met and the laboratory's standard operating procedures for THC testing comply with the requirements outlined in Sections 4942, 4944, and 4945, the Department shall approve the laboratory to conduct THC testing on industrial hemp by issuing a proof of approval, and adding the testing laboratory to the list of approved testing laboratories. The Department will notify the laboratory in writing of any deficiencies when the laboratory is not approved.
- (d) Laboratory approval shall be valid for one year from date of approval by the Department, after which the laboratory shall renew the approval.
- (e) Laboratories shall request renewal of Department approval in accordance with the procedures outlined in Section 4943(b). Renewed approval shall be valid for one year from date of renewal by the Department.
- (f) Any changes to the approved laboratory's standard operating procedures shall be submitted to the Department for review and approval prior to implementation. Once the Department has determined that the requirements outlined in this section are met and the laboratory's standard operating procedures comply with testing requirements outlined in Sections 4942, 4944, and 4945, the Department shall notify the laboratory that testing may be completed under the revised standard operating procedures.
- (g) The Department shall make a template of a laboratory application and the list of approved testing laboratories available on the Department's website.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code Reference: Section 81006, Food and Agricultural Code

§ 4944 Notification of Laboratory Test Report

- (a) Laboratories shall issue a separate laboratory test report for each composite sample.
- (b) The laboratory test report shall include the:
 - (1) registration number,
 - (2) unique sample identification number as assigned on the sample analysis request form,
 - (3) name and contact information of the registrant,

- (4) name of the sampler.
 - (5) dates and times of the sample collection and testing.
 - (6) name of the cultivar tested.
 - (7) physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage of the planting sampled.
 - (8) name of approved analytical instrumentation used and the limit of detection (LOD).
 - (9) name of the person who received the sample.
 - (10) name of the person who tested the sample.
 - (11) percentage concentration of THC in accordance with Section 4942.
 - (12) measurement of uncertainty as a \pm percentage value to the nearest thousandth, or three decimal places, at 95% confidence level.
 - (13) the words "OFFICIAL CALIFORNIA REGULATORY SAMPLE",
 - (14) and words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" or "FAILED AS CALIFORNIA INDUSTRIAL HEMP" at or near the top of page.
 - (A) if the laboratory test report indicates a percentage content of THC that is within the acceptable hemp THC level, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear.
 - (B) if the laboratory test report indicates a percentage content of THC that greater than the acceptable hemp THC level, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear.
- (c) Laboratories shall provide an electronic copy of the laboratory test report to the registrant and commissioner concurrently as follows:
- (1) If the sampling occurs before October 17, 2020, laboratories shall provide the laboratory test report within 10 calendar days of the collection of samples.
 - (2) If the sampling occurs on or after October 17, 2020, laboratories shall provide the laboratory test report within 5 calendar days of the collection of samples.
- (d) Following the electronic notification of the laboratory test report, the laboratory shall:
- (1) provide the registrant no fewer than ten original paper copies with wet signatures of a passing laboratory test report, signed by an employee authorized to sign by the laboratory.
 - (2) provide the registrant one or more paper copies of a failed laboratory test report, signed by an employee authorized to sign by the laboratory.
- (e) Upon request from the commissioner, the laboratory shall provide a copy of the completed sample analysis request form.
- (f) The laboratory shall retain one or more original copies of each laboratory test report and the completed sample analysis request form for a minimum of three years from the date of sampling.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code Reference: Section 81006, Food and Agricultural Code

§ 4945 Approved Testing Method for Retesting of Industrial Hemp for THC Concentration

- (a) If the first laboratory test report indicates a percentage content of THC that is greater than the acceptable hemp THC level but does not exceed one percent, additional samples for retesting shall be collected in accordance with the sampling procedures outlined in Section 4941 and tested in accordance with the testing procedures outlined in Sections 4942 through 4944.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code Reference: Section 81006, Food and Agricultural Code

§ 4946 Final Disposition for Registered Industrial Hemp Crops

- (a) Registrants may harvest the sampled crop upon receipt of an electronic copy of a passing laboratory test report.
 - (1) Registrants shall submit a harvest report to the commissioner within 72 hours following the completion of the harvest. The harvest report shall include the:
 - (A) registration number.
 - (B) name and contact information of the registrant.
 - (C) harvest timeframe including start and end dates.
 - (D) name(s) of the cultivar(s).
 - (E) unique sample identification number(s) as assigned on the sample analysis request form and the percentage concentration of THC for each cultivar as reported on the laboratory test report.
 - (F) physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage the harvested planting, and
 - (G) description and quantity of the material harvested.
 - (2) The Department shall make a template of a harvest report form available on the Department's website.
 - (3) Harvest shall be completed as follows:
 - (A) If the crop is sampled on or before October 1, 2020, the harvest must be completed within 30 calendar days from the sampling date.
 - (B) If the crop is sampled after October 1, 2020 but before October 17, 2020, the harvest must be completed by October 31, 2020.
 - (C) If the crop is sampled on or after October 17, 2020, the harvest must be completed within 15 calendar days from the sampling date.
 - (D) Registrants may request additional sampling and testing in accordance with the procedures outlined in Section 4940 to extend the harvest timeframe.
 - (i) The most recent laboratory test report electronically received by the commissioner in compliance with Sections 4940 through 4945 shall be considered the effective THC concentration for the planting to be harvested and determining compliance with Division 24 of the Food and Agricultural Code.
 - (ii) All previous laboratory test reports received for the same planting shall be invalid upon the commissioner's receipt of an electronic copy of the most recent of laboratory test report.
 - (4) The commissioner may confirm the harvest of the crop by conducting field inspections. The commissioner shall be provided with complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations registered as a cultivation site.
- (b) Registrants shall destroy a crop that receives a failed laboratory test report within the following timeframes:
 - (1) if a laboratory test report indicates the percentage concentration of THC exceeds one percent, the destruction shall begin within 48 hours, and be completed within seven calendar days, after the registrant's receipt of an electronic copy of the laboratory test report.
 - (2) if a second laboratory test report from retesting indicates the percentage concentration of THC exceeds the acceptable hemp THC level but is less than one

percent, the destruction shall take place as soon as practicable, but no later than 45 calendar days after the registrant's receipt of an electronic copy of the second laboratory test report.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code Reference: Section 81006, Food and Agricultural Code

Article 3. Abatement and Enforcement

§ 4950 Destruction of Non-Compliant Industrial Hemp Crops

- (a) Any industrial hemp crop that does not meet the requirements of Division 24 of the Food and Agricultural Code and this chapter shall be destroyed in a manner compliant with Section 297B of the federal Agricultural Marketing Act of 1946 (added by Section 10113 of the federal Agriculture Improvement Act of 2018 (Public Law 115-334), implementing regulations, and guidance.
 - (1) Unless otherwise specified in 4946 (b), any non-compliant industrial hemp crop shall be destroyed as soon as practical, but destruction must be completed no later than 45 calendar days after the cultivator's receipt of notification of abatement from the commissioner.
- (b) The cultivator of the industrial hemp crop shall submit a signed destruction plan to the commissioner at least 24 hours prior to the start of the destruction, unless a shorter timeframe is allowed by the commissioner. The destruction plan shall include the:
 - (1) registration number, if applicable,
 - (2) name and contact information of the cultivator,
 - (3) anticipated destruction date(s) of the crop to be destroyed,
 - (4) name(s) of the cultivar(s) to be destroyed,
 - (5) unique sample identification number(s) as assigned on the sample analysis request form and percentage concentration of THC for each cultivar as reported on the laboratory test report, if applicable,
 - (6) physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage of the crop planting to be destroyed, and
 - (7) proposed destruction method.
- (c) The cultivator shall submit a signed destruction report to the commissioner within 72 hours following the completion of the destruction. The destruction report shall include the:
 - (1) registration number, if applicable,
 - (2) name and contact information of the cultivator,
 - (3) date(s) and time(s) of destruction,
 - (4) name of the cultivar(s) destroyed,
 - (5) unique sample identification number(s) and percentage concentration of THC for each cultivar as reported on the laboratory test report, if applicable,
 - (6) physical address, Global Positioning System coordinates, general description of the planting location, and total square footage or acreage of the destroyed planting, and
 - (7) description and quantity of the material destroyed.
- (d) The commissioner shall confirm the destruction of the crop by conducting field inspections. The commissioner shall be provided with complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations registered as a cultivation site.
- (e) The Department shall make a template of a destruction plan and destruction report

available on the Department's website.

Note: Authority cited: Sections 407, 81003, 81004, and 81006, Food and Agricultural Code
Reference: Section 81006, Food and Agricultural Code

§ 4950.1 Voluntary Destruction of Industrial Hemp Crops

- (a) Any industrial hemp cultivator that wishes to voluntarily destroy a crop shall destroy the crop in a manner compliant with Section 297B of the federal Agricultural Marketing Act of 1946 (added by Section 10113 of the federal Agriculture Improvement Act of 2018 (Public Law 115-334), implementing regulations, and guidance.
- (b) The cultivator shall report destruction of the crop to the commissioner in accordance with procedures outlined in Section 4950(b) through (e).

Note: Authority cited: Sections 407, 81003, 81004, and 81006, Food and Agricultural Code
Reference: Section 81006, Food and Agricultural Code